

Weapons of Crony Capitalism

LICENSES - PERMITS

THE INSPECTOR RAJ

AND HOW A FIRST-GENERATION
ENTREPRENEUR

ASHOK ATRÉ CHALLENGED IT
SUCCESSFULLY

- A TRUE STORY

Ashok Atré

As told to:

Shilpa Shivalkar

Diamond Publications



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Ashok Atre, as told to Shilpa Shivalkar

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To my beloved brother Shri. Dilip Atre



*who ignited and motivated passion for
entrepreneurship in Atre family.*





Preface

Today, after thirty years, it may be said that Ashok Atre is an entrepreneur who busted the mold.

He did not win all his battles. Nor are all of them over.

To his credit, on each of these occasions he managed to rouse the system from the inertia. A battle of policy has been as essential to him as making energy efficient boilers.

It was not possible to enter the business of big boilers without locking horns with the Inspectorate of Steam Boilers, Maharashtra State.

In 1986, Ashok solicited a meeting with E.V. Taraporewalla, the Chief Inspector, to obtain the license to produce big boilers. Until then, he was making small boilers, for which he did not require the government's license.

The boiler business was the monopoly of Parsees for more than a hundred years since its inception. Even the top officers in the government's boiler directorate were invariably Parsees. It was one of those unwritten rules. The boiler industry, like most other industries in India, was a Big Boys' club.

Taraporewalla, a typical tall, lean and fair Parsee, reigned over the boiler department like a Czar for fifteen long years.

He refused the license. "We are not issuing any new licenses," he said in the most unconcerned tone.

"We don't have enough inspectors," he said. Ashok thought this was queer. It was like saying that the government won't allow to produce more cars, irrespective of the demand, because the RTO is understaffed.

Ashok saw this as a good opening for negotiation. "Boiler department is to supervise the number of boilers manufactured; not the number of manufacturers. When an applicant is qualified,

he should not be denied the license”. He argued.

Taraporewalla gave him a cold stare. “Young man, don’t teach me what my department should do”.

Sure enough, Ashok did not get the license for the next three years. Then Forbes Marshall, another Pune-based company, and already a member of the big league, applied and got a new license for manufacturing big boilers. Ashok confronted Taraporewalla once again. Now he had a leverage point. Taraporewalla knew he could not discriminate.

But he was not one to let go easily. He had not forgotten Ashok.

“You will get a conditional license. You will give me a written undertaking that you will not copy the designs from others”. He demanded.

“Why don’t you take an undertaking from all the others; how do you know they won’t copy my designs?” Ashok was quick to retort. He was 27 then, a fresh postgraduate from IIT, his dignity offended.

“Fine, I don’t give the license. You are free to complain to the higher ups in Secretariat (as the state headquarters used to be called then) if you like,” said Taraporewalla who clearly enjoyed the power to speak so.

Ashok looked like he could dig in his heels again. But, a Senior Boiler Inspector in the Boiler Office, Mr. Wankhede, (who was later to be Chief Inspector himself) approached the young man. “Nobody argues with Mr. Taraporewalla here”, he said good-naturedly. He convinced Ashok that it was the only way to move forward. In the end it did not really matter; possibly it only served the Parsee sense of humour. He coaxed Ashok to submit the undertaking.

Some battles take longer to decide.

Later this first-generation entrepreneur went on to win nine patents for his designs! Design would be his core competency; and he was to synchronize it with his passion in the area of the energy conservation, opening new initiatives in boiler business.

A boiler is a steam- generating machine. The amount of

steam generated every hour after burning one kilogram of fuel can be measured. It is like per litre mileage that a vehicle may give. For a long time in Indian markets, a boiler with a fuel efficiency of 85% was the acknowledged standard. Energy efficiency was not a crucial factor for an industry where fuel was cheap.

Erstwhile the men with money launched business ventures and they hired the technocrats. Traditionally, it was the Indian trading community composed mainly of the Marwaris, Gujaratis, Bhatiyas, Baniyas and Khattris, which produced the early industrialists. They knew how to make money. They were sharp about improving trade profits; but almost all of them were apathetic about investing in the technology.

Their business depended more on liaison with the government, influencing policies and maintaining channels in bureaucracy. The excessive business protection and an orthodox trading culture in India had led to complacency in the area of technology bordering on the level of contempt.

Ashok Atre represented a generation of young men who were technocrats first; businessmen later. "I don't sell steel on tonnage," he said with some attitude. "I sell technology".

Within a short span of getting the license, Ashok introduced oil-fired boilers which were 94 percent fuel-efficient. It was a huge leap; a straight ten percent improvement in the standard capacity.

The immediate reaction from the market was of denial. 'This is not possible'.

Other reaction was more typical. 'Who needs such a boiler? How much does fuel-efficiency really matter? Why pay more for a boiler when using more oil is cheaper!'

A boiler is a necessary part of industry infrastructure. All that matters is that the boiler keeps running. Functionality suffices in this case. It is still a struggle to make a hardcore customer see the art and efficiency of the machine; or its pay back in the long term.

There is Bureau of Energy Efficiency ratings (BEE); which

awards star gradations. However, in spite of a boiler being such an energy intensive product; it is not included in that category yet. There is absence of energy efficiency standards and grading for boilers. So, it was not easy to establish the claim.

Thermax Limited, an aggressive market player in the energy sector was vociferous in its attack on the new competitor. One of Ashok's customers was turned sceptical by the sales gossip. Ashok suggested him to arrange for a performance trial. Apparently, neither the market nor the customer knew how the efficiency of a boiler was to be measured or who would do it. Finally, the Petroleum Conservation Research Association (PCRA) was identified as the institution having the mandate to certify the claim.

The test was conducted at the instance of the customer, on the condition that the PCRA certificate would be considered as completion of performance. A representative of Thermax was present at the trial. When PCRA certified the boiler as having 96% efficiency on Net Calorific Value, he left without a word.

A local boiler with 96% certified efficiency did not exactly shake the market. However, all others, including Thermax, gradually started manufacturing 94% efficient boilers. A debutant engineer caused the market to upgrade itself.

Ashok maintained his lead by further improvising his design. He introduced a range of super-efficient boilers, each duly certified by PCRA. He went on to design his 'Steamstar Superplus', a natural gas-fired boiler with 104% thermal efficiency. He proved that more than hundred percent fuel efficiency was practically possible.

Ashok followed his passion and sustained in the business on the basis of constant innovation. On his way, he had to fight not just the cut throat competitors like Thermax; but also, the boiler department that would connive with the market giants.

Thermax Limited, a market leader with a turnover of 4500 crores may scoff at both these propositions. That Thermax ever played adversary to a small-scale entrepreneur with a turnover touching seventy crores on an average. Or that Thermax even

acknowledged the competition posed by the Transparent Energy Systems Private Limited.

Indeed, competition with market giants like Thermax was part of the game. Ironically, it was the boiler directorate of Maharashtra, with its powerful Bureaucrats and the archaic laws that could have routed Ashok from business. Taraporewalla, the last in the ranks of Parsee Chief Inspectors, had retired. But, the directorate continued to wield omnipotent power.

During 1999- 2000 Ashok's company faced a major survival crisis. Without any apparent provocation, the boiler department shot a series of queries to the company demanding as to why the company did not possess this or that facility. Why their license should not be cancelled; thus, building unjustified pressure amounting to harassment.

In September 2000, Transparent Energy Systems Pvt. Ltd. received an ultimatum undersigned by the Chief Inspector. It directed them to comply with the irrational orders by the end of the month; failing which the directorate threatened to stop the visits of the inspectors. The implications were clear. The company was served the notice to stop manufacture.

An entrepreneur is in no position to risk a fight, certainly not with the top bureaucrat having monopoly powers. But Ashok was pushed into the corner to an extent that he must fight or perish.

Boiler Department is a technical department. Even the secretary, an IAS rank officer, leaves this department to function by itself. Since safety is the name of the game, one would not normally question the soundness of a 'technical' decision given by an inspector.

More so, the boiler- manufacturers are so completely at the mercy of the inspectors, that they dare not question once the interpretation of any specification laid down in the Act and Regulations has been made by an inspector appointed under the system.

Therefore, when Ashok brazenly challenged the technical validity of the action taken by the Chief Inspector, it was like

waging a war. It was the war which Ashok fought solely on the basis of his fundamentals of technical knowledge; and his understanding of what the rationale of laws should be.

In the hundred- and thirty-year history of the boiler department, it was the first event of someone accusing the Chief Inspector of mala fide exercise of power and making him to face a charge sheet. The boiler industry shook with its resonance. It was a rare case of supreme confidence shown by a relatively small company.

D.A. Awhad, now a retired deputy director of steam boilers, who was a close witness, acknowledges that Ashok did manage to teach the department a lesson or two.

For his ability to take up cudgels on an issue involving the interpretation of boiler regulations, Ashok was made the President of the Indian Boilers Manufacturers' Association (IBMA).

From the IBMA platform, Ashok addressed a vision document to all his contemporaries.

The Chief Inspector had a technical objection to the outsourcing of a couple of preliminary processes by Ashok's company. In his vision document, Ashok envisaged free future where a boiler- manufacturer could exist without a factory. A virtual boiler manufacturer. He may outsource the fabrication and hardware to skilled technicians. He shall solely focus on designing and the system -integration, which is his true calling as an entrepreneur.

It is evident that Ashok was a radical all along. The clash with the bureaucracy which was still in the control mindset, failing to reboot itself post liberalization; when happened, it was bound to culminate into a climax with wider implications.

A man with the vision for the policy, Ashok could transcend his battles from personal to political. He was never a lone fighter. He could represent a valid cause and practical business interests of the boiler industry. He could carry the people along. As the President of IBMA, he lobbied rigorously to pursue the much-awaited reforms in the Indian Boiler Act.

The Boiler Act was drafted in pre-independence era, mainly

for the registration of imported boilers. The Indian boiler manufacturers appeared on the scene only after 1960. The Act did not foresee their entry and had failed to take them into consideration. They had no say in the system. The provision for appeal against the arbitrary decisions of the state boiler department was a dead letter. With no redressal mechanism in sight, the boiler manufacturers suffered.

In seventies, a commission was set up to review the Indian Boiler Act. It mooted transfer of power from state boiler directorates to the Central Boiler Board. The commission also recommended the entry of private international inspection agencies on the domestic scene; to act parallel with the state directorates, (as was prevalent in most other countries). However, all the state directorates successfully resisted the change for more than thirty years. It was in 2007, that the Act was finally amended. The monopoly of the state boiler departments ended; and boiler business was freed from the clutches of Inspector Raj. The policy changed.

Today, thirty years after it all began, it may be said that Ashok Atre is a successful entrepreneur.

Notwithstanding his turn over or his patents; his success is independent of these.

He is a visionary, a clear leader in his field. He is the man who could impact the national policy.

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-Shilpa Shivalkar

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1 *Matter and Anti Matter*

A good story is a documentation of the time it was set in.

This is a story of Ashok Atre, the man and his passion, and how he built this Transparent Group of Companies. This is also a story of the reverberations of bank nationalization in India; and of several aspiring young men like him in those times.

There exists a villain in the story. The mighty establishment of Boiler Department and its menacing Chief. In the background, shadow of the formidable Thermax Limited the market giant looming large.

There is a sub plot about Ashok's elder brother Dilip, an intense young man.

There are some remarkable characters in this success story. The intellectual father and the grandfather, loyal childhood friends and a few chivalrous government officers.

Never at any point, has the story been devoid of drama.

Yet, where it all began was the most non-happening of the places.

Dombivali is a typical lower middle-class central suburb, located about forty kilometres from Mumbai. It is a white collared hub, with people complacent in their small jobs and routine. It's predominantly Maharashtrian culture, aggressively rooted and little reluctant of allowing the fast paced, multi coloured influence of the metro city. The traditional value system adheres to primary

honesty, hard work, persistence and caution.

Atre family used to stay at Babusheth's chawl in Dombivali till 1959, before it shifted to their Ramnagar house.

May be the only unusual thing about this family was its views on education. The Gandhian grandfather was convinced that the boys must know social reality from school going age. Dilip changed three to four different schools in this quest. At the age of thirteen, he was sent as far as the Elphinstone Technical High School at Dhobitalao, Mumbai. There he could blissfully opt out of social sciences and Sanskrit. He matriculated in 1969 with science mathematics and the technical subjects instead.

For Ashok, they selected D. N. Chaudhary Multipurpose School in Dombivali, normally shunned by the local Brahmin community. He formed true comradeship with boys and girls of all communities, including the 'dare-devil' Agrees. The grandfather was much satisfied with the experiment when the boy picked up the abusive slang and learnt to fight on road like his passionate peers. To his grandfather, no personality training could have rivalled the effect.

At home, children grew up overhearing the debates between grandfather and their father whether Gandhism or Marxism should be the blueprint for development.

In post independent India, government was the major sector creating employment. The middle class with steady government jobs led moderately comfortable lives. The aspirations amongst the educated youth in this class were rising. The first generation of engineers migrated to the United States and other developed countries in search of opportunities. This was the first exposure to the wealth and prosperity.

Still, most of the bright young technologists were job seekers. The spirit of industriousness or the entrepreneurship among Indian middle class was inherently low.

Dilip after getting his diploma in Electrical Power Engineering from VJTI, started as a service engineer in Wanson India.

Wanson India (now Thermax Limited) was founded by Adi Bhathena. Bhathena was an upper middle-class Parsee family from Mumbai. Their company Nat Steel used to make hospital equipment like sterilizers. They had another company which made industrial laundry equipment. Their equipment required steam. In 1966, Adi Bhathena collaborated with Wanson, a Belgian company which made instant steaming baby boilers for laundries, hospitals and hotels; a real novelty in those days. The new company commenced business operation as Wanson (India) Limited, manufacturing these boilers at Dadar.

These boilers were small enough to be exempted from the Indian Boiler Act. These were ideal for hospitals, who did not want the additional regulatory harassment at the hands of the Boiler Inspectors. In hospitals, there was no continuous use of boiler. Big boilers would take an hour to heat up and to close. The instant steaming boilers soon became popular. It was a smart selection of product and Bhathenas did great business.

Dilip was a keen learner. He was quick to realize that baby boiler was a product best suited for small scale industry. The colleagues who joined with Dilip in Wanson like Abhay Nalavade or Ramani became Managing Director and Director of Thermax later. Dilip moved on to join Globe Auto Electricals but did not enjoy it there. He was a restless young man. He changed about half a dozen jobs before he joined the Nestler Boilers.

Shirish Shah, the Managing Director of Nestler Boilers was to be a major influence on Dilip. Shirish was young bohemian from a rich family. His father owned the Star Chemicals group of companies. Shirish was educated in the United States and learnt his business ethics from there. He was an upright and passionate businessman.

In Nestler Boilers, Dilip was introduced to a real boiler and the technical integrity of a boiler as a product. Compared to Nestler's, the vertical coil type boilers of Wanson and others looked nothing more than hot water heaters. The coil burnt down too often. Dilip had attended such service calls in the middle of nights.

Nestler Boilers was like a bright star that shone on the

horizon for a short span before it disappeared. Around 1977, labour problem in the company escalated, and union politics took a destructive turn. Dilip left the company at this point but did not go back to Wanson. He was commuting from Dombivali to all his jobs. He joined Bharat Forge in Pune, and stayed put for more than two years despite his dissatisfaction with the management which he thought was mediocre. He had changed nine jobs; Bharat Forge was to be his last.

Dilip was an ace service engineer. He used to give lectures on product maintenance at different places. He had wide experience and mastery about boilers-the operation, maintenance and troubleshooting; and he knew it.

He vowed to himself that he was not about to change jobs for the sake of it. Now it was not about jobs, but about some challenge. It was time to create something on his own. He was ready.

The opportunity soon presented itself.

One of the Wanson customers approached Dilip. He was Subhash Purohit, the Director of Marvel Thermosetts, a Panvel based company, originally belonging to Ketkar family.

V. V. Ketkar was a chemical engineer from UDCT (now known as ICT, the Institute of Chemical Technology), an institute at par with IIT. He was the plastic and polymer technologist, a gold medalist and dashing first generation entrepreneur. Ketkar was well placed as a General Manager in some company, but had resigned to start his own business in resin manufacture. Subhash Purohit who started as an employee there, was now son in law of V. V. Ketkar.

Subhash Purohit asked Dilip, “You have good knowledge of boilers. Why don’t you make one boiler for us?”

In those days, Dilip worked in Bharat Forge for the week, and on weekends he would catch the morning bus from Pune, got the various parts made from different places, and then assembled them under a mango tree in an open ground. His passion sustained him through the long, lonely days and the hard work. He made his first boiler under that mango tree in 1980 on the day of Ganesh Chaturthi, at Palaspa, a village near Panvel.

Performance of this first boiler was hugely appreciated. Dilip made another boiler for Purohit's Romit Resins, a factory at Pali. He had still not left his job at Bharat Forge.

After this Purohit offered, "Why do you stay in Pune? Come here and we may do something together".

Thus Subhash Purohit, Dilip and other two partners founded a boiler manufacturing company.

Dilip could not have been contained in this partnership. Reticent Dilip had harboured the dreams of entrepreneurship for ten long years. He was preparing himself patiently, and now was the time to take the plunge. He was unapologetic about his ambition of earning big bucks and wiping out all stresses of poverty from the family. Ashok remembers his brother as a pioneer, a hardcore entrepreneur.

It was Dilip who made Ashok study engineering. Ashok had some vague ideas about pursuing pure mathematics. Since he was not keen to join medical education, Ashok accepted this as a good compromise. He did B. E. Mechanical from VJTI and then the M.Tech. in Systems and Controls, from the IIT and was working with TELCO (now TATA MOTORS) and then with KSB Pumps. He was considering Ph.D. abroad among other things, when Dilip offered Ashok to join him.

In May 1983 there was a holy covenant between the brothers. Dilip said, "Let me get two more orders for boilers, then you can leave your job".

Dilip managed to get his first order on 14th August from Camlin, followed by Ameya pharmaceuticals which later became an INDICO group company and six other orders. Ashok left KSB Pumps when Atre brothers ventured into a partnership. This was to be the foundation for the Elite and the Transparent Groups of companies. Dilip was completely confident of his entrepreneurial skills. Dattatray Atre, the father, was all encouragement. He said, this was better than growing under the umbrella of Tata or Birla. And, the brothers were to work together.

Thus Atre brothers started making small boilers; and became competitors to Wanson, the pioneer in that product.

It was a complementary partnership in technical parlance. Being a service engineer, Dilip knew the defects of other makes. Ashok worked on design solutions to remove these defects. Mechanical design, thermal efficiency, heat transfer, instrumentation and engineering were part of his education and training. He was happy to contribute as a genius designer in the perfectly suited partnership.

Each of their boilers was an innovation over all others in the market. The Petroleum Conservation Research Association (PCRA) certified their boilers as being ten percent more fuel efficient than all the existing market brands. A. M. Nagar of PCRA personally congratulated Atre. Ashok says, “The first time we got the PCRA certificate, it was like winning the world cup!”

Electrical control part instrumentation was province of Dilip. He was particular about the quality of motor starters or the safety interlocks or the make and break contacts which do not gather soot. He insisted on buying the best quality material, never settling for cheaper options. He knew which was the best performing. It was believed that the electrical items gave more trouble than mechanical ones. So, ease of their maintenance and ease of operation were a priority over cost saving. Dilip believed in the minimum maintenance philosophy.

The brothers were deeply conscious that they lacked business pedigree or an established brand image. When they gave quotations for big amounts, they knew they owed in value to their customers. Quality was their only recommendation. They were proud that each of their products was customised; and their designs were better than market. They strived for superior technology so that no ordinary ‘workshop man’ could give them easy competition.

Dilip admitted in a television interview later that business stabilized after Ashok joined him.

Ashok says, “Launching a private limited company was Dilip’s idea. He introduced the concept of entrepreneurship in our

family”. Soon there was the first motor car standing in Atre’s compound.

The turnover for the first year was 23 lakhs, in the second year it reached forty lakhs and in the third year it touched sixty lakhs”. Those were the enchanted times”, recalls Ashok. They started with an office in the garage like place in their compound. They soon opened their first factory at Badlapur MIDC. The next step was the IBR category (licensed) big boilers. A second factory at Shirwal and an office at Thane. In four years, they consolidated the business.

Ashok says, “There was not much competition then. Everywhere the chemical and other industries were being set up and baby boilers were in huge demand. We sold our boilers at a higher price but they were highly customised. Our customers recovered the extra cost within a few months’ time”.

They had no fear, only the sense of an adventure. In his words, “It was similar to the feeling when someone does bungee jumping for the first time. Having been born in poor family, we could do business in this country. The thrill was too much. There was joy, even in overcoming the hurdles”.

Entrepreneurial spirit in the Indian middle class was in microscopic minority. Yet, educated youth now ventured into business out of compulsions and few out of conviction.

Nandu Bhagwat, an engineer from UDCT was ten years senior to Ashok. He started his own company, Quality Chemicals. When asked about his venture, he smiled and said that there was no option, he was jobless.

Strange as it may sound, Atre says, “Even IIT graduates were largely unemployed then. Research and development incentives offered by government were getting misused only for the tax benefits. There was no true research or development here. Indian business houses did not need the highly qualified technologists from the top-notch institutes. The young technocrats could either seek their future abroad; or now set up their own enterprise, drawing benefits from priority sector lending policies,

introduced by the central government. Their time and circumstances pushed them into entrepreneurship”.

In 1966 Indian Rupee was devalued for the first time. Next five years witnessed a recession and restlessness. Naxal movement gained in strength. There were agitations all over the country. The perceptive and radical students from IITs took the lead and founded movements like ‘Magova’, insisting on systemic change.

‘Mere Apne’, a mainstream Hindi movie directed by Gulzar and released in 1971, in which Meenakumari, the legendary actress had played a lead role, depicted the aimless violence among the educated unemployed youth; which Atre claims was the reality of those times.

Prime Minister Indira Gandhi in her bid for power made an unexpected move, when she nationalized the banks in 1969. Government was determined to take the banks to the remotest villages, no matter if several branches run in losses. The base of capitalist monopolies was being challenged. Liberal financing policies to small enterprises were implemented through the Nationalized Banks, and various other agencies governments had set-up. State Financial Corporations, Regional Development Corporations, The Industrial Development Bank of India (IDBI), The Small Industry Development Bank of India (SIDBI), The National Small Industries Corporation (NSIC) to name a few.

Atre says, “Young technicians from VJTI, IIT, UDCT and such institutes were encouraged to set up an enterprise. The intellectual calibre was important; finance was made available. People like me and Dilip did not even have the seed capital. Government set up regional bodies like the Konkan Development Corporation. We received the seed capital from DCK. Similar such regional bodies were set up for western Maharashtra and Vidarbha. Tax payers’ money was being honourably handed over to the entrepreneurs. Prime Minister Indira Gandhi lavished money on them”.

Thane, Belapur, Kalyan, Dombivali, Ambarnath, Palghar, Nasik, Nagpur, Aurangabad, Kolhapur, Latur, Lote Parasuram, Vapi, Ankaleshwar, Baroda, Belgaum, Indore... the entire MIDC

and today's industrial India were established in those times. These small-scale enterprises further benefitted through incentives and concessions to these sectors for a range of products and the markets that were introduced immediately or almost simultaneously. For the next fifteen years, Indian economy was highly protected from competitively priced imports through various import restrictions and by levying prohibitive custom tariffs.

Looking back, Atre feels that the policies devised with the noble objective to help Indian industries, by providing protective shelter to them, actually resulted in undue protection. It killed any spirit for cost and quality competitiveness which should have been at the centre stage of economic growth. He observes, "Most of the first-generation entrepreneurs were copy cats having below average or outdated technology, poor entrepreneurial skills and low aims. They lacked the vision and passion to develop the business into a world class enterprise".

It is true that many of these companies later closed down; but those that survived, became the listed companies.

Atre brothers were among the survivors.

Ashok feels that things just worked, as if they were destined to.

Dilip knew how best to use their resources, his dashing brother included. Ashok was five years younger, still naive but carried a certain charm of an earnest IIT postgraduate. Usually it didn't fail.

They were looking for a plot in MIDC Zone. There was excitement in air. Dombivali-Ambarnath-Badlapur plots were selling like hot cakes. These areas were adjacent to the railway line, which was a main attraction. All prospective owners then travelled by the railway. Dombivali MIDC was already sold. Plots looked empty now, but they were all booked.

Dilip sent Ashok to follow up with MIDC office but it was hard luck. The area manager, a tomcat looking fellow laden with gold, proved to be a difficult man to deal with. Atre says, "He was the kingpin. We had no money to buy shoes then, let alone to

bargain with him!” The day came when Ashok lost his patience and demanded to meet the superior officer. His raised voice could be heard all over the floor.

Suresh Salvi, the IAS officer, came out to see what’s the commotion. He saw Ashok. Ashok told this officer, “I would have barged in your cabin anyway. We are not scared of fighting. We were being decent all this while”. The handsome officer invited Ashok in his room and enquired in the matter.

It turned out that Suresh Salvi was sent on a cleanliness drive in MIDC. Then Industries Minister Shalinitai Patil received numerous complaints regarding MIDC and she had specially deputed him. He suggested Ashok to give his complaint in writing, so that action could be initiated against the area manager.

He checked the facts and informed Ashok that there were plots in Badlapur MIDC. Ashok quickly said, “Yes. Badlapur will do”.

Then Salvi called the area manager and said, “You have given plots to non-Maharashtrians. You will not incur a sin if you sanction plot to an Atre, who is well qualified!”

For technical approval Ashok met another capable officer. His name was Gorde. He asked detailed questions relating to boiler. The meeting went on for half an hour. He happened to have been a Boiler Inspector before. The Officers like Suresh Salvi and Gorde were the reassuring presence in MIDC. Such honest officers were like guardian angels in the system, helping the worthy candidates.

Thus, Atre brothers got the plot, W95A Badlapur MIDC.

Dilip knew the ways of the world. He always cautioned Ashok to maintain secrecy. He said when they were launching their factory, slickly all the work was to be done, without letting the nosy people know. Ashok says, “For us, everything was a loose end. There was no tight end anywhere”.

Next was getting the finance from the MSFC. They had the Young Technicians Assistance scheme (YTAS). Senior officer D. W. Karandikar told Ashok that his case looked tailor made for YTAS. There were certain advantages and incentives in the scheme. It was the MSFC officers who suggested, that if the

proposal was to need a loan within two lakhs, they would not have to wait for the Head Office to approve. They demanded the project report to see how this could be worked out. Atres were asked to follow up in the next week.

Ashok says, “Initially we had our doubts. Our earlier experience with MIDC was certainly not smooth. But by the next week the loan was actually sanctioned. This was supremely efficient. There was no red tape, no corrupt interests, no delays. The Officers truly helped”.

Atres’ sister gave them hand loan of fifty thousand rupees. MSFC officers supported them to raise rest of the finance from the Konkan Development Corporation, under the Sanjay Gandhi Educated Unemployed Scheme.

Since MSFC had given them the term loan, State Bank of India did not require much scrutiny. At Badlapur branch, the SBI officers encouragingly said, “We are here to serve the eligible candidates like you. Make the best of it”.

Atre brothers were told that getting permanent SSI registration was a cumbersome process; it could take more than six months. It might be wiser to get the provisional registration.

Whereas, they got the SSI registration in a matter of two days. Later, the brothers had a hearty laugh at how the Gujarati businessmen had got them unnecessarily scared!

For electricity connection, Ashok knew the resource people.

Usually all these formalities could take one and a half to two years. Ashok says, “We were able to start the production within three to four months. We met righteous people sitting everywhere”.

Shivaji, the seventeenth century Maratha king, idolized by all Maharashtrians had conquered the first fort at the age of sixteen, with handful of resources and a few committed followers. He had the conviction to build an autonomous empire. Like a true hero, the account of his life is marked by the loyalty of his friends and auspicious events. Success led to success and the kingdom materialized as though by the blessing of the Goddess. Atre says, if King Shivaji had an occasion to look back at the age of fifty, he could have the emotions in a similar range.

Slowly things began to fall in place. Suppliers and other connections emerged. When Atre brothers got four orders from IPCA lab, it felt like fireworks in the clear night sky. Sitting in his executive chair at the TRANSPARENT's office in Pune, Ashok Atre remembers numerous names of friends and well-wishers who contributed to this journey.

Distant memories awaken, and a mood of nostalgia takes over. Ashok insists, "It is not just our story. Our childhood friends who joined us, like Amol Desai, Sharad Kulkarni, Vijay Bedekar, ...it is their story as well".

Ashok recalls the day when he faced Amol's father to tell him, that he had recently left the job and entered business. That initially he might not afford to pay a big salary. It was Amol's father who assured Ashok that their family was well off; and that he only wished for Amol to learn something from the venture. He even suggested that Ashok could take the salary from him and give the same to Amol at the end of the month. Ashok was so touched; he just thanked Amol's father for the generous gesture, assuring him that it was indeed not required.

The story will be incomplete without the mention of Chandrakantbhai Gogari, of Aarti Industries, who helped several small-scale enterprises on their feet. It was Chandrakantbhai who taught them the alphabets of marketing. Thermax salesmen used to make a big hype about their three pass boilers; and conned the customers on efficiency claims. (Passes here correspond to how many times the hot gases turn around within the boiler. It was used as a so-called indicator of the maximum utilization of available heat).

Chandrakantbhai made them realize that technical jargon was useless here. Even if Atre brothers tried to explain how the two long passes can be more effective than three short passes; no one will understand such technical language! Chandrakantbhai advised, "Tum nehalepe dehala karo". If the competitor is boasting of three passes, you introduce a four-pass boiler.

What a customer might understand and liked to hear was that the Income Tax Department offered hundred percent

depreciation facility, as an incentive to buy energy efficient equipment. PCRA certificate was sufficient for Atre brothers to claim for the Income tax acceptance.

Thus, Atre brothers understood the essentials of customer psychology. It helped them combat the technically lesser products in market; which sold chiefly on the marketing skills employed by the established brands. And, that brings us back to the story of Thermax.

Wanson India was renamed Thermodynamics in 1980 and later as Thermax (after ‘Therm’, the unit of heat) which saw a meteoric rise under Rohinton Aga and emerged as the clear market leader. Wanson India was founded in Mumbai; Thermax was incorporated in Pune. Rohinton Aga was a graduate from Harvard Business School and a hired professional by Adi Bhathena. He later married Bhathena’s daughter Anu Aga.

Senior officers like D. A. Awhad, retired Deputy Director of Steam Boilers were contemptuous of the baby boilers that Thermax infiltrated into market. “It was a hoax. None of those vertical coil type boilers worked properly. The coil used to get burnt with minor fluctuations. It was derogation of a boiler. This was a very shrewd company and they often misguided people”.

Ashok Atre accuses Thermax of unethical marketing and indiscriminate sales. “A customer, who needed a ten tons boiler (which Nestler Boilers could well provide); was persuaded to install four small boilers of three tons instead”. This kind of salesmanship antagonized Ashok, especially since it displayed the most callous and technically bankrupt attitude towards energy consumption.

D. A. Awhad said, “Thermax salesmen would not stop short of lying to the ignorant customers. They would craftily calculate their fuel efficiency quoting the boiling temperature in their product literature, with no reference about the initial room temperature”. He remembers that Thermax had sold a coil type boiler to Centaur Hotels, Andheri where no room was left for its inspection. Finally, the ceiling had to be broken. In another place, boiler was to be bodily removed to change its tubes.

Yet, Boiler Inspectors adored Rohinton Aga. D. A. Awhad

described Aga as, “The excellent man, he was no one’s enemy. But, of course he had no scruples where business was concerned!” He actually confirmed that when other boiler manufacturers waited for Boiler Inspectors’ appointments; Thermax had inspectors waiting in its premises to comply. He said, “This was not because they received some gratuitous payments, but because Mr. Aga knew how to take good care of the inspectors”.

“Also take into account the revenue they generated. After all Thermax operated on a very large scale,” he added as a matter of fact.

An anecdote goes in the Boiler department that a certain labour commissioner was once travelling to Solapur. He rubbed Rohinton Aga on the wrong shoulder by calling Aga to meet him on the highway. Aga did not go but sent his representative. The bureaucrat took an offence. But Aga managed to pull the strings so slickly that the senior officer found himself transferred, before he could return from Solapur.

Aga saw the world as customer. In Thermax, he would pitch one department against another. Traditionally a purchase officer’s commitment is to his superior in the hierarchy. In Aga’s redefined organizational structure, the purchase officer would be concerned about providing satisfaction to the personnel in the stores department, who are his internal customers. The stores department in turn would want to satisfy the demands of the production department. This he called the customer approach in management.

‘Changing the mindset: Reflections of a Chief Executive’ is an edited version of selected articles and speeches Rohinton Aga delivered to diverse groups of audiences as the chairman and Managing Director of Thermax. He was a good orator. “Enterprise is an activity that constantly seeks opportunities in pockets of unfulfilled needs in the society,” he said with a style.

Rohinton Aga developed Thermax into a dynamic business model. He created franchise all over India. It was a smart idea to build a network of small local representatives, who could also cater to the regular maintenance in their area.

He debunked the lofty notion of corporate social responsibility. He said, “The business of business was not to build roads and hospitals for the society, but to provide goods and services which add value to the customers. How and to what extent does a particular activity achieve that, should alone be the central concern for everybody in the business”.

‘Aga, Aga... zor se bhaaga’, was how he was known in the boiler industry.

Industry grape wine recalls a famous incident. It was well known that Bhathena Seth was an ethical business family with credibility in the market. Bhathena Seth still headed Wanson India when in the Industries’ Association meeting, textile king Mafatlal directly confronted him. Mafatlal accused Bhathena of rogue sales practices in boiler business and of cheating the customers. It is said that Bhathena Seth was so much humiliated; that he disassociated himself from the company. The original Belgian company, Wanson also withdrew. Thus, Rohinton Aga got a free hand in Thermax.

Thermax soon emerged as an aggressive competitor in the market. The pioneer players like Walchandnagar industries, Thyssen Krupp, the KCP Group of Industries or the Tatas built up a base of boiler industry in India; by focussing on developing the basic technologies. All of them had brought then latest, world class technologies in India through legal technology transfer agreements. However, the name Thermax is associated with some famous instances of poaching.

It is a well-known story within industry, how the head of the design department of the Walchandnagar industries (who basically, acquired the technical know-how of boiler manufacturing developed by partner companies like Skoda and Fosters Wheelers) joined Thermax at a critical juncture. Just when Thermax was launching a new range of Trava-grate and AFBC types of boilers. In a series of quick developments, the marketing head of Walchandnagar industries also joined Thermax; helping the latter nibble into the market share of his previous employers.

There is also the peculiar case of Three M Boilers. The trio

were the ex-employees of Thermax, who moved on to form an independent company. They were promptly sued by Thermax for technology theft. Their customers were threatened of getting embroiled in IPR infringement cases. The new company was fighting in court for more than fifteen years; after which the case was simply withdrawn by Thermax. However, exhausted by continuous litigation, Three M Boilers perished thereafter.

Nestler Boilers was a company known for making some technically graceful boilers. They were pioneer in package type boilers in India. It was alleged that the labour problem in the company was not allowed to settle; despite management having agreed to pay lucrative pay hike. It was said that political nexus was used to victimise Nestler Boilers. The company was driven out of the state and finally it got sold.

It was in the post 80s that the atmosphere started getting vitiated. The business strategies changed; and survivors struggled. Tata had two plants at Durgapur and Shahabad. After the entry of Bharat Heavy Electricals Limited (BHEL), Tata called it quits and sold the company. It was like the last Mughal retreating, with values of a lost era.

Amidst these times and the controversies, Thermax continued to thrive. They also entered into strategic collaborations and diversified. In 1987 Thermax collaborated with Sanyo in Japan to make vapor absorption chillers. They started offering an attractive package of a boiler and a chiller to the customer, which no one else did in India. In 1988 Thermax entered into a joint venture with North Carolina based Babcock and Wilcox for manufacturing the steam generation units for heat recovery steam generators. In 1992 it formed its combined heat and power group. In 1995 Thermax became a public company on the Bombay Stock Exchange.

In 1996 Rohinton Aga died of a massive stroke. While Ms. Anu Aga was still finding her feet as the head of Thermax, she suffered a second tragedy. Her twenty-five-year-old son Kurush was killed in a road accident a little over a year later. Thermax's growth had nosedived at that time, with share prices plummeting from Rs. 400/- to Rs. 36/- because of the market downturn.

Anu Aga had started her career in Thermax in 1985 and later headed its human resources division from 1991 to 1996. She took over as chairperson of Thermax.

After Rohinton Aga died, Anu Aga decided to invite Boston Consulting Group (BCG) despite the fact that engaging their services was too expensive for Thermax then. The entire board stepped down and independent directors were appointed. Prakash Kulkarni, a long-term Thermax employee was made the Managing Director, succeeded by M. S. Unnikrishnan in 2007.

Anu Aga, retired in 2004 and was succeeded by her daughter and company vice chairperson, Meher Pudumjee. They both remained as the non-executive chairpersons, focusing only on strategic issues and choosing to be away from day to day rigmarole.

Though much criticized, Anu Aga always defended her move to get in BCG. Thermax recovered enough to acquire Danstoker A/S, a leading European boiler manufacturer and its German subsidiary Omnical Kessel in 2010; and later also the Rifox-Hans Richter GmbH, a leading steam accessories manufacturer in 2012.

Ms. Aga was later nominated on Rajya Sabha. In 2011 she was ranked No. 79 on Forbes magazine's Richest Indians List with a net worth of \$655 million.

It is interesting to note that more recently, Thermax was once again in news for IPR infringement and poaching. Purolite International, an ion exchange resin producer in the USA had filed a suit against Thermax in a Philadelphia Court. In its complaint, Purolite accused this leading Indian boiler manufacturer company of stealing highly confidential technical documents belonging to them. It was alleged that the senior plant manager and four other employees in the marketing department of Purolite had joined Thermax and leaked sensitive information. The case was argued in the court for five years. The District Court of Philadelphia ordered a Trial by Jury to commence; after it found prima facie truth in the complaint. It appears that a press release was finally issued in 2010 by Thermax, whereby the case was declared to have settled outside the court. Although the exact

terms of settlement were secret, Thermax paid about Rs 175 crores to Puro-lite as compensation.

Things move on as they invariably will. Individuals contribute their best in the eventful span of life while they are in the flow of those events and then they too, move on. Atre brothers parted ways in 1994. The passionate engineer in Ashok was eager to venture into new technological areas; seeking growth and expansion. Whereas the astute entrepreneur in Dilip was sceptical of these dreams. Finally, Ashok separated with his ambition of making it big with IBR boilers.

Dilip continued to lead the Elite group of companies with Badlapur and Shirwal factories. He focussed on products that did not require much of the after sales service; as was the case of boilers. He preferred the product line of chemical reactor, heat exchanger, ammonia scrubber and such others. Although it was Dilip who was the fountainhead of inspiration for this enterprise; towards the end of his life he was more and more disillusioned. He said that he would have rather been an electrical contractor, than being a boiler manufacturer. He remained the sensitive man that he always was.

Ashok's voice gets heavy with emotion when he recalls that Dilip had offered him forty five percent of partnership. "Had he offered thirty percent, it was all the same to me. He asked me, will you join me? And I said, yes. I didn't ask questions".

Dilip was more than a brother and a partner. Ashok felt the loss immensely. He says, "The uncertainty in those days arose from the fact that we had entered the market. Uncertainty of today is that the whole world around has turned into a market".

Ashok concentrated on the business of IBR boilers and later diversified in most advanced technological areas, under his independent venture. The name TRANSPARENT was suggested by his father, Dattatray Atre. It stood for honesty and character.

The middle class is a hypocrite lot. They are realist enough to understand the dichotomy between values and business. Transparency is not something to be fostered in business. The

middle-class perception of a businessman is that he should always talk sugar coated, even if it meant cheating another. Whereas, Ashok lacked this realism. He spoke even business in straight terms. People who watched him separate; expected him to fail.

Yet, he survived on his terms. His wife Meghana says, “Those who could deal with such transparency, they gave him business”.

Neither Adi Bhathena nor Rohinton Aga was an engineer. They speculated on technology and hired the competent professionals. Ashok Atre is critical of Thermax’s model of success. He is unsparing as he points out, “It is a sales driven model”. On the other hand, top management of TRANSPARENT was always technical; with a passionate engineer at the helm of the affairs. They thought as engineers do. Theirs was technology driven growth.

As Ashok’s colleague of twenty years Ajit Apte, an IITian himself, succinctly puts it, “TRANSPARENT is the unique example in the modern times where a big enterprise was launched with minimum of the resources”.

When Ajit first met Ashok in 1991, he was in dilemma whether or not to pursue his postgraduation. Atre’s was a small company then. Ashok offered that if Ajit pursued postgraduation, he might have an interesting project. Ajit opted for Energy Systems Engineering which was still a new branch for postgraduate studies at IIT, introduced only in 1984. Energy still remained a neglected area in academics. The best projects were offered to core engineering branches.

Ashok wanted Ajit to work on Lithium Bromide Absorption. It was an essentially interdisciplinary field and as such clashed with core Mechanical Engineering. Yet, the project was given to Mechanical branch. They had to struggle to get that project approved for Ajit.

Ashok sponsored it. It was their first work together.

Refrigeration either uses vapor compression or vapor absorption techniques. When electricity had not reached villages, there were Electrolux refrigerators which used ammonia

absorption technique and burnt coal as fuel. Refrigeration using steam is a hundred and fifty-year-old technique. Lithium Bromide absorption is similar to more prevalent ammonia absorption. The chillers that Thermax introduced in market in collaboration with Sanyo were based on Lithium Bromide absorption.

Later, Ashok and Ajit abandoned their project; as they found that lithium bromide had certain constraints. It was suitable for a limited range of refrigeration plants. Ajit says, “Thermax had created a big hype around it, but we did not find long term investment potential in it”. Comparatively ammonia absorption offered a wider range of industrial refrigeration temperatures, up to minus sixty centigrade. Ammonia was considered a safe refrigerant in the industry; though it is not preferred for domestic use for the fear of possible leakage. It was a good substitute for electrically operated industrial refrigeration.

Ashok was quick to realize that there was scope for Ammonia Absorption Refrigeration Plants (AARP) in India. In TRANSPARENT they started working on ammonia absorption instead. At this point Ashok learned that the technology was available at a reasonable price. He could make ammonia absorption refrigeration plants with the same machinery he was using for making boilers. This is how he approached Borsig, Germany in 1994.

Borsig Engineering is a German conglomerate which among other things also worked on the Ammonia Absorption technology. A fervent researcher, Mr. Mattes worked for this division for some forty years and finally became the Head of his Department.

Meanwhile Borsig was incurring losses and decided to sell off this division. Mr. Mattes did not look forward to working with new masters and he feared for the technology to fall into wrong hands, who may not appreciate its worth. Hence, Mr. Mattes generated finances and bought the technology rights from Borsig. Ashok Atre approached Borsig and declared his interest in acquiring the technology. These negotiations continued with Mr. Mattes thereafter.

No one offered ammonia absorption in India yet. The big

players like Thermax were interested in collaborating with Mattes Engineering. Even a company like the Larsen and Toubro was said to be in the fray. These companies could have paid much more to Mr. Mattes than what TRANSPARENT could have offered. But, Mr. Mattes trusted his technology in the hands of an unknown Indian engineer heading a small company called TRANSPARENT. TRANSPARENT got the exclusive rights within India for Mattes technology.

In 1998 Atre collaborated with Mattes Engineering, Germany for AARP. This was a landmark achievement for TRANSPARENT, when all the heads were turned in the boiler industry.

Energy efficiency has been one of the key performance factors for TRANSPARENT. Remarkable consistency can be observed in their choice of technology in this direction. In the nineties, solid fuel boilers based on Fluidized Bed Combustion technology dominated the market in a major way. In every annual board meeting, the marketing team of TRANSPARENT used all its charm proposing AFBC product line; but the management refrained.

“It was a conscious decision,” says Ajit Apte. “We did not believe in that technology”.

“The claimed advantages of FBC boilers included cleaner combustion. But it is open to controversy. The claims of in situ desulphurization and denitrification mechanisms were over rated. On the contrary, FBC boilers generated monstrous quantities of fine particles of coal and ash which pose a more serious hazard. Besides, their combustion air fans consume massive energy,” explains Ashok Atre.

TRANSPARENT saw itself as pioneer in the energy conservation technology in India. The Quality Statement of Transparent Group of companies declares that it is a company committed to provide eco-sustainable resource conservation solutions. They debuted with improvising the energy efficiency of oil and gas fired boilers. AFBC technology went against their grain.

Later, when market leaders like Thermax were making huge profits on AFBC boilers; TRANSPARENT sought to work on the waste heat recovery segment.

In 1996 TRANSPARENT got their first opportunity to make heat recovery boiler for a customer. Instead of burning more fuel, waste heat is recovered and recycled. This customer saved substantially on diesel. It was a major success and there was an increasing demand from all across India. In times of scarcity of electricity, TRANSPARENT developed and sold the Heat recovery systems.

This is a highly customised sector. The systems need to be individually designed, as per the nature and needs of given industry. TRANSPARENT was quick to identify this niche area. They were among the first to develop expertise and diversify. These customised heat recovery boilers made maximum business for TRANSPARENT.

Later, TRANSPARENT got an opportunity to design the cogeneration projects; where waste heat can be utilized for power generation. Further, AARP is waste heat recovery combined with facility of refrigeration within the same system. These integrated systems he could export, where their performance was much appreciated.

In this sector, Ashok focussed on specific challenges.

Waste heat is recovered in the form of hot gases. In a place like a cement plant, it was difficult to design these systems because there was too much dust in the hot gases. It was a challenge to recover the heat; while not allowing the dust to settle on, that could choke the boiler. In those days, Ashok surveyed various cement plants to understand their working. It was certainly a challenge designing waste heat recovery system for an existing and operating plant. Earlier attempts in this area did not meet the expectations. Hence, cement manufacturers believed this couldn't work.

In cement industry, the plant releases hot dust laden gases of around 400-degree Celsius temperature. Ashok designed effective solution to recycle this wasted heat in a running cement

plant. While his war with the Boiler Inspectorate was at its peak in the year 2000, they also witnessed a major technological breakthrough in waste heat recovery system for power generation in a cement plant. Ashok took patent for this research. He observed that in the post globalization times and especially since the Narasimha Rao government, intellectual property rights were taken seriously in India.

Ashok focussed on the particular issues of heat recovery in specialized industries such as the glass melting furnaces and the steel making plants. TRANSPARENT was the first to develop waste heat recovery systems for glass furnaces. In steel industry, the hazardous gas from blast furnace ought to be burnt in an incinerator. Now TRANSPARENT makes burners which can reuse this as fuel. Later Ashok worked on the recuperation of furnaces used in the automobile industry. He took patents for the systems he developed for each of these industrial applications. Since 2000 onwards, he got nine patents which include interesting range of concepts.

He received two patents for the creative application of the concept of Multistage Evaporator. It is effective for recycling water effluents. It is known as Zero Liquid Discharge (ZLD) and is employed at the final stage of effluent treatment across the industry segments such as chemical, manufacturing, pharmaceutical and distilleries. These are systems where maximum usable water is recycled at a minimum supply steam cost. It reduces the volume of the effluent to be discharged, producing solid waste which is disposable at landfills.

The same concept Ashok applied in sugar industry. He received patent for high efficiency energy conserving multistage sugarcane juice evaporators. In sugar industry, bagasse is a waste product which started making lucrative business as bio fuel. But moist bagasse does not burn well. Ashok offered a solution in the form of a bagasse dryer, using waste steam in sugar industry.

Ashok Atre has patents for concepts that improvise efficiency of existing systems. In once through coil type boilers, he designed

model that feeds dry steam in place of conventional wet steam, making it more fuel efficient. For these boilers, he showed that descaling could be facilitated while in running condition. He developed gas fired hot water generators for hotel industry. For huge gas fired turbines, he developed the idea of waste heat driven inlet air cooling system. It helps in increasing the power output by reducing the compressor inlet air temperature for gas turbines. All of this research is originally developed and patented.

Ashok believed that lean period in the market was time to be creative.

This is how a little company like TRANSPARENT grew; through constant innovation.

When Siemens Venture Capital (SVC) invested in TRANSPARENT, an agreement was signed whereby Ashok Atre's individual patents were transferred in the name of the company. Today the company has state of the art research and development centre recognized by Department of Scientific and Industrial Research (DSIR); having the intellectual property base of more than fifty patents.

In 2003 landmark Electricity Act was passed. Power sector was deregulated. Captive power generation for self-consumption was allowed. There was frenzy in market for then latest CFBC boilers for the mushrooming power plants. Once again, TRANSPARENT was thinking ahead of all. It is proved that the industrial processes using high sulphur fuels such as coal, pet coke etc. emit Sulphur dioxide in large quantities. In 2006 TRANSPARENT had done the desk work on Flue Gas Desulphurization systems; when the need for them was not yet foreseen. The relevant environmental regulations were a decade away. TRANSPARENT became the pioneer company to successfully commission first of its kind FGD plant in India.

Energy conservation and pollution control are the two major sectors along which TRANSPARENT further diversified. Transparent Technologies Private Limited (TTPL), sister concern of Transparent Energy Systems Private Limited (TESPL) worked on allied business of dryers and spray coolers. It ventured to

provide technology solutions with the aim of resource conservation in the niche areas such as the Sand reclamation plants and Paint stripping plants.

In a foundry, fresh and high-quality sand is required for casting. The rapidly depleting sources of fresh sand, cost of its transportation and disposal of the used sand are serious concerns faced by foundries. Now with sand reclamation plant, it is possible to recycle the used sand. Only a handful of companies in the world undertake this. Further, Paint stripping plants are the ones that use electric charges so that the painting job is done with precise uniformity; mostly seen in automobile and white goods sector. TTPL developed such plants wherein the wasted painted parts can be recycled; thereby also controlling the pollution. These were energy efficient and environment friendly thermal Paint stripping Plants.

TTPL established its subsidiary 'Ecokleen'; to produce air pollution control equipment like bag filters and cyclones. They are inexpensive and widely used dust collection equipment. They collect coarse particulates from emission gases and exhaust clean air.

Decimin Control Systems Private Limited was an independent company within TRANSPARENT Group; launched with French technical collaboration for noise pollution control systems. Starting from engine silencers, this little company ventured into super specialized areas like the stealth technology for naval warships; and made a tremendous mark in a short span.

In 2008, TRANSPARENT group won the National Award for Research and Development efforts in Industry in 'Clean Energy and Climate Change' category from Department of Scientific and Industrial Research (DISR), Government of India. In 2011, they received the Innovation Award for 'Automatic, Continuous, Energy and Water Conserving, Hygienic Process for Manufacturing Improved Quality Jaggery'; which can replace the conventional methods of jaggery making. This was a harbinger for the entry in food technology.

Among those in Boiler Inspectorate, D. P. Deshpande now retired Deputy Director was objective enough to observe that Ashok Atre had a wide and varied product basket.

“Atre did much more than making of the conventional boilers. He ventured into diverse activities and in high technology areas. He was like Mini Thermax. Whatever Thermax could do, Atre could also do in his small shop,” says Deshpande. D. P. Deshpande himself falls into that rare breed of Boiler Inspectors who calls himself an engineer first and an inspector later. He has witnessed the journey of Atre brothers since 1979.

“Non IBR or the coil type boilers was a low hanging fruit then. They were easy to make. Many people jumped into this business but none of them sustained the way Ashok Atre did; or consolidated to reach to the position where he reached. Starting from where he did, there is absolutely no parallel to his success,” says Deshpande.

In the year 2000 Ashok Atre had accused the Chief Inspector of Boilers of playing in the hands of Thermax and having tried to kill TRANSPARENT.

Looking at their respective sizes, it was easy to dismiss the allegation as the paranoia of a small-scale entrepreneur. It was bold to claim they were in competition. But, Ashok Atre proved it during the inquiry that the two were competing in crucial technological segments and that TRANSPARENT posed an effective challenge to Thermax in a range of these products.

The Grievance Commissioner took serious cognizance of the charge in his enquiry; as the one establishing the prima facie case against the top-ranking officer.

The Grievance Commissioner later observed, “Level playing field is only a theory. It does not exist in reality. Atre’s case serves as a good example of the nexus between Bureaucrats and big business houses. In our system, officers could kill a promising small enterprise in the garb of technicalities”.

...But why do you think that a giant like Thermax would need to go to this extent?

Unflinching Atre retorts, “Because if they are matter, we are anti-matter!”

Indeed, it could not have been just the clash of egos between Atre and the Chief Inspector of Boilers; as some insiders in the Government interpret. Nor it was the case of a bitter market war. But, at the heart of this confrontation lies the passion of a man for whom technological integrity was a virtue and he almost took a personal offence.

2 | *The Origins of Power*

We all know about James Watt and his magic moment with his kettle. Yet, the expansive force of water vapor was realized hundreds of years before the Christian era. It is one of the oldest technologies known to man.

City of Pompeii was an ancient Roman town near Modern Naples in Italy. It was mostly destroyed and buried under four to six meters of ash and pumice in the eruption of Mount Vesuvius in 79 A. D. From the ruins of Pompeii, a boiler of cast bronze was recovered.

Admittedly, prior to eighteenth century none of the boilers developed were of any practical use. In 1698 Thomas Savery patented a steam powered pump. But, it could not transmit its power to any external device.

In principle, boiler is just like a pressure cooker. It is a closed vessel in which water or any fluid is heated under pressure. The steam is then to be circulated out of boiler for use in various mechanical and electrical processes or heating applications. Thomas Newcomen's atmospheric engine is credited to be the first commercial true steam engine, using a piston. It was used in 1712 for pumping water from a mine.

James Watt was a man whose strength lied in his prowess for technical analysis. He could repair the old clocks, which had been dead for years together. The steam engine that James Watt patented in 1781 was a genius improvisation on Newcomen's

machine. History tells us that the inventor and the engineer met, and Newcomen appreciated the improvements.

The early steam boilers were normally manufactured from copper plates riveted together. By the end of eighteenth century, wrought iron plates were used in boiler construction. Cast iron was used to manufacture a few components. In those days the steam pressure was limited to five to ten pounds per square inch; and the explosions were relatively few and harmless.

From 1800 onwards, an inventor Richard Trevithick designed boilers from 30 pounds per square inch and upwards. By 1830's the high-pressure boilers as then understood, were common. (It may not be out of the way to state for the sake of comparison, that one steam boiler working in Tata Thermal Power Station at Trombay, was designed in 1963 for a pressure of almost 3000 pounds per square inch having an evaporation of 1,05,6000 pounds of steam per hour and 1060-degree Fahrenheit temperature).

By the end of 1840's in the United Kingdom, railway companies and other industries were using thousands of then considered high pressure boilers. As the scientific background to practical boiler making had not been properly investigated; disastrous boiler explosions with alarming frequency occurred, causing serious injuries to property. On many occasions, members of the public were killed, and the boilers blown to pieces.

Thus, the boilers posed safety hazard and therefore the legal framework evolved.

It was observed that laws for compensating the families of persons killed by accidents due to wrongful acts, neglect or default had some means of redress. But, the delay and the cost of legal proceedings involved, was often beyond resources of common men.

In 1850 in Manchester, which is the original textile hub, the first association for prevention of steam boiler accidents came into being. There was a move to get hold of those who were most likely to cause boiler explosion, namely the steam boiler manufacturers.

In 1854 as a result of an appalling boiler explosion it was

reported that ten persons were blown to smithereens. Therefore elders, writers and parliamentarians started a campaign and called for immediate measures to be adopted by industrialists and engineers. They urged government to take action.

In January 1859 for the first time in the United Kingdom and probably for the first time in the world, a body to inspect boilers to prevent explosions was inaugurated in Manchester. It was then called The Steam Boiler Assurance Company, and later called the Vulcan Boiler and General Insurance Company limited. After the successful operation of the above company, in 1864 another Manchester based firm called National Boiler Insurance Company was established. In 1878 another company in Manchester called the Engine and Boiler Insurance Company was founded.

The first two companies then amalgamated and were called the National and Vulcan Insurance Group.

The activities of the above agencies were also extended to examine steam boilers at the manufacturer's works, before they were dispatched to the boiler users. Certificates were issued according to their classification.

Therefore, Manchester can rightly be called a home for steam boiler inspection.

Homi P. Seervai, Chief Inspector of Steam Boilers and Smoke Nuisance, Maharashtra State in 1971 compiled this lucid and beautiful account. It is a short history of one hundred years of service to the public by steam boiler department. He wrote it on the occasion of the golden jubilee celebration of labour department. Because, it is the labour secretary who controls the general administration of the former.

Titled as 'A Century of Silent Service', these are all but forty typewritten pages. They were found in the old files of the Mumbai office amongst other administrative papers. Homi Seervai's name appears third in the list of Chief Inspectors painted on the board in the conference room, after the names of J. S. Jacob and K. D. Bhatena.

The record of the names of all the Chief Inspectors who served the department before 1960 is now forgotten and lost. One may see their signatures in the old handwritten entries of the Memorandum Book that contains the birth register of all the boilers functioning in the state that come under the Indian Boiler Act (IBR). Relevant strength calculations are noted therein and working pressure for each of the registered boilers is carefully approved. Indeed, each boiler comes punched with details which can be compared to the chassis number of a vehicle.

It is significant to note that boiler accidents were almost simultaneous in India as in England. Within ten years after the establishment of the Steam Boiler Assurance Company in Manchester, the legislation for inspection of steam boilers was enacted in Bombay in 1869.

During the 19th century the textile mills of Bombay was already an organized industry. The owners were either the Parsees or the Marwaris like Wadias or Poddars or Piramals. The initial industrial growth was ancillary to textile, like cotton ginning factory. A cotton gin is a machine that quickly and easily separates cotton fibre from their seeds, allowing for much greater productivity than manual cotton separation. The chemical industry prepared the dyes needed for textile.

There were a few sugar industries like the Ravalgaon sugar farm started by the Walchands and the Phaltan sugar industry started by Laxmanrao Apte.

Mumbai, Coimbatore, Ludhiana, Bhilwara, Kanpur, Surat, Burhanpur, Calcutta, Dhaka, Chitgaon, Karachi, Lahore were known as the textile pockets. These were the early boiler importers. Within imported machinery, the boiler volume was major. The legislation was basically enacted for the registration of these imported boilers, their annual inspection, safe and reliable use, maintenance and the repairs. It was all conveniently divided on community lines. Most importers were Parsees, and repairers were Muslims.

By then Chola Power House near Kalyan was producing power for Railway. Railway steam engines were also imported.

Since these were mobile boilers, Railway had self-reliant inspectorate and its own technical inspectors duly authorized.

In Greater Bombay roughly during 1855 a fatal accident was reported in a textile mill in Parel, killing many people and causing severe damage to the property. Since then regular such accidents started in textile mills and oil mills. The British Government of Greater Bombay was compelled to enact a suitable rule called Bombay Boiler Legislation Act, 1869. Subsequently a Chief Inspector and inspectors of boilers were appointed to periodically inspect the boilers. Necessary statutory powers were given to these officers to control the safe working of the boilers.

During same period in cities like Madras, Calcutta, Ahmadabad etc. such fatal accidents occurred in a few industries. Hence, British Central Government was compelled to enact Indian Boiler Act, 1860 which was applicable to all provinces in India. The second line of defence against explosions was provided, by insisting on the employment of qualified and competent persons in charge of boilers. Their proficiency was determined by examinations.

Homi Seervai writes - when legislation was enacted, it was based on the fact that the steam boiler is an extremely dangerous vessel. It is liable to explode with disastrous consequences on account of faults in design and construction, the effect of wear and tear and usage, careless handling and repairs and the mismanagement at its working. The object of the legislation was obviously to protect human life and property from the dangers of such explosions.

He explains with some seriousness, "It must be remembered that one cubic foot of water at (60 per square inch) 4.2 kg/cm square possesses the destructive power equivalent to one pound of gun powder. Thus, it may be imagined how many bombs are stored in a Lancashire Boiler which is commonly used in our industries. If a Lancashire Boiler of seven feet and six inches in diameter, and thirty feet long, which weighs about 39,300 pounds, and contains 354,399, 112-foot pounds of energy, explodes; it will rocket to the height of two miles. Thus, the potential hazard of a

steam boiler commonly used in our industries may be conceived”.

The typical Lancashire boiler that Seervai is talking about was familiar in textile mills of Bombay. There must have been at least one boiler of this size in any textile mill. The old mill workers may remember seeing this manually operated, stoker fired, zero automation early boiler now considered obsolete. However, a possibility of may be a handful of them still operating in the old mills of the mofussil areas cannot entirely be ruled out.

It is interesting to note amidst the talk of deregulation today, that the feasibility of entrusting the inspection work of boilers to Insurance Associations was carefully considered by the Boilers Law Committee. But, it was found impracticable. The committee was to examine the working of Boiler departments in all the provinces and recommend uniform rules to be followed in the country. It submitted its report in 1921. Homi Seervai proudly mentions that the evidence before the committee indicated unanimously the popularity of official inspection. It was the confidence resulting from the fact that it was done by a (British) Government department.

After considering report of the above committee, Indian Boiler Act, 1923 came into being. This is perhaps one of the smallest act containing 34 sections. The scheme of the Act includes limitations thereof and its applications, definitions, requirements for registration, periodical inspection, certification of boilers, the duty of boiler owners, the penalties for non-compliance, authority for making regulations, the power of State Governments to make rules there under, the limits of exempting boilers from the operation of the act and appeals.

Soon the Indian Boiler Regulations, 1924 consistent with the above act followed; to lay down standard conditions’ in respect of material, design, construction, registration, prescribing the method of determining the maximum pressure at which a boiler may be used, prescribing fees, the method of preparing a boiler for examination, the form of inspector’s report thereon, regulating inspection of steam pipes, ensuring the safety of the persons working inside an idle boiler and for providing for any other matter

of mutual importance to the states of our country. These were the precise execution details.

Thus, since 1923 the entire structure of Boiler Inspectorates in our country got a new look. Even after the promulgation of the above act, technical and administration set ups were not the same all over the country. Therefore, in 1937 the Central Boiler Board was formed in India consisting of all the Chief Inspectors of the provinces. The above body was intended to revise the Regulations from time to time, to bring them up to date with modern practice.

In 1951 a Technical Advisor, Boilers was appointed as a technical head of the Central Boiler Board, whose duty was to tackle all problems pertaining to technical nature of boilers and refer them to the board which was supposed to meet every six months. Thus the Indian Boiler Regulations kept getting revised. The present Regulations are called the Indian Boiler Regulations, 1950.

Central Boiler Board consisted of Chief Inspectors of boiler of all states. Representation was also given to all concerned interests such as the Director General of Technical Development, coal industry, boiler manufacturers, steel manufacturers, boiler users, Indian Standards Institution (now Bureau of Indian Standards – BIS), Railways, Union Territories, Central Government on the Central Boiler Board.

There was regulated as well as unregulated industrial growth in colonial India; as can be seen from the account of Homi Seervai.

He writes, “It is on records in this department, that in Marathwada region of our state, one boiler presumed to be a boiler not covered by the Indian boiler act, 1923 exploded with disastrous results. The boiler room was reduced to rubbles, one person was caught and crushed in the collapsing building. The other employee was thrown bodily to a distance of about 82 feet. And, the boiler rocketed to a distance to about 108 feet.

“The energetic Divisional Boiler Inspector B. E. Limzerwalla touring in the above area had warned the boiler owner not to use

the boiler; after measuring its volumetric capacity. It could not possibly be exempt from the act as presumed by the owner. The warning of the inspector was ignored; and after 26 days the boiler exploded violently”.

Marathwada did not have electricity then. Lanterns were used in houses. Factories used to run directly on the boiler operated machines.

Seervai writes, “Inspection of steam boilers is an internationally established practice; and an art acquired by years of experience and knowledge based upon personal observation. Annual inspection of steam boilers is a responsible job; as boilers of various types, capacity, pressure, temperature and design are to be inspected. Repairs if any are suggested, and hydraulic tests are to be witnessed, before certificates are issued to put them into service”.

It is a matter of pride for the Boiler Directorate, that in Maharashtra State quite a few boilers have passed their diamond jubilee and a couple of them have witnessed a century!

Initially, up to 1959 the sphere of activities of this department was restricted to inspection of installed boilers and economizers; and abatement of smoke arising from the industrial boilers and furnaces.

Especially in cities like Mumbai, Ahmadabad, Nagpur and Solapur there were large number of textile mills, oil mills, solvent extraction plants, pharmaceutical, chemical, petrochemicals industries, power stations and Flour mills. The boiler furnaces in these industries and the chimneys emitted uncontrolled smoke. When population started increasing in these towns, smoke nuisance was recognized as a great hazard to the health of the public. Hence, government of Bombay province enacted the Smoke Nuisance Rules 1912.

The powers vested in Bombay Municipality to abate smoke nuisance arising from steam boilers and other furnaces, got transferred to boiler department. The inspectors and the Chief Inspector were designated as Inspectors and Chief Inspector of Steam Boilers and Smoke Nuisances. (This responsibility they

carried out until Pollution Control Act came into being; after which Air Pollution Department took charge of smoke nuisance).

In 1942, in one of the cotton textile mills in Bombay, an economizer attached to a battery of Lancashire Boilers exploded violently. As it was caused during the period of Second World War, a scare was created in the minds of public who thought that bombs must have been dropped by the enemy; as coincidentally a few air planes happened to be hovering the sky at that time. Air raid wardens were therefore alerted, and a sort of local emergency was declared. As a result of the explosion seven persons lost their lives and seventy-three were injured.

What is an economizer? It is a basic waste heat recovery device. It recovers the heat in the form of hot exhaust gases emitting from a running boiler; and uses it to raise the temperature of feed water supplied to a boiler. If the supplied water is pre-heated in economizer, it takes less fuel to get it to a boiling point. It's a fuel conserving addition to a boiler.

Economizers were then not covered by the Indian Boilers Act, 1923 and therefore not subjected to registration or periodical inspection. The above incident was an eye opener. It proved the necessity for their inspection and certification at regular interval of two years. Therefore, the Act was made applicable to economizers also. While this was done, many irregularities perpetrated by the owners were noticed. Though belatedly, since periodical inspection and certification of economizers was made a statutory requirement, perhaps many accidents were prevented.

Up to 1959 all steam boilers such as Lancashire, Cornish, Britannia, Locomotive or the straight water tubes staggered headers type were being imported from other countries. No steam boilers were being manufactured in India. From 1960 onwards, because of the slow and steady evolution of industrial development, the need of industries and the courage of our enthusiastic industrialists; the fabrication of modern shell type packaged boilers was commenced in Maharashtra.

In 1958, Walchandnagar Industries was the first company to buy the boiler manufacturing technology from the Czech

company Skoda. After 1970 the same Walchandnagar Industries bought then latest technology in boiler making from Fosters Wheelers, an American company. The great foresight of Seth Walchand Gulabchand, the promoter of the Walchandnagar industries saw him develop local technical expertise in the then underdeveloped 'D' zone rural area like Walchandnagar and build an industry there.

Not just that, he also foresaw the future of this business in India and contracted companies from the developed countries to bring in the latest technological developments in this field. That provided a tremendous boost to the boiler industry in India. Walchandnagar Industries did not stop at boilers; it started manufacturing all the machinery required for the sugar industries. Thus, the foundation of engineering industry in the western part of the independent India was laid by Seth Walchand Gulabchand. Even today, his Walchandnagar Industries is a reputed engineering company and is known for its technical excellence.

Apart from Walchandnagar Industries, a German company by the name Thyssen Krupp (erstwhile Buckau Wolf) is also one of the pioneers of the boiler technology in India. Prime Minister Jawaharlal Nehru invited companies as is the Thyssen Krupp, or the Alfa Laval, a giant in dairy equipment, to play as catalysts in development of India. Thyssen Krupp makes a wide range of machinery. This company has been in the business since the times of Hitler. It makes its own steel. The steel used in the Mercedes cars comes from the steel plant of Thyssen Krupp.

Using its skills, Thyssen Krupp developed and manufactured large capacity boilers required for thermal power generation plants. The company makes captive power plants i. e. in house power generators used by the industries today.

Along with these two industrial groups, KCP group of industries from southern part of India too built up a base of engineering industries with a focus on developing basic technology. KCP retains its niche in the boiler market. All these groups brought the newer, world class technologies in India through legal technology transfer agreements. In boiler manufacturing industry,

ACC Vickers Babcock (Tata Group) and Nestler Boilers – Marshall Anderson (UK) Technology demonstrated the same professional ethics.

As the industry emerged, so did the legal edifice encompass it.

When boiler manufacturing commenced in the state, then Chief Inspector K. D. Bhatena and Homi Seervai were deputed to the United Kingdom under the Colombo Plan, to gain some experience in this new area. Fabrication of a boiler involved variety of skills and techniques not known or performed in the past. Certification of a boiler in its manufacturing stages was quite an arduous task.

The British have a natural talent and the passion for building impersonal systems and procedures. They never miss a detail. The Parsee Chief Inspectors faithfully adopted and applied these elaborate systems in India.

In the making of a boiler, even the mechanical drawings need to get approved. There is raw material inspection of steel plates and tubes. The objective is to ensure hundred percent traceability of the material and the processes. Each of the steel plates used is engraved with markings.

The fabrication work involves welding of all seams, manually or mechanically. This is a crucial phase in terms of safety of a boiler and it is tightly controlled. The critical 'weld set up' is inspected before welding. The welders are required to be certified. They are officially examined, and their skills are tested to be of the prescribed standards. To determine the quality of weld, the inspector must have the knowledge of non-destructive testing viz. radiography by x-ray and gamma rays, or ultrasonic method and their interpretation. The welders are also expected to be familiar with destructive tests of welded specimens carried out in laboratories.

To remove the locked-up stresses during fabrication and welding, all concerned must be conversant with the heat treatment technique. Heavy welding can change metallurgical structure in

heat affected zone. So, the method is to heat up and then cool it. The rate of heating is standardized and there are heat treatment furnaces approved under the Act. (Even the wheels of a rail coach require such heat treatment).

A number of inspection visits are to be paid before the final hydraulic test is witnessed and the certificate in prescribed form is issued. The boiler is put to fifty percent higher pressure, than the pressure for which it is designed for. The higher pressure is retained for half an hour. This hydro test is an annual mandatory requirement.

Thus, the safety and certification requirements introduced space for total government control over the boiler industry. It was characteristic of a controlled economy and controlled industry.

When manufacturing of boilers commenced, other supporting industries also started to complete the ancillaries. Because a modern packaged boiler, is a boiler fitted with mountings, matching burner, firing equipment and auxiliaries, automatic controls for fuel, feed water and steam pressure regulator, all mounted on a base-frame forming the whole, compact, ready to use unit.

Thus, other industries started manufacturing boiler mountings, valves and other fittings without which a boiler would remain incomplete. The inspectors per force had to visit such concerns; inspect the above product at various stages of construction, and issue certificates in the prescribed forms.

After 1960 all pipes carrying steam above 3.5 kg/cm square (50 per square inch) and pipes of (10 inch) 254 mm bore carrying any pressure were covered under the Indian Boiler Act, 1923. Therefore, additional work of checking steam pipe plans and inspection at various stages of fabrication had to be attended by the inspectors.

The Boiler Inspector today, by virtue of his job profile is the master of foundry, forging, fabrication, steel making, pipe and tube's making, boiler manufacturing and maintenance. He personifies the competent authority.

It may also be observed how the scope of inspection and the

sphere of influence of the Boiler Inspectors have steadily widened over the years; controlling every single aspect of a boiler since its birth to death.

Another fact that needs to be stated is that in India, boiler was seen more as a fabricator's product, rather than a researcher's product. The boiler business is currently excessively regulated by fabrication inspection. Quality fabrication is no doubt vital for safety and reliability. However, design and manufacturing is much wider term than fabrication, which is not often understood.

Further, the fabrication technology matured since 1960, (where no more innovation appears possible except production automation in near future). But, unfortunately the law once enacted does not keep pace with technological reforms. And, the Boiler Inspectors did not change their primary apprehensions and obsession with fabrication; which they invariably linked to safety.

We need not import boilers anymore. The boiler manufacturing industry in India is confidently producing the super critical boilers.

When liquid is heated in any closed vessel, boiling does not occur. On heating continuously, the vapor pressure increases. As the temperature increases, more and more water is converted into vapor and there comes a point when the boundary between water and vapor disappears. This temperature is called the critical temperature of water. This is still saturated steam or wet steam. When it is further heated, it gets converted into dry steam which is required in power generation processes. These are the super critical boilers.

In India, first they started manufacturing different standard designs like vertical cross tube boilers and vertical smoke tube boilers. Then the Lancashire type horizontal shell with dished ends, integral twin furnace boilers came. These were followed in a few years by staggered headers straight inclined water tubes, single drum boilers. All of these standard models had low working pressure at about 14 kg/cm square Later the industry started manufacturing high pressure steam boilers of 21 kg/cm square,

32 kg/cm square, 45 kg/cm square and above bi-drums bent water tubes boilers, mainly for the requirement of the developing sugar industry.

For power stations we used to import high pressure steam boilers up to 110 kg/cm square. When government wanted to make more power plants, it floated its own company. Bharat Heavy Electricals Limited Company (Government of India) started manufacturing high pressure boilers in collaborations with Skoda, C. E. & Babcock & Wilcox from 90 MW, 110 MW and then 200 MW, 250 MW. Now they are manufacturing high pressure boilers for 500 MW power plants. BHEL makes an entire range of power plant machinery.

Meanwhile Larsen and Toubro, Thermax, Cethar Vessels and others started manufacturing high pressure boilers of 160 kg/cm square and more at 160 MW. These leading boiler manufacturers ventured into producing super critical boilers. These half a dozen big groups including the Walchandnagar, ISGEC, Industrial Boilers are manufacturing industrial type boilers of 45 kg/cm square and above working pressure with superheaters; (integral for the co-generation systems i. e. generating power with heat). These are required at sugar factories, edible oil plants, the petro-chemical complexes and such others. They can work on bagasse (sugarcane waste recycled as fuel), Lignite (low grade semi mature coal found in certain places), Indian and imported coal, oil, gas and other agro-waste fuels.

Apart from the powerful oligarchy, there are about 60 small and medium scale boiler manufacturers all over India who are independently trying to design the licensed category boilers. More than half of them are located in the state of Maharashtra, more or less concentrated around Pune region which has emerged as the boiler hub.

The standard process boilers and heaters are being widely used for industrial heating applications in pharmaceuticals, chemicals, textiles, distilleries, food processing etc. In addition, there are customized waste heat recovery boilers and systems which are used to recover and convert the waste heat into a useful

form such as steam, hot water, hot air or other forms ‘including chilling or refrigeration’.

Now there are waste heat-driven power plants that use the waste heat from the main process to generate electricity and reduce overall energy cost of process plant. Co-generation system is a key word today that implies production of two forms of energy, usually electricity and heat from single fuel.

It may be said that steam is a utility which has varied applications in all industrial processes. Yet, the competition in this highly specialized sector is tough. It is estimated that about ten percent of the manufacturers can satisfy the entire domestic demand. Therefore, it is seen as a niche market with potent with export growth.

There was a time when a boiler for sale, with a current certificate issued by the Bombay boiler department fetched a couple of thousand rupees more compared to others. Because, a prospective buyer had full faith that such certificate was a faithful reproduction of the condition of boiler. The Bombay Boiler Department was known to be hardcore professional. Their certificates could not be managed or bought.

An old school Boiler Inspector shared this beautiful memory. Sometimes the boiler that he was to inspect was found in such good condition that one look at the boiler was enough for an experienced eye, to know that no physical inspection was actually necessary in the case. This now retired Joint Director told, “I have gone and slept inside the boiler for ten minutes in such places. I knew there was nothing to inspect. But, the plant operator should not have felt, that he took such model care of the boiler and the inspector did not even look!”

When did the department once represented by these scrupulous officers trained by masters like K. D. Bhatena and Homi Seervai came to be known as notoriously corrupt?

It appears that observant man that Seervai was, he could sense the wave of deterioration approaching. He discreetly records the administrative symptoms. He writes, “Especially since 1962,

the problem of recruiting engineers for inspectors' posts became very acute. Vacancies remained unfulfilled for years together”.

This small department contributes to government treasury by way of inspection fees. It has always remained self-supporting and shown profits at the end of financial year. Homi Seervai complains that the department remained neglected. He cites the meagre remuneration of inspectors as apparent reason for unfulfilled vacancies.

D. A. Awhad, retired deputy director, steam boilers, dismisses this official version. He alleges that vacancies were allowed to remain unfulfilled because ‘they’ did not find suitable Parsee candidates anymore! (He insists that it was only after Shivsena chief Bal Thakare published a list of names of all non-Marathi inspectors in ‘Marmik’, then influential publication by Shivsena in 1969, that Marathi engineers finally got promoted to inspectors’ posts!)

Interestingly however, he agrees with Seervai on the year 1962 being the watershed for degeneration. He says, in 1962 then chief minister Yashwantrao Chavan left for Delhi; and it was since then the ministry started interfering in the matters of department, like recruitments and transfers. He blames the later politicians for corrupting the department.

Once a boiler came with a Japanese certificate and was approved by the Maharashtra Boiler Department. Having been approved by the Maharashtra department, the other states that later dealt with the boiler did not bother with further scrutiny. The whole scam was dangerously exposed in the meeting of the Central Boiler Board. Taraporewalla was the Chief Inspector, representing state of Maharashtra on CBB. In the meeting he was asked, “Since when the Japanese started issuing certificates on local Indian paper?” The irony was so obvious on the face of it, that Taraporewalla would rather had the earth sink under his feet and disappear beneath it!

Once infallible image, of the Maharashtra Boiler Department started waning with such embarrassing episodes.

Homi Seervai retired in 1973.

In the changing business environment, the competition in the boiler market got cut-throat. It was openly alleged that the boiler department leaked foreign designs and also supplied local manufacturers' designs to the competing companies. The inspectors harassed the boiler users of particular manufacturers and drove them to others.

In countries like USA there is an autonomous institute like The National Board of Boiler and Pressure Vessels Inspectors. It is the regulatory authority for the professionals. They conduct their own exams and issue detailed inspection manuals. The National Board Inspection Code lists precise repair procedures and methods to be followed. In India, we have no such codes for boiler repairs required to be carried out. Discretion of Boiler Inspector is the only criterion. No wonder that the century old boilers remained in service and maintenance. It was said that the certified boiler repairers owed their entire business to the inspectors.

In a closed economy the bureaucracy assumes a pivotal role. It comes to wield more influence than the Act and regulations empower it with. Homi Seervai's account gives us a historical perspective of the process.

It is pertinent to note that the dangerously powerful boiler inspectorate has acted as another trade barrier and trade manipulator in our story.

In 1991, the theoretical base of the protected and thus controlled economy was challenged in India. The market forces were said to be unleashed. It was expected that the stronghold of government and bureaucracy on the industry, shall substantially weaken thereafter.

But, that was not easy.

Ten years after the liberalization, in 2000 our protagonist Ashok Atre was to realize that the situation did not change much. The inspector raj continued. The unchallenged monopoly of the state boiler department over inspection and certification worsened the situation.

3

Moves on Chessboard

It was a regular afternoon at the TRANSPARENT's office in Pune at Bibwewadi corner on 15th July 1999 when the first fax message from Balkrishna Industries Ltd. was received.

Balkrishna Tyres unit located at Walunj MIDC, Aurangabad was a first-time customer for TRANSPARENT. They had purchased a 10 TPH boiler (a medium range boiler that can generate ten-ton steam per hour). The customer was now saying that the tubes of the boiler were not expanded as per the standard practice. The chief engineer from the customer company demanded urgent action as they could not offer the boiler for necessary hydro test and the job of commissioning the boiler was getting delayed.

The story of TRANSPARENT's troubles begins with the episode of Balkrishna Industries and continues well into the next year,

culminating in the threat for closure issued by the boiler department on 19th September 2000. There are a few twists and turns en route; and at the first glance these may appear to be unrelated incidents. However, looking back now it is possible to see this quench in them, and a deliberate plan operating in the background.

What is equally noteworthy in this story is the amazing defence instinct present in the Team TRANSPARENT and its leader, who could read the threat much before it was uttered.

It is a standard practice to expand the tubes before welding

them to tube sheet. The project manager of TRANSPARENT who replied to the fax, demanded to know on what basis the client arrived at the conclusion, (that the tubes were not expanded).

This was not answered. However, in the next fortnight the communication from the client assumed an increasingly urgent tone. The situation being that their working boiler was due for annual inspection and if the new boiler did not get commissioned before that, they had no stand by boiler.

A boiler is designed to meet requirements of the customer. The initial drawings are approved by boiler authorities. It is offered for inspection at various stages of manufacture. A final hydro test is conducted at the workshop.

Even though it is a packaged boiler, it needs to be inspected for technical assembly and safety controls once it is integrated to process in the customer's premises and must obtain a registration certificate. This is commissioning of a boiler and it is the customer's responsibility. Further, each running boiler must be shut for annual inspection for its safety and maintenance, and to be approved to remain in use. It is mandatory for all boiler users.

TRANSPARENT refused to accept the comment that the tubes were 'not' expanded and specified that the tubes were 'lightly expanded before welding' as noted on the approved drawing. Company sent its service engineers to demonstrate about the tubes' expanded sizes.

At this stage, a fax from the General Manager, Balkrishna Industries on 29th July revealed that inspection of the said boiler was carried out by Joint Director Ahmednagar, (on 14th July itself) who raised the objection in his inspection report and therefore the registration was held up, until the tubes were expanded.

When welding techniques were not evolved, in those days the tubes were heavily expanded. Most Boiler Inspectors before 2003 were of the senior batch. It is possible that they developed their own perception in favour of heavy expansion since they were used to inspecting the old boilers.

However, the Team TRANSPARENT took a firm stand. Its reply mentioned that the boiler under discussion was approved

for its design, and duly inspected through various stages of construction including the final hydro test conducted by boiler authorities. Further, the discrepancy raised was merely on visual inspection. There were no measurements taken or communicated. Also, the boiler department did not notify the manufacturer (TRANSPARENT) of the discrepancies, if any, which it was obliged to do.

A Boiler Inspector is not free to apply his mind. He must approve as per the approved drawing. If he finds that although approved in drawing, a particular specification is unsuitable for any reason; then he ought to notify the boiler office. The drawings are very specific and are subject to scrutiny of Boiler Regulations itself.

TRANSPARENT was strongly against expanding the tubes after welding; for it would result in stresses. The service engineer from the company demanded that the inspector put his objection in writing, which the later refused. S. B. Bhor, the seasoned service engineer and a very sharp negotiator from TRANSPARENT argued that it might be a standard practice to expand the tubes before welding but supposedly even if they were not expanded; it was not within the right of the inspector to reject a boiler on that ground.

TRANSPARENT warned the client against any arbitrary reexpansion of tubes for it was not advisable; and further warned if it was found that any re-expansion was carried out at client's end, company would not be responsible for any damage occurring to boiler while carrying out such re-expansion, or in future. It addressed a copy to Director Steam Boilers, Maharashtra State, requesting the authority to intervene in the interest of the client.

However the client was obviously too constrained by the expediency to bother about technical rationality of the proposition, or the fall out of the disagreement between Boiler Inspector and manufacturer at this point. Hard-pressed for time they took the ad hoc decision of expanding the tubes themselves. TRANSPARENT was much displeased as it argued that it was them who gave guarantee and warranty to customer, not the boiler

office. TRANSPARENT deputed its own team of technical experts to inspect the job that was carried out without informing them. The team reported excesses and resultant stresses.

On 13th August TRANSPARENT made a strongly worded representation to the Director, Steam Boilers, against ‘the gross misuse of exclusive inspecting rights given to boiler office by the government’ and sought justice. It complained that the high-handed manner in which the involved officer had acted, ‘indicated disrespect to the inspecting officers who carried out inspection during manufacturing stages; and further, that it was also disrespect to the engineers of TRANSPARENT, engaged in manufacturing of the boiler’.

TRANSPARENT was sharp to point out that there was no clear provision for specific measurement procedure in this regard; and that a measurement criterion should be framed for verifying adequacy of tube expansion. It urged that however learned and experienced, the inspecting officer alone cannot be given absolute authority in the matter.

Ajit Apte says, “We made it an issue because Boiler Inspectors act as market spoilers”.

TRANSPARENT protested, “Because of the hasty action by the customer, the evidence is now destroyed. The boiler office by its peremptory action has cast doubts on the company’s reputation. The copies of letters written by boiler office to Balkrishna Industries have been leaked to our competitors who are known for negative marketing. This has happened because we are told that the son of the concerned inspecting officer is working with one of our competitors”.

This is the first ever mention of the underlying vested interests of the involved officer in the correspondence.

The bold representation by TRANSPARENT was indicative of the spirit that set the tone for future communication with the bureaucracy. This enterprise was not only fearless but also very well informed on its own rights as well as the gaps in the procedure and was conversant with the local realities operating underneath.

It is not unusual for Bureaucrats to go out of their way

sometimes to serve the dominant players with some clout. However, they do not take kindly to the challenge posed by some lesser mortal in their fiefdom. They would not leave a stone unturned in their archives to locate just the thing, to nail the rebel. The battle is fought on paper with instruments most potent and lethal.

No wonder that the letter was not lost in the avalanche of daily correspondence in the head office; it evoked a reaction in equal and opposite measures.

The reply dated 28th September, 1999 undersigned by the Director (new designation for Inspector in Chief) himself oozes authority from every skilled sentence. At the outset it mentions that, "A number of discrepancies were observed during inspection which were later complied by the owner, without raising a single objection. The said discrepancies were raised on physical inspection by the said senior officer, having put up more than 27 years of service in this boiler directorate. The Officer is fully duty bound in pointing out discrepancy as and when it is observed at any stage of inspection. Unnoticed lapses do not mean that they are taken for granted".

Without mincing his words the director hits straight to the point. "Complaints of you were also received from your other clients regarding faulty design and improper service. Some of whom are..." The boiler numbers quoted therewith, along with the verdict. "It appears from all your letters challenging the opinion of the statutory body, is nothing but to patch up your own lapses. You are therefore advised to improve workmanship. Any lapses if found again will be viewed scrupulously".

In ordinary circumstances the two pages reply was suffice to put any manufacturer in his rightful place; but the boiler department met its match here. The letters hurled to and fro would constitute a case history later. Instead of cowering silence, the department received an interesting single page reply dated 6th October, that did not make any attempt at self-defence. Rather it chose to cross examine the authority in the manner admirably self-assured.

It stated that, “Your reply raises serious doubts in our minds as to whether you agree with some important points. Your clarification is therefore requested on following points”. The questions that were put in a most rational language included, “Whether or not the inspecting authority is required to inform his observations to the manufacturer as required by rules/ practices, rather than to order the customer to make arbitrary modifications/ changes/ repairs without making use of proper instruments and without recording the observations?”

Further, “Whether or not you agree that there are plenty of cases of accidents due to discrepancies in the design and manufacture of various so called old/ senior boiler makers in Maharashtra, in spite of the good efforts of the boiler office?”

The reply stated, “Since your letter avoids these important issues completely, we are not in agreement with views expressed by you which at best can be regarded as an effort to intimidate us. As for the complaints against us, a separate letter is issued to you”.

Director had cited the issue of objection raised by Karnataka State boiler office. In the one-page rejoinder, TRANSPARENT caustically reminded the Director that, “The objection (right or wrong) raised by Karnataka State boiler office involved not just this company but also the boiler office. In fact, you have replied to Karnataka boiler office vide your letter...” (Letter number quoted therewith and a copy of said letter enclosed).

It was a fax message, sent by the Director Maharashtra boiler office to their counterpart in Karnataka state. It was regarding registration of a boiler manufactured by Transparent Energy Systems Pvt. Ltd., Pune. Director Maharashtra the undersigned, thereby dispelled any technical hitch or doubts of the Karnataka authority assuring it that the disputed dimensions correspond to referral British standard and further informed them that the Assistant Secretary, Central Boiler Board approved the same in reply to the letter written by the manufacturing company (i. e. TRANSPARENT). The Director stated that in his opinion there was no harm in registering the boiler.

After putting forth this decisive piece of evidence, there was a tongue in cheek parting comment by TRANSPARENT, “We are of the opinion that the issue should be treated as closed. If, however, that is not your opinion/ objective, kindly write a letter to Karnataka boiler office and we would request you give us a copy of the same”.

It appears that either the department tacitly agreed to close the issue or just ignore the entire episode, because the matter was not followed up at their end.

However, while the department maintained silence on one front, it opened another.

It is characteristic of bureaucracy to act in tandem, as may be observed from the developments thereafter.

It later turned out that the Joint Director Ahmednagar was no ordinary provincial employee. He was the man in waiting for the highest post. On 30th October 1999 he was transferred from Ahmednagar on promotion to Mumbai. On 1st November he was promoted as Additional Director Mumbai and was also given the additional charge of Director on the same day. It was known in the department that he would be promoted as Director of Steam Boilers Maharashtra soon.

It can be no coincidence therefore that Joint Director who had also assumed charge of Pune Boiler Office during that time, took special interest in the affairs of TRANSPARENT precisely from this point, only his style was little different.

On 28th October TRANSPARENT received a terse note from Joint Director of their area. It said, “Gentlemen,” (Boiler inspectors often addressed manufacturers and users as gentlemen; it was part of their British manners). “In recent visits to your workshop, the undersigned has noticed that you have not offered the requisite stages for inspection during construction of boilers. You are therefore, advised to follow the procedure of IBR 1950 and maintain records duly signed by inspecting officer in future”.

The mention of Regulations, 1950 actually bears the seeds of confrontation between the vengeful role played by bureaucracy

in this case, not budging from the letter of regulations and Atre's resolute refusal to accept irrationality under any given name. (It is not as if Bureaucrats are not amenable to logic, but a superior logic is operating there; that the laws and regulations are reserve weapons in the arsenal, to be used as such in special cases).

TRANSPARENT was alert that any of their 'lapses' were being 'viewed scrupulously' by boiler department. It replied on the same day and sought to know the reasons for a sudden and 'puzzling' interest by the local boiler office.

The Works Manager from TRANSPARENT responded in three points.

"Point no. 1: We are manufacturing fire tube IBR boilers for last ten years. The various stages of manufacture are being regularly offered for inspection, which also appear in inspection folders, which have been finally approved by various Joint Directors in the region". (The names of six Joint Directors who dealt with the company for past ten years quoted there under).

"Point no. 2: This shows that the inspection procedure is highly standardized and there has been no change in our practices in recent past". (The words 'recent past' bold and underlined for emphasis).

"Point no. 3: There has been no failure of any kind recorded on our boilers, as to justify introduction of additional inspection stage".

In next couple of months, the new Joint Director Pune paid a few surprise visits to company's works. (He was clearly interested in all information and paid close scrutiny to processes). On 16th December 1999 the Joint Director communicated his observations to the company. He had discovered that this company was a rare species which got its plates rolled from outside but subsequently did the welding within their own shop. (Other small manufacturers got both rolling and welding done from the outside and the big ones had entire facilities in house).

The Joint Director wrote like a gentleman alright. He opened his letter quite charmingly. "This is with reference to your letter dated 28-10-1999 and my visits to your works during last two

months. I hope you must be satisfied with the help, cooperation and guidance given during the period by the undersigned”.

Thereafter he pointed out that, “In your workshop you have only welding facility. You do not have the Plate bending, Heat treatment, Destructive and non-destructive testing and Dish forming facilities for which you are dependent on your subcontractors”.

A boiler is cylindrical in shape and the flat metal plate is steadily rolled and bent in a circular shape on a machine and both ends are later joined by welding. This drum like shell or the cover is sealed from up and down with metal plates shaped like slightly deeper, round dishes. They are shaped by a different process. TRANSPARENT did not have these facilities. It got the plates rolled and the dishes formed, from vendors specially approved under IBR for that purpose.

In his letter the Joint Director slyly suggested that if the jobs of the company were getting delayed it was not due to bureaucratic delays from the boiler office but because of company’s peculiar dependence on outsourcing these processes; (though he did not object to outsourcing yet). Then he went on to carefully note down the gaps in submitting paper work and challans by the company which he observed during his visits; and he did mention his favours in so many words as, “In spite of all this, special concessions were granted to you by the undersigned”.

This could be called as creating misleading evidence in official records or back stabbing. However, TRANSPARENT never allowed the ball to rest in their side of the court. The reply from TRANSPARENT dated 1st January 2000 was witty. It addressed the Joint Director not as ‘Sir’ but as ‘Saheb’. The Works Manager wrote, “I am happy to state that we are quite satisfied with the cooperation and guidance received from your office and importantly from you in person. However, I believe that there is always scope for further improvement in any process, production or activity. Whatever I am going to state hereunder, I request you to receive only with such limited purpose”.

TRANSPARENT then put forth its basic argument (on which the company would remain consistent) that the facilities mentioned are non-critical preliminary processes (Welding being the most critical activity coming under the purview of the Act) and being abundantly available at very reasonable price in Mumbai and Pune. The services were also quite prompt. Company denied that their jobs were getting delayed due to non-performance of these services and went on to quote specific instances of delays from the boiler office e.g. receiving test certificates from boiler office, over which manufacturer had limited control.

Further, TRANSPARENT put it on record that, “During your inspection in last two months, you have made certain surprise inspections like D. P. Test of fillet weld between tube-sheet to shell and shell to furnace. Recently you also carried out a surprise test on our tube expansion of tube to tube-sheet joint. We are happy to state that these inspections were found to be satisfactory”. Then, the company was almost constrained to add that, “Due to such surprise inspections (also,) there has been certain shift in our manufacturing schedules”. The company reported that whereas the regular IBR visits schedule at their works was disturbed during the period, further contributing to ‘delay’.

(D. P. Test is Dye Penetration Test. It is to check the quality of weld. However, even the foreign customers would not normally insist on a D. P. Test for a fillet weld).

Company did not leave out the issue of special favours either. “We do admit that certain concessions are obtained from you with your kind permission by us. However, you will appreciate that this risk we are also running and, in the event, if, we fail to produce the necessary documents at a subsequent date, we will be compelled to scrap the material in semi-finished condition. We obtain concessions only about the documentation and not regarding actual manufacturing quality”.

After this befitting reply the battleground shifted again.

It was no more of matching wits with the Joint Director Pune; but the acting Director who was promoted as the Director of Steam Boilers on 6th April 2000 directly came into picture,

though he would move methodically as on a chessboard before claiming 'Check and Mate'.

Sometime around February 2000 the department started an exercise of evaluating the facilities available with all boiler manufacturers. Cyclostyled letters demanding information from IBR manufacturers in a questionnaire format, regarding their works/ manpower etc. were sent to everyone.

One such letter was lying at the factory (at Bhosari). Liaison with boiler office was the job of Factory Head and he did not think much of it. He was about to compile and submit the required information when Atre happened to glance this letter.

Atre stopped him saying, "This requires more than a straight answer".

The Factory Head was clearly wary of picking up any fight. In fact, he was of the opinion that Atre was reading too much in a matter which was most likely to be of routine nature.

On 25th May, TRANSPARENT submitted the duly filled questionnaire with necessary annexure, but also took the opportunity to inform the boiler department a little more on their company. The letter mentioned that this was the first company in India manufacturing 96 percent efficient boilers on Net Calorific Value. The PCRA certificate was attached for ready reference. The letter also mentioned that the Managing Director was IIT postgraduate (Life member of NSFMP-National Society for Fluid Machines and Fluid Pumping) who proudly led the team of qualified personnel, with 90 percent of staff members below 30 years of age.

TRANSPARENT listed its prestigious collaboration with BORSIG, Germany for Ammonia Absorption Refrigeration Plants, and the major accomplishments like complete in-house designing and manufacturing of Waste Water Recycling Plants, as also its exports of boilers and other thermal equipment on a turnkey basis.

However, Director of Steam Boilers was far from being impressed.

TRANSPARENT received a letter dated 12th June which

informed them that on scrutiny of their documents, certain discrepancies were noted.

1. They should have qualified welder for tube welding
2. They should have a plate bending machine having capacity to roll minimum plate of thickness of 8 mm
3. It seemed that the staff appointed for production and quality control was same, and for better quality control separate staff was required.
4. Power connection was still not transferred in company's new name.

Atre's instinct had proved accurate. It had not been one of the routine form filling exercises as far as TRANSPARENT was concerned. This one page, four points note had certain ominous quality about it, as if something bigger lay hidden from the sight. For the first time TRANSPARENT was on the defensive. Its reply dated 15th June was polite, firm but cautious, not stating anything more than required.

The necessary certificate of the welder could be enclosed and change of name formalities could be followed up with MSEB as regards to power connection. As for quality control, company replied that, "Our entire production team is responsible for ensuring quality".

Now the issue of insistence on a plate bending machine had to be addressed.

The reply stated, "We are surprised to note this point from your letter" and company offered its comments as for past eleven years it was getting its plate rolling work done from IBR approved companies (their names listed, and certificates enclosed with the letter) and as per the IBR required quality. Company had manufactured IBR boilers of capacity 1 TPH to 15 TPH (total weighing about 4000 tons) total numbering about 100. All these boiler shells were rolled at the same vendors and all these boilers were functioning satisfactorily.

Further, all the above 100 boilers were stage inspected, hydro tested and certified by Boiler inspectors as per the standard procedure (their names listed, now seven including the new Joint Director, Pune)

Company simply put it as, “Considering the above, we did not find that rolling machine is necessary at our works”.

The reply did not satisfy the Director.

On 28th August the company was in receipt of next communication from the boiler office. It bore subject as ‘Renewal of approval granted as Boiler manufacturer under IBR, 1950’. It contained not four but eight points now. This was getting more difficult. Especially the word ‘Renewal of approval’ was strange and unheard of with reference to the boiler manufacturers. (There was annual approval under rules for boiler repairers only). Something was wrong here.

The letter was relentless in its pursuit of issues. It reiterated the earlier demands without any change and added several others. It said the company had not submitted NOC from local authority and also, the document of possession of workshop taken from MIDC. (If company had submitted any documents, they were not transferred in the new name). And the company did not have a plate bending machine and also did not have a drilling machine! Their list of equipment had not mentioned a provision for drying the electrodes which indicated that company had no provision for the same! Also, the document for ownership of shop was not submitted... In short, when a bureaucrat is determined to harass you, he knows his ways.

This was the first and only letter that TRANSPARENT left unanswered. (They would answer it later, in the more opportune times, but) the Director succeeded in nailing them to complete their paper work and to wait and watch in dismay while he was going to increase the level of pressure very soon.

The letter dated 15th September, sent in continuation with two earlier letters from the Director tightened the noose.

It said, “At present you are getting these jobs done from approved contractors because you do not have shell rolling machine as well as radial drilling machine in your shop, but you are not obtaining prior permission before subcontracting the jobs, which seems to be incorrect”.

(To insert tubes, holes are to be bored in the metal plate,

which is called a tube-sheet. The holes are drilled with a technique similar to a punching machine, only a mightier one. This drilling machine head automatically moves in a radius over a heavy metal plate which is fixed under it, hence known as radial drilling machine).

Director then quoted the provision in Form III certificate (Ref: IBR Regulations, 1950) that the name of contractor who manufactured any part should appear on the form so that his responsibility can be traced back. Director argued that subcontracting only the shell rolling was not permissible. He offered that either TRANSPARENT subcontracted both plate rolling and shell welding (like others) so that name of subcontractor can appear on Form III (and in that case company should acknowledge the shell and the tube-plate as parts manufactured outside its workshop;) ... Or, alternately the company must install shell rolling machine as well as radial drilling machine, as the shell and the tube-sheets were vital parts of the boiler. (Read as concerning to 'Safety', the holy jargon).

The second point once again advised the company to employ separate staff for production and quality control.

The letter ended on the note that the case was being forwarded to Joint Director, Pune for verification of facilities available with the company.

At minimum it looked like a bargain for purchasing two costly machines and employing additional staff with decorative designations, plus regular interference from the shrewd Joint Director. Yet, would the things stop there?

TRANSPARENT was clearly in the red. They did not even get time to recover from this letter. On 19th September 2000, within four days from the receipt of said letter, TRANSPARENT received a four-line notice from Boiler office which read as:

“Gentleman, I have to draw your attention towards letter from this office dated 15-9-2000 and advise you to comply the said requirements therein by the end of the month i. e. 30-09-2000 failing which the visits of the Inspecting Officer will be stopped, which please note”. – signed by Director of Steam Boilers, Maharashtra State.

-The ultimatum to stop visits of inspecting officers amounted to suspension of the operations of the company!

Ashok Atre, then 42 and already separated from his elder brother did not have much of the bandwidth at the decision-making level. He was the team leader and there were several people dependent on him. In a way he faced the salvo fired by the Boiler department alone, and the pressure of decision weighed heavy. He was human and yes, he was afraid.

“I thought over the decision. I am an introvert. When I face a problem, I keep thinking over it. I read, I sometimes talk to my friends. I try to see the root of that issue. He had pushed me to the wall here, and I could see that it was a war, and that it was inevitable. I can’t suffer injustice. It is my nature, a matter of spirit. But I was considering the repercussions,” says Atre.

Atre admits, “Up to a certain point I do feel afraid and immobilized. I do get pressurized by what everyone around thinks and says. But fear is a state of mind. Once the decision is made, there is no fear”.

Ajit Apte says, “For secretarial and ministerial intervention and thereafter at Grievance Commissioner’s level, Atre fought this battle single headedly. We were not directly affected. We could see that he was tense, and he expected whole hearted support from all. We also desired some decisive outcome”.

Atre must have felt very vulnerable at that point. Had it not been so, a person as rational and a staunch atheist as Atre would not have gone to Akkalkot.

Akkalkot, a small town near Solapur in South Eastern Maharashtra is famous for the Mutt of Swami Samarth. It was Surendra Potnis, another rational IITian who took Atre there. Surendra was a close cousin and Ashok Atre’s mentor. Those were the days when the heat from the ongoing battle and the uncertainty was at its peak.

‘Do not fear, I am with you’, is the famous message by Akkalkot Swami which assures, millions of his devotees. Atre thought, “Why did Swami say that, who did he address? He must have seen people around him who needed the reassurance so that

they could go ahead and do what was just and right”. He says, “I surrendered my fear at Swami’s Samadhi”.

The individual details of the Director Steam Boilers or, of his interests are less relevant at this point. What is more substantial is the fact that the correspondence was taking place at the end of the year 2000; when globalization and decontrolling was the official policy of the government.

It may also be noted that whatever be his motive, the Director appeared to be well beyond his legal boundaries.

What Atre encountered here is very typical of the reactionary bureaucratic mindset; which is difficult to expose, as Atre would realize in his long endeavour for justice.

It took precisely three days for Atre to collect himself and respond.

On 22nd September, TRANSPARENT answered first the letter dated 15th. The company refused to comply, in a language which was rational and apparently detached from any strong emotion.

The reply stated, “All the boiler parts are offered for inspection at our works to inspecting officers irrespective of where they have been processed. We firmly believe that the quality checks observed by us are important and needed irrespective of where the tube-sheets and shells are processed. We are willing to create extra inspection documentation on these quality checks to give you further comfort”.

“We see absolutely no need to currently invest in these machines in our own factory, unless, it justifies our internal techno-economic feasibility norms”.

“It is totally unwarranted that the seams of rolled plates and dished ends must be welded at the subcontractors’ premises, unless, some factors justify this action on technical or managerial basis”.

TRANSPARENT didn’t just stop at the refusal; the company further asked permission from Directorate, “To have the freedom

of drilling the tube-sheets and rolling of plates at workshops who may have excellent facility but ‘may not be approved’ under IBR”. The basis of the request being that, “It is our personnel who will be inspecting job quality and offering the job for inspection to boiler officers at our workshop prior to further processing”.

This was once again the rowdy school boy from Dombivali.

The company firmly ruled out the encumbrance of creating additional Form III procedures. It said, “Since we offer material identification as well as ground inspection of shell and tube-sheet prior to welding in our workshop, we see no necessity to create Form III for these components in our sub contractors’ premises”.

Company also made it abundantly clear that, “We do not intend to have separate manpower designated as quality control staff. In fact if production and quality are not put together as one function, each function gets diluted; this is worldwide observation. It is a worldwide trend to entrust inspection, quality control and documentation as responsibilities of personnel who are directly involved in production”.

“(However,) for your specific requirement, if you insist, we are willing to re-designate our production team as ‘Production and Quality Control Team’ because that is what they are”.

The letter showed that Atre was ready to fight.

There was one final letter dated 26th September, in reply to the ultimatum issued by the department on 19th September, sent to the Directorate by the Vice President, Works, TRANSPARENT Energy Systems Pvt. Ltd. Thereafter the correspondence between the company and the Directorate stopped, as regards to this particular issue.

The letter read as, “We are shocked at the unilateral extreme step proposed in your referred letter. We are making IBR boilers for past ten years under the inspection of your office. All our boilers have been cleared by your office without any rejection in these ten years. These boilers are safely and reliably functioning at different sites”.

“We understand that you have undertaken the exercise of renewal of manufacturing licenses for reasons best known to you.

We certainly feel that ten-year-old history of our company is adequate to assert that we are quality boiler manufacturers and your office is not doing any new inventions in boiler inspection technology”.

“We have given our views very clearly in our letter dated 22-9-2000. Over and above, if you are going to misuse powers vested in you by government, you will be doing so at your own risk and consequences which you may please note”.

It sounded like legal notice, from a person who was vigilant of his rights against a government servant.

On the same day, on 26th September 2000 another letter was sent to Munshilal Gautam, Labour Secretary, Government of Maharashtra, marked as MOST URGENT in bold type. It sought an urgent appointment with the Labour Secretary on the next morning. The object mentioned was to request him to intervene ‘in preventing certain unilateral, irrational and ill-conceived decision’ of the Chief Inspector of Boilers who was misusing the powers vested in him; which would bring the enterprise to a grinding halt.

For the first time the letter was signed by Ashok Atre, Managing Director himself.

Thereafter it was Director Steam Boilers Vs. Ashok Atre.

4

Not compromise, seeking justice

“It was for the first time in life that I set my foot in the secretariat,” Ashok Atre would narrate later.

Secretary Dr. M. L. Gautam did grant an urgent appointment on 27th September and gave a patient Hearing. His approach was mature and responsive which afforded some comfort, says Atre.

Whenever there were closed door meetings, Atre would document the conversation in his follow-up letter and get it acknowledged from the concerned office. So it is possible to keep a trace of the events including what transpired at such meetings from the well-preserved correspondence.

It is significant at the level of senior bureaucrats that they do not like adding to the written representations in the ever-bulging files. They prefer to effect workable solutions across the table. It is not surprising therefore that Labour Secretary suggested the company negotiate the matter once more with the Director, Steam Boilers. The Factory Head R. K. Sawale visited the Boiler Directorate on the same day and made one final effort to argue the case but all in vain.

“Director Steam Boilers is very adamant and obstinate. He does not understand where and on what to start arguments and stop doing so. Normally we would sympathize with such a person and ignore him to the extent possible; but the fact that he sits in the position of power and his actions are causing us tremendous

damage, that we are compelled to take up this issue with you,” wrote exasperated Atre in his feedback letter dated 28th September to Labour Secretary. He had clearly lost patience with this man.

The subject of the letter left in no doubt that it was an official, written complaint against the Director Steam Boilers for ‘the extreme harassment’ caused to the complainant company. The letter did not hesitate to rattle the bones buried in the closet of departmental records. It appears that Balkrishna Industries episode was not the first of its kind between Atre’s companies and the newly promoted Director of Steam Boilers.

It is possible to view this episode as the clash of strong personalities although this theory fails to address the more profound and subtle issue of the abuse of administrative power. A senior Boiler Inspector now retired whom we may call an independent witness analysed it as the unfortunate clash of wills. He explains, “There was a huge difference between a conventional boiler manufacturer and Ashok Atre. He had well deserved pride of an IIT postgraduate and he was not the one to be told how to run his business. In him was the spirit to change this world and he also paid price for his attitude. He was bound to clash swords; if not with Mr. Halingali then with some other”.

From this officer who observed from the vantage point of equidistance, we hear about Mr. B. L. Halingali, the charge-sheeted Chief Inspector of Boilers. “I knew him from Walchandnagar. He was born and brought up there. The sugar industry has provided us with more than fifty percent of our Boiler Inspectors. In a sugar industry we do six months of operations and six months of maintenance and therefore know both these aspects. Walchandnagar industry was like a nursery to all of us. The first non-Parsee Chief Inspector M. V. Joshi was also from Walchandnagar”.

The Officer provides us a rare glimpse of the character of the man who was charge sheeted at five o’ clock on the last day of his service. “I knew Mr. Halingali since the times he used to work as an engineer at Walchandnagar factory. Later he started visiting

there in the authority of the Boiler Inspector. I knew that his former boss at the factory, one Mr. Phadnis openly resented the reversal of roles and made it a point to be absent at such inspection visits. Mr. Halingali could have insisted on his presence but he never appeared to notice! He was not the one given to fight or display any such stronger emotion”.

This now retired senior officer who would wanted to protect his objectivity and preferred not to be named; talked about the old times with Mr. Halingali. He was contemplating about joining government service. He solicited advice from Mr. Halingali who had already done so. Mr. Halingali described government job as ‘the golden cage’.

This former colleague recalls that once the factory engineers were caught red-handed by Mr. Halingali, doing some job they would rather not be doing! He explains, “We could do anything provided we had official permission, officially approved material and officially qualified welder. Material and welder were not the issue, but we had failed to seek permission”.

“I was sent by my factory head to settle the matter with Mr. Halingali who was staying at the government rest house. My boss shoved some money in my pocket. Even I was new to deal with such situation. When I met Mr. Halingali, I found him furious. My hand hesitantly went to my pocket when he stopped me and said I must not dare take that hand out. I could see his anger was genuine and he could not tolerate why some simple and easy formalities were not followed”.

This retired officer seemed to hold Mr. Halingali in great esteem despite everything that happened. “Within our department Mr. Halingali was respected for his knowledge. He was one of the competent engineers of the department and he recognized and appreciated competency in others. Sharp nine o’ clock he used to enter his office. And, he was firm on his principles,” says this former colleague. “Even when he was charge sheeted and faced the long ordeal of departmental inquiry, never once did I see him lose his equanimity,” he adds after a pause.

The gentlemen from the TRANSPARENT who represented

at the departmental inquiry later on company's behalf smile as they confirm, "Yes, Mr. Halingali always came across as a graceful person. He was tall, fair and looked fit. His retirement benefits were suspended but at inquiry proceedings he came impeccably dressed in checked shirts neatly tucked in jeans and belt. His hair always finely combed. He maintained his dignity on all occasions".

When Mr. B. L. Halingali was issued a charge sheet, many officers who admired Atre's guts winced; as they felt that this matter was stretched too far. It could have been an ideal case for compromise. Bureaucrats play games, but they are not comfortable when a game is spoilt. They display remarkable solidarity on such occasions. This officer went as far as to suggest that in the one hundred- and thirty-years history of the boiler department, it was for the first time that the top boss faced an inquiry; and he was not corrupt!

Is that true, can he be called a non-corrupt officer? How do we define corruption? Is corruption all about accepting money alone?

How sensitive are we in acknowledging the subtle forms of corruption; like non-disclosure of conflict of interests or the crafty application of administrative discretion or going beyond the four corners of law to exercise powers not vested in that office? How do we deal with that?

These issues go well beyond the personal comfort zones and we will be getting back to them in our next chapters.

B. L. Halingali joined service in 1972. He was working as Joint Director in Nasik and Ahmednagar when Atre was building up his companies. Ajit Apte puts it straight as this, "He was not in our area then and we had no sales in his".

In July 1995 Mr. Halingali was transferred to Pune region. During this period Atre faced some labour problem at his Shirwal factory. He was therefore seeking Boiler manufacturing license for his second company the Exothermic Metal Composites Ltd. (Now the Transparent Technologies Pvt. Ltd). Mr. Halingali who was Joint Director Pune then, himself came for the inspection.

Ajit Apte recalls, “He was known to be a difficult man to deal with. He was seen in his office till eleven at night, checking drawings and documents”.

Mr. Halingali rejected the application on the ground that ‘the applicant company did not have the Plate bending machine and Tube-sheet drilling machine’. The Chief Inspector was Vankhede then; Atre appealed to him against Mr. Halingali’s decision. Chief Inspector assigned Deputy Director Pune, D. A. Awhad to submit an independent inspection report in the case.

Mrs. Meghana Atre (Ashok Atre’s wife, and a Mechanical Engineer herself) was the promoter of the other company. It was she who dealt with the inspection queries. On 6th July 1996 D. A. Awhad submitted his report that the applicant company is competent to manufacture boiler and its pressure parts. Chief Inspector of Steam Boilers found Mr. Halingali’s objection untenable. On the basis of Awhad’s report, the Chief Inspector overruled Mr. Halingali and granted the license.

Atre narrated this incident in his letter to Labour Secretary. He pointed out that Mr. Halingali had remained consistent and persistent in his views, no matter what the overruling facts were.

Mr. Halingali remained the Joint Director Pune till May, 1999 when briefly he was transferred to Ahmednagar again before his promotion to Head Office in Mumbai. Atre argued that while Mr. Halingali was Joint Director Pune, all the boiler manufacturing documentation folders prepared by TRANSPARENT had been countersigned by him and that he had never raised any questions referring to IBR Rules and Regulations that he referred now. Neither any other inspecting officer ever questioned TRANSPARENT on the same, added Atre.

Bitterly Atre wrote that, “IBR Rules and Regulations are still the same. Everything else is still the same except that Mr. Halingali is now the Director Steam Boilers Mumbai; and now he is interpreting conveniently the Regulations and using his powers to push his irrational views”. He asked, “Does this mean all the previous Directors were incompetent to understand boilers and IBR Act? Does this mean all the Inspecting Officers who inspected

and approved our shells and tube-sheets without any rejection were and are negligent in their duties?”

Further, Atre asked more icily, “Does this mean Mr. Halingali himself was incompetent at that time or coward or ‘His master’s voice’; and after the government promoted him as the Director, he has now become competent and vindictive?”

Interestingly on 20th September 2000 (exactly a day after he sent the ultimatum to TRANSPARENT,) Mr. Halingali issued a circular (No. 7/2000) titled as ‘The steps to be taken by the Boiler Directorate to improve its services in the public interest’. The two pages circular took a serious note of industry’s complaints against Boiler Inspectors. It was sympathetic towards industry’s issues. Here Mr. Halingali discussed the challenge posed by globalization and the need to change the mindset of boiler officers, if the department was to survive in the competitive environment.

Just when he was putting all his might in targeting a small scale enterprise why should Mr. Halingali invest efforts in issuing this circular? Was it some kind of a calculated image building exercise? Was he just whimsical or was there a method in madness, it is obvious or hard to tell. One theory goes that Mr. Halingali was a reformist in the department. He was a stickler for law and sometimes was ridiculed for this within the department. He tried to discipline the manufacturers; while at the same time making the Boiler Inspectors toe the line.

Mr. Halingali himself maintained till the end that he acted in good faith; the best defence available to a public servant. On 29th September 2000 Atre followed up the matter with the Labour Secretary. It appears that he was trying to argue the issue from a broader perspective.

He wrote, “The Indian Boiler Act is of the year 1923. There are many regulations that were formulated considering the infrastructure, manpower skills, technology, transport and subcontracting facilities available in those days”. He argued, “Today a large number of IBR fabrication facilities are underutilized and are searching for work. It is therefore simply

out of question for TRANSPARENT to invest once more and unnecessarily in the same facility”.

Atre urged, “IBR needs to undergo a total overhaul. Only a person with vested interest would challenge that statement”.

Ajit explains, “For us it was not only the question of heavy investment in those machines. If big business houses like Tata outsource certain functions, it is not because they cannot afford to get them done in house! It is a question of techno-economic feasibility of the process and policies within the organization”.

Ajit’s uncle had a ginning mill at Ajantha in Marathwada. It had boiler operated machinery. He chuckles, “I had seen a boiler since I was a boy and also a Boiler Inspector!”

According to Ajit, “A Boiler Inspector is a licensed and qualified engineer and law enforcing authority; yet traditionally they were outdated and aged people, not really updated. They learnt boilers in different times and saw only those old boilers. They stick to their old concepts, especially to the redundant safety norms”.

So there existed a gap between the Boiler Inspectors and the young breed of engineers, with the result that the latter didn’t respect the former. It is significant that Ashok Atre never negotiated the matter with the Chief Inspector in person at any stage. He had very low tolerance for irrationality and he almost lacked any skills to gratify the irrational official ego.

S. B. Bhor, who started as a trainee engineer with the company and skipped several in between posts by virtue of his natural self-assurance to become MD and CEO of the Transparent Energy Systems Pvt. Ltd. puts it like this, “I have met some really good Boiler Inspectors and I learned from them. And there were others who knew nothing. But because they held high official posts, they went ahead to teach us. It is human nature and it is same everywhere. In those days when Mr. Halingali was working, inspectors behaved as if they learnt boiler in their mothers’ womb!”

Those were the days when a Boiler Inspector was received in style fit for feudal lords. It is not at all an exaggeration that in Tamilnadu, a pair of elephants used to be ready with the

welcoming party to garland the visiting Boiler Inspector. In a place like Khamgaon in Maharashtra where there were some twenty ginning mills and about fifty boilers to inspect; the Boiler Inspector had to stay put for a fortnight and he was given a musical welcome with a live band. In a region like Vidarbha which is known for its generous hospitality, industry people would happily serve the Boiler Inspector who travelled 365 K. M. from Nagpur to Malkapur. Rushing to carry his bag and procuring a table for him in a barren workshop place with fresh flowers in a vase; or taking care of his itinerary and contributing for the vehicle etc. was never really much of an issue in a country like India.

Certain things have definitely changed with the turn of the century; like a Boiler Inspector makes a gate pass today to enter the factory premises of TRANSPARENT. But, it is said even today that Boiler Inspectors do not work unless they are paid. The rate that was quoted in 2015 was Rs. 16000 per ton for boiler registration. The highest rate of corruption was reported in Gujarat which was rupees one lakh per ton. Networking with the Boiler Inspector and getting the boiler commissioned is either entrusted with the manufacturing company itself or there are independent 'agents' to advise the customer now.

If these figures are to be believed; then such monetary dealings have been customary between the boiler industry and government inspectors. So money could not have been the bone of contention between Atre and the accused official. This leads us to an interesting situation.

Atre accused the Chief Inspector of harbouring undisclosed vested interests and misfeasance; which is defined as wrongful use of power, wrongful performance of a normally legal act, injurious exercise of lawful authority. These are the subtler charges. In comparison, it may be easier to identify corruption when money and favours are exchanged. But, to expose the non-obvious vested interests of a competent officer; who is known to refuse money in otherwise corroded system can be a formidable task. Our conception of honesty and public morality is unfortunately very limited.

S. B. Bhor hails from rural Maharashtra and does not miss the essential dramatic details in a situation. As part of site management he dealt maximum with the species of Boiler Inspectors. He has a simple and compelling logic to explain why things went this far. “Of course, he had vested interests when he tried to corner us. But, I also feel that his ego was equally strong. If I once told you there was a problem; how can I retract now and admit that there wasn’t any!” He quips with a naughty smile.

It is possible to conclude that the personality traits may have intensified the conflict. But, to view it as some unfortunate personality clash would only make one overlook the subtle and the more serious issue involved, that is monopoly of the voice of authority.

Labour Secretary is in charge of the Factory Inspectorate and the Boiler Inspectorate along with the labour department. In the official cadre this is an unwanted department. Ninety percent of the budget gets spent on salaries and office rents remain to be paid.

Factory and more so the boiler, happen to be techno legal areas. The respective inspector in chief is the single point contact between the department and the secretary.

In the government culture, there is no space for free in-house discussions in departments. Chief Inspector’s take on a given issue is the view of his department. Once it becomes known that the boss is predisposed to a particular point of view (read, favourably inclined towards a particular party;) The department is perceptive enough to follow the lead.

Since Atre’s complaint targeted the Chief Inspector himself, Dr. M. L. Gautam in order to resolve the dispute, invited the company representatives to Aurangabad on 30th September, where there was to be some course or seminar of Boiler Inspectors. Ashok Atre did not attend in person. TRANSPARENT was ably represented by Atre’s good lieutenants R. K. Sawale, B. G. Kulkarni, and S. B. Bhor.

S. B. Bhor recalls, “Mr. Gautam was not in the hall when

we entered. Boiler inspectors were quite surprised to see us there. We were special invitees. It was across the table meeting. Mr. Halingali was there though he did not say anything”.

That meeting was a turning point.

R. K. Sawale and B. G. Kulkarni are no longer with TRANSPARENT though still fondly remembered for their magnetic personalities. Bhor’s eyes have a twinkle as he narrates, “From our side mostly B. G. spoke. He told the history right from the Balkrishna Industries episode. And, since he was the marketing person he told the story rather well! We could see that secretary was impressed”.

Mr. Halingali maintained his silence throughout the two hours meeting. Either because he was an interested party and maintained the distance; or as Bhor would put it, “He did not want to get exposed before the secretary. He let the department stand for him in a show of solidarity”.

On behalf of the department, D. P. Deshpande, a senior officer with a pleasant countenance steered the talks. He was from that minority class of engineers who can argue with a policy perspective. He was respected in the boiler industry for his knowledge and passion. If B. G. Kulkarni was a star performer, D. P. proved to be a skilled diplomat. Years later, D. P. Deshpande who was not much inclined to talk about the issue briefly said, “Atre’s case was unique. The department actually backtracked the matter and it could have ended there”.

It was decided that a status quo was to be maintained until opinion from higher authority was sought, in this case the Central Boiler Board. As per Bhor’s version, the inspectors were rather crude, and it had been easy to expose them in the meeting. It is also clear from the correspondence thereafter, that although the Chief Inspector did not let go of the point; he was getting on the defensive.

It appears that in the meeting Mr. Halingali relented as far as he accepted that TRANSPARENT could continue subcontracting plate bending and tube-sheet drilling operations. He also agreed that the enterprise should be left free to manage

quality control in its own way. However, like a hawkish bureaucrat, he kept insisting on creating additional Form III procedures.

It was possible to view this as a win-win solution whereby the top officer was allowed to save his face. It is likely that the details could have been worked out later to mutual satisfaction. Indeed, there were a few more occasions when Atre could have accepted the bargain and bought his peace after having proven his point. Why did he not compromise and let go like people do? He did not have any more time in his daily strife than most people; to pursue the matter to a bitter end.

Atre was wary that Chief Inspector's insistence on Form III procedure was going to be the hitch that continued the uncertainty. There was still no clear way out of the current impasse. All that was gained through the successful negotiations could be washed out. After having fought his way this far, Atre was not going to accept a compromise on Chief Inspector's terms. Chief Inspector had clearly abused his authority. He was made answerless on each of his technical objections. He had no logic on his side. Yet, he was still playing games using tools like Form III procedures. This was barely comprehensible.

In the feedback letter dated 2nd October 2000 Atre did not mince words while stating that Mr. Halingali 'now' agreed on the above issues after so much time, energy and effort were wasted! As for the Form III-A, The Officer now claimed it to be an 'improvement'. Atre snapped, "Our quality is already the best. The so-called improvement will not in any way add to quality. Since Mr. Halingali is not in a position to convince, he is trying to confuse by using Form III-A procedure".

He insisted that 'Form III-A' procedure was not applicable to TRANSPARENT. It would only hamper the productivity by adding to manufacturing time cycle.

Atre was aggressive, "His (Mr. Halingali's) approach is totally counter running to the pro-industry attitude pursued by the present government. It is hazardous to allow him to continue. Such officers are damaging the industry and we certainly request you to punish him".

He attached a list of suggestions for the improvement of the boiler office administration. The foremost of these suggestions was that the appointment of Chief Inspector of Boilers should be through MPSC and that such monopoly posts should not be filled on mere seniority basis. Among other things he suggested for a 'Boiler Inspectorate Modernization Fund' that could be generated by increasing the fees charged to industries.

The suggestions were most original and aimed nothing short of redefining the role of boiler office. Atre suggested that monopoly of IBR inspection should be broken; as monopoly bred corruption and inefficiency. He would really put his shoulder to the wheel to push the IBR reforms in near future.

He could see that it was important to explore the new markets; as there was over capacity in the Indian boiler sector. However, the customers in the export market did not place their faith in the inspection carried out or the certificates issued by Indian boiler department. They insisted on inspection by private international inspection agencies. These agencies were also recognized by the Indian Boiler Act for that purpose.

Therefore when a manufacturer wanted to export his boiler, he was to additionally employ the services of private international agencies. Atre objected to this dichotomy.

He asked why these agencies were not allowed to inspect and certify the boiler for domestic market as well; why the domestic inspection was retained as the government's monopoly. Further, this would systemically help Indian manufacturers to make boilers as per the standard international codes like ASME and BS. What he suggested was in tune with the trends of global trade; and the market forces would later make the reforms imperative. Only Atre was saying it too soon!

The same day when Atre sent his feedback letter to Labour secretary, another letter was dispatched. It was also addressed to the Labour secretary and was written by M. V. Joshi, then retired Chief Inspector of Boilers, Maharashtra State. He was indisputably the authority on the subject of boiler regulations.

Mr. Joshi letter said, he was writing the letter at the personal

request of Ashok Atre. The letter aimed at clarifying the relevant techno legal aspects of the dispute. It stated that, “The complete boiler undergoes manufacturing in the premises of TRANSPARENT with all stages of inspection as per Appendix J of IBR Act. The company only gets shells rolled at the vendor’s premises. The quality and accuracy of rolling is identified by the inspecting authority at company’s workshop after the job is brought back”.

M. V. Joshi explained that Form III-A is prepared for pipes and pipe fabrication. Boiler shell is not a pipe fabrication! Further, Form III-A is prepared at vendor’s premises if complete fabrication is carried out there involving substantial manufacturing activity. In such case it will not only involve Form III-A but several other formalities. The Form III-A format and information it seeks is not applicable in Atre’s case wherein only shell rolling is outsourced. This predecessor of Mr. Halingali wrote, “If somebody is insisting on preparation of Form III-A in spite of all above, I would certainly treat that as wrong interpretation of law”.

He reasoned, “For the sake of argument let us assume that a particular boiler manufacturer has own plate bending machine. Even then how do we know whether a particular shell is rolled on the same machine; because IBR does not demand witnessing of the rolling operation by inspecting officer. It is the rolling quality and workmanship which matters and not ‘where’ & when it was rolled. Again, inspecting authority cannot insist that because rolling is done outside, it’s welding, and test coupons should also be done from the same place”.

The retired Chief Inspector’s letter was so clear as to legal and technical issues; that as far as Atre was concerned the matter should have rested there.

However, a written reply signed by Dr. M. L. Gautam himself, received on 12th of October 2000 left him disillusioned. Secretary ruled that “Although there is a provision in IBR for getting the parts manufactured from outside; there is no provision for getting only some operations performed (for making the incomplete parts of a boiler) from outside. It is concerned with fixing up the responsibility on manufacturer of those parts”.

The reply stated that, “You are therefore advised to get the parts (completed) such as cylindrical pressure parts, tube sheets etc. as the case may be outside your works i. e. from your subcontractor’s shop approved by the inspecting authority”.

Atre was aggrieved by this decision. In his letter of objection dated 1st November 2000 he courteously thanked the labour secretary for the reply and asked a few questions.

“Is it not a fact that the IBR Act as it stands today ‘does not’ specifically ‘disallow’ subcontracting of boiler manufacturing processes, in whole or in part? Is it not a fact that other National Boiler and Pressure Vessels Codes like ASME, TRD, BS etc. specifically stipulate that aspects not specifically provided for are not to be considered prohibited? And, is it not a fact that Regulation no. 3 (amended) of IBR Act authorize the inspecting authority to take reference of codes or standards of advanced countries, to give decisions on matters where no specific provision is made in IBR Regulations?”

TRANSPARENT argued that the Act itself is interpretative, but the department typically exhibited a regimental and prohibitive approach to the letter of law.

Atre insisted on seeking unqualified answers from impartial experts. He appealed to the authority that unless this was done, ‘his feeling will remain that injustice is being done to his company for no apparent reason’.

“If meeting you was not the solution then what else can one do?” he asked in despair.

In administrative hierarchy the final appeal rests with the minister. The next step was to seek an appointment with Shri Hemant Deshmukh, then Minister of State for Labour Ministry. B. G. Kulkarni wrote to the minister, “The industry is presently going through a recessionary phase. It is important for us to be very competitive for the global market not only on price but on the delivery periods as well. Any ad hoc and unilateral changes in the procedures for manufacturing would kill this industry”.

There were two consecutive meetings with the minister on

5th and 9th November 2000. The later meeting took place in presence of Mr. Halingali. Since there existed a dispute over technical interpretation of the Act, a special provision was invoked whereby the State Government would constitute an appellate committee of experts to resolve the long pending issue. TRANSPARENT requested the government to put a stay on the department order effecting the procedural change, until the appellate authority gave its decision.

There was nothing more to do except; pursue for constitution of the appellate authority and consolidate the case with legal research. On 16th November we find an interesting letter written to Labour secretary signed by B. G. Kulkarni. It reiterates the stand, that what is not mentioned in the Act is not necessarily prohibited by it; only this time around the legal references are far more precise.

The letter was bold enough to state that, “We assume that your order dated 12th October 2000 is based on the technical explanation offered to you by Mr. Halingali. We understand that as a secretary you must depend for the technical advice of the Chief Inspector. We regret to say that he is misusing his position to confuse you by forwarding false and baseless arguments”.

We can almost see Dr. M. L. Gautam’s eyes narrowing and brows knitting in consternation. Does anyone write to the Secretary like that? Is it possible that he bothered to pay any more heed to the insistent correspondence? But, apparently, he did. Not at this stage of course. We know he actually paid a visit to Atre’s factory on 4th February 2001. But, we will hear more about all that later.

It was a cul de sac situation for a while. Yet, Atre could not give up. He directly approached the Central Boiler Board requesting the Technical Advisor to clarify the provision. He received a reply dated 27th November 2000 from V. K. Goel, Technical Advisor (Boilers), with the seal of Ministry of Commerce and Industry, Government of India.

The reply sounded like the truth spoken, unambiguous and clear. “None of the international codes including the Indian Boiler

Act/ Regulations demand traceability of the machine on which the components are processed. The only exception is the welding process. In my opinion it is really irrelevant about the location where processing of (other than welding) plate rolling etc., which is an intermediate process for the manufacturing of drum, is carried out”.

Technical Advisor clarified that, “On studying this case, it is found that there is no provision (i. e. neither specific recommendation nor specific prohibition) about sub-contracting part manufacturing of boiler, other than welding”. He further assured that, “Indian Boiler Act/ Regulations also do not encourage unnecessarily restricting boiler manufacturer’s freedom in organizing and processing of the components so long as the boiler manufacturer is offering the component for inspection at their workshop where inspectors are visiting regularly or using the certified product as per Indian Boiler Regulations”.

This was like the first ray of light when walking through a tunnel had seemed endless. Atre had dared to challenge the technical interpretation of the Chief Inspector of boilers; and he was proved to be correct. He refused to compromise; and it was established that he did not have to.

Triumphant TRANSPARENT shot letters on the same day in various directions, with the reply from the Technical Advisor enclosed therein. First to Dr. M. L. Gautam, demanding immediate instructions to be issued to Chief Inspector, Boilers to withdraw proposed unilateral and baseless new practices. A copy was sent to then Chief Secretary Arun Bongirwar. And, of course, a separate letter was sent to the Chief Inspector, Boilers.

The company did receive any feedback from the Directorate of Steam Boilers, Maharashtra State. On the contrary, he had requested the company to submit a fresh proposal to Central Boiler Board in this respect. The Chief Inspector clearly was differentiating between the authority of the Technical Advisor and that of the Central Boiler Board. (Central Boiler Board being a body constituting the majority of all the Chief Inspectors across the country). “In the meantime,” the letter said, “you are permitted

to continue to follow the existing procedure at your risk till you submit your proposal to the CBB and the Board gives the decision”.

This represented the classical bureaucratic attitude to perpetuate and thrive on the uncertainty.

B. G. Kulkarni on behalf of TRANSPARENT wrote back as under:

Dear Mr. Halingali,

Your letter is unfortunately not simple and clear to understand.

We therefore interpret your letter in the following manner-
‘Boiler office is pleased to cancel the contents of all previous letters listed below, in view of the advised directive from the Technical Advisor (Boilers) contained in his letter (reference quoted). Therefore your license as Boiler Manufacturer stands renewed without any preconditions’.

Kindly confirm our interpretation within a week and also direct Joint Director of Steam Boilers, Pune accordingly.

It was at this point Ashok Atre asked himself if there was no end in sight; whether there was no punishment for harassment and the abuse of power; was it futile to expect justice in this system???

5 | *Of Malice and Motive*

Opposite of Mantralaya stands the Administrative Building comprising of seemingly endless rows of non-descript blocks and identical looking corridors, all forming a confusing maze and a tempting analogy to Kafka's 'Castle'. On the face of the building, among a few official boards is the one which announces the presence of Grievance Commissioner's office in the building.

The institution of Grievance Commissioner originates from the Swedish term 'Ombudsman' translated in Oxford dictionary as 'People's Defender'. An ombudsman is appointed to safeguard citizens against abuse or misuse of administrative power. His primary function is to investigate allegations of maladministration, which may take several shapes: indifference, callousness, delay, red tape, subtle abuse of power, deliberate non-exercise of powers or functions or even an over enthusiastic pursuit of policy.

Way back in 1966, an Administrative Reforms Commission set up under the chairmanship of Morarji Desai recommended two tiers set up: A Lokpal at the centre and a Lokayukta in each state. Ten futile attempts and five decades later, while Indian Parliament continued to struggle unsuccessfully with Ombudsman legislation, several states in India took the initiative in the right direction. At the state level, Orissa was the first state to introduce a Lokayukta Bill in 1970. However Maharashtra was the first state to establish the institution of Lokayukta in 1972.

Under the Maharashtra Lokayukta and Upa-Lokayukta Act, 1971, the Governor of Maharashtra appoints the Lokayukta after consulting the Chief Justice of the Bombay High Court and the Leader of the Opposition of the Maharashtra Legislative Assembly. The Upa-Lokayuktas are also appointed by the Governor after consulting the Lokayukta. These posts demand impeccable character and complete neutrality. These officials cannot hold any office of profit or trust or be connected to any political party or carry on any business or practice any profession.

When surrounded by circumstances that carry no tangible assurance in them, sometimes words offer much needed inspiration to keep going. Disappointed by the powerful in Mantralaya and taking the stairs of the Administrative Building, Atre was thinking of what famous Prof. Pradhan sir had once said in a public speech at Pune.

Prof. G. P. Pradhan was a Sarvodaya Socialist and the Leader of Opposition in the Upper House of the Maharashtra legislature; a respected figure among intellectuals and activists. He was also the professor of English and a talented writer himself. 'Destiny has a role to play in our lives,' his voice still echoing in Atre's mind; 'And it is by rising to whatever it has in store that you would be the Man my son', he said in the spirit of Kipling.

Sitting across the Upa-Lokayukta, under his steady, dispassionate gaze Atre tried once again to present his case. Persuasive as Atre was, the task did not prove to be easy. The tall and stout officer was the much-experienced bureaucrat R. C. Iyer and his powerful persona seemed to fill the room, building up the atmospheric pressure. Each of his movements was precise and measured, reflecting long years of discipline. He was clearly impatient with details, with a mind as sharp as a whip. But, he listened with rapt attention and was seized of the matter in the shortest possible time.

"Why should this officer single you out? Was there any issue of money?"

Atre's response was most candid. "I am a businessman, sir!"

Anything that money could buy, I would have certainly paid the price”.

Mr. Iyer’s gaze did not waver. He scanned the documents submitted to him. He was searching for the motive. If the accused officer had no desire to logically analyse the matter, then the possibility of ulterior motive in selectively harassing this manufacturer was to be considered.

Mr. Iyer was not surprised that the manufacturer had not found justice at the administrative hierarchy. He was well aware of the tendency of the general administrators to maintain aloofness from simple technical matters. Technicalities however could never cause inertia in Mr. Iyer or deter him from getting at the truth. His long years in highest cadre of administration had taught him that more often than not, the issues of interpretation involving discretion are not technical. Indeed, technical parameters are measurable and leave little scope for doubt. He knew that in matters connected with engineering or even contracts, the interpretations usually relate to some non-technical issue.

Probably the case was genuine and fit for consideration. The complainant had exhausted all the possible administrative remedies.

Atre filed an official complaint on 11th January 2001 against the undue and intentional harassment caused by Mr. B. L. Halingali, demanding disciplinary action against him. The office of Upa-Lokayukta not only took cognizance but also responded to the urgency of the matter. Since the complaint related to an officer who was due to superannuate by 31st March 2001 it was considered necessary to take a view of this matter well within the three months.

The full copy of the text of the complaint and supporting documents were forwarded to the Secretary, Labour on 15th March 2001 and the department was thereafter reminded demi-officially at the level of Secretary by the first reminder dated 31st January 2001. The fact that the authority of Upa-Lokayukta started probing the matter against a Class I officer immediately placed the administration in the seat of accountability. The department

was certainly not done with complainant Atre. The matter was now serious enough for Dr. M. L. Gautam, Secretary Labour to pay a personal visit to Atre's Shirwal factory 'to understand the things better'. This visit was insisted by R. C. Iyer.

Dr. M. L. Gautam came accompanied by two senior boiler officers, Mr. Sawakhande and Mr. Koltewar. His approach was unbiased and open, befitting to his position. He said he would like to take a general round of the factory. On his way he randomly stopped a couple of workmen to enquire since when they were employed there, what salary did they get or whether the company was regular with the Provident Fund contribution. Being the Labour Secretary, he was expectedly alert on the matters of the welfare compliances.

Dr. Gautam carefully observed all IBR boilers and their components under various stages of manufacture. He was shown the shells, their workmanship and the inspection records. He listened to the details of plate bending and tube sheet drilling with particular interest. He could see the logic that inspection of rolled plates was best carried out at TRANSPARENT's premises, at the stage when the plates were assembled for welding i. e. the weld set up; for any possible transit damages during the journey from sub-contractor to the factory could also be inspected. (For the same reason, a fully assembled boiler is inspected at user's premises where the final hydraulic tests are conducted before issuing the certificate).

During the course of conversation Dr. Gautam was shown documents and inspection records i. e. Form III-A prepared by the sub vendor for the component 'Boiler Hoop'. Team TRANSPARENT explained that in this case Form III-A was prepared because this component was completely manufactured by the sub vendor 'including the welding'. Such a form would not be needed if only the shell rolling was done at the vendor. The company argued that the additional III-A formalities being insisted by the department for subletting the shell rolling were not reasonable.

It soon became obvious that Joint Director, Pune division

Mr. Sawakhande was attempting to misguide his superior or deliberately trying to create confusion with his loaded remarks like, 'it's good engineering practice to weld the shell at the premises of plate bending sub-contractor'. He was unnecessarily complicating the argument with technical jargons like 'circularity within one percent'.

What it means is that the heavy steel sheets cannot be rolled into perfectly circular shells and acceptable tolerances are therefore allowed. Hence when the diameter of a shell is checked at various points, the variation should not be more than one percent between the points. That is the norm.

Mr. Sawakhande complained to Dr. Gautam that TRANSPARENT did not re-roll the shells as it should be done in case of a mismatch; (since the company lacked the in-house facilities and it would mean transporting the shell back to the sub-contractor).

When Mr. Gautam asked him how then the company managed to match as per requirement; he replied, "By local heating and hammering".

This was a ridiculous allegation. Anyone could see that it was impossible to make those huge shells already rolled, to conform to circulatory norms by just heating and hammering. The company promptly produced the record of outgoing and incoming challans of welded shells sent for re rolling; and proved that the company indeed took the trouble and bear the cost for re-rolling when necessary. The scene more or less resembled company's audit.

It appears that Mr. Sawakhande in this visit was trying to irrationally rationalize the illogical stand taken by the Chief Inspector; by supplying foolish, baseless technical justifications and by offensive allegations. Probably he was also constructing an alibi for department. He argued that the accidents like then recent explosion of a boiler at Shrike Paper Mill at Shirwal, called for stringent measures.

However, he was made to concede that the exploded boiler was not made by the TRANSPARENT.

And also, that the shell plate of the exploded boiler was rolled and welded in the manufacturer's factory (which had failed to prevent the explosion!)

The visit led to certain shocking revelations. It turned out that the crucial letter from Mr. V. K. Goel, Technical Advisor Central Boiler Board Government of India had never been brought to the notice of the Labour Secretary. When Mr. Gautam read the letter, his expression was graver.

Further, Mr. Sawakhande made a menacing statement that he was not aware if TRANSPARENT held the permanent license. Being in charge of Pune office, he did not have the copy of TRANSPARENT's permanent license issued in 1994 in his office file. When countered, he had only feeble explanations to offer as to how it could be missing, (when the copy of permanent boiler manufacturing license had been marked to the Joint Director, Pune).

This was ominous enough as it implied that papers could go missing and pending justice, the Bureaucrats were capable of making you struggle; to prove your existence and validity itself.

It appears that the Chief Inspector had been given a long rope. But, after this personal visit by the Labour Secretary, the matters took a decisive turn. There exists a letter dated 6th February 2001 (within two days of the visit) written by Dr. M. L. Gautam to the Chief Inspector. (Atre became aware of this letter only in the year 2007 when under his rigorous follow up under Right to Information Act (RTI) he could lay his hands on the Government correspondence concerning Upa-Lokayukta inquiry).

In this letter personally addressed to Chief Inspector as 'Dear Halingali, ...'. the Labour Secretary succinctly noted the crucial points from the factory visit and concluded that 'the opinion of the Chief Inspector was not fully correct' and that he 'should not insist on Form III-A'. The Chief Inspector was clearly instructed "To issue the letter to the Managing Director of the factory, setting the controversy at rest and need not issue any letter in this regard to the factory in future which may amount to

unnecessary inconvenience to the manufacturer of boilers and exports thereof”.

It appears that the senior bureaucrat foresaw the gravity of the proceedings initiated against the Chief Inspector and also tried to control the damage.

The letter was the harbinger of the changing tides. However, it was to remain concealed in the Government record while Upa-Lokayukta steered the inquiry to its judicious conclusion.

Later this case would be discussed at the workshop at IAS training academy, Dehradun organized for a batch of grievance officers ‘as an exemplary case of timely justice meted out to the small but courageous, despite the present status of democratic governance’. It makes for a remarkable case study in the field of Administrative Law.

Let’s put it this way. Atre had this feeling of being victimized and he struggled on the strength of the feeling against something he could not have clearly defined. It was Mr. Iyer with his experience of the intricacies and the pathologies of administration who could cut through the veneer. To his trained eyes, the reading of the case laid bare the underlying facts as under x-ray. He exposed and chiselled out a substantial case of misfeasance from the lengthy correspondence which did not seem to lead anywhere.

In his final verdict, Mr. Iyer did not forget to compliment Atre ‘for the systematic manner in which all the documents were brought on record’. Yet, he showed wariness against getting impressed merely by the documentation in the case and preferred to conduct an independent investigation.

He was methodical and thorough once he was convinced of the merits of the case. Three reminders were sent to the department. Finally on 28th February 2001 the department furnished a reply explaining their stand in the matter and enclosing copies of a few documents. It was a routine, official, bland reply wherein the Deputy Secretary to the Government loyally stuck to the version of Chief Inspector, maintaining it to be government’s case.

Interestingly, at the end of the twelve-point note, there was a small underlined tail piece. It prominently mentioned that 'At present, Government has issued instructions to the Chief Inspector Boilers not to insist on the issue which is not relevant as per the opinion of Technical Advisor, Central Boiler Board, though the official communication to the department from the Central Body is awaited'.

Mr. Iyer overlooked this subtle hint and declared that he was not satisfied with the reply. He sought clarification on certain specific points from G. T. Bandri the Deputy Secretary to Government. Six out of his nine queries pertained to the License Renewal exercise undertaken by Mr. Halingali as the Director of Maharashtra Boiler Office.

Mr. Iyer had not missed a single point from the documents that Atre submitted to him. Complainant Atre in his letter dated 13th August 1999 addressed to then Director had alleged that the official reports in the Balkrishna Tyre industry case and this particular issue were leaked in the market to the advantage of his competitors because the son of the involved inspector (Mr. Halingali) was working with his competitor.

In the Upa Lokayukta inquiry, this came to be the pivotal angle of investigation.

Atre's official complaint to Upa Lokayukta now stated that Mr. Halingali's son worked as an engineer with his competitor Thermax Ltd. Atre brazenly suggested that possibly with an ulterior motive to promote Thermax and to sully his image as a leading boiler manufacturer; Mr. Halingali raised frivolous and irrelevant issues solely with the intention to harass his company and did undertake the entirely unlawful exercise of license renewal. His obvious intentions were to create baseless controversies, then help to leak them in market so as to cause confusions and damage to company's image.

Mr. Iyer demanded to know from the Deputy Secretary whether there was a complete register of manufacturing licenses maintained; and when the Act and the Rules did not have any

provisions whatsoever about renewal, why was the so-called renewal exercise undertaken in February 2000. Also, if a suo-motu exercise was undertaken first time ever in the history of boiler office, whether the reasons therefore were recorded in writing? Was there any manufacturer excluded from the exercise? Mr. Iyer asked for at least one of such cyclostyled letters to be traced back and be produced. He was ascertaining whether the discretion vested in the authority was exercised within the four corners of law.

He also asked the government to rake through the records for the two earlier scuffles between Atre and Mr. Halingali i. e. the Balkrishna Tyre Industry episode and the case of Atre's other company been denied the manufacturing license.

Mr. Iyer conducted the first hearing on 7th March in the presence of complainant Atre, Secretary Dr. M. L. Gautam and Deputy Secretary G. T. Bandri and the department was requested to clarify its position on some of the issues that had been raised. Minutes of these proceedings were recorded. On the basis of replies received from the government, a further enquiry/ hearing was held before the authority on 13th March. Along with Dr. Gautam, Bandri and Atre, Chief Inspector/ Director Maharashtra Boiler Department Mr. Halingali was present in person for this second hearing.

The charge against Mr. Halingali pertained to mala fide exercise of authority by the officer right from the stage he took over as Joint Director Steam Boilers, Pune office. The issues were framed accordingly. Mr. Halingali had allegedly rejected the application of the sister concern of TESPL for a boiler manufacturing license on the ground that it did not have its own plate bending and tube sheet drilling machines. This complaint was now investigated and certain documents in possession of the department were looked into.

During the relevant period in 1996 these documents only showed that the Deputy Director in Pune office D. A. Awhad had made an observation that a sister company of the applicant had plate bending machine and therefore there was no objection to

license being granted. Authority noted that this report was forwarded by the then Joint Director Mr. Halingali to the Chief Inspector of Boilers on the basis of which necessary license was issued; creating the impression that the requirement of in-house plate bending machine was considered necessary by some authority at some level, but finally it was not insisted upon at the time when the license was issued by the then chief inspector of boilers.

Deputy Director D. A. Awhad was contacted on telephone, in view of the limited time available in this enquiry and was asked as to why he should have made such an observation on his own, especially since ***earlier licenses issued to TESPL did not make this stipulation*** (regarding having such machines). He stated that ***such requirement was indeed insisted upon by the then Joint Director in Pune office, Mr. Halingali in this particular case.***

D. A. Awhad also stated that the case of this company was unique in the sense that this was the only company which got its plates rolled from outside but subsequently did the welding in their own shop. All the others got both rolling and welding done from outside or entirely within the house.

Authority notes that in fact if this is read with the subsequent notices issued to the company after Mr. Halingali took over as Director, where he took a clear view that such machine would have to be provided and in the same direction also stated that the full shell should be rolled and welded outside or in the alternative a machine for rolling would have to be kept by the manufacturer; ***it substantiates the contention raised by TESPL that he had been insisting on this requirement even as Joint Director*** but was then overruled.

Atre also argued on the point that in the Pune region the practice of getting the plates bent from outside and the welding being done in their own works was unique to his companies. Welding being the critical operation, they preferred to supervise it directly. He claimed it was for this reason ***why it was possible to single out his companies*** for insisting on the conditions which

Mr. Halingali was trying to impose without affecting other manufacturers of pressure vessels in this area. ***This contention could not be rebutted by Mr. Halingali during the course of hearing.***

The authority further observes that sometime around February 2000 when Mr. Halingali was already holding additional charge of Director and it was more or less certain that he would succeed to the post on a routine basis, the department on Mr. Halingali's own whims started a "suo-motu" exercise of evaluating the facilities available with all boiler manufacturers, for purpose of "renewal" even though the use of the phrase "renewal" in respect of boiler manufacturers who have been licensed is not supported by the relevant provisions of Rules 152 to 155 of the Maharashtra Boiler Rules, 1962 which provide for approval of firms for manufacturers of boilers or economizers as also for withdrawal of approval.

It is significant to note that there was annual approval under rules for boiler repairers only. Therefore ***the use of the phrase "renewal" in all the letters issued was unjustified as it was unsubstantiated by the rules in existence; and suggested an attempt at bringing undue pressure*** on all concerned, more particularly on some manufacturers; noted the authority.

The authority has observed that if the objective of the renewal exercise was to identify incompetent or non-performing licensees then field Boiler Inspectors who regularly visit for inspection would easily be in a position to identify and report such manufacturers and this should have been a routine periodic practice. On the contrary the renewal exercise was being undertaken first time in the history of State Boiler Office.

During the course of enquiry it was further revealed that the requirement of the plate bending and tube sheet drilling machines which appeared in the letters issued to the Atre's companies by Mr. Halingali as Director was not supported by any line of reasoning on the files relating to these two companies in the Department. Authority has pointed out that when a departure from the previous condition of license is intended to be made and

a departure from the views taken by the predecessors in this respect was intended; in the normal course one should have expected recorded note giving a clear line of reasoning on the file.

During the enquiry it transpired that no such note was recorded in either of these two cases, leave alone the fact that no note was recorded for undertaking a suo-motu “renewal” exercise in general. This was particularly needed because the manufacturer was following this methodology now challenged, consistently for ten years. It was approved by three past Chief Inspectors and was routinely inspected and certified during the relevant period by twelve Boiler Inspectors. In a period of ten years his companies had manufactured more than hundred boilers with more than 4000 total tonnage, and they had not had a single accident or any occasion where their boilers had been rejected by inspecting agency and they also had been working to the entire satisfaction of their customers and had also been exporting their boilers.

The authority observes that in case of Atre’s companies the general notices pertaining to the renewal exercise were admittedly followed by more specific letters signed by the Director which objected to outsourcing of plate bending and tube sheet drilling work without prior permission and alternately suggesting installing of these machines within the shop. A copy of this letter was endorsed to the Joint Director, Steam Boilers, Pune region, asking for a report. However, even without awaiting the report called for on the so-called technical issue (i. e. whether it was permissible to perform the bending of the sheet prior to its welding at a place outside without carrying out inspection there and then bring it back to manufacturer’s shop for welding purpose) an ultimatum was issued to the company.

The letter dated 19-09-2000 directed the company to comply with the requirement, failing which “visits of inspecting officer will be stopped,” which in other words amounted to warning the suspension of the operations of the company. The said report of the Joint Director was called for by endorsement in the letter dated 15-09-2000 and was received subsequently on 28-10-2000.

It was noted that *during the hearing and even subsequently in his written statement submitted before the authority of Upa-Lokayukta Mr. Halingali could not explain satisfactorily why the ultimatum was sent without awaiting the report of the Joint Director that was called for by his earlier directive.*

In the severe strictures passed by the authority it said, "This clearly indicates undue haste in attempting to impose a point of view on the company without recorded reasons and for departing from past practices and original license conditions in this respect without recording reasons therefore".

All this needs to be read in conjunction with Atre's complaint regarding Chief Inspector's son being employed with Thermax Ltd. a competitor company. But, could Atre substantiate the premise that Thermax was indeed his competitor? In reply, Atre put forth a rigorous argument along with information presented in various tediously compiled tables.

He gave product lists of Thermax group versus TRANSPARENT group to show that many of his products directly competed with the product range of Thermax Ltd. He also gave details on year wise introduction of his products to submit that his competition with Thermax had intensified noticeably in recent four to five years. For example, in case of Steamstar, the 96% fuel efficient oil/ gas fired boiler TRANSPARENT sold three of such boilers in financial year 1998-99, eight in 1999-2000 and nine boilers in the year 2000-2001 respectively. Of the Coilstar, 96% efficient coil type instant steaming boilers they sold 13 in 2000-2001 as against six in 1998-99.

Further, Atre submitted list of his existing clients who were Thermax customers before. Thermax being an older company than TRANSPARENT, most of the places where they quoted, Thermax's products had already existed. He also gave lists of Resident Representatives/ Branch Offices of TRANSPARENT vis a vis that of Thermax; to indicate that TRANSPARENT had penetrated in

the territorial area of Thermax in all major domestic markets like Ahmedabad, Baroda, Calcutta, Chennai, Hyderabad and New Delhi; and entered overseas market in Bangladesh, Malaysia and Russia in their competition. Atre also submitted recent enquiries where his companies competed with Thermax to earn business; the number and value quoted in the list showed intense rivalry. In new markets like Bangladesh, within eight months from their entry they had received a large number of enquiries.

Atre claimed that his products had tangible superior features that his company had developed through original research and consistent efforts. Premier energy conservation institute like PCRA (Petroleum Conservation Research Association) had acknowledged and certified the efficiency of their products on several occasions. He alleged that Thermax saw them as threat to its business. Since Thermax failed to introduce better products; instead it tried to prove to customers that the efficiency claims made by TRANSPARENT could not be justified.

Atre narrated an incidence when Thermax made such an attempt. Therefore a customer in all fairness arranged for a performance trial of an already installed TRANSPARENT boiler in the presence of Thermax representative. The boiler was tested with Thermax's own instruments and it was found to be 95.25% fuel efficient. IPCA Laboratories, Ratlam issued a performance certificate cum Trial report wherein they mentioned the measurements taken by Thermax. (Thermax representative had refused to sign on the report). Atre produced a copy of this report.

Atre also narrated the case of 3M Boilers, another Pune based company and a victim of market wars. Majority of promoters of 3M Boilers were ex-executives of Thermax. A part of the product range and scale of 3M Boilers was comparable to that of TRANSPARENT. Thermax fought against 3M Boilers in both civil and criminal courts for thirteen years. Thermax could not prove the charges, but it succeeded in tying down the executives and management of the company in unproductive litigation for such a long time; thereby draining the resources of the small-scale company. Atre argued that existing big companies using government regulators

to kill upcoming competition in the bud was certainly not unheard of. He appealed to the Authority that his complaint should be investigated from the point of view of such conspiracy.

During the course of the hearings Mr. Halingali was asked to submit a statement regarding various offices held by him in the previous ten years, before finally taking over as Director, Steam Boilers on 06-04-2000 in a substantive capacity. He was further asked to submit details regarding his son's employment with Thermax Ltd. Pune, including copies of intimations that were sent in this respect to Government. On the basis of the proceedings held on 13th March, a note was recorded on the agreed facts in this case.

It was made clear to Mr. Halingali that the allegations made against him being of a personal character, he should be careful in submitting which particular matters he agreed with and which ones he denied. He had duly taken note of this position. However, either at this point Mr. Halingali could not believe this was really happening or he was too proud to explain himself or he considered the charges to be too outrageous to be worthy of serious defence. Atre had submitted detailed charts to prove his averment that TESPL products were in close competition with those of Thermax. When a copy of this was shown to Mr. Halingali and was perused by him; thereafter he simply returned it to the authority stating that he had no specific comments to offer. This incidence tells us something about the officer and presumably how he faced this enquiry.

Mr Halingali submitted a written reply on 16th March. Even in this reply he has not rebutted the contention of suggested competition between Thermax and TRANSPARENT. His defence was centred on the argument that under the Indian Boiler Regulations, there was no provision for specific operations of manufacture to be carried out outside the works of Boiler manufacturer; and therefore it was felt that the company would get the complete part manufactured from the sub-contractor.

He further pointed out that at no point of time the inspection visits were actually stopped in case of TRANSPARENT and nor

their production was stalled. Mr. Halingali argued that the warning to stop the inspection visits was a mere caution generally expressed with the intention to make the concerned party to expedite compliance. He further stated that when the company insisted on continuing the existing practice, they were allowed to do so. He claimed that in fact as a proactive measure he also approached the Central Boiler Board proposing amendment for allowing part operations to be outsourced.

Finally Mr. Halingali appealed to the Honourable Authority to consider his long standing sincere and satisfactory service in the Government from 1972 in the wake of his retirement which was due in just next fifteen days.

While weighing the evidence the Authority has noted that ***when the Director was made answerless by the manufacturer on each of his initial arguments, he finally placed forward the argument stating that IBR does not have 'provision' for such partial processing of shells and tubesheets.*** But contrary to his claims it was found that Regulation 3 of amended IBR clearly refers to similar standards of advanced countries e. g. ASME (American Standards), BS (British Standards). They clearly say that what is not provided for is not to be considered as prohibited and sound engineering judgment should be the basis of decision.

The Authority further noted that it was the manufacturer in this case who sought the opinion of Technical Advisor, Central Boiler Board. Luckily for him the Technical Advisor promptly clarified without any ambiguity that neither the IBR nor the International Codes demanded traceability of the machine on which a component of a boiler was made, or the time, the workman or the place etc. either. The only exception being the welding process and also that manufacturers doing any welding in their own premises were to be encouraged.

The Board further clarified that the location where rolling etc. which is an intermediate process takes place was irrelevant and if the manufacturer offered inspection of the rolled plate in his own premises prior to the welding, this should be encouraged

since the manufacturers had obtained the boiler drawing approved in their own name and they are responsible for the proper quality of the final product. Another point that was noted that the intermediate stages of manufacture were also done at approved shops.

The Authority considered a situation where if a manufacturer did not have his own plate bending machine and had therefore sub contracted the plate bending; the consequence would be that when he sent the plate for rolling and the tube sheet for drilling etc. and if the inspection was made mandatory at the outside work (before the transportation back to manufacturer's site for welding;) a time delay would be involved and this time delay could add to unnecessary costs.

Moreover, it was considered that there was always a possibility that a job could get damaged or deshaped during transportation. Therefore IBR recommends inspection of the same after transportation, just before the start of welding. ***The ten-year-old practice followed by the manufacturer and approved by past Chief Inspectors therefore was found to be sound and thorough.*** There was complete traceability of materials and their specifications because plates and their manufacturers' certificates were being identified, inspected and stamped by Boiler Inspectors before being sent for processing. The delivery challans, Central Excise forms were additional documents readily available. Central Excise Officers were auditing these documents regularly.

The Authority noted that the so-called technical issue involved only a simple interpretation of the existing provisions of the Indian Boiler Regulations as contained in the relevant forms, Form-III Regulation 4 at pages 468 of the IBR (with amendments up to 01-07-1998 published by Techno Printers, Delhi and accepted as valid by the Chief Inspector) as also of Appendix-J contained at pages A-167, 168 and 169 of the same publication. It is further noted that the matter stands disposed by their reply to the company dated 27-11-2000 given by Technical Advisor Central Boiler Board, Government of India.

The Authority caustically remarks that it was evident from correspondence between the Chief Inspector and the manufacturer that the former was aware of the powers and authority of Technical Advisor, Central Boiler Board (CBB) as well as of the Central Boiler Board itself. (Chief Inspector is the ex-officio member of the Board). ***Yet, he chose not to refer the dispute early enough to CBB because that action would have made the matter ‘sub judice’ and arrested his power to oppress the manufacturer!***

As for the pro-active attitude claimed by the Chief Inspector in his defence in referring the matter to CBB, the Authority has remarked that it was much evident that the Chief Inspector went on changing his stand as the manufacturer argued on the irrational expectations of the former. Supposing the Chief Inspector was genuinely in doubt on the interpretation of the provision, he should have made the reference to the Central Boiler Board at the time of undertaking the renewal exercise or at least at the time of departing from the license conditions already allowed to these two companies; instead of imposing the additional restrictions which he did via his letters under his own signature, without even recording reasons for making the departure.

The Authority concludes that ***“The subsequent reference to the CBB by the Chief Inspector would appear to be in the nature of an afterthought to seek ex post facto justification from a stand already taken. While it may therefore be true that actual operations of these two companies were not stopped and inspections were never refused as stated by Mr. Halingali in the enquiry; this happened only after higher intervention and it would be reasonable to conclude that undue pressure was attempted to be brought on the manufacturer by the Chief Inspector himself”***. It is further observed that the demands were so selected by the Chief Inspector that the manufacturer would be compelled to secure certain costly items of equipment or in the alternative to change the practices being followed in respect of certain processes which admittedly could result in time delays and therefore reduce competitiveness and lower profitability.

It was then necessary to deal with the complaint in context of the particular reference that the son of Mr. Halingali, Vidyasagar Halingali was employed as an engineer with one of the competitors of TRANSPARENT, which according to Atre, was Thermax Ltd. Pune. ***Interestingly during the enquiry it was revealed that the Chief Inspector had failed to give intimation to the Government of his son having secured regular employment with Thermax Ltd. as required under Maharashtra Civil Services (Conduct) Rules 1979.***

A statement showing the various jobs held by Vidyasagar Halingali, son of Mr. Halingali Chief Inspector and the intimations admittedly sent by Mr. Halingali to the Government in regard to his employment in 1992 and 1994 were considered during the enquiry. The intimations clearly showed that Mr. Halingali was fully aware of the provisions relating to the MCS (Conduct) Rules 1979 and the provisions of Rule 4 thereof.

Rule 4 pertains to the employment of near relatives of Government servants in companies and firms they are required to deal with. Rule 4 (2) (a) provides that no class I officer or class II officer shall except with the previous sanction of the Government permit his son, daughter or dependent to accept employment with any company or firm having official dealings with the Government. The proviso to the Rule 4 (2) (a), 4 (2) (b), 4 (3) (b) refer to reporting the matter to the official superior and if possible obtain a consent.

The first intimation sent by Mr. Halingali in this respect dated back to 1992 when his son still studying for Mechanical Engineering in Pune was selected for a training course in the factory of Thermax Ltd., Chinchwad, Pune. This actually did not amount to regular employment as such. Even so Mr. Halingali seemed to have intimated the Government presumably by way of abundant caution. In his final year, Thermax Ltd. conducted campus interviews at Government College of Engineering, Pune and Vidyasagar Halingali was selected through such interview. Mr. Halingali once again in 1994, in compliance of MCS (Conduct) Rules informed his official superior of his son's appointment.

In 1992 Mr. Halingali was posted in Ahmednagar. Yet, he was well aware that he would have official dealings with Thermax Ltd. whose manufacturing facility came within the jurisdiction of Pune district. This is because all Boiler Inspectors wherever posted are required to conduct annual inspections of steam boilers located within their jurisdiction and therefore Mr. Halingali was himself not in doubt that in Ahmednagar there could be many installed boilers of Thermax Ltd. which would come up for annual renewal as per the provisions of the Act.

Mr. Halingali was posted in Pune in July 1995 and held charge till May 1999 when again he was transferred from Pune to Ahmednagar for a brief span. During this entire period apart from inspection of installed boilers, he also had jurisdiction over the manufacturing facilities of Thermax Ltd. The position that he had official dealings with Thermax Ltd. at all stages of his career including during his tenure in Pune, his subsequent five months tenure in Ahmednagar and as Additional Director Steam Boilers holding charge of Director from November 1999 and subsequently as Director Steam Boilers since April 2000 was therefore in no doubt.

It could be interesting to draw parallel between career graphs of Mr. Halingali and his son. Vidyasagar Halingali was first employed with Thermax Ltd. for a one-year period in 1994. Thereafter, during 1995 to 1997 he underwent MBA course in Pune University which he passed in distinction after which he was again Management Trainee in Praj Industries for six months. In December 1997 he was once again employed as a Senior Executive in Thermax Ltd. Pune through a fresh interview. This post he held till June 2000 and was then promoted as Assistant Manager through Performance Appraisal in July 2000 (after Mr. Halingali became Director holding regular charge in April 2000).

As for Mr. Halingali's son re-joining the same organization in 1997, he felt "It was not necessary to intimate the Directorate again". ***So it may be seen that on earlier occasions and particularly in 1992 when Mr. Halingali had chosen to intimate the Government of a training course by way of***

abundant caution, he did not even think it necessary to intimate the government in 1997 of his son re-joining Thermax Ltd., notwithstanding that this was admittedly a fresh appointment with a company with which he had official dealings.

The Authority concluded that Mr. Halingali had clearly violated the provisions of Sec. 4 of the MCS (Conduct) Rules, 1979 with whose provisions he was fully familiar. It would be possible to take a view that it should have been all the more necessary for him to intimate employment of his son when he had taken over as Joint Director, Pune having direct control and right of inspection over the manufacturing facility of Thermax Ltd.

Considering the evidence submitted by Atre and the fact that Mr. Halingali had not rebutted it, Authority also held that 'it would be reasonable to assume that there was at least some truth in Atre's contention that there were a range of products in which the two companies were in competition with each other'.

Regarding the issue of Balkrishna Tyre Industry the Authority found itself unable to draw an inference that the objections raised in the installation of boiler in this company were done by then Joint Director Mr. Halingali with mala fide intention.

The Authority held that the material in the case was sufficient to institute Departmental Proceedings to inflict appropriate punishment on the Chief Inspector. Considering that he was due to superannuate by the end of March 2001 the only penalty that was possible thereafter would be reduction in pension and would require initiating proceedings for major penalty; the Government was urged to serve the charge-sheet in this case well before 31st March 2001.

In the verdict passed on 20th March 2001 the Authority stated that "Consistent with the policy of the Government to encourage the development of small-scale industries, it is important for Government to send a clear message to all public servants dealing with the rules and regulations that

they must be applied fairly to all units big and small; otherwise small units which are already suffering will continue to suffer further at the hands of big units which are in a position to dispense favours to public servants which small units are not. It is therefore important to ensure that when a case of this nature arises, and it is found that interpretations of Rules have been made with a motive, appropriate action is taken against the officer concerned”.

When the verdict came, and the Chief Inspector was issued a charge-sheet, how was the atmosphere at TRANSPARENT’s Headquarter?

Ajit Apte recalls no celebration. It was just like any other day, routine and unshaken by the news.

Meghana, wife of Ashok Atre said, “For seven to eight months it had looked like he had no moment to spare for any other thing. When it all ended, he was just very quiet. Although I could tell that he was vividly happy”.

Atre did fight it out with the passion of a matador, ready to kill or die. During the hearings before Upa-Lokayukta he was in a frenzy compiling and presenting evidence, attacking each argument of the opponent, exposing him threadbare. How does it feel to finally get the justice? What did he do that evening?

“I did nothing, and I felt nothing! I did not celebrate. When Mr. Iyer started investigating, I felt assured. The anxiety was gone. Finally someone heard and responded. Someone existed in the very system with equally uncompromising moral standards and who dared to act with a judicious mind. That assurance itself was justice”.

6 *Battles of Perspective*

D.P. Deshpande, the senior Boiler Officer who mediated between TRANSPARENT and the Boiler Department at Aurangabad meeting; has a rare compliment to pay to Atre. He said Atre built a team of good and honest people. When Deshpande went for inspection in other firms, he would come across floor managers who sweet talked him to trust them. ‘Trust me Sir, everything is in order’ is what he heard most often. He would reply in a lighter vein, “When I left home, I brought very little trust with me; I can’t possibly leave everything to trust!”

“But Atre’s men were different. They always showed the readiness and said, ‘Don’t trust me; please satisfy yourself’”. C. S. Vaidya, Executive Director of TESPL says with an admirable attitude, “We do honest business. We slog to perform. We are not the ones to break signal even in the absence of a traffic constable. We don’t break IBR”. Quite logically, they don’t suffer nonsense either.

Their courage comes from being right and doing right. S. B. Bhor, who is known to be a more lethal version of Atre himself; has taken on a few Boiler Inspectors to the bitter end. ‘Boiler Inspectors don’t read IBR. We do; and that irks them,’ he says.

It was not always only the Boiler Inspectors or the IBR.

In 1994, Income Tax Department did a scrutiny suspecting tax evasion by Atre’s companies. The survey established that this was a false allegation. The company promptly appealed before

CIT and the appeal was decided in company's favour. The department further went to the Appellate Tribunal against the decision. Tribunal once again upheld company's case. Thus, justice was finally done but at the cost of ongoing stress that was borne for more than ten years. It was during those years, Haridas Wadghule, became well versed with the Income Tax Regulations.

Haridas Wadghule is the Executive Director, Accounts and Administration; a serene man with a philosophical bent of mind and the senior most among Atre's colleagues. "How many times should we get entangled in battles like this; when we should be focusing on our turn over? When we were after the Chief Inspector, it was almost a full-time enterprise. This is not an entrepreneur's work. But, then it is genetic condition with Atre". says Wadghule. Being an accounts man, he gives a calculated estimate. "In our companies we do forty percent activism, forty percent research and about twenty percent business. We have created history, more than business".

Atre believes that the rational and fearless assertion before any authority must become the organizational culture and he has been consciously grooming his people for this. This company employs no permanent Legal Advisor although they have numerous litigations before various forums. Wadghule says, "We usually monitor these cases ourselves. Whoever may be representing that case in the court from the company; it is not unusual for him to get told, 'Who is the Judge? You stand up there in the place of the lawyer and explain our case'. "All of them are now experts at this and know their cases better than any lawyer. Ajit Apte is unanimously the best among them. With his methodical mind and articulate communication sense, he can be an intellectual terror at any of the most sophisticated arbitration meetings.

In 2004, MSEB had cut unlawfully the electricity connection of their Shirwal factory. Meghana Atre directly went to MSEB Headquarter at Prakashgad, Bandra armed with MSEB amendments of 2003. She successfully argued that the authority had misinterpreted the implication of 'Connected Load' and got

the connection restored. She smiles as she says, “When anyone tells us anything, we ask on what basis is he saying that. We read up and we confront. They can’t just scare us with some piece of paper”.

Besides personal charisma, Atre had an eye to spot talent. In TRANSPARENT, he could build a team of brilliant engineers. Even IITians worked for him willingly, refusing fat salaries elsewhere.

Indeed, his men are different. They are men of integrity and they have a rare quality in common. They are all fearless. Atre succeeded in channelizing their boundless energy by transcending his own ambitious dreams.

In high school, Atre was captain of their cricket team. He was known for an aggressive game. In business too, he took bold initiatives and motivated his team to tackle constantly new challenges. TRANSPARENT became the company that hit success in its adventurous debutant ventures, with very ambitious technology choices.

Meeting “Team TRANSPARENT” at Bhosari factory reminds us of an old TV ad campaign run by Tata Steel. The ad focussed on the Corporate Social Responsibility (CSR) upheld by Tata Steel when the term was yet to be coined. The ad showed a number of positive visuals and listed a few intangible achievements; like we work as a team, we generate hope, we bring in change, we show way to people, we work towards success. And the humble but triumphant tagline said, ‘We take pride in steel. We also make steel’. (*Ispaat bhi hum banaate hain*).

Borrowing from this powerful ad created by O&M in the nineties, we may say that these people take pride in boilers. They also make boilers.

Haridas Wadghule had known struggle since he was a child. As a young man he stayed in Poona students’ hostel and completed MBA from Bharati Vidyapeeth. Thereafter he left the Government job in Pune University; to join a little-known company that functioned from an outhouse of a bungalow.

He fondly talks about those old times. “We had only one table and a steel cupboard in that place. The four Directors used to sit on a bench. I was the only staff, peon and clerk, all in one. The Shirwal factory had started just then. One of the four Directors, Ravi Puranik used to go carrying large bags in his hands to purchase the hardware. There was no place for a visitor to sit. There also used to be water logging in rains. But, if you could see our enthusiasm then it was tremendous! We were all possessed by the desire to do something that was never before done”.

Wadghule is proud to tell us, “Today we have a state-of-the-art factory at Lonand, built on seven acres plot from this end to that end on a beautiful location on the banks of river Neera. It has been very satisfying to be a part of team that has built everything from scratch”.

Energetic and forthright Chintamani Vaidya was a diploma holder in Mechanical Engineering. He was with Mahindra and Mahindra in Purchase Department but felt restricted in the scope of his work. He preferred to join TRANSPARENT at a lower salary when he was 23. It has been another 23 years since. “When I joined it was a small company with a turnover of two to three crores and there were no technical staff for purchase. Back then employing technically qualified man for purchase was considered a luxury”.

Vaidya gives us a lucid account of how the company has grown over the years. He says, “We began with non IBR packaged boilers. Soon we moved on to standard IBR category boilers. We worked on product efficiency. From 86 percent we took the fuel efficiency of a boiler to 104 percent. We can demonstrate it by any method you may prefer. Others started making more fuel-efficient products because we were offering them. We have driven the market to perform”.

It is a fact that even today boiler as a product is not graded for its energy efficiency. There are certain problems. Because it is a niche business with highly customised products; each specific installation may need to be checked to be star rated. Among other

things, the operator's responsibility also factors-in. TRANSPARENT always got the range of their super-efficient boilers tested and certified by PCRA.

"We educated customers", says Vaidya. "Customers are inclined to buy whatever is standard in the market; we asked them to try something new. At times we actually said he could pay back later when he can see that he got a good bargain".

Meghana says, "Ashok had this passion for making new designs and also terrific confidence that they would pick up. We made 'Fit it and forget it' boilers which did not require a single spare part in a decade. We created brand value for a TRANSPARENT boiler. You know that coal is associated with dirt but in our boilers, you need to specially tell that they are coal fired! We made own patented design of bag filters which separate and collect coarse particulates from the emission gases and clean the exhaust gases. It was a pay back in terms of health".

"We are not the only one who are TRANSPARENT here; even the customer is TRANSPARENT", adds Meghana Atre. "If you could explain him why he should purchase a particular product and the parameters for efficiency; he is open to something unheard before".

Vaidya says, "We started making Waste Heat Recovery products since 1996 which was much before the market. After two or three years we realized that yes, there is a demand for them".

TESPL is pioneer to develop Waste Heat Recovery systems for cement industry in India. It is no less exciting than some dramatized episode on the Discovery channel; to listen to Vaidya on how they developed a unique design of Waste Heat Recovery System, for high dust laden cement plant gases. The concept was ready with them by 1999-2000. For next four to five years they were doing market research. In the beginning how to channelize extremely high level of dust content in exhaust gases; and develop a suitable heat recovery boiler was the main challenge. Atre got a patent for this process in 2005.

The idea that the exhaust gases produced during the

production of cement could be used as fuel to run a turbine; and thus it was possible to generate power for running the cement plant itself in a captive manner, was new then. This model of alternate energy generates between two to twenty-five MW of power and the execution cycle for Waste Heat Recovery power plant is about twenty-one months. TRANSPARENT had a unique design which allowed a huge power saving up to twenty-five to thirty percent of the needs of cement plant. But nobody was yet offering them a chance to build a first product. “Finally KCP Cement risked on us,” tells Vaidya.

KCP was a company with some glorious history and character. Velagapudi Ramakrishna was an ICS officer from pre-independence era. He was rooted in Indian culture, he was a patriot, with a passion and vision for Indian industry. He was a pioneer industrialist and philanthropist. He founded the Krishna Commercial Products group in 1941 with a co-operative sugar factory in Andhra Pradesh. He inculcated rational and professional standards among his people. The technocrats at KCP saw the same pioneering spirit and values mirrored in this little company. They carefully scrutinized the project. They could see that it made sense.

“Our first installation was great success. We were the first in India to show that the concept and product works,” tells Vaidya.

TRANSPARENT Group was also the first to develop Waste Heat Recovery System for glass furnaces. For Steel industry, they developed special burners which can recycle the hazardous gas from blast furnace as fuel. In Waste Heat Recovery, they were clear leaders.

“The competitors entered much later,” tells Vaidya. “Thermax and Cethar Vessels entered after we had executed some fifteen orders”. In Cement Waste Heat Recovery, TRANSPARENT has been there in the market since 2006. Others entered after 2010. Then the price war began. TRANSPARENT was superior in technology. But price was a sensitive issue for them. As Atre puts it, they lacked deep pockets.

Chinese companies started taking orders at a price lesser than their raw material cost. “This has happened. If we offered a

Waste Heat Recovery System for a hundred crores with reasonable margin; the Chinese companies started quoting eighty-five crores and were actually taking the order for seventy crores. These companies visibly emerged around 2008-09. One of our competitors took the Chinese agency. Many of these Chinese players later disappeared from the market. The domestic competitors like Cethar and Tecpro units also closed down while we sustained. But, we suffered a major setback in the meanwhile,” Vaidya concludes.

C. S. Vaidya, now the Executive-Director TESPL reflects, “I have seen Purchase Managers who purchased the same old hardware stuff till they retired. If it be just one type of work for lifetime, you don’t really need an engineer for that! In our company I got to procure hundred percent varieties of items. Everyday there was something new to do. Sometimes I have developed certain items to break the supplier’s monopoly. At other times we have taught the suppliers to make what we specially need; we suggested improvements”.

“The suppliers are technically qualified people. From what we tell them, they later develop their own products. We have a network and goodwill of about 500 suppliers for past twenty to thirty years. They stayed with us through thick and thin. I knew a good workman who had just a Lathe machine. We developed certain products with him. Now he does good business of it. Our profit has been less than theirs in such cases”, Vaidya says good-naturedly.

“We also manufacture items like Finned Tubes in house. It is a special part regularly needed in the Waste Heat Recovery systems, boilers etc. We developed a design which increases the heating surface while minimizing the size of the boiler; enhancing the overall efficiency. When we made them manually, we were able to make about 50 tubes per day. Now with much system automation, we can produce more than 50,000 per day. We have taken a patent on our finned tube assembly process”, tells Vaidya.

Vaidya insists that their success must be measured in their

Intellectual Property base and the human resource. They have worked on people and their expertise. He says, “Each of our Department Heads is an entrepreneur in his own right”.

To commercialize an innovation is always a challenge. TRANSPARENT has patents for developing unique energy conserving systems such as the multistage sugarcane juice evaporator and bagasse dryer which can run on the waste steam in sugar factory. But, selling this technology to the sugar industry is an entirely different matter.

D. A. Awhad, the now retired senior Boiler Officer who worked in places like Nasik, Dhule, Jalgaon, Nandurbar had amazing stories to tell about the anarchy in the co-operative sector. He told that the boiler tubes were often changed without the knowledge of the boiler department. The boilers were repaired before inspector suggested repairs. Boilers were made extra strong without the requirement or the permission. Apparently, cooperative sector speaks a different language. To talk in terms of pure technical efficiency and patents is an approach, that has obvious limitations here.

More recently TRANSPARENT won several awards for their invention of an automatic, energy and water conserving, hygienic process for manufacturing clean and quality jaggery. This has the potential to replace the conventional methods of jaggery making. There was a plan to launch a separate company in food technology with small sums collected from certain project affected groups of farmers. However, the collected amount fell much short of the expected seed capital and the venture was abandoned. (Atre returned the collected sums to respective farmers, with interest higher than going bank rate).

Presently, TRANSPARENT Group has the only operating Zero Liquid Discharge (ZLD) plant in the country. It is based on their patented concept of Multistage Evaporator. Basically it reduces the volume of the effluents to be discharged from the Common Effluent Treatment Plants. The system makes it possible to recycle usable water from the effluents; leaving residue of solid waste which may be disposed at landfills. This system can recycle

usable water at a minimum supply steam cost. But it is still not popular because there is no incentive or compulsion to use the recycled water. It is more or less seen as treated effluent. Using fresh water is still cheaper.

By the same logic, using fresh sand is still easy than installing sand reclamation plant in a foundry. “Our Foundry technology in the country still very old. Though sand is classified as the precious mineral; our environmental concerns and norms are still at a rudimentary stage,” says Vaidya. “As the environmental laws become more stringent, these products will pick up”.

Through Transparent Technologies Pvt. Ltd. (TTPL) Atre diversified into more specialized technologies.

Around the time that Atre brothers separated, Ashok Atre had bought a small factory from Patkar family. They were originally in bauxite processing. This company was then named Exothermic Metal Components Ltd. and later Atre Thermal Products Ltd. (ATPL) It started with the business of dryers. It was realized that dryers were a crowded market, more so than the boiler market. In spray dryers, the scheme was the same. It is a simple mechanism by which milk powder or flavoured drink concentrates, or coffee powder, salt or detergent are produced. There was not much volume in this business.

By late nineties some new products were added. In dryers and air pollution control equipment, similar components are used. So a natural diversification followed in that area. Later, this became Ecolleen, a subsidiary of TTPL which made patented products like bag filters.

Yet, till 2003 there was only a limited range of products.

Then came spray coolers. It was derivative of dryer; but a superior edge product. By cooling method, it could produce solids. It is a specialized equipment that was mainly developed for palm oil industry. The demand for them was low. It was only for export market. It was a designer’s product, more sensitive to design. Even a smallest error mattered. This product line required more

vigilance and therefore competent personnel. It was such a niche market that it also needed a completely different approach to sales and marketing.

It was realized that the management of TESPL which was busy with boilers and Waste Heat Recovery systems; could not do justice to the new product line. Hence, in 2003 ATPL was revived under the name Transparent Technologies Pvt. Ltd.; with independent managerial set up under Shirish Ketkar. To add to sustainability, some new products were also launched. Paint stripping plant and sand reclamation plant were two major initiatives pursued under Ketkar.

During this time, AFBC boilers practically ended the reign of manually operated stoker fired boilers worldwide. It was the Fluidized Bed Combustion technology for solid fuel boilers. Air helps effective combustion of solid fuels like wood or coal. In this method, air velocity is used to such a degree, where a bed of solids is lifted off the plate. Slowly the bubbles of gas start to form. The process is similar to bubbling in boiling water. The bed of solids starts to behave like a free-flowing liquid.

There were clear advantages. The boilers were compact, fully automated. They facilitated complete combustion of prime fuels such as coal and lignite. Another advantage claimed was of clean combustion. It also claimed built in checks and balances against the high level of sulphur dioxide and nitrogen dioxide emissions; the evils invariably associated with burning of fossil fuels.

TRANSPARENT was mainly operating in the business of oil and gas fired boilers. Ajit Apte who took over the reins of TTPL after Ketkar, explains that by 1996-97 there were fluctuations in the prices of heavy oil and gas. There was a perceptible shift towards coal and biomass fuel in the industrial boilers during this time. Further, in 2003 government monopoly over power sector was dismantled. Captive power generation for self-consumption was allowed. These were essentially coal fired plants. Thus demand and market newly emerged for the AFBC and then for the improvised and powerful CFBC boilers. With growing

market, their cost also reduced, and they became more popular.

TRANSPARENT refrained from entering the fray. Ajit Apte says, “Our corporate advertisement said that while rest of the world is contributing to the excess in the release of carbon dioxide; we help reduce it. FBC fans consumed a lot of power in fluidizing the combustion air. And it was highly polluting boiler. We never focussed on that product line as it was against our conviction. We had already diversified in the area of Waste Heat Recovery. But, the power sector that had just started growing made us see an opportunity and potential in Flue Gas Desulphurization system (FGD)”.

It is a misconception that FBC and desulphurization go together. It is true that FBC boilers offer a convenient way of reducing the sulphur dioxide within the furnace enclosure by the reaction with lime. But it depends on the quality of fuel; and it is not very consistent in terms of percentage reduction. It is also claimed that in FBC boilers there is an inherent lower production of Nitrogen dioxide automatically; as the combustion temperature is low. However, in no case the claims meet the required norms of sulphur and nitrogen oxides emissions. Besides, FBC boilers generate huge quantities of fine particles of coal and ash which pose serious challenges for particulate removal; eventually causing enormous suspended particulate emissions and associated pollution hazards.

Today the Thermal Power Plants (TPP) primarily based on coal as fuel, generate sixty five percent of total power generation in India. They are also the largest source of major air pollutants namely the oxides of Sulphur and Nitrogen which cause acid rains; and the Suspended Particulate Matter (SPM) which can be more dangerous. (They include fine sulphate and nitrate aerosols that form when Sulphur dioxide and nitrogen dioxide condense in the atmosphere). They are directly and deeply inhaled in the lungs; settling in areas, where body's natural clearance mechanism cannot remove them. Particulate pollution is linked to respiratory emergencies and increase in premature deaths.

India is a signatory to Earth Summit in Rio de Janeiro in

1992. We adopted the United Nations Framework Convention on Climate Change (UNFCCC); with an objective to stabilize and reduce the intensity of Green House Gases (GHG) by enforcing limits on their emissions. Coal and fossil fuels continue to play a major role in India's energy mix in the decades to come. Being the third largest emitter of GHG, India is highly vulnerable to impact of climate change. While there is some awareness on carbon dioxide emissions; the role of oxides of sulphur and nitrogen as GHG is less understood.

It was therefore visionary as well as ambitious to think of FGD systems as a new product line for TTPL". This technology was well developed in the world; but there was no market for it in India. At TTPL, we did our desk work on the concept in 2006; when the need for it was not yet foreseen," says Apte. (The new emission norms for Thermal Power Plants materialized a decade later, in 2015).

What is FGD?

A cyclone, bag filters, electrostatic precipitators (ESP) and wet scrubbers are all simple and basic air pollution control mechanisms. A cyclone works on the use of centrifugal force. The dust laden gas is made to rotate in a decreasing diameter pathway. It can separate and collect the dust in solid form and clean gas is let out. A bag filter uses cloth bags to do this. In electrostatic precipitators, instead of cloth filters, positive and negative charges are used. A scrubber is little different. It dissolves the gaseous contaminants in the liquid stream. It not only entraps the particulate matter but also the pollutant gas. In principle, FGD works like a scrubber.

Normally, scrubbing is done in water. FGD uses solvents like the limestone slurry, through which exhaust gases are washed. Sulphur is thus removed from gaseous emissions through a chemical reaction. Applied to huge Thermal Power Plants, it's size becomes massive since the gas volume is very large. FGD system is therefore capital intensive. This is a simple product to make; though challenging to design. The whole plant is site constructed, which is an advantage as well as a challenge. It also

brings project management business.

FGD was a smart choice of technology for TRANSPARENT, consistent with their expertise with cement waste heat recovery. In FGD system, gypsum is generated as a valuable biproduct. Gypsum is needed in cement manufacture, which is otherwise mined. We import gypsum. Once in the sugar industry, biproducts like bagasse were considered useless. Today bagasse is profit making business. Similar is the case of gypsum. TTPL's first client for FGD, Shree Cements Ltd. runs a captive power plant using high sulphur containing pet coke. Their management was keen to make gypsum. For them it was a biproduct generation plant. Desulphurization was incidental. In 2009, there were no regulations on the horizon for the gaseous emissions by Thermal Power Plants.

It was the first big order for TTPL with eight crores of business. It was a morale booster for everybody. TTPL successfully commissioned this first of its kind FGD plant in India in 2012. It was based on wet limestone process. Low grade limestone was easily available to their client. Gypsum, that was generated as the precious biproduct was hundred percent consumed in cement making.

In 1980 Dilip Atre assembled his first boiler under a mango tree. Year 2005 marked the 25th anniversary of the enterprise. On this occasion, TRANSPARENT was ready to branch out and diversify. Ecokleen, Ecosustain and Decimin were the three ideas floated in this period. Ecosustain was devised as a consultancy service in energy sector, which lay dormant. However, Ecokleen went on to specialize in producing air pollution control equipment and it presently operates as a subsidiary of TTPL, which itself was relaunched during this period of restructure, with focus on resource conservation.

Ecokleen has developed its patented technology for bag filters for effective particulate separation. They are widely used in boiler exhausts, process exhausts, product recovery and also in FGD. They supply cyclones and multi cyclones. They provide

customised systems to reduce the level of Nitrogen Oxides from the exhaust gases. FGD is the next step in the same range of products.

Ecokleen offers specialized technologies, like their fume and dust extraction systems that separate hazardous fumes from open tanks, storage vessels, centrifuges and processing rooms. It's an efficient way to recover valuable product material, thus conserve resources while maintaining clean environment. It has applications in food, pharmaceuticals, chemical and steel industries. Further, industrial processes use solvent vapours in large quantities. These emissions are harmful for environment as well as public health. These are expected to be subject to stringent norms in near future. Ecokleen offers a solution in the form of solvent recovery system.

Next, the launching of Decimin Control System Pvt. Ltd. was consistent with Atre's ideology regarding which technologies should be promoted locally.

A French company IAC Boet Stopson was a specialist in the treatment of noise pollution. They made silencers for all types of noises from gas compressors to generator sets. The company had sixty years of experience in the profession. They were seeking market extension for their products. They zeroed on TRANSPARENT for the reason that the promoter was committed to environmental concerns. TRANSPARENT had no money to invest but they were ready to sustain through the gestation period. A technical agreement began on the understanding that royalty for sales would be paid to the French company, if and when TRANSPARENT made the sales.

As a community we are not sensitive to the nuisance of noise pollution. Decimin was an unusual lesson that once again underlined how naïve our initial concepts are and how they actually evolve as they start materializing. Decimin started its business with noise abatement systems. However, it soon found an adventurous route that was much different from its chartered course. This was to be the company that paid dividend from day

one. It not just sustained independently but thrived to become a star company in TRANSPARENT Group.

By then TESPL was already a well spread out set up and Ashok Atre had no time to spare for the new venture. It was decided to run the new company professionally and independently. It was at this point R. H. Kulkarni was invited on board. He is a chemical technologist. Atre knew him since 1991 when R. H. Kulkarni was working as Technical Director, Krupa Chemicals. They made Surf for Hindustan Lever. R. H. needed a quality hot air generator. He was irritated by the trash products available in market. He asked Atre to design one for the specific needs of his plant. There was no price talk. Atre's product worked excellently. This is how they got to know each other.

Rajiv Kulkarni was an ambitious engineer who continuously sought new technological challenges. Every ten years he changed his field. He had started as a debutant engineer in electro-metallurgy, where he invented a method to recycle nickel from waste scrap, resulting in major cost saving. Nickel was needed to make screens for separating sugar from molasses in a sugar factory, and they were imported from Canada. He did automation of the whole process, helped in factory layout; trained the technicians.

When he reached a saturation point, he realised that he had not done anything in hardcore chemicals field yet. He joined Krupa Chemicals. It was a small company then. To produce something in very large volumes and yet to keep the quality consistent, was a new challenge for him. In his words, it was like learning to cook for a thousand people. He erected seven to eight factory units all over India on different locations. He looked into exports. Then it was inevitably the time to move on; now to a completely different field of glass and resin composites; that are used in making safety structures for ONGC platforms or Navy, which can resist corrosion. From there, he moved on to Thermal Insulator Foams. Now he was selling those foams to TTPL. Thus, the roles had reversed.

Atre had an instinctive feeling that R. H. was the man for

Decimin. And, this is how R. H. became M. D. of the new company at the age of 53.

They began with a market survey with the French company. There were several glass structures being erected in those days. They wanted to check if there may be demand for building acoustics. They soon realized that in India, nobody was willing to spend to control noise. “We only make a lot of noise about silence,” says R. H. in a punch line so characteristic of him.

Decimin began at home. When a boiler is started, it makes a terrible sound while releasing the steam. The company made vent/blow down silencers for boilers. Since building acoustics was too early, they shifted focus on industrial buyers, starting with the big gen sets. The Indian mentality is such that it is assumed that while using an engine, it is bound to make noise. The awareness about noise pollution is less. Noise is calculated in decibels. This is based on logarithmic scale. Which means that each ten-decibel increase represents a tenfold increase in the intensity. A Richter scale works similarly. A difference between six and seven on the Richter scale is not trivial. It can cause havoc.

In India, we had limited technology available for making silencers. They could control noise by fifteen to twenty decibels. There were no more alternatives. Decimin offered silencers which could control it by thirty-five to forty decibels. They asked the engineers to try these. The French design was good. It delivered what it promised; and Decimin’s manufacturing quality was perfect. Thus, the sale of engine silencers grew steadily. There was not a single case where the silencer did not perform, even after five years. They had repeat customers.

Next, they focussed on the auto sector around Pune. There were engine testing labs. The bare engines which are yet to be fitted in a car or truck, are tested there. They made tremendous noise. Here was a requirement and an opportunity. Decimin started working on the design of the engine test bed acoustics. Every company from GM, Tata, Mahindra, Bajaj, Kirloskar, Mitsubishi, Force, ... all of them became the esteemed customers of Decimin. However, the recession that hit industry around 2009-

10 alerted Decimin to look for newer and greener pastures. That is how they landed in an alien area of Marine exhaust systems.

Hindustan Shipyard needed exhaust systems in one of their ship building projects. R. H. spotted an opportunity here. They had no past reference. There were entry barriers. The client was keen on import. Yet, it was worth the try. Decimin pleaded its case. They persuaded the authorities to show them the drawings. A chance was given to them. They took the tender, did their costing and filled it. Luckily, it was less than the German competitor. This was in 2009. It was a learning process for Decimin to design the entire system. An Australian company was the Naval Architect firm working for the Indian Navy. They shared the design. "Knowledge is after all the cause and effect relation. We understood everything we needed to know," says R. H.

In 2010 Decimin immediately joined the fray for the Mazgaon Dock tender. This was a big order. Decimin faced the same initial hurdles. 'Alright, you have done something. But you have not completed it yet'. -Naval engine is at the bottom, below the water level. It is a critical area. Ship building is a two years process. Navy takes yearlong trials; then accommodates it. The way R. H. puts, "Decimin was like a curious child that enters anywhere. We had no fear. There are several warranties. These tenders are huge documents. If an engine stops working mid sea; you need to send the technician by a helicopter. We did not know then; that we were mounting on a tiger, not a horse".

A lot many bids for tenders. Decimin and a Canadian company were short listed. Decimin's costs were forty percent cheaper in comparison. The authorities were baffled. There was no mistake in costing; R. H. assured them. After all, R. H.'s surname is Kulkarni, traditionally the accountants. It was because this was an Indian company and it was possible for them to do things locally. Awarding of this tender to Decimin was also an awakening for foreign competitors that some Indian company had emerged in the sector.

It was a warship destroyer, and this was a prestigious project. It included the job of installation as well. Decimin did the

job with meticulous research and preparation. They completed the job well within the stipulated time. The authorities were pleased. This saved the visit fees of foreign company in the maintenance as well.

After these two references, more projects in this specialized line followed. Their next exciting work related to stealth technology for naval warships. Stealth technology is all about hiding the presence of the ship; or else you are a sitting duck. Larsen and Toubro shipyard was building petrol boats for coast guard. They had imported a few systems from an Australian company. The company had used aluminium in place of iron to achieve more speed. Speed was essential to catch the enemy. Their requirement was to cool the hot exhaust gas; so that the enemy could not detect the ship on infrared. In sea, a ship is identified by measuring the hot spots.

“The aluminium sheet cracked at seventy to eighty degrees. They called us and asked us if we could give the guarantee for a solution”. R. H. says, “The first order was for thirty-six boats. We managed it well. There was no cracking. In this project we learned how to cool the gas. Each project was a stepping stone for the next. That is how a company grows. Or else, it is like daily frying the Batata wadas!”

“On a boat, space constraint is a major issue. Engine room is the most cluttered and complicated of the places. Especially for a warship, innovation is must. It is a challenge to design within all those constraints. Indian engineer’s mind works best in such situation,” says R. H. There are several considerations. The weight of an engine is stipulated. Weight is directly associated with speed. Hardly five percent variation is allowed. The weight can be less, but not more. The design has to be maintenance friendly. Engine should make minimum noise etc.

In sea, there are twenty meters high waves sometimes; and a lot of rolling pitching action associated with it. Even if there is thirty percent incline, the system should perform in such conditions. Decimin provides in house prototype testing for the design validation. Decimin’s uniqueness is their Meccano kit type

designs. Their pieced units can go from tight places. They simulate assembly in factory first. Make the installation videos. They send ‘make yourself’ kits with manuals and actual video.

Decimin is approved by the Indian Registrar of Shipping to make the marine related products. All their in-house facilities are certified. Eighty percent of Decimin’s business today is naval business. The company has established itself in this niche area. Presently they are working on a project for Singapore Navy. An order that Decimin grabbed by competing with the European companies.

Haridas Wadghule comments that the order of product diversification in TRANSPARENT was not that simple or linear. Business through innovation has been a unique pattern of growth for TRANSPARENT group of companies. S. B. Bhor says, “I never got to commission the same kind of boiler twice”.

Atre believes that diversification is part of growth process. “But, in my case, circumstances pushed me towards it. I was left with no choice. TRANSPARENT pursued innovation, not just because it was my personal passion; but more so by sheer compulsion and the need”.

They were first in India to venture in cement waste heat recovery systems. But they were hit by a major blow in this sector. “We were the first; but size matters,” adds Ajit Apte.

Atre explains, “Competition and sometimes fierce competition is part of the game. But, in cement waste heat recovery sector, the Chinese companies were killing the local competition. We sell quality. We could not have made a counter move in the price war that started. Instead, we chose to keep innovating rigorously; and also keep diversifying with equal force. We kept looking for some raw challenges and kept moving”.

Atre reflects, “One lesson that I learnt in all these years is that you must have deep pockets; to create a brand image; to survive the initial losses while brand building, to absorb the setbacks. Your ability to reward your employees, ability to sustain in business despite market conditions depends, on your monetary assets. Or else, monetary constraint remains your vulnerability.

It pushes you to a position where you must be extra alert always in the battle for survival”.

China is the largest cement manufacturing country in the world; India being the second. The market for waste heat recovery in cement plants is already saturated in China. The growing Indian market was an ideal ground to seek expansion. In 2005, Chinese giant Dalian had made an unsuccessful attempt to enter the fast opening Indian market. Tecpro Systems Ltd. was a Chennai based company with no experience of its own in cement waste heat recovery. It was a company with an established position in material handling, especially coal and ash, both crucial for cement industry. NTK the Chinese world leader in the supply of the waste heat recovery systems partnered with Tecpro around 2010. Dalian re-entered on its own.

Atre refers to the nasty competition from substandard ordinary class products from China. In some places, they left the projects incomplete and disappeared. Sometimes they brought in Chinese labour. It looked as if there was no check on them. He agrees that not all of them are crooks. But, he points out that Chinese companies enjoy large export subsidies from their own Government. Also, many back-door policies are there to help them. Atre did some research. Chinese companies enjoy almost 21 percent subsidy. They get a lower rate of interest from their banks; there are export subsidies like sales tax etc. Despite the fact that they take the raw material for steel making from India; their finished product is cheaper here.

In contrast, Atre directly quotes from the National Capital Goods Policy document 2016. Under the subhead, ‘Issues affecting cost competitiveness (in Indian industry)’; it concedes that ‘Inverted duty structure is still prevalent’. It further mentions the case of the Indian boiler industry in particular. “Boilers can be imported at 5% customs duty under Project Imports and 7.5% otherwise. On the other hand, the raw materials used, (including Seamless Alloy Steel Tubes, Seamless Carbon Steel Cold Drawn Tubes, Pipes and Tubes, Structural Steel) are subjected to customs duty of 10% and BQ Plates (Carbon Steel Plates) to 12.5%”.

By March 2011 Tecpro had bagged six new projects in close competition with TRANSPARENT, by quoting irrationally low price. They took an order worth 160 crores for 125 crores. The price quoted could not have been rationally justified. Chinese giant was misusing its financial domination to quote a price lower than TRANSPARENT's raw material cost. In May 2011 Tecpro hired A. G. Shinde the Vice President of TESPL in an open breach of intellectual property rights. TRANSPARENT sued A. G. Shinde for flouting the trade secrets agreement.

Atre filed a case in 2013 before the Competition Commission of India against the predatory pricing policy adopted by Tecpro Systems Pvt. Ltd.

In 2008 new Competition Act, (enacted in 2002) completely repealed the earlier Monopolies and Restrictive Trade Practices Act, 1969 which had been rather vague. Section 4 now provides that 'No enterprise shall abuse its dominant position. Dominant position has been appropriately defined under the new Act. It is the position of strength enjoyed by an enterprise in the relevant market in India which enables it to (i) operate independently of the competitive forces prevailing in the relevant market; or (ii) affect its competitors or consumers or the relevant market, in its favour.

The Commission effectively checked the cement factories proved guilty of cartelization and imposed a fine i. e. ten percent of the average of the three years of profit. Recently Airtel approached Competition Commission against Reliance Jio; for misusing the financial muscles derived from petro chemical industry in the tele-communications sector to wipe out the existing competition. However, certain low-price introductory offers are an exception in the Law. It is still a vague area where the rules for such offers are not clearly defined.

The Commission could not put it in perspective, the unfairness of the advantage to the Chinese giant in the Indian market under present policies, against a struggler like TRANSPARENT.

As for the case against A. G. Shinde, Atre says, "Poaching

in boiler industry has history from Thermax versus Walchandnagar. But Shinde was an exception in TRANSPARENT group rather than a rule. With the overburdened civil courts and the Contract Act that has failed to keep up with the needs of the time; it is difficult to say when the justice may be done”.

The inventor of lateral thinking and author of ‘Serious Creativity’ Edward de Bono talks about value creation, going beyond traditional strategic competition. He coins the concept of value-facture and insists on the need to create value monopolies; to stay ahead of the game. Atre says, “I have been living by these standards, before I read anywhere about it. In my case, options were limited, and decision was easy. Excel and survive”.

Patents are obvious examples of value monopoly. Atre had patented technology in cement waste heat recovery. Patents did prove their expertise; and customers like KCP gave them orders. Yet, the fact remains that patents alone did not afford a competitive edge to TRANSPARENT.

The Research and Development policy of TRANSPARENT states that they are ‘focussed on developing products and technologies that will improve the viability of resource conservation opportunities’. Their Research and Development is carried out in a manner that ‘the time required for commercialization of patent is short and the investments are recovered in commercially sustainable manner’.

Atre believes that no enterprise will survive anymore without serious creative research. He is contemptuous of the fact that in most companies R&D is done for tax planning and as a tool of financial engineering. He calls them ‘money slingers’; like gun slingers in Hollywood movies. He says, “We follow our R&D policy in letter and spirit. Therefore we have high commercialization rate of our patents and we have good success in commercial exploitation of a patent”.

On the sensitive issue of the financial viability of his choice of technology, Atre obliquely refers that “the most viable project currently in state of Maharashtra is installing a statute of king Shivaji in the Arabian sea!”

He has certain perspective which is uniquely his own. He says, “There is a common mystique about business. But, a business activity cannot operate in an isolated commercial space, devoid of values. That would be crude. Generating wealth is the function of business; but we also carry our own convictions and find our own ways”. He identifies with the business philosophy of Jim Collins (author of the series *Build to Last*, *Good to Great* and *Great by Habit*;) which emphasize on excellence.

He differentiates between responsible capitalism versus rampant capitalism. In a television interview he had said, “We want to create worldwide standards in what we do”.

“There are big business houses who are on the forefront in damaging environment. If you build homes of these industrialists at the top of the chimney stacks; they would possibly import an air purifier from abroad for their houses and still won’t be bothered”. He is equally contemptuous of the management school graduates; whom, with a few honourable exceptions, he calls as ‘careerists and mercenaries’. “They will go to any extent to justify these crony capitalists”.

S. B. Bhor rightly pointed out that the top management of the company has always been highly technology savvy. “In this place, technical things are most valued. They need to be precise”. He recalls an incident when a ready boiler was to be disembarked from the delivery truck because Atre found that something was not perfect at the last minute; disappointing the waiting customer, much to the agony of the staff and refusing the ready cash. “We are not like others. Other companies deliver whatever customer wants. We have our own considerations for efficiency and quality. No quality compromise is acceptable”.

When reminded of the incident, Atre explained, “The boiler required a little change. So instead of doing it after delivery, it was convenient to do it in the workshop. It is not like we withheld the delivery for some three months! Whether it was impractical or not; that depends on case to case”.

S. B. Bhor adores Atre like any of the old colleagues. Bhor said, “His vision is great. He can see things from the distant future.

We can't see that far. We realize things later. My only question is why he can't see our immediate issues". By immediate issues, Bhor means the daily strife for survival in the game where nobody else is playing by the rules.

For TRANSPARENT, each of their choice of technology entailed a battle of establishing it in an orthodox market. "India is a risk averse, orthodox society. Here innovation is viewed only as a risk," observes Atre. Whereas he excelled in the area of customised products; and as he puts it, 'customization has been a close ally of innovation'.

Products based on innovation meant that you never do business in volumes. These products required more ground work for marketing. Further, energy and resource conservation, has been a conscious choice for TRANSPARENT. Most of their products count on a futuristic need and demand. The initial struggle therefore is inevitable and not unexpected.

"We carry the conviction for change. I believe over the years I have learnt something about the financial mechanisms which can convert wiser and saner concepts like conservation and sustainability, into good business sense. The crony politicians and crony capitalists are bound to find every excuse to claim how the environment conservation projects are unviable. But, these are the projects that demand most creative business thinking to prove their commercial viability," insists Atre.

Looks like he has chosen a hard way.

"A business is driven by the value system of those who founded it," he declares. "Once the path is clear, thereafter the appetite for taking risk and mitigating it; is the very entrepreneurial quality. It is same for any business".

Is that idealism?

While Atre admits that there is futuristic vision about the choice of technologies that TRANSPARENT invested in; he strongly contends that it was never merely idealist. "Our pursuit of FGD technology was certainly futuristic; but you see that the Law actually changed in December 2015".

Energy and resource conservation, pollution control

technologies are essentially ideas of the future. The political environment needs to change to acknowledge these areas as priorities. The products will not pick up unless compliance and enforcement of the norms is made mandatory by law. The implementation issues over the new emission norms for Thermal Power Plants (TPP) notified in 2015 therefore, make for an interesting case study.

The United Nations Climate Change Conference was held in city of Paris in December 2015. On this occasion India announced its new climate plan: Intended Nationally Determined Contribution (INDC) on 2nd October 2015. It said among other things, 'Energy efficiency of Thermal Power Plants will be systematically and mandatorily improved'. It further assured to enhance resource efficiency, stringent pollution control and waste management measures.

In accordance with INDC, Ministry of Environment on 7th December 2015 notified new emission norms for TPP in the form of the Environment (Protection) Amendment Rules, 2015. It stipulated stricter control and vigilance over oxides of sulphur and nitrogen and particulate emission for existing and upcoming TPP. It also stipulated time schedule for compliance by December 2017. This was a milestone legislation. The implementation of the norms would significantly impact the ever-growing problem of hazard to human health and environment.

An exhaustive survey carried out by the research scholars from accredited agencies like Centre for Environment Sciences and Engineering (CESE) which is part of Indian Institute of Technology (IIT) Mumbai, during the years 2004-2014 in eleven cities; made it evident that the emissions from TPP have already reached an alarming level and adversely affecting the entire population. It said that the growth in number of TPP would further aggravate the hazard and needs effective abatement by strict and timely compliance.

All industrial boilers, furnaces and TPP use Heavy Fuel Oils that contain four percent sulphur; which is a high level. Indian industries are allowed to use seven percent sulphur containing

petcoke. Flue Gas Desulphurization system (FGD) is the technology known to effectively reduce the Sulphur dioxide from the gaseous emissions by ninety percent. TRANSPARENT was the only company having home grown technology for FGD, proven on commercial scale. After the new norms were issued; it was a harbinger that finally the time for FGD had arrived. But, the enthusiasm over changed laws did not correspond to the growth in business of FGD.

Atre says, “We over relied and over waited for the business of FGD; and our judgement failed miserably”.

The Centre for Science and Environment hosted a workshop of all the stakeholders on 7 September 2016 including the Ministry, Implementation Authorities, Large Power Plants, their Associations and Equipment Suppliers; to discuss the issues involved in the implementation. Power Plants voiced their inability to comply with the new norms. They criticised that the norms were issued without the necessary preparations. (Whereas, none of them had objected to the draft notification). They complained that the two years period for implementation is too short; they demanded relaxation of the norms; as well as extension for the time of compliance.

The basic issue remains as to who shall bear the cost of the pollution control technology. Ajit Apte who attended the workshop on behalf of TTPL, effectively argued that even if Power plants raised the tariffs, the burden on common man would not be more than 60 paise per unit of consumed power. Compared to health hazards, this is negligible. Right now FGD equipment appears to be a white elephant; but as the market grows, the costs will reduce. They produce valuable by-products like gypsum; useful for cement industry. However, it turns out that the Central Electricity Regulatory Commission has no ready formula for increasing tariffs. In case of the green cess, Supreme Court had stayed the revision of tariffs. What if the same thing happens in this case; was the major apprehension.

Therefore, it is a foregone conclusion that the extension will have to be given. The norms will presently remain on paper.

In the business of pollution control technology, there are some special hurdles like technology biases of the establishment. And that calls for policy activism on part of those who struggle and strive for some rationality therein.

Solid fuel fired boilers and heaters are the most commonly used utilities in process industries. Due to sharp increase in the price of petroleum products, more and more process industries are now exploring the use of solid fuels. On 14th June 2014 the Gujarat Pollution Control Board issued guidelines for conversion of boilers and utilities from natural gas to solid fuels. Section 10 of the guidelines prohibited the use of bag filters for steam boilers of more than 8 ton/hour capacity and heaters of equivalent thermal output capacity. For over 8 tons capacity, they made the use of electrostatic precipitators (ESP) with an add-on wet scrubber mandatory.

TRANSPARENT protested. They had extensive interaction and correspondence with GPCB over the matter. TTPL is the leading manufacturer of well-engineered air pollution control equipment, having a patented design for bag filters. Fully automatic solid fuel fired boilers of TESPL are preferentially fitted with bag filters of the patented design. They are widely acknowledged as environment friendly. TRANSPARENT has consistently demonstrated smokeless emissions at these installations with solid particulate emission well below 50 mg/Nm³. These bag filters are more efficient than present emission regulations.

The guidelines from GPCB were arbitrary. Worldwide bag filters remain the best available technology for particulate emission control in solid fuel boilers without any restriction on capacity. GPCB provided no technical justification for causing prejudice against bag filters and favouring ESP. Further, adding on the wet scrubber was completely superfluous provision, without any rational justification.

TRANSPARENT sought to strike down the arbitrary provisions. It argued in favour of the user exercising the option between air pollution control technologies; placing higher reliance

on continuous stack monitoring systems.

GPCB under the same guidelines, did make it mandatory for the boilers above 8-ton capacity to install online Carbon dioxide analyser, or online Continuous Emission Monitoring (CEM) System. However, TRANSPARENT objected to this half-hearted measure. Why the CEMS are to be limited only to monitoring carbon dioxide and the combustion efficiency of the boiler? TRANSPARENT demanded that the other indicators such as carbon monoxide, volatiles of combustion (VOC), suspended particulate matter, oxides of sulphur and nitrogen must also be measured on the CEMS.

TRANSPARENT rigorously fought against the decision; and prepared to approach the National Green Tribunal. Yet, policy remains a government prerogative and approaching the court is a long-drawn process. Besides, justice costs. It was one of those battles they could not fight to the end despite knowing that they had a strong case. They must choose their battles in order to survive through these hard times.

Ordinarily, Indian businessmen speculate over policies. While they seek to influence policies, it is done ever so subtly, tactfully and indirectly. It is unusual for an entrepreneur to openly battle over policy changes. And, Atre has often directly confronted the authorities. He has approached ombudsman, commissions, tribunals and courts against the government authorities; and argued and advocated over the policy issues.

“These are the battles of perspective. If we do not fight them, the first generation entrepreneur cannot survive,” he insists.

He refers to the ongoing recession that started sometime around 2008. “The recession is worldwide. One cannot say how long this situation may continue”.

It’s a fact that their business has been badly hit by the prolonged recession; although all his colleagues are unfazed.

“Little breathing time is all that we need”. A confident Meghana says with earnestness, “We will get out of this present crunch”.

7 | *Lessons from a Departmental Inquiry*

Meanwhile, in the Halingali matter, the charge sheet was issued in March 2001. He was placed under suspension. However, the proceedings were actually initiated in 2006. The inquiry report was submitted to government in 2007. The Inquiry Officer held that it is proved that the charged officer exceeded his authority. Also, that in the case of his son's appointment with Thermax; the charged officer failed to disclose his vested interests. But, it was held that no dishonest intention was proved.

Consequently, Mr. Halingali's pension was regularised in 2009. Thus, the decade long matter ended with a bitter taste.

It is evident that the whole inquiry was conducted in a manner so as to ensure that the charged officer would be helped to escape punishment.

The departmental inquiry was initiated on the recommendation of Upa-Lokayukta. However, the verdict in the Upa-Lokayukta's enquiry (2001) and the outcome of Departmental Inquiry (2007) in the Atre Vs. Halingali case were completely opposed to each other; without a rational rebuttal of the former by the latter.

Departmental Inquiry failed to address the issue of misfeasance i. e. injurious exercise of lawful authority by the top level officer; which was raised by the Upa-Lokayukta in the matter. But, the office of Upa-Lokayukta has no control over the matter

after they have submitted their recommendations to the Government. The case file is closed.

Retired Upa-Lokayukta Mr. R. C. Iyer graciously consented to discuss the case for analysis. He is clear of the limits of the authority. “The Government may accept or reject the recommendations”. He reminds you that despite the strictures passed by then Lokayukta Vijay Tipnis in 2003, concerning the issue of Patangarao Kadam’s Bharati Vidyapeeth’s land, which was marked for public road in Pune Development plan (1987); the Government finally chose to reject the recommendations and regularize the encroachment.

Adv. S. R. Atre, (no connection with Ashok Atre) an Elphinstonian and a Law graduate from Delhi University who has been practicing with Administrative Tribunals, both CAT and MAT for the past thirty years; is an authority on the subject of Administrative Law. He agreed to consider both verdicts and help in the case study.

He observes, “We have commissions for the protection of women’s rights or children’s rights. These are recommendatory authorities, just as the Lokayukta. These are toothless Acts. To direct the Government to act upon the recommendations; one may have to approach the High Court”.

Adv. S. R. Atre explains that we have a system whereby all annual reports are laid before the parliament or respective State Legislatures. There is scope for legislative debate. If a certain issue gets picked up by the media, it may generate public opinion. These are the systemic checks and balances. However, it is not mandatory for the Government to take cognizance of the reports or the recommendations; or as to what extent such cognizance may be taken.

Anna Hazare led the national movement for granting more powers to Lokayukta. But, it is opposed by Legislatures on the ground that the institution of Lokayukta may emerge to be a superstructure; over the constitutional balance of power between Executive, Legislature and Judiciary.

Let us analyse the facts in Atre Vs. Halingali case. In March

2001, after due hearing given to Ashok Atre's complaint against Mr. Halingali, and upon conducting independent investigation therein; the Authority of Upa-Lokayukta held that the material in the case was sufficient to institute Departmental Proceedings to inflict appropriate punishment on then Director, Maharashtra Steam Boilers.

Under Maharashtra Administrative Services, Classification, Control and Appeal Rules (1979) there are separate provisions; for initiating proceedings while the accused Government servant is in service, and after he has already retired. Taking cognizance of the strictures passed by Honourable Upa-Lokayukta in this case; the Government issued the charge sheet to Mr. Halingali a few hours before he retired i. e. while he was still in the service.

This was expeditious.

The Central Vigilance Commission's guidelines provide that where a preliminary enquiry into allegations has revealed prima facie case justifying criminal or departmental proceedings, which are likely to lead to conviction and/ or dismissal, removal or compulsory retirement from service; the Government servant may be placed under suspension.

In this case, Mr. Halingali was placed under suspension.

It is important to note that suspension itself is not a penalty under Administrative Rules. It is only an intermediate step. It is provided that on attaining the age of superannuation, a Government servant will be retired even if he is placed under suspension. He will not get subsistence allowance but will draw provisional pension.

The charge sheet issued to the accused officer specified two charges. The first accusation was of the misuse of the administrative authority. The basic issue involved the officer's insistence on variation in established production practices, to the disadvantage of the complainant. The sub issues being that when the officer was deviating from the established practices; he failed to record the reasons therefore. Also, that the unwarranted use of the term 'Renewal' of manufacturers' license

by the officer in the official correspondence; amounted to undue pressure.

The second charge was concerned with noncompliance of Code of Conduct Rules i. e. failing to inform and seek permission; when a close relative was employed in a company, which had direct day to day transactions with his department.

However, the connecting link between the two charges i. e. the presence of malice and motive as suggested in the inquiry before the Upa-Lokayukta; and which played an anchor therein; did not form the part of the charges in the departmental Inquiry. It needs to be noted therefore, that the relevant issues in the Departmental Proceedings were essentially in the nature of administrative lapses bereft of the assumed criminal intention.

People are vigilant about corruption. Still, in the case of misuse of authority and using discretion to favour someone; it remains a tricky area. To ascertain whether it was a fair decision or not; is not so obvious. The element of corruption here is subtle; because money is not exchanged.

CVC Guidelines acknowledge these as the borderline cases i. e. gross and wilful negligence, recklessness in decision making, blatant violations of systems and procedures, exercise of discretion in excess (where no ostensible public interest is evident), failure to keep the controlling authority informed in time – *these are some of the irregularities where the Disciplinary Authority should carefully study the case and weigh the circumstances whether there is reasonable ground to doubt the integrity of the officer concerned.*

R. C. Iyer cautions that whether an officer wrongly interpreted the provisions or when he exceeded his authority; it may not necessarily be with malice or intention. He explains these to be independent technical issues in Law.

In Atre's case the criminality did not get directly established. If certain logic was applied to his case and there would have been other two-three companies which you could compare with, has been treated differently by the officer; then you could say that

Atre's company was singled out. Such comparative evidence was lacking here.

R. C. Iyer reflects that in Prime Minister Nehru's regime also, several ICS officer's children were serving as Management Trainees in big companies. Companies would claim this was a qualified person. Amidst thousands of their employees, how may they know of his Government connections? Therefore, unless you can establish the conspiracy that the concerned company did abet the discrimination; it is advisable to exercise maximum caution.

Adv. S. R. Atre informs that there are CVC guidelines for framing charge sheets. His experience tells him that it is very difficult to prove malice; not just in administrative cases, but generally in Law as such. It is impossible to get the specific evidence. 'Even when a Magistrate makes an error; it cannot be attributed to malice'.

Let us consider what options were open to Ashok Atre. He could have cited the Upa-Lokayukta's verdict, which had found prima facie substance in the complaint; and filed a private suit for damages in the Civil Court. The considerations would have been pecuniary here. Ashok Atre must prove the damage he suffered as a result of administrative injustice; and claim for compensation. Further, he must seek consent from the Government to sue a Government official.

If intentional harassment and misuse of authority were the main issues, then the remedy could be criminal proceeding. A crime is a crime against the society. However, according to Adv. S. R. Atre, 'In a case against a Government officer, unless all the channels of redress through administrative hierarchy are exhausted; the criminal courts are not likely to entertain the matter'.

A Departmental Inquiry is a quasi-judicial process. The word 'quasi' means 'not exactly' or 'almost' or 'just like'. The proceedings would be quasi-judicial when it has some of the attributes of judicial functions, but not all. Admittedly, there is

presence of a dispute and the parties present their arguments. Further, with regard to disputed question of fact, parties present their evidence.

However, in a judicial process, if there is disputed question of law involved, the legal arguments are advanced on behalf of the parties. This may or may not take place in a quasi-judicial proceeding. Further, the judicial decision in the matter is arrived at, by applying Law to the facts; which are proved in the court. Whereas, quasi-judicial proceeding before Minister, or administrative officer or an administrative tribunal are the 'summary proceedings'; and there is 'administrative discretion' as a decisive factor.

The test that distinguishes a quasi-judicial act from any other purely administrative act performed by the authority; is the duty cast on the authority 'to act judiciously'.

Interestingly, as observed in a famous American case, *Federal Trade Commission V. Ruberoid Co.* (1952) 343 US 470; "the term quasi is a smooth cover which we draw over our confusion; just as we use a sheet to conceal a disorderly bed".

R. C. Iyer and Adv. S. R. Atre both share the view that court proceedings are too slow, expensive in terms of money and the time required to pursue the matter; and above all, a much laborious and tiring affair. The departmental inquiry is considered comparatively speedy and efficacious remedy under the circumstances.

However, when the Government is in the seat of judgement; there is a major difference. A private complainant has no role in a Departmental Inquiry. Here the Government is giving a fair hearing to its accused employee; in accordance with the constitutional protection he is entitled to, under Article 311. The disciplinary proceeding is a self-correcting mechanism within the Government structure. The Disciplinary Authority is not meant to impart justice to an individual complainant. Ashok Atre, a private complainant is not a party anymore in the case. His status is that of a Government Witness; as in the trap cases.

Let us understand that the Central Administrative Tribunal (CAT) and the Maharashtra Administrative Tribunal (MAT) are essentially intra government redressal mechanisms. They hear cases between the Government and its employees. A private complainant cannot approach these forums.

The point for consideration then, is whether the Government can act judiciously against its own staff, especially if they are high ranking official? — Adv. S. R. Atre assures you that in several cases, Government invests maximum efforts; and in maximum cases, the guilty Government servants are punished.

It may be relevant to note that in matters relating to Disciplinary Proceedings, the Court as well as Administrative Tribunals can carry out the Judicial Review. They do not act as Appellate Authority. It means, no appeal lies before the court against the verdict of a disciplinary inquiry.

What happened in the Halingali matter?

The charge sheet was issued on 30th March 2001. Mr. Halingali denied the charges in his written defence statement submitted on 6th April 2001.

Halingali's defence at this point primarily underlines that the Act was old and in view of later developments, the officer 'believed it was his duty to re-verify the data concerning safety requisites'. The Officer argued that 'although there was no explicit provision in IBR Regulations, he interpreted the co-relation between the provisions and his duties pro-actively; to assume the powers he did'. He humbly denied that he acted against the spirit of the Regulations. He further pleaded that he never actually stopped the inspection visits or executed the changes in the inspection pattern. Hence, no damage occurred in fact.

He admitted that he failed to communicate to the Government regarding his son securing employment with Thermax Ltd. However, he pleaded that 'since he had twice earlier reported the fact of his son's training with the company; he had no intention to hide this association; and further, he was under bona fide belief that he need not re-communicate the same'.

Finally, Mr. Halingali referred to his unblemished service for twenty-nine years; pleaded the Government to consider his age and family responsibilities and prayed for a sympathetic perusal of the case.

Halingali's reply at this point was noticeably apologetic and in the expected line of defence.

However, it is the remarks from the Department of Steam Boilers, Maharashtra that appear to be evasive and far more objectionable. There is a three-column format. The first lists the charges. In the corresponding second column is the reply of the Charged Officer. And, the third column consists of the remarks of the Department concerned. It is actually stated on behalf of the Department that "the relevant matter is technical and there is no expertise available at the administrative level to clearly opine on the same".

The Department argued that *prima facie* it appears that no particular company was discriminated against; and that the officer acted with *bona fide* intention. Department confirmed that the inspection visits were not stopped, and the complainant company did not suffer any financial losses. The Department did not subscribe the view that the accused officer intentionally harassed a particular company because his son was employed with the rival company. Finally, Department reiterated the point of twenty-nine years of unblemished service rendered by the accused officer to suggest its sympathy.

It is shocking that the Department which is in charge of technical scrutiny and safety of boilers in Maharashtra including most hi-tech establishments; should plead their inability to opine on a technical issue. If the Department claims to lack the required technical expertise, then by what right did their Chief Inspector assume the powers of re-interpretation of the Regulations with whatever *bona fide* intention! It is a clear contradiction.

R. C. Iyer had been one of the senior-most Bureaucrats. He says, "If the Department claims not to have technical expertise; it is wrong. This is the Department which controls the technical

officers. ‘If they lack expertise, they should invite an expert from outside and seek his comments’.

So, while the department was clearly supportive of the accused officer; it faltered in the duty to impart objective technical assessment of the case, during the process of inquiry.

The CVC Guidelines prescribe that the preliminary investigation should be completed within three months. Vigilance Manual recommends that the task may be assigned to an officer of appropriate status if the complaint is against a senior public servant. The Disciplinary Authority appoints the Investigating Officer and the Presenting Officer. They are appointed when there is need to inquire into the charges. The need emerges because Accused officer denies the charges or when he does not respond to the Charge Sheet.

Presenting Officer is the agent of the Disciplinary Authority and his endeavour is to prove the charge. His role is compared to that of the Government Counsel. Every counsel is the officer of the Court; and owes a responsibility towards the Court, in helping the Court to ascertain the truth. On the other hand, the Inquiry Officer is an impartial authority who is required to decide the case on the basis of the evidence laid before him; and submit his report to the Disciplinary Authority.

In Halingali case, The Secretary and Deputy Secretary General Administration were appointed as the Special Investigation Officer and the Presenting Officer respectively, in July 2001. However, the matter did not move further till 2005.

In September 2005, Government issued new order and transferred the case to Principal Secretary, General Administration and Divisional Investigating Officer. The preliminary processes took another year; and finally the case came for hearing in October 2006.

Is that delay, by usual Government standards?

“Yes. Six years’ time can certainly be called as delay in Disciplinary Proceeding,” affirms Adv. S. R. Atre. “There are various circulars that direct the proceedings to be completed within six months to a year and as early as possible. In practice,

it may take one or one and a half year. So six years is a long delay; but whether that is an inordinate delay is for the Court to decide”.

The Supreme Court has repeatedly directed to complete the proceedings at the earliest. The Court has observed that delay helps the delinquent. It does not make sense if there is no action for so many years.

“But, if the Government can explain the delay, Court grants it. Court has condoned the delay of sixteen years in a case. So there is no hard and fast rule or set parameters”.

It can be said that when the proceedings were getting delayed, Ashok Atre could have approached the High Court. The Court might have referred the matter back to the Government with expediting instructions; under Writ jurisdiction. The Court intervention could have served to build some pressure on the Government machinery to act judiciously in the matter.

When the proceedings actually started in 2006, Ashok Atre was shocked to find that the report of the Upa-Lokayukta inquiry had not reached the Investigating Authority.

Ashok Atre had to argue and insist on its admission. Investigating Officer asked, how the report was relevant to the Disciplinary Proceeding. The fact that the Upa-Lokayukta’s report was the *raison d’etre* for the Disciplinary Proceeding was it not quite the sufficient logic?

That reveals another anomaly. According to Adv. S. R. Atre, it is the discretion of the Disciplinary Authority whether the recommendations of the Upa-Lokayukta should be admitted in the proceedings or not.

In other words, Investigating Officer may proceed with the investigation *De novo*; completely independent of the previous inquiry conducted by the Upa-Lokayukta.

The recommendations by the Upa-Lokayukta were not random; but based on investigation and proofs. But, there was no logical following up of the leads from previous inquiry; and consequently there was no issue of its rational rebuttal as such.

“It is a mistake. But, yes. Unfortunately the Disciplinary Proceedings can be Independent,” agrees R. C. Iyer.

It depends on the Investigating Officer as to admission of reports or proofs. Ideally, the concerned Department should admit the report. It should be open for defence to question the recommendations. They are free to attack the report. The recommendations of the Lokayukta and Upa-Lokayukta could be wrong; remarks R. C. Iyer. But, they should to be logically argued upon.

If this was meant to be an independent inquiry; the manner in which it was conducted defied the theory. The Inquiry Officer did not even bother ‘to appear’ to be objective.

The Government Witnesses were examined first. Investigating Officer Satish Tripathi asked Atre to be brief in his statement and firmly discouraged him from raising any new points, other than the papers already admitted in the case. On Atre’s passionate pleading, the Upa-Lokayukta’s report was finally admitted in the proceeding.

G. T. Bandri Deputy Secretary Industry, Energy and Labour Department at the relevant time; was the next Government Witness. Thereafter, Mr. S. S. Utturwar, the Deputy Director Steam Boilers at the relevant time; was examined as the Government Witness. He had not figured in the inquiry before Upa-Lokayukta; so he was a new witness. However, what was new and when admissible, was subject to the satisfaction of Mr. Tripathi.

Charged Officer Mr. Halingali submitted his defence statement in February 2007. He did not take help of any defence counsel; and examined himself as defence witness. He certainly started with new details regarding the boiler explosion in 1998 at Shirke Paper Mills, Satara. He informed that the reasons for the explosion were wrongly reported in the Annual Report 1998-99; and that his own analysis had showed that there had been manufacturing faults in the exploded boiler. The accident had prompted him to review the infrastructural facilities with the

Boiler manufacturing units; because the owners often failed to intimate the changes to the Directorate.

The investigating Officer, who had earlier prevented Atre from raising any new argument; did not seem to notice that the preventive angle was new; or that Charged Officer was taking a line of defence that did not correspond to his earlier submissions in the case.

In the cross examination taken by Mr. Halingali, both Government Witnesses Mr. Bandri and Mr. Utturwar replied in affirmative to all his leading questions; corroborating his arguments and evidence. So, they turned into Mr. Halingali's witnesses.

As for Ashok Atre the Chief Government Witness, Mr. Halingali had brought forty-two typewritten questions to cross examine him; running into twenty-two pages. These were technically so pompous and crafty; that Atre had to plead for time to understand and submit written replies. The elaborate questionnaire had less to do with pure technicalities; its sole purpose being creating of an illusion of a technical issue, where none existed.

I. O. declared that he did not understand much of the technicalities; but, allowed the show to go on nevertheless.

If he did not understand the technicalities by his own admission; why did he not recommend instituting the Appellate Authority under Indian Boiler Act, and transfer the case? Or, why did he allow the new technical arguments at this point; which were beyond his field of comprehension?

It is interesting to see how the Charged Officer built his defence; and moreover, that he was given a free hand to do so.

Though Halingali did not appoint a defence counsel on his behalf; the questions he asked Atre in the cross examination were leading questions, in the classical sense of the term. They were in a logical order; without ostensibly disclosing where they led.

For example, the first question was whether the

administrative Rules pertaining to Indian Boiler Act are in accordance with the Act and Regulations or not?

But, the question would not be asked so simply.

Rather it would go as – “Whereas the IB Rules 1962 are the administrative Rules made under section 29 of the Indian Boiler Act 1923; the said provisions are in accordance with the provisions of the Indian Boiler Act 1923 and with the provisions of Indian Boiler Regulations 1950 made there under; Is this correct?”

Here, we feel the weight of the legal jargon; and the language happens to be administrative Marathi. Even if Marathi was your mother tongue; it would take a while to separate the essence of the statement from the husk.

Thus there were total forty-two questions, some lengthier than the others. And, Halingali expected Atre to answer all forthwith. Atre did start to answer; but as he suspected the game, he pleaded for time and permission to submit written replies.

The written reply to the first question submitted by Atre was not in the simple affirmative. It was a counter question. “Even so the Rules were in accordance with the Act and the Regulations; didn’t the other Boiler Officers understand them before Halingali; was he the only officer to interpret them correctly?”

The next question went as – “It is noticed that the printed edition of IB Rules 1962 made available on 31 October 1983 contains only up to Chapter No. XXI i. e. up to Rule 149; and in the revised edition made available on 31 January 1991, includes up to Chapter XXII i. e. up to Rule 155; and as per the Rule 152 Part (1) and Part (2) there from, provision has been made to recognize the boiler manufacturer; Is this statement correct?”- To translate in lay parlance; something in the Rules changed in 1991.

To this, Atre obliquely replied that “under no provision is the Chief Inspector empowered to undertake License Renewal campaign. Rule 155 only provides that the license may be forfeited for giving wrong or false information”.

Then, we come to the trickier third question. “There before

(before the Rules changed,) your company Vapor Energy Machines Pvt. Ltd. (new name Transparent Energy Systems Pvt. Ltd.) received the first temporary permission to manufacture shell type boilers vide letter dated 05-12-1989 under number (D 18) (Set 3/153) i. e. (D 24) (Set 4/46). Under what provision did you obtain the said permission?”

Answer to the third question was given in single sentence. “We received the permission as per the provisions of Regulations 1950 and Rules 1962”. (The brevity of the reply suggested that: it is your job to find out under which provision of the Rules. Go and search in your office Records).

(Later, Halingali actually tried to harp on the ‘discrepancy’ in the initial oral answers given by Atre in the cross examination; and his precise written submission thereafter. And, this was accepted by the Presenting Officer in favour of the Charged Officer. This was the most ridiculous point in the entire farce).

It is apparent that Halingali was basically trying to rationalize his actions. His line of defence was entirely new, clever and quite strong.

Major part of the questions put forth Halingali’s defence version of the dispute and tried to achieve Atre’s tacit corroboration. The Charged Officer started to establish that Shirke Paper Mill explosion was serious; and resulted due to manufacturing defects in the boiler; and that made it the duty of the Chief Inspector to initiate precautionary measures. Next, he wanted to establish that Atre’s company was not singled out; that similar cyclostyled letters were sent to all recognized boiler manufacturers. Next, he came to the requirement of plate bending machine and Appendix J-formats issue.

Atre answered the questions intelligently; although his tone was noticeably impatient and often sarcastic.

Atre pointed out that the excuse of Shirke Paper Mill’s explosion was only an afterthought on the part of Mr. Halingali. He had not mentioned this point before the Upa-Lokayukta. The exploded boiler was manufactured in Gujarat and registered by Pune Boiler Office. He demanded to know what action was taken

against the manufacturer or the inspector that commissioned the boiler.

Atre reiterated his stand that the Regulations do not specify 'where' the Tube sheets may be bent or rolled. And, that what is not explicitly specified in Act and Regulations is not necessarily implied to be forbidden. He counter argued that if Halingali repeatedly said that it was not specified in the Regulations to get only the plate rolled from outside vendors; then how may the officer justify the License Renewal scheme; which was also not specified in the Act?

After about thirty questions, the cross examination got more heated up.

Mr. Halingali was understandably at a point where he had nothing more to lose. He was aggressive to the point of desperation.

He directly challenged the authority of Technical Advisor; Central Boiler Board. In his oral witness, Halingali pointed out that Atre asked for V. K. Goyal's advice on 27-11-2000; and that Mr. Goyal replied him immediately by the letter bearing same date. He actually suggested that Technical Advisor, Central Boiler Board acted in the complainant company's interest; when he drafted the relevant resolution of the Central Boiler Board in accordance with the language in the letter of advice he had given to the company.

That was just the beginning of his aggressive defence.

Halingali took on his Secretary Dr. M. L. Gautam and alleged that the Secretary changed his earlier stance in the dispute; and directed Halingali to refrain from pursuing the matter under certain pressures. He claimed that the Secretary did not bother to explain the reasons for change in his perspective of the matter; nor did he want to call for an explanation from Halingali. This was certainly cunning way of putting it; in view of the facts.

This comes as a surprise from a cautious and conservative officer like Halingali; to allege his direct superiors for vested interests. It is remarkably bold. But, Halingali was retired now

and was on suspension for the past six years. Personally, he had much at stake on the verdict of this inquiry. This was an all-out defence.

Halingali went as far as saying that the Upa-Lokayukta passed his verdict in a hurry; without giving him enough time to defend himself. At best, the recommendations only stated the existence of a prima facie substance in the complaint; and therefore a detailed inquiry was called for. Haligali argued that in the Departmental Proceedings, (even if the Upa-Lokayukta's report was admitted,) it was not needed to be taken into consideration at all.

As for the assumed competition between TRANSPARENT and Thermax in the Upa-Lokayukta verdict; Haligali by now had realized to his peril that silence was costly. He took the expected (though belated) stand that Thermax was 'too big and established' company, having major share in boiler manufacture in the country. In comparison, TRANSPARENT was 'too small'; and consequently whatever competition posed by the later to Thermax was negligible. Haligali argued that Atre's contention of intentional harassment to his company was therefore baseless.

Next, Haligali launched a carefully planned volley of questions targeted to assail the so far invincible professional character of Atre's company. If he could not convincingly refute any of the charges levelled against him; he tried to cast doubts on the credibility of the opponent. He had diligently researched through TRANSPARENT's case file; raking old Government records and he produced select documents.

He had unearthed certain documents, much to the chagrin of Ashok Atre. Haligali argued that as per some letter dated 10-11-1989 written by then Deputy Director Pune Boiler office; Atre's company was given the permission for boiler manufacture; subject to condition that they comply with the requisite of installing plate bending and drilling machines.

Hence, Haligali argued that the temporary permission was given in contravention of requisite rules in the first place.

Halingali further alleged that Atre's company got the manufacturing permission on the basis of an illegality. And, without installing the said machines and maintaining silence over noncompliance of the previous year's condition; the company managed to obtain the license in standard format in the next year, with the help of M. V. Joshi then Joint Director Pune Boiler Office.

Halingali argued that "The Company illegally established the basic illegality of their manufacturing practices. What Central Boiler Board later did was regularize the illegality. But there before, he was justified in objecting to the irregular practice".

M. V. Joshi had retired as the Chief Inspector Maharashtra Steam Boilers. He had been the direct superior of Mr. Halingali. However, Halingali did not hesitate to allege that post retirement, M. V. Joshi was employed by TRANSPARENT in capacity of a Consultant; thereby directly accusing Joshi of unduly favouring the company in his tenure, circumventing the provisions.

Atre vehemently denied the perverted logic of Halingali's arguments. Atre stated that at no stage either temporary or permanent, did they get the manufacturing license by any discounting of necessary requisites. Regarding the condition in the said letter, concerning the installing of the said machines, he had met then Chief Inspector and argued over its irrationality. As a result of the meeting, in the next year's License letter issued on 14-12-1991, the condition was omitted. The letter that Halingali now cited was signed by then Director of the company, under Mr. Utturwar's pressure.

However, this proved to be the chink in the case which later paved way for Halingali's discharge.

In the course of defence, Halingali had made serious allegations concerning the integrity of his seniors, including Labour Secretary Dr. M. L. Gautam, Technical Advisor, Central Boiler Board V. K. Goel and Retired Chief Inspector Maharashtra Steam Boilers M. V. Joshi. Atre demanded that let all of them be called as witnesses and their statements be recorded. The demand was not considered. The Inquiry Officer could not have been hearing.

Later, in a discussion with now retired Mr. V. K. Goel regarding this case; when he was told about Halingali's stance; that the advice of Technical Advisor CBB did not independently count; and that only the Board was competent to resolve the issue; he dismissed the argument rather contemptuously. "Let the Court interpret on the issue of competency", was his reaction in single sentence.

Another matter for consideration in this case, is the role of the Presenting Officer.

To quote from the CVC guidelines, 'Presenting Officer is appointed for the purpose of presenting the case of the Disciplinary Authority so that the charges can be proved in the inquiry. In many ways, the role of the Presenting Officer is a challenging one. His role is comparable to that of the anchor in the running race. Many people have carried the baton and finally it has been handed over to him. Whatever be the merits and demerits of the earlier functionaries, being the last person in the line, it is for the Presenting Officer to carry the baton to the winning post'.

The report submitted by the Presenting Officer in Halingali case suggested that PO was satisfied by the evidence produced by the Charged Officer. He mentioned that Halingali had obtained corroborative answers from G. T. Bandri and S. S. Utturwar during the cross examination. The Charged Officer had also pointed out the discrepancy in the oral answers given by Atre and the subsequent written submissions made by him. Presenting Officer was satisfied with Halingali's explanation; as to why he could not have acted on the advice obtained from Technical Advisor CBB.

In this case, Presenting Officer failed to understand why the office of Upa-Lokayukta had strongly recommended for the Inquiry.

Presenting Officer simplistically assumed that the dispute seemed to arise; because Atre insisted on proving how the established practice was in accordance with International

standards and correct; whereas Charged Officer insisted on proving it to be irregular. Presenting Officer referred to the correspondence produced by Halingali regarding conditional temporary license given to Atre's company; and concluded that it was morally incorrect that company continued with irregular practice despite due notice of the need for compliance.

Presenting Officer observed that instead of accepting one of the options suggested by the Chief Inspector; the company made this 'a prestige issue' and chose to seek advice from Technical Advisor CBB and to complain before Upa-Lokayukta. This was a rather strong comment. Presenting Officer concluded that Halingali did his duty and also permitted the company to continue with disputed practice. Hence, the action of Disciplinary Proceeding against him was not justified.

Presenting Officer (PO) observed that the Charged Officer had put forth his arguments with required documents and witness evidence. He also accepted the improbable defence that when Halingali used the term Renewal, he actually meant Review; and that it had been an inadvertent usage on his part. Although Halingali did not record any reasons; it did not seem to PO, to be with the intention of keeping his superiors in dark. PO reasons that the superiors were well aware of the dispute; as Atre had managed to get their permission to continue with the established practice.

(PO failed to understand that the IBR Code does not stipulate any specific practice nor prohibit any specific process. Normally codes are very specific about both of above. Codes also stipulate with reasonable level of accuracy, the stage inspection of a job under manufacture. In this case, IBR Appendix J specifically recommends verifying weld set up and circularity of the shell to be welded on its seam. Circularity is to be verified before and after welding. All this was well understood by all previous Chief Inspectors of Boiler and Inspecting Officers.

The issue was not a prestige issue. The issue was why Halingali insisted on a change in established practice which was proven to be effective for a decade)

Interestingly, PO observed that since Atre was being asked to change the established practice of a decade; it was understandable that he interpreted it as injustice. (This is diplomatically put. The Presenting Officer perceives the situation as Atre felt hurt. Refusing to acknowledge that his legal rights were infringed. PO is thus undermining the substance of the matter). However, considering the detailed explanation given by Halingali and in the light of the evidence produced; he said that he must conclude that the charge against Halingali did not get indisputably proven.

The Presenting Officer did not counter Halingali at any point. It did not look like he was even trying to prove the charges. He seemed to readily accept whatever stated by the Charged Officer without any doubt. He did not call for witnesses of Dr. M. L. Gautam or M. V. Joshi. He did not follow up on the leads from Upa-Lokayukta's Enquiry.

Can he do this?

“Well, if he is of the opinion that the charge does not get sufficiently established from the documentary evidence in the case; the Presenting Officer can give his candid opinion. He should try to prove the charges; but what can he do if there are no proofs! He is not bound; to prove the charges under any given circumstances”, explains Adv. S. R. Atre.

It means that there is discretion at every level.

It must be noted that entire proceedings were shrouded in secrecy. Atre demanded to get a copy of the statements submitted by Halingali during the Inquiry; which was denied to him. When he sought the documents under Right to Information; he was told that inquiry is under process; and that revealing any information at this point may influence the course of the inquiry. These were standard denials.

Atre did rigorous follow up during 2006-07, insisting that he was the chief witness; and it was on his complaint that the Disciplinary Proceedings were instituted. He wanted to know the arguments put forth by Halingali; and would have liked to play a more proactive role by offering counter arguments and relevant

evidence. In short, he wanted to do what Presenting Officer was appointed for; but PO did not seem interested in.

However, after his witness, Atre was kept strictly out of the entire proceedings. The Inquiry Report was submitted to Government in July 2007; but Atre could get the copy only in March 2010 under Right to Information Act. He was informed that Mr. Halingali's pension was regularized in 2009.

R. C. Iyer confirms that the Government is not obliged to give details of the Disciplinary Proceedings which may be still in process. When cases do not involve private complainant; it is quite justified. However, where a private complainant exists; Mr. Iyer believes that in the interest of transparency, it is advisable to appear to be more open. Before the final verdict, a copy of the Inquiry Report is sent to the Charged Officer. Mr. Iyer suggests that it should be sent to the private complainant as well; to give them both an equal opportunity. It was certainly not done in this case.

Mr. Iyer feels it would be a good improvement in administrative procedures. He observes that Government is used to unilateral decision making. This is deep rooted in system. There are several examples; may it be Adarsha scam or any other.

It is further to be noted that as the retired top officer, Halingali had access to all Government records; to produce select documents in his support. However, when Atre demanded the old documents under RTI; a reply was sent to him saying the records were not available; and hence, department was unable to comply. It was stated that the documents he demanded belonged to a period eleven years prior; and as per Government circular, the old and unimportant papers were destroyed.

That speaks for how unilateral indeed, the Government proceedings could be; and how alienated an outsider is from the whole system of so-called administrative justice. Adv. Atre says, "People have certain notions about justice. Let us understand this is not even a court. These are summary proceedings after all".

What did the Inquiry Report state in the Halingali matter?

The report typically summed up the case and the Presenting Officer's remarks. The Inquiry Officer added that before insisting on a variation in established practice; it would have been appropriate to record the reasons for doing so and seeking permission from the superiors. That the Charged Officer failed to do so; was proved. However, it was important to consider the reasons therefore. The Officer was prompted by preventive measures he thought were necessary in the face of explosion in Shirke Paper Mill. Hence, any dishonest intention was not proved.

Regarding the use of the term Renewal, Inquiry Officer noted that PO found the explanation by the Charged Officer satisfactory. That the term Renewal of License was used remained a fact. Yet, the intention needed to be considered; and the explanation given by the Charged Officer seemed acceptable. Besides, the evidence in the case showed that the notices were sent to all boiler manufacturing units. Hence, there did not appear to be much substance in the argument that he did it to harass a particular company. Therefore, although it was proved that he sent a renewal notice, without there being any such provision for renewal in the Rules; there was no mal intention involved.

Further, although prima facie it was proved that the Charged Officer insisted on variation of the established practice; it was to be noted that there was no dishonest or mal intention involved.

As for not informing the Government of his son's employment with Thermax, technically it was proved that in 1997, the Charged Officer failed to communicate the fact to the Government. The Inquiry Officer observed that apparently this charge was connected with the previous charge of misuse of authority. However, he noted that since the charge did not specify such connection; and since earlier discussion rules out any dishonest intention on the part of the officer, this did not need to be discussed further. This was convenient.

However, most surprisingly the IO stated that Thermax Limited had no official transactions with the Government. He also noted that Halingali's son was more than twenty-one years of age

and not dependent on the Charged Officer at the relevant time. Finally, IO concluded that he did not think that relevant provision from the Code of Conduct Rules was violated in this case. This was completely lenient interpretation of the rule.

IO also made a few crucial observations.

First, the charges in the case appeared to be hurriedly drafted; only on the basis of the recommendations of the Honourable Upa-Lokayukta.

Second, the Department had remarked that no inquiry was needed in the case. G. T. Bandri Deputy Secretary Industry, Energy and Labour Department also stated that despite their remarks, the decision of instituting an Inquiry was taken in consideration with the Department of General Administration.

It was thereby clear that while preparing the Charge sheet, the Department lacked sufficient documentary evidence. The Government Officers answered in complete affirmation with Halingali during the cross examination. At no point did they try to prove his mistake. During the Inquiry it was made to appear obvious that Government had no proofs and their side was weak.

This was like saying that no outsider can make the department accountable without its help.

The conclusion: Charge one, of misuse of authority was partially proved.

And Charge two, of violation of code of Conduct Rules did not get proved.

What is meant by ‘partially proved’?

“It means misuse of authority may have occurred. But to what extent; and did it result in any substantial damage are important aspects. It may not be a huge offence,” explains Adv. S. R. Atre.

He further states that when Disciplinary Authority decides to initiate an Inquiry, the Inquiry will be instituted. However, there are no parameters as to how the conclusions of an Inquiry may be drawn. The Charged Officer invariably pleads for sympathetic perusal of the case. And, sympathy is a personal aspect.

“Even Lalit Modi gets sympathy from the Cabinet Minister,” he quips.

Adv. S. R. Atre reminds you that even in criminal cases, the previous character of an offender is taken into consideration. If an officer retired with unblemished service; he is bound to get benefit of it in the proceedings.

That there are personal aspects involved is obvious. Their implications may be quite significant when subjective satisfaction of the authority and the discretion are the decisive factors.

During the course of proceedings, the Inquiry Officer Satish Tripathi mentioned to Atre; that he was associated with social schemes initiated by organizations like UNICEF; and hinted at corporate social responsibility.

However, when a cheque of Rupees Twenty Thousand was drawn by TRANSPARENT in favour of UNICEF and a representative from the Company presented it to Mr. Tripathi; he interpreted it as an attempt to bribe him and pressurize him. There was much melodrama on the occasion.

Without going into respective and subjective details of the incident, it appears a bit disproportionate that a senior officer as Mr. Tripathi should feel threatened by a Twenty Thousand Rupees’ cheque drawn in favour of a social organization; and should feel provoked to give a dramatic reaction of calling the police, verbal abuse etc.

He was resolutely unresponsive to Atre’s demand for copies of the proceedings.

Finally, in his report, he carefully noted the demeanour of the concerned persons. As per CVC guidelines, demeanour denotes posture and behaviour of the witness while deposing. It constitutes an important input in determining the credibility of evidence tendered by the Witness. Tripathi noted that the language of the Chief Complainant and later turned Witness Ashok Atre was offensive; whereas the Charged Officer Mr. Halingali came across as very decent and modest person throughout the proceedings. This was probably the last straw.

We can sum up with the caustic remarks of R. C. Iyer. “This

is the Government of the Government Servants, by the Government servants and for the Government servants. All the administrative tribunals should be abolished. How much more money should be spent on them?”

“This case went as far as this. But, the system is vast. Various sub systems co exist; of which the top people are not often aware. There are bigger cases. We know the murders that take place at times. This was not as big as that”. Mr. Iyer says, “Please try to understand; I am not saying this case was small”. He remembers Ashok Atre as a man who fought for principles. In our society, such fighters are few.

R. C. Iyer observes that officers want to be heroes by publicizing small isolated matters. If they strived to improve the system; it will benefit all.

He identifies this case as exemplary; of how the nexus between Government officers and the big industries can work against a small-scale entrepreneur. He beholds that level playing field does not exist in reality. There is no economic justice on the face of the earth. The injustice may be more or less; but people are inclined to take advantage of their positions.

“Sometimes, you can give a message. But, they are sure to find a way around it”. He concludes.

Atre saw justice done at the stage of the Inquiry before the Upa-Lokayukta. The lesson being that officers personify power; and discretion means that if there is right thinking officer, one may still hope for justice.

It is learnt that the case was later discussed at a workshop organised for a batch of trainee grievance officers. The analytical exercise included following as lead points for discussion.

Is it always advisable for a small company to show courage and confidence? Do we have adequate machinery to grant timely justice to prevent mortal damage? Why is it required for an honest, righteous company to run the risk of life to prove a point which is already correct?

Will there ever be any happy endings? Can the young administrators advise anything at all except to suffer with

clenched teeth? What can they, the administrators do; to ensure a level playing field for all Indians?

Discuss the case, from each of these angles:

- Deregulation;
- Privatization of Government functions using professionals;
- Absolute power being in insecure hands; and
- The tendency of general administrator to maintain aloofness from simple technical matters.

Alas, we do not have access to the discussion that followed! However, it seems like a worthwhile exercise for anyone who reads about the case.

8 | *The Game Changer*

“Halingali was only a part of whole huge system. I realized that later,” says Atre

As a small-scale entrepreneur survival was never easy; and the Halingali case was essentially a fight to exist.

He says, “Whether in business or in life, stakes are always high. Either to be Nelson Mandela or Dawood Ibrahim is necessarily a choice for survival”. He divides the world among the game changers and the game followers. Atre says, “We are a country of followers. Some of us genuinely lack courage and therefore follow the game. But, there are others who are beneficiaries of the system; They adjust with any establishment. We must realize that the Government monopoly although corrupt, survived; because the industry itself partnered with it”.

He stands for the uncompromised quality in business. “Corruption is the solvent that dilutes discipline and thoroughness,” reflects Atre. “Yet, a lesson I learnt over the years is that in the business community, no one really makes efforts to challenge these systemic factors”.

When Atre won his heroic battle against the Maharashtra Boiler Department, he was placed in the spotlight. Business community discovered this sharp and talented young man. They thought him to be useful to negotiate on their behalf. In December 2001 a small-scale entrepreneur, Ashok Dattatray Atre was invited to be the President of Indian Boilers Manufacturers’

Association (IBMA). The chair was specially vacated for him. For a while, it sure looked like a fairy tale ending to the familiar story. The ‘small but courageous’ gets crowned after he beats the ‘mighty and nasty’.

For Atre, it opened a nationwide front; to challenge the existing system.

The antagonistic relations with the Boiler Department during these times, also acted as a trigger. After another brief episode which was wrought with tension; Atre felt it was imminent to take the issues of boiler reforms on public forums.

In March 2001 Chief Inspector Halingali got suspended on Atre’s complaint. This did not go down well with the Department that was unaccustomed to be held accountable; that had wielded absolute powers within the sector for more than a hundred years. When Atre challenged Halingali; people called him a fool. He was warned that department could finish him. Atre won this battle; but the vendetta was carried forward in legacy.

It soon became obvious that Halingali’s successor S. S. Utturwar had keen interest; in making the mutineer Atre realize who is the boss of the boiler business.

As early as in January 2002 itself, Utturwar withheld the renewal of boiler manufacturing license of Atre’s another company TTPL. He put a condition of erecting permanent shed beyond existing shed for the welding work of boilers. It is not unusual that critical welding work at several site jobs like the field erected water tube boilers, high pressure steam piping etc. is done in open. Even ONGC pipelines are welded in the open. However, Utturwar insisted on compliance. His letter raised exaggerated concern over possible moisture pick up that could contaminate the weld pool; causing weld discontinuities and used more of the similar jargon.

This led to some heated exchange between company and department. Company was once again constrained to challenge the technical opinion of the Chief Inspector of Steam Boilers. Their reply stated that in all welding technologies, the weld shield is created locally by appropriate equipment; and not by covered shed.

Possibility of moisture pick up might exist in case of Flux coated welding electrodes; irrespective of whether welding was carried out in shed or not. Company patiently explained that moisture pick up depended on humidity and temperature fluctuations in atmosphere; also on the time lag during which welding electrodes were lying unused. It had nothing to do with workshop shed. The company assured that to avoid moisture in flux, they placed welding rods in a heating oven and they were preheated just before use. Company always had the oven which was in regular use.

Further, the protection needed to be arranged on case to case basis; depending on the weather conditions like excessive wind or rain. It had to be very close to welding arc. Therefore temporary and mobile kind of protection best suited the purpose. The workshop with roof on top but with all sides open was certainly not sufficient. Company satisfied the Chief Inspector on all technical points in written replies and meetings. They firmly denied the need to erect the shed; and argued for withdrawing the stipulated condition.

Utturwar relented, only to strike back more vehemently in 2004. This time the matter was not to be contained in mutual correspondence and meetings. It threatened to blow up out of all proportions. Now it was on the issue of finned tubes.

A tube is a pressure part; a fin is not. What are fins?

Especially the Waste Heat Recovery systems do not get cost effective without fins. Fins are the sleeves made of steel or cast iron. They are mounted on the tubes by different methods. Shrink fitting is the method that Atre relies on. He has developed and patented his finned tube assembly machine. The challenge here being to achieve an adequate press fit. If not done correct way the fin may slide over the tube like a bangle; defeating the very purpose of the expected heat exchange through fins. It was after much research that Atre arrived at the precise parameters, improvising on the process; making it better, simpler and cheaper. It directly enhanced the cost competitiveness of TRANSPARENT's boilers. Their competitors were always curious about this technique.

Utturwar insisted on dissecting a finned tube and demanded mock trials. TRANSPARENT was fiercely protective of their patented process; they refused to comply. The fin was not a pressure part of boiler. It was not welded. As such it was not regulated by Indian Boiler regulations; and did not come under the purview of the Inspectorate. TRANSPARENT challenged the authority of the Chief Inspector to demand such observation. The company boldly declared that Chief Inspector had no such right. Between May and August 2004, Utturwar sent lengthy and insistent letters; building pressure on the company. The situation seemed to develop into second act of power play between company and the department. And, the climax was once again to be in the chambers of R. C. Iyer.

The modus operandi of harassment was the same. Chief Inspector Utturwar suddenly woke up to the fact that method of fitment of fins was not specified on drawings. He elaborately hesitated over approval of the drawing; giving only conditional approval subject to mock trials. There was no point arguing that a huge number of drawings that were approved in the past had identical fin configuration. Company had been manufacturing these finned tubes and the boiler components using these finned tubes under the inspection of the Boiler Officers. These finned tubes were approved as such; had been put to use at various sites; and were working satisfactorily. Under the circumstances, insistence on mock trials was unnecessary and only delayed the commencement of production.

It should have been obvious from the drawings that it was an interference fit. When it was once again explained that the fins were certainly not welded, that should suffice in the case. However, Utturwar was not satisfied. Next query was whether the method of fitment duly approved by the department. It turned out that the mock test for fin tube assembly was conducted way back in 1997.

Yet, the powers of a Boiler Inspector are omnipotent. He can raise an issue at any point he finds a reason to do so.

Utturwar objected to present drawings. He suggested

changes in drawing and highlighted the discrepancies in manufacture. He invoked the power by the gospel of ‘Appendix J’ of IBR before threatening; “In the event of any unauthorised changes in respect of the design of the components which will not be in conformity with approved drawing and conditions; the inspecting authority reserves the right to reduce the working pressure of the components as he deems fit”.

This was followed by a round of direct meetings and arguments. It was not difficult for TRANSPARENT to prove that the suggested changes in design were technically baseless. Company on its part agreed to offer a cut finned tube for inspection to verify tube thickness. Accordingly the inspection report was made. It clearly certified that the tube thickness was well within permissible limits and conformed to the design requirements with respect to pressure and temperature conditions. Thus the so-called issue of discrepancies was technically sorted out; though the work was still held up in the meanwhile.

The Chief Inspector struck back by alleging an existence of air gap. He demanded to cut the inspection piece for the entire length longitudinally to check for the air gap. He further ordered that such dissection tests must be conducted each time before starting any production; and the inspection pieces to be produced before the authority whenever demanded. He also enquired into the details of the fitment method, asking for description. True to the character of Boiler Department, he raked up some fifteen-year-old case of an economiser made by TRANSPARENT; which the Chief Inspector alleged to have failed for punctured fin tubes.

This was not only vindictive and humiliating; but the Chief Inspector was using his powers to pry into trade secrets of the company. TRANSPARENT strongly denied existence of alleged air gap; and refused to offer any further inspections. They were ready to prove their case before appropriate judicial forum. They pointed out that the said economiser failed due to inadequate feed water pre-heating, bad quality of water and lethargy in operation and maintenance. They said the Department raking up the case after silence of fifteen years itself indicated the ulterior motives.

TRANSPARENT re-asserted that Indian Boiler Regulations dealt only with the inspection of pressure parts. Fins were the non-pressure parts. IBR left manufacturer free with respect to thermal and mechanical design of these fins as well as their manufacturing process or inspection procedure. IBR was clear and explicit in defining the powers of Chief Inspector. There was no room for arbitrary discretion. The Chief Inspector in connivance with the competitors was misusing his authority to seek business related information and extract sensitive data like customers list of TRANSPARENT; which he had no authority to ask for.

TRANSPARENT referred the matter to Central Boiler Board. The Secretary and Technical Advisor of CBB gave a clear verdict that fins were a non-pressure part; and outside the purview of IBR.

Utturwar refused to call it quits. He refused to approve the drawings; stating presence of a dispute over the interpretation of IBR. He kept the approval on hold until State Boiler Department itself raised the issue in the regular meetings of Central Boiler Board with full quorum; and until the decision was arrived at.

Three years after the Halingali case, Atre was once again facing the *cul de sac*. State Government had been unresponsive about instituting the Appellate Authority. The mechanism whereby a manufacturer could challenge the techno legal interpretation given by the Chief Inspector was non-existent. The provision for an Appellate Authority under Indian Boiler Act 1923 remained a dead letter.

The Governments Departments of Income Tax and Sales Tax have established appellate authorities; why not the Boiler Department? The departmental answer was that there were no complaints. Under the monopoly rights of inspection with the Boiler Department; who would come forward to complain? Manufacturers knew they must co-exist with the inspectors.

It is interesting to note that when a boiler accident happens, a Boiler Inspector is never at fault. Either the user or the manufacturer has to perforce accept the responsibility. The Central Boiler Board had majority composition of State Chief

Inspectors of Boilers. Which meant that no proposal tending to fundamental reforms could get past the CBB.

The archaic law failed to envision and address the sufferings of an entire class of boiler manufacturers across the country. Lifelessly rigid legal structure combined with monopoly rights over inspection; made the Bureaucrats dangerously powerful. Atre realized that as long as Inspector Raj continued; entrepreneurs like him would remain vulnerable and at the mercy of these irrational arrogant government officers.

There was a single ray of hope in the darkness that engulfed.

Atre visited R. C. Iyer, the Honourable Upa-Lokayukta. Mr. Iyer listened. Then with the stoicism that defined his persona, he said calmly, "I was expecting this. You are taking the system head on".

How many times an honest and confident company is required to fight and run a risk of life; only to prove a point which is already correct?

R. C. Iyer was an officer who could see the truth at first glance.

He directly called the Chief Inspector of Steam Boilers Maharashtra State Mr. S. S. Utturwar. Mr. Iyer told Utturwar that there was a complaint against him. He gave a choice to Utturwar. Should a formal complaint be filed or not?

That single phone call balanced the scales of justice.

Once again D. P. Deshpande the senior Boiler Officer (who had mediated at the Aurangabad meeting between Department and Atre's company;) was rushed from Mumbai office to TRANSPARENT headquarters in Pune for a special settlement. He was one of the best engineers the Department had and a diplomat par excellence. With his abundant charm and goodwill, he managed to close the file.

Section 19 of the Indian Boiler Act provides that any person aggrieved by an order by a Boiler Inspector can appeal to the Chief Inspector of the State. Section 20 further provides to set up an Appellate Authority against the original or appellate orders of the Chief Inspector of the state. Sections 55 to 67 of the

Maharashtra Boiler Rules framed under the parent Act define the procedure for appeals. Section 63 provides that 'For the purpose of hearing appeals under section 20 of IBA, there shall be an appellate authority consisting of a President and six Assessors appointed by the State Government. Section 64 of the Rules prescribes qualifications of President and the Assessors. The President is expected to be a legal authority and Assessors are expected to possess qualification in Mechanical Engineering.

Ideally in Halingali matter, after Atre complained against the Chief Inspector, State Government was duty bound to constitute an Appellate Authority. In 2003 as President IBMA, among other things Atre continued to follow up with Anwar Ahmed then Joint Secretary in Department of Industrial Policy and Promotion (DIPP) for the need to set up appellate bodies in all states. However, no such mechanism existed at the time of Utturwar episode. Not just Maharashtra, but no other state ever evoked the provision to establish such appellate mechanism. A fact that indicates totalitarian strong hold of the Inspectorate in a monopoly situation.

Section 20 IBA had remained dormant for all this while. Atre actively followed up with the State Government now to institute a permanent structure.

(After the radical Amendments of 2007 in the Central Act, the Private International Agencies were finally allowed to cater to domestic market; in effect, ending the monopoly of the Boiler Inspectorate. The composition of Central Boiler Board changed; to allow equal representation to all concerned stake holders. Also, the Technical Advisor, Central Boiler Board is now authorized to act as the Appellate Body under the Boiler Appeal Rules 2013 framed by the Central Government).

Challenging the external factors called for imminent reforms in the Indian Boilers Act, 1923. The Central Government itself admitted the need for reforms. The Indian Boiler Amendment Bill had been pending before the Parliament since 1994.

Atre was now the President of the Indian Boilers Manufacturers' Association which had national presence. As

President IBMA, he did every possible effort to pursue the Indian Boilers (Amendment) Bill 1994; waiting for the Parliament approval. During the period Atre led IBMA; the political environment had changed. Prime Minister Atal Bihari Vajpayee ruled from the centre from 1999 to 2004. This was a new Government with fresh faces in Parliament; and general atmosphere was that of hope.

Then Member of Parliament from Pune constituency, Pradeep Rawat was from Bhartiya Janata Party. He had interest on wide range of issues; and was keen to make a difference. Atre met Pradeep Rawat and discussed with him the long overdue issue of Boiler reforms. Rawat responded with an earnestness. He raised the issue with top central leaders across the parties; including the Leader of Opposition. Atre and Rawat diligently followed up with concerned Ministries, especially the Ministry of Commerce and Industries and Ministry of Parliamentary Affairs; in order to prioritize the Bill for the Parliament sessions during 2001-2002.

Despite relentless efforts, the bill remained stuck at the Central level.

V. K. Goel who served as Technical Advisor, Central Boiler Board for twenty-one long years has been a close witness to the journey of this bill. He says that the Inspector's lobby was so powerful that they resisted the amendments from 1974 till 2007. Mr. Goel informs, "There was a Commission in 1972 to review the Indian Boiler Act. The Commission submitted its report in 1974. It mooted power shift from State Inspectorates to Central Boiler Board; in accordance with the structure prevalent in all other countries. The report was circulated to all State Governments. None of them agreed".

Mr. Goel recalls, "In 1980 and again in 1988 the bill was recirculated. In 1994 it was sent for cabinet approval; but did not come up for discussion. The Standing Committee submitted its report suggesting a few changes in the bill. In year 2000 Raman Singh (now Chief Minister of Chhattisgarh) was the Minister of Industries. He took interest and piloted the bill in the cabinet. Even the Prime Minister was convinced. Cabinet cleared the bill.

It was first listed for the monsoon session of the Parliament in 2000”.

“When Vajpayee Government made an attempt to introduce the bill in Rajya Sabha; however, the Boiler Inspectors lobbied with Congress to have the legislation stalled. Former Finance Minister Manmohan Singh, who was Leader of Opposition in the House; requested the Minister to defer the bill till it’s proposals were examined”.

The exhaustive correspondence from Pradeep Rawat’s office shows that IBMA and the MP had prepared meticulous tables quantifying the benefits of proposed amendments in terms of savings on foreign exchange, potential business generation, increased export and employment potential, impetus to energy conservation and such crucial industry parameters. They made detailed section wise charts for further suggestions on amendments. They advocated the bill for its importance and impact.

It appears from the correspondence that Boiler Inspectors’ union had also voiced their apprehensions. To which then Minister of Commerce and Industries Murasoli Maran had replied “The objections raised against some of the provisions of the bill have been thoroughly examined by this Ministry and it is observed that the apprehensions are not well founded”. It can be seen that a parallel lobby of anti-reformists was also active through certain MPs, MLAs and a network of Caste Organisations. Unfortunately in our country, professions are marked by castes. In boiler business it is common to observe repair shops run by Muslims or the scheduled castes dominating Inspectors posts. These Caste organisations also lobbied against Boiler reforms.

The Minister further observed, “Sufficient time was given to State Governments to send in their comments. However, no State Government has approached this Ministry for the purpose since the Amendments Bill was introduced in the Monsoon Session 2000 of the Rajya Sabha. Therefore there is no case for seeking fresh comments from the States”. It is obvious that none of the State Boiler Departments was willing to consider reforms.

Pradeep Rawat informs, “Despite all our efforts, we were finally shocked to find that the bill just disappeared from the agenda at the last minute. It was never placed in the Parliament in 2002”.

As President of IBMA, Atre shifted his focus on State. He argued that since the ‘Boilers’ is a subject on the concurrent list; the State Government may invoke its federal powers. State could allow the Private International (Inspecting) Agencies to work in parallel with the State Boiler Inspectorate. These agencies were already identified and recognized by the Parent Act for inspection of boilers to be exported. They regularly certified locally manufactured boilers for export market. Atre’s argument was that it can reduce the pressure on the Inspectorate and lead to overall efficiency.

Interestingly, some dynamic administrators within the State Government acknowledged the need for Boiler reforms. Then Development Commissioner (Industries) Mr. Azeez Khan had submitted a detailed report in August 2002 on the possibility of testing and inspection of boilers by private agencies. His predecessor Mr. Dhumal was also pro-reforms.

Mr. Khan says, “At that point New Economic Policy 2001 was being formulated. We did not have much there in terms of financial incentives like reduction in Sales Tax etc.; so we tried focusing on the ease of doing business. The boiler issue was not in the public eye; as not all factories use boilers. It was one of those micro issues; not understood by or one that appealed to lay public. I could see that since the Central Government was amending the Boiler Act, the first reaction at the State level was that we can’t do it! There is no provision in Law. Let the centre do. Another common objection was that major safety issues were involved”.

Mr. Azeez Khan was associated with the Industries Department for eleven years in various roles. He had exposure dealing with the small-scale industries at district level. He had the opportunity to interact with the industries at the grassroots. On what prompted him to volunteer his radical suggestion of

initiating Boiler reforms at State level; he says with a charming smile, “Secretary Industries was a footloose job. Boiler issue is related to Labour Department; but my job had a wide canvas. I had much more time. And, I knew this issue”.

In his report he correctly observed that ‘The central reforms were to take considerable time; and in the meanwhile some states had already taken steps to bring the dispensation regarding boilers more appropriate to today’s needs’. In his report, he cited the notification issued by state of Madhya Pradesh in 2001 whereby the state excluded a specified category of boilers and allowed their certification by private agencies. Those included qualified persons with experience of boiler operation and maintenance or qualified staff of engineering colleges or Chartered Engineers.

The report further stated that ‘Under Section 4 of the Indian Boilers Act, the State Government can, by notification exclude any area from the operation of the Act. Section 29 gives the State Government various rule making powers. Under Section 34 (3) the State Government can, keeping in view the need for rapid industrialization exclude any specified class of Boilers or steam pipes from the provisions of the Act, subject to such conditions/restrictions as it may prescribe’.

Mr. Azeez Khan recommended the State Government to use the appropriate provisions of the Act to appoint competent private agencies for the approval, testing and inspection of boilers. He suggested it could be in addition to the existing machinery under the Directorate of steam boilers. The Officer proposed a detailed scheme for the reforms. He noted that “At present, the Directorate of Steam Boilers is hard pressed to perform all its functions within the time frame stipulated under the Act and Rules. Some manufacturers and users will continue to opt for testing and inspection from the Directorate; which will be able to perform these functions more effectively since some of the load will be taken up by the private agencies”.

The report envisaged redefining of the role of Boiler Directorate. “The reduction in work will enable the Directorate to re-orient itself. To play the role of an apex agency for development

and regulation of the boiler industry in the state. The Directorate of Steam Boilers can equip itself to carry out audits of the private agencies; provide basic training; conduct examinations and certification of boiler engineers and attendants; promote energy efficiency etc”. He further noted, “Competition would also promote better inspection quality and service efficiency. The involvement of international agencies would promote design and technological up gradation in respect of boilers manufactured for the domestic market”.

Mr. Azeez Khan rightly observed that boiler Rules was a niche area compared to factory Rules; that it was not understood by lay public nor appealed to them. As the President IBMA when Atre took up the issue, he was determined not to leave any stone unturned. He approached media, met press editors, advocated with legislators, consulted constitutional experts, argued with Bureaucrats and also went to court. His tenure as President IBMA ended in 2003; but he remained consistent and passionate in his campaign for boiler reforms way beyond 2007; when the Act was amended and after some anxious delay was finally implemented.

Atre met senior journalist Kumar Ketkar then Editor of ‘Loksatta’ a popular Marathi daily. Ketkar being a man of versatile interests and sharp intellect was quick to grasp the issue. Newspaper ‘Loksatta’ consistently published a series of articles on their economic page on the boiler issue between 2003 and 2006. The Daily aggressively argued the case for reforms. It exposed the apathy and cynicism of the Bureaucrats in the State Labour department who resisted the change. The reports were so hard hitting that they were discussed in the committee meetings set up to study the possibility of Boiler reforms. The senior Boiler Officers were restless over who could be providing this information to reporters.

After Madhya Pradesh, the states of Punjab and Gujarat, by gazette notification, allowed the entry of private international agencies like The Hartford Steam Boilers Inspection and Insurance Company (USA), Engineers India Limited (India),

RWTUV (UK), Japan Inspection Company (Japan), DNV (Germany), Lloyds Registrar of Shipping (UK), Bureau VERITAS (France) and such fourteen others in the domestic market. These were reputed institutes with a firm foothold in the international market. Most of these were already recognized by the Indian Boilers Act, 1923 for export certification and listed in the Annexure therewith.

Ironically, the State of Maharashtra which produces seventy percent of the boilers manufactured within the country; and is known to be a progressive state, refused to initiate reforms.

The consistent news reports in Loksatta targeted the vested interests operating underneath the license-permit system; and accused politically well-connected inspectors' lobby for holding on to its monopolistic control. Around July-August 2006 two boilers exploded in Pune industrial area; killing a worker and injuring another five, along with destruction of property. Loksatta report traced that both boilers were unregistered. The publication well utilized this opportunity to highlight the structural maladies affecting the Maharashtra Boiler Inspectorate.

There were about seven thousand registered boilers then in use within the state. Another ten thousand which are in use do not fall within the orbit of IBR. If both boilers that exploded were unregistered; it is not known how many more of such unregistered boilers are being used in the state and what may be the role of the Boiler Inspectorate in this matter. After the explosion in Kikwi Dairy, Boiler officers said they informed the police about the boiler being unregistered; and thereafter police would handle the case. This is a typical Government reply. If there is no co-ordination between Boiler and Factory Inspectorates; it may be advisable to merge both these offices'.

Loksatta reported that there were twenty-seven allotted posts of Boiler Inspectors within the state of Maharashtra. But, the department had always been understaffed; and at the relevant time eight of these posts were vacant. If on an average, we assumed two hundred working days per year; then each inspector must inspect about three hundred and twenty boilers, without a single

personal leave. Further, half of the existing registered boilers in state were of mega capacity. The boilers in thermal power plants and big chemical industries took anything between a week and a month for standard annual inspection.

In addition, every year about a thousand new boilers were manufactured in the state; which must be inspected at various stages of production. Further, the Boiler Inspector was also responsible to check the steam pipelines, safety valves, economizers etc. along with attending to emergency repairs of working boilers. In the boiler hub of Maharashtra, the Pune industrial area which produces eighty percent of boilers manufactured in the state; the work load on the local division implied that a Boiler Inspector visited a dozen factory premises in a day. The situation itself spoke for whatever quality of inspection we might expect under the circumstances.

The report noted that there was Indian Explosives Act under which recognized International Private Agencies had been inspecting the manufacture of pressure vessels, factory establishments; and been reporting to the concerned Central Directorate thereabout. These were the same agencies recognized by the Indian Boilers Act to certify the boilers for export market. Therefore, logically it could not be understood why the monopoly of the inadequate and inefficient Boiler Inspectorate was being allowed to continue against all good sense.

These regular news reports published in the provincial language in one of the popular Dailies with largest circulation, did to a certain extent succeed in bringing the burning issues of boiler industry in the arena of public debate.

Despite pressures, Labour Department of Maharashtra Government was reluctant to actually consider the possibility of initiating Boiler reforms in State.

In February 2003 Mr. R. C. Iyer the Honourable Upa-Lokayukta wrote to Labour Secretary Ashok Khot. Mr. Iyer referred to the reports published in Loksatta, "I presume you have been reading the recent press items in regard to functioning of

the Boiler Inspectorate. As you will see from the reports, a certain category of package boilers has been brought outside the regulatory framework of annual inspection in Madhya Pradesh (boilers up to 1000 square mts. Heating surface); and the system seems to be working well in that State. It is ironical that while Maharashtra manufactures sixty percent of boiler requirement of the country including mini boilers; these mini boilers are not subject to inspection in Madhya Pradesh but continue to be subject to inspection in our own state where they are manufactured”.

Mr. Iyer wrote, “The press items indicate a close nexus between so called small manufacturers and various staff members belonging to Boiler Inspectorate. I had an opportunity to look closely at the working of the Boiler Directorate a couple of years back. I suggest this matter needs to be looked into closely. It is important for you to seriously consider the reform measures recommended to you by the Industries Department”.

The last paragraph stated, “I trust it will not be necessary for me to initiate suo motu enquiry into these press items and you will yourself take appropriate cognizance”.

With such media attention and mounting pressures, the State Government was stirred enough to react at this point. Finally, it came up with the standard solution of appointing a committee.

In this case two separate committees were set up, of the boiler users and the boiler manufacturers respectively; to assess the possibility of boiler inspection by private agencies in the state. The notification for constitution of these committees was issued in February 2003; the first meeting was held in March; and they were asked to submit reports in next two months.

The question we may ask here is; why the Government committees are known to be a farce. Experience shows that committees are appointed to bide the time and to cover the inaction. They are constituted with such interplay of checks so as to ensure the futility of outcome. The committee where Atre was allowed to represent, was quintessentially a Government committee that we have often heard about.

The background note of the committee mentioned that Central Government had asked for comments from all the State Governments over the proposed Indian Boilers (Amendment) Bill, 1994. In the meetings held in the chamber of the Chief Secretary, the Director of Steam Boilers Maharashtra had opined that the inspection of boilers (with 50 MW capacities and above) at the manufacturing stages may be entrusted to renowned private agencies. After this, we fail to understand why Government approached IIT Mumbai, VJTI Mumbai and VRC Nagpur; instead of private inspection agencies. These institutes presumably expressed their inability to undertake the additional work of boiler inspection for lack of staff. As far as the Government was concerned, the matter ended there.

It was only in February 2003 in a meeting chaired by Labour Secretary; not only IBMA but CII (Confederation of Indian Industries), Process Plant and Machinery Association of India, Lote Parashuram Industries Association and KAMA (Kalyan-Ambarnath Manufacturers Association) all expressed a strong opinion in favour of reforms. With an objective to pull out the boiler industry from deep demand recession, they requested the Government to consider boiler reforms. The committees were constituted after this.

Ironically, most of the industries associations who lobbied for reforms were not represented on the committee. Although Atre was then President of IBMA, he was invited to represent as Managing Director of TESPL. Only other boiler manufacturer from Maharashtra was Thermax. One of the manufacturer members on the committee had her factory in Gujarat. Originally there were eight members on manufacturers' Committee. Mrs. B. V. Prabhu the Deputy Secretary, Labour was the Chairperson. She was unfamiliar with the boiler issue. It turned out that she was completely oblivious of the recommendations made by Aziz Khan in this regard. She depended on T. S. Kaldate the Deputy Director Steam Boilers who was appointed as the Member Secretary.

With a new notification, S. S. Utturwar the Director Stem Boilers was also incorporated as the Special Invitee. Another

retired Boiler Inspector, (now representing the organization of manufacturers making the spare parts of boiler,) was made a member. Thus four out of nine members had been the Law enforcing officers; firmly set against any reforms.

The presence and scepticism of the boiler officers acting as the pressure group within the committee was either intimidating; or the manufacturer members were carefully selected on the basis of their ambivalence over reforms. In effect, Atre was systemically isolated. Atre was the President of an all India level association; but was treated as a single individual insisting on reforms. The tone of the committee meetings was therefore invariably set from the beginning.

The retired Boiler Officer, who was supposed to represent manufacturers on the committee, went as far as to say that reforms carried out in the State of Madhya Pradesh were 'misguided' and that the safety parameters were ignored. It was observed at some point that data from Madhya Pradesh was not readily available; and Utturwar suggested that all committee members should go to Madhya Pradesh. This was resolved by majority; happily forgetting the fact that the mandate of the committee clearly mentioned that no travel expenses were to be provided to members.

Apart from the Chairperson, the Director and the Deputy Director Steam Boilers; were the only common members, on both the committees. It was they who steered the discussions in both committees. If one refers to the recorded minutes, it appears that instead of discussing reforms; members have more or less passed a vote of thanks for the co-operation they received from the Boiler Department expressed their satisfaction with the present system and have been generally eager to please the senior Boiler Officers.

T. S. Kaldate the Member Secretary of the committee State Government simply shuttled the matter to precocious Law department; which in turn opined that the State had no authority to enforce local amendment in the Central Act. At this point, Atre consulted B. G. Gujar, an authority on the constitutional legalities. Senior Consultant Mr. Gujar had worked in Rajya Sabha

Secretariat at New Delhi for more than forty years of his administrative career; and had retired as the Director in 1994. He was an expert on parliamentary procedures and practices and one of the first fellows of the Institute of Constitutional and Parliamentary Studies.

B. G. Gujar studied the matter and submitted his report in March 2003, arguing the scope of State Legislature's powers to amend the Indian Boiler Act under Article 246 (2) of the constitution; as well as under section 34 (3) of the Indian Boiler Act itself. In essence, he confirmed the constitutional validity of the same course of action as was foreseen by Atre and state's own able officer Mr. Azeez Khan.

B. G. Gujar clarified that State Legislatures are not prevented from legislating on a concurrent list subject merely because a union law already existed on the subject. He further discussed how it was possible to avoid repugnancy with the union law by making suitable provisions in the Rules; so as the existing end procedures would not be disturbed; while creating an option for manufacturers to avail of best services at floor level or the manufacturing stage.

With reference to the Committees formed by Government of Maharashtra to consider boiler inspection reforms; IBMA requested V. K. Goel the Technical Advisor Central Boiler Board to give his comments. Mr. Goel reiterated that State Government had the powers under section 34 (3) of the Indian Boiler Act to introduce the said reforms. The expert opinions of Mr. Gujar and Mr. Goel were submitted to Chairperson Mrs. Prabhu by Atre.

Indeed, Labour Department's inertia pertaining to Boiler reforms defied all logic. Notwithstanding the fact that three states had already proceeded with the reforms; (allowing the entry of Private International Agencies on the domestic boiler scene) Maharashtra Government continued to tread warily. Labour Secretary cleverly played upon the apparent lack of unanimity amongst the boiler manufacturers, boiler users and repairers on the subject of reforms, to confuse the matters.

MP Pradeep Rawat wrote a letter to Sushilkumar Shinde,

then Chief Minister of Maharashtra; demanding political will from the State. It exposed and attacked the bureaucratic attitude displayed by the then Principal Secretary, Labour on this crucial issue. Eight states including Madhya Pradesh that pioneered the State reforms; located their boiler offices with the Industries Department. Even the Central Boiler Board worked under Ministry of Industries and Commerce. From IBMA platform Atre demanded that all boiler related issues should be transferred to the Industries Department.

Minutes of the committees display that whatever discussion that could take place underlined the general doubts over privatization of inspection system. A concern was expressed by members that the private agencies would be driven by profit motive; that they would be irresponsible and unaccountable; and that their charges would be expensive. Atre argued that the charges are not expensive in proportion with the cost of the boiler. Further, the competition would make Government department more accountable. 'Didn't the State Transport improve with the competition from the private buses?' he asked.

Atre dismisses the apprehensions as cliché. "Crony socialism is worse than crony capitalism," he says with indignation.

V. K. Goel the now retired Technical Advisor of Central Boiler Board and the Chief Architect of 2007 Amendments to Boiler Act candidly says, "Private agencies are not expensive if you take into account that no underhand payment needs to be paid now".

Former MP Pradeep Rawat who was closely associated with the crusade for Boiler reforms, points out that Atre was a loner. "Most industries here are run inefficiently. They are miles away from innovation. They need some system to certify their substandard production. This is how Government monopoly and crony capitalists cover each other. A person like Atre who demands competition in demanding efficiency. What other manufacturers did was mere double talk. They did not really favour reforms".

The final report submitted in June 2003 is seriously dumb.

The misplaced reference to section 34 (3) of Indian Boiler Act in the report raises serious doubts; whether the legal connotations were understood at all by those concerned. Before submission, the report was neither discussed with committee members nor was shown to them for approval or for recording dissent.

In her report, the Chairperson expressed her relief and specially thanked T. S. Kaldate the Deputy Director, Steam Boilers and the Member Secretary on the committee 'for his hard work without which the report could not have been completed'. It was least surprising that the report recommended against any change in the inspection method and advised against entrusting boiler inspection to private agencies.

It is significant to relate back that in 2001 Utturwar had to backtrack against Atre over his irrational insistence on erecting permanent shed. During Atre's tenure as President IBMA between 2001 to 2003, Atre followed up the individual complaints of boiler manufacturers against the Inspectorate like a true industry Leader. In 2003 Utturwar managed to enter the reforms committee and thwarted all efforts aimed at reforms. When the committee episode ended, Utturwar came up with the issue of finned tubes against TESPL in 2004.

In the committee meeting at Mantralaya, Atre was asked by a bureaucrat, "Are you naïve, Mr. Atre? Do you seriously think that the International agencies won't be corrupt?"

Atre did not have to think to answer this one. "Indeed, I am aware that they too could be corrupt; but why should we have State monopoly over corruption? Why not introduce some competition?" he asked.

More than courage, it requires great clarity regarding what you stand for and why. You must be able to see how the vested interests of the authority figure in asking such questions. Atre shares," In public discourse there has evolved such a well-placed network of clever arguments; that just to find shrewd answers to them is the most enterprising task".

In 2004 during his ongoing fight with Utturwar over the finned tubes issue; Atre was also considering the recourse to High Court to challenge the relevance of the archaic Boiler Act. He says, "The Court does not strike down the unjust laws on its own. Someone needs to file a petition to invite Court's attention to the anomalies".

When there is an angle of discrimination and injustice in the present system; a writ petition could be filed.

Under the existing dispensation, the recognized Private International Agencies had their offices with trained manpower in Mumbai and elsewhere in Maharashtra. The overseas offices of these agencies were authorized to inspect materials and boilers which were imported into India. However, although the certification/ inspection of these agencies abroad were acceptable for the use of imported boilers; their local offices were not authorized to do so. Their local offices exclusively dealt with boilers manufactured in India for the export market; so that they were acceptable abroad.

This meant that Indian manufacturers producing boilers for exports, in circumstances where the export order did not eventually materialize; required testing and inspection by two agencies i. e. Directorate of Steam Boilers since inspection by private agencies was not allowed for domestic use; as also by the local offices of foreign agencies which was required for international acceptance. Vice versa, if he wanted to export a boiler certified by the Directorate for domestic market, he must additionally engage the services of a private agency; because the certificate by Indian Boiler Directorate was not trusted abroad. This double certification requirement involved time and cost implications.

Atre therefore, filed a Writ Litigation in Mumbai High Court on the issue of parity. He demanded that Indian manufacturer should have a choice between a Private International Agency or the State Boiler Directorate as per his sales needs. Essentially, he challenged the inspecting monopoly of the State Boiler Directorate over the domestic market.

Immense research was done for the petition. Boiler Safety legislation from USA, Malaysia, New Zealand were annexed. Recommendations from institutes like the Engineering Export Promotion Council and letters from various Industries' Associations were attached. Upa – Lokayukta's recommendations, Aziz Khan's report, compilation of information on boiler industry were all annexed with the argument.

Renowned Advocate Mihir Desai who filed the writ petition before Bombay High Court in the matter of Fundamental Rights under Articles 14, 19 and 21 of the Constitution of India said that although Atre was directly aggrieved; it was a policy issue that affected public at large.

It is true that on matters of economic policy Courts have held that they are not equipped to issue directives; and preferred executive to prescribe changes. Also, there is legal presumption in favour of constitutionality of the existing rule. Yet, Courts have issued guidelines where there was vacuum at policy level e.g. famous Vishakha case. "There was a chance whether it will be seen as discriminatory. I thought there was substance in the case," said Adv. Mihir Desai. "Courts could have directed to speed up the Amendments; either pass or drop them".

In that hugely public and extroverted phase in Atre's life, he was once invited as a Guest by some Rotary Club. As is known, flattery usually flows cheap at such events. At one such unguarded moment, someone asked the Guest of Honour; "How do you manage to get so much done within twenty-four hours of a day?"

We can very well imagine the twinkle in his eyes as Atre apologetically asked the audience, if he could tell them the truth?

Then with perfect meanness he said, "... because I don't go to any Rotary Club and hence save my time".

Indian Boiler Manufacturers Association (IBMA) was another club; which Atre probably tried to run like a manufacturer's union.

During the election for IBMA President in 2001, J. A. Patel

of Energy Machines was the only person who had filed his nomination. As such he was declared elected unopposed. But, before he could take charge as the President, he withdrew in favour of Atre. Outgoing President Prabhas Mishra proposed the name of Ashok Atre in the Executive Committee meeting for the post of next President.

Atre observed no enthusiasm from the members for the installation event of the new President. He took the reins in his hands. A huge event was planned. All the luminaries including Satish Chaturvedi then Minister of Labour and Industries, Ashok Khot then Principal Secretary Labour, Member of Parliament Pradeep Rawat, IAS officer Bapusaheb Karandikar and all the Who's Who of the Maharashtra Government attended the glamorous function at Nehru Centre, Mumbai.

Atre says, "In this very meeting Past President R. N. Engineer of IBMA was heard telling Ashok Khot that they did not want reforms; only Atre wanted. I confronted him there and then. I had to remind him that General Body of IBMA had passed a resolution on the issue. I told him I was willing to resign if nobody wanted reforms. This is how the game started. I did not expect it to start right from the day of installation meeting; but it did".

"I had planned a yearlong schedule of meetings; but people failed to turn up. I got no support from anyone. I saw that people like R. N. Engineer are fence sitters. They are always winners no matter if Atre wins or the Boiler Inspectors". Atre reflects on a different note, "Do you know that the word traitor is defined in Islam? Why do you think Islam spared a thought for a traitor? I have read that history. The war of foundation of Islam was much dramatic.

As President, Atre encouraged members from other States like Gujarat and Andhra Pradesh, to pursue Boiler Reforms in their respective State. He was already foreseeing and preparing for the post reforms scenario. He wrote to Bharati Vidyapeeth College of Engineering stating that the reforms would generate huge demand for Boiler and Pressure Vessels Inspection

Engineers. “Currently Government Inspectors do not cover vital areas like energy audit, pollution control, instrumentation reliability, water treatment plant adequacy, manpower competency assessment etc. which do have impact on boiler safety, reliability and efficiency”.

He added that in developed countries the activity is well integrated with activity and services of risk insurance companies. Atre suggested the need for introducing graduate and postgraduate courses in Energy and Environment Engineering, covering industry needs and internationally recognized certification.

It can be said that Atre did not fight for personal stakes; his strength being his clarity and vision for the policy content. Therefore, he could generate support for his causes and succeed in shaking the system. However, he was seen as the free radical within the structure, disturbing set understandings. His constructive confrontationist approach was unprecedented and it was unacceptable to the vested interests.

As a member of CII (Confederation of Indian Industries), probably the most influential Industries Association in India; Atre exposed and challenged the subtle patterns of hegemony. In CII, the member gets voting right in proportion to his annual sales turnover in a given financial year. Election Rules of the CII contain charts of the annual subscription payable by a member and the weight that his vote may carry. For example as per this rule, a company paying two thousand as the annual subscription is entitled to one vote; vis a vis the company paying eighty thousand is entitled to eight votes.

During Executive Committee elections for the Western Zone, Atre issued a circular to challenge the rule calling it undemocratic. The reply by CII stated that; 1. The rule exists since the inception of the Association. 2. The rule has approval from the Registrar of Societies. 3. Such rules are there in several other organizations as well. In short, CII defended the rule as something perfectly normal.

Atre wanted to stand for CII election. He was told that he was not supposed to campaign for himself. CII itself prepares and circulates the necessary details of the candidate. Any disregard of the set conventions (not just the rule) in this matter; promptly invites dismissal of member without any inquiry. Atre said this was weird; and against the principle of natural justice. He accused that the rule prevented new promising members from participating in the functioning of CII, against the old established functionaries.

Finally, his membership was discontinued.

Atre exposed that the agenda of CII is invariably controlled by a manipulating few. He criticized that CII has turned into a club of crony capitalists. He cites that few years back the sharp rise in the steel prices severely affected the small and medium enterprises; while the steel stockists earned huge profits. The small and medium scale entrepreneurs looked up to CII for help and guidance. But, CII did not intervene.

Atre suggested that membership base of CII must widen in present times; and the functioning of the Association needed an overhaul in the face of challenges.

To sum up, Atre refused to be a follower in any organization; he proved to be the game changer.

9 | *Individuals Change the System*

The Boiler Act 1923 was finally amended by the Indian Boilers (Amendments) Bill passed in 2007.

“While it is realized that a thing is not working; why should it take so long to correct it?” asks former Member of Parliament (BJP) Pradeep Rawat. “We knew that the License-Permit Raj was not working”. He draws a parallel with the Urban Land Ceiling Act. “We knew it had failed. It was soon obvious. Centre repealed it. Sill, in Maharashtra the matter remained undecided for a long time”.

“Boiler reforms is a test case. The about turn was made quite late,” says Rawat. “Atre met me in 1999 through one of our activists Dhananjay Kale. I tried to understand the issue. The reforms were blocked since Indira Gandhi’s times. The Amendment Bill had a long history; it was aborted several times. There were just about two hundred and fifty Boiler Inspectors in the country. But, they wielded huge amount of summary powers. They could stop an enterprise at command”.

Rawat confirms, “There exists a nexus between Bureaucrats and politicians and industrialists. Their vested interests are so close knit that it is difficult to tear through the tight shield. I was also asked; Why do you want to get involved in the reforms matter? How much money do you require for your election?”

Rawat narrates, “During 2001-2002 Parliamentary sessions, we worked with a well-planned out strategy. We gave

representation to the concerned ministers. The media was highlighting the issue. Indian Boiler Manufacturers Association also moved. We opened fronts from all sides. The cabinet had approved Boiler Amendment Bill. In Standing Committee it was thoroughly discussed and revised. It was now to be introduced in Parliament for the final sanction. Session was ongoing, and the bill was slotted for the business list. After the bill came to this point; it literally disappeared from the agenda”.

What happened?

“We tried to find out. We learnt that at the last minute there were phone calls from Andhra Pradesh and Mumbai to drop this bill. They did desperate lobbying. We were reformists; using the democratic channels. But, they had stakes in the system. They knew the undercurrents”. Rawat shares the painful lesson he learnt. “I was the elected Member of Parliament. Ours was a new Government with no baggage or the nexus. I believed, we had the power to bring about the change. But, I realized the limitations to that power; a fact which was difficult to digest. I realized that there are more powerful subterranean currents; perpetuating the status quo”.

“I realized that even when a government changes, these undercurrents remain intact. They can reach across the party lines. They explain to regional parties in their respective language. To Communists, they explain with clever dialectics. With BJP, they know to press the button of Swadeshi. Are you going to get foreign inspection agencies? I saw that all shades of labour unions, including Bhartiya Majdoor Sangh were opposed to computerization in Railway for the fear that people would lose their jobs. In Banks, there was resistance to computerization for the same reason. In Dockyard mechanization was not allowed”.

Rawat reflects, “Why do we run Railways and Banks really? There are soft loans for bank employees. Railway and Airlines employees travel free along with their relatives. The politics of entitlement is extreme in our country. All organized groups have their fiefdoms. They feel threatened by the change. They create philosophy around their fears”.

Pradeep Rawat comes across as a rationalist, a rebel and a very well-read person. He is articulate in his criticism of the system. He adds, “When socialist economies go towards liberalization, it is the beneficiaries under the previous system who become the new capitalists. You can check who are the people who set up the milk co-operatives or the private industries. The reality has several layers; and they all merge together. It is crony socialism that gets converted into crony capitalism. All this is very challenging to grasp”.

Rawat says, “Atre was the only one who demanded competition. Demanding competition is demanding efficiency. Most industries here are run inefficiently; away from innovation. They survive on market monopoly. They needed an agency to certify their substandard production. The Inspectors and Industrialists covered each other. What industrialists did was a double talk; they in reality did not want changes. They were actually scared of Atre. Atre was a loner in this fight”.

Another individual who could respond to challenges; and strived hard to initiate changes in the system was Azeez Khan an IAS officer from 1979 batch.

Azeez Khan was closely associated with the Industries Department in the State for more than a decade. He was then Development Commissioner of Industries; from there he went to MIDC (Maharashtra Industrial Development Corporation) as the Chief Executive Officer. When he opted for voluntary retirement in 2011, he was the Principal Secretary Industries. (More recently he joined the Maharashtra Electricity Regulatory Commission as Member in 2014. He was the Commission’s Secretary from 2003 to 2005).

He offers an insider’s perspective from the Government. He explains that boiler was one of those micro issues; not completely understood. “These micro issues which are not in the public eye are seen as drudgery. They require quality time. People think that bigger things are more important”. Azeez Khan was familiar

with Industries Directorate. As Development Commissioner, the regulatory functions were less. He says, he was left with the time for promotional activities.

He wrote a recommendatory report in August 2002 while he was Development Commissioner of Industries. He was the first officer in Maharashtra Government to recognize the need for decentralizing the boiler inspection functions. He studied the State level amendments pursued in Madhya Pradesh carefully; and charted a course of action for State of Maharashtra to proceed with boiler reforms, without waiting for the central government. The recommendations were forwarded to Labour department which controlled the boiler segment.

Azeez Khan admits that some of tension does exist between Departments of Industry and Labour; but he assures you that at the top there are no sides taken. As for the issue of boiler reforms, he says that there were two perceptions. One was of course that the Boiler Inspectors struggled to retain control; and the other was that the manufacturers were trying to bypass all regulations. He says, "It is not as though all Boiler Inspectors were corrupt. There are some who caused system improvements. Boiler accidents were certainly less in Maharashtra".

Mr. Khan admits that there is little co-ordination intra-departments. He recalls that at some point of time the forums like Udyog Mitra were truly effective. It was established for the healthy development of Commerce and Industries. The Secretaries of Pollution Control Board and Electricity Board were also Members. Meetings used to be held once a month. It was an open forum; anybody could attend. He tells, "By the time I became Secretary, I saw that the meetings were not being held".

He reflects, "India is generally a more difficult country to survive in. For every step you take forward; something else comes up. To deal with it is a challenge". He suggests, "As government becomes more complex, such forums are necessary. It is not always the vested interests; There could be just the systemic compulsions".

Azeez Khan shares his experience of Factory Act amendments.

“The amendments were backed by my department. Labour Department had some issues. The Minister’s initial reaction was positive; but he was in dilemma. At the time of proposing it to the cabinet he withdrew. He felt it may rebound on the other amendments we were making. It was a major disappointment. I was then reading the Factory Rules. Rules are a matter of details. I knew in large industries, there is army of people attending to different things. But, for a small-scale industry, these things make a difference. There was scope for substantial change here. However, when I invited suggestions from FICCI and others, there was no reply. They did not seem interested at all”.

That takes us to a story of an unusual experiment; unheard of and unsung.

At about the same time when Atre was taking Boiler Inspectorate head on; a little-known man was silently and patiently working on Factory Rules’ Amendments. He was Sitaram Shah.

“The project was inspired by Mr. Azeez Khan,” says Mr. Shah, who graduated as Engineer from Banaras Hindu University in 1958. A small-scale entrepreneur who actively represented on various committees of CII. He was also a Member of National Advisory Board of SIDBI (Small Industries Development Bank of India). An old school person, with simplicity and discipline, who could be trusted to deliver.

Azeez Khan invited Sitaram Shah, then CII National Council Member. The Officer suggested that simplification of Factory Rules could be done by Maharashtra State; if industry could come up with the right proposal. If this is achieved, it might be a trend setter for simplification of Labour Laws. Possibly this would be the first step by Government of Maharashtra. Joint Director of Industries Mr. S. V. Vithalkar was also present in the meeting.

Sitaram Shah says, “Post liberalization there was a lot of change year 1991 onwards. Still, Labour Law was a holy cow.

Mr. Khan suggested why not we do in Maharashtra what we can. His was proactive and mentoring approach. Factories Act was made by Government of India. But, the Rules are framed by State Government. I did not know that. First, I bought the Act and the Rules. I did not know the difference till then. Then I went back to Mr. Khan. He requested now retired Mr. Vithalkar to help me”.

They were two-member team now. Mr. Vithalkar knew the people who could take interest. They met Mr. Shroff, Director of Excel Industries of Andheri. He spared his Safety Manager A. K. Tilak. There was no budget but, Mr. Shroff agreed to meet the initial expenses like typing of the discussions etc. They created their own infrastructure and had a series of meetings. They took the Rules and went Clause by Clause; whether to keep it or alter. The draft was debated in CII meetings several times later. CII formed a task force for the purpose. Mr. A. B. Chaudhary General Manager – Legal, Hindustan Lever Ltd. involved his senior managers from Safety Department. They were professional people who knew their job.

The whole set of proposed amendments was pushed through the Industrial Relations Committee of CII. It was submitted to Satish Chaturvedi, then Minister of Labour Government of Maharashtra in April 2003. Azeez Khan was Secretary of MERC then. After continuous follow up with Secretary Labour, a committee was formed in December 2004; to review the CII proposal for Revision in Maharashtra Factory Rules. It included Sitaram Shah and Mr. Bakul Dave, the Head of the Corporate Safety Environment of HLL, from CII. Also, senior Government Officers like Mr. D. B. Dubey Deputy Director, Central Labour Institute Government of India and Mr. V. L. Doshi Joint Director, Directorate of Industrial Safety and Health.

The committee proposed its recommendations in October 2005. Proposed changes were then forwarded by State Government to Directorate of Industrial Safety and Health (DISH) for review. After a review by DISH in 2009, Principal Secretary Labour finally submitted it to Minister.

Sitaram Shah sits in his office of Veena Dye Casters and Engineers at Mittal Tower, Mumbai. With amazing articulation, he narrates the lessons from the decade long exercise.

The first thing he has to say is, “If I had read those Rules thirty years back; I would have shut down my factory. They were impractical and one sided, creating a see-saw between industrialist and the labour. We were dealing with human beings; but I found that the human approach was missing”.

Sitaram Shah is quite outspoken about his criticism of Factory Inspectors. “I failed to see why they should be wasting our time. If there were obligations, the factory owner can very well take care of it. But, the cost of dealing with inspector; which includes greasing his hands by paying money defeats the cause. Writing replies to their letters is an ineffectual expense. As a small-scale entrepreneur, my time is very important. The transaction cost matters; no matter with whom. It is my doing business which is most important”.

He argues, “Even if I was doing something wrong; what next? You should explain me; correct the wrong; show me how to do it. But, if you say shut your factory; Where is the promotional aspect?”

Mr. Shah says, “For fifteen times I must have gone through those Rules, Clause by Clause. We made 108 suggestions, of which 75 were incorporated as it is. Amongst them was the condition of annual license renewal. We made it once in ten years. It was a substantial change”.

“However, I found to my surprise that simple things are harder to change. The air conditioning and fire extinguishing technologies went through a sea change. But, keeping sand packets and fire buckets in factories are still mandatory. These clauses could not be changed. Their logic is that in some distant place in, say Gondiya in Nagpur, modern fire extinguishers may not be available. The Rule needs to be uniformly implementable”.

“Further, about twenty suggestions were found to be potentially clashing with the Parent Act. So they had to be dropped”.

“Another limitation was that Government should not be a loser in this change”. Mr. Shah explains, “It is not just about losing power. It is a general tendency that nobody wants to lose power. But, it is also about accountability under the system. It has to be ensured that my accountability should not be questionable”.

Finally Factory Rules were amended by Draft Notification in 2010. Sitaram Shah recalls it to be a marathon process. “In 2003-4 Secretary Labour was changing. The proposal was with them. When Kavita Gupta became secretary Labour; She took the lead to move this proposal. Feedback from other Industries Associations was invited. That took a couple of years. After DISH review, the file was to be signed by Minister of State for Labour Mr.Nitin Raut. We met his P. A. The same was again put forward to Minister of Labour, Nawab Malik. After his signature, the file was sent to Law and Judiciary Department; before it could culminate in gazette notification”.

After watching the process closely for ten years, Sitaram Shah concludes that:

1. There exists no procedure for recycling the internal experience of Department into the system. They have a vast experience of dealing with the implementation of existing Rules and Regulations. But, there is no way they would take cognizance of my feedback. Yes, they may take a cognizance to kill me; but not to help me to survive.
2. There is a dire need for establishing inter departmental coordination. Labour, Industry, Pollution Control, VAT, Excise, Electricity... all need to work together.
3. There is no way by which the technological advancements are incorporated in Rules.

It is a good case study of how a change may be initiated in the system. Shah knows now that ministers talk a lot; but not even ten percent of that is translated in policy formulation. It is a big task. In government, it means that the whole machinery is to be made to act.

Boiler Amendments came in 2007. Power shortage was an issue then; and power plants were being rampantly sanctioned. There was thrust on power generation with Chinese help. Chinese President Hu Jintao visited India in November 2006. The gesture was reciprocated; by Chairperson of the ruling coalition by Sonia Gandhi's and Prime Minister Manmohan Singh's respective visits to China in the following year. It is believed that among other things, the growing Chinese trade connection gave an impetus to Boiler reforms. It is said that Chinese trade representatives mentioned about problems with State Inspectorates in the meetings with Mrs. Gandhi and PM.

S. G. Chaudhary the Deputy Director, Boiler at State Headquarter Mumbai, explains the impact of 2007 amendments.

“All powers now vest in the Central Boiler Board. Earlier State Government used to decide matters like inspection fees to be charged to manufacturers and users. Now Central government does it. International private inspection agencies such as Lloyds Register of Shipping, Bureau Veritas, ABS and TUV started operating in Maharashtra. They can now certify the local boilers. They are not bound to report to us. They are at par with us; and they directly report to CBB. The registration of boilers remains with State Government, along with power to decide registration fees. Registration record from Memorandum Book is available to private agencies which are now recognized as the competent authority under the Act”.

It was not easy for Department officers to accept the change; although the discontent is under toned.

“In private agencies, qualification of Boiler Inspector demands only two years of experience. State Government requires minimum six years of experience. MPSC does not stop there. From among hundred applicants, candidates with more than ten years of experience are considered at entry point. The resistance was for this. Experience is crucial. It is not possible to understand boiler in just two years. The boilers in academic syllabus are not seen on field anymore. Boilers like Cochran you can see only in books now”.

Chaudhary says, “The Indian market conditions and user psychology is different. In interior places, well water is directly fed to boilers. No hardness or nothing is checked before use. In handlooms and in Katha (Catechu) and cashew business, the owners themselves run boilers. State Boiler Inspectors are aware of the local realities (which international agencies are not)”.

He adds with an air of finality, “Besides, State inspectors are accountable in the system”.

He welcomes developments such as the penalties were getting revised. The fees were getting revised too. He said the Notification was awaited concerning the increase in fees, proposed by government of Maharashtra.

V. K. Goyal dismisses the contention, “All over the world, required experience for Boiler Inspection is two years. State Inspectors were Kings. Not anymore. They would naturally grumble. A Boiler Inspector was a crucial position between Government and industries. They have done huge lobbying to oppose the bill”.

V. K. Goyal joined Ministry of Industries in 1986 as Technical Advisor (Boiler) to Government of India. He remained the Technical Advisor and the ex-officio Member Secretary on Central Boiler Board for twenty-one years. There were no transfers. He was interviewed and employed by UPSC for this post only, which was in a class of its own. Even after his retirement in 2007, he was appointed as Officer on Special Duty (OSD) and twice as the Consultant to Government of India for the implementation of Reforms. There was none other with his kind of experience and the firm grasp on technicalities.

He was the Mechanical Engineer from Banaras Hindu University. Before he joined as the Technical Advisor, he had eighteen years’ experience in the field of Industrial Boilers and Thermal Power Stations. He had worked at Renusagar Thermal Power Station of Birla’s, known as one of the best in the country. Also with Punjab State Electricity Board’s Thermal Power Station,

the National Fertilizers and National Power Corporation. He was already highly qualified.

Mr. Halingali, the charge sheeted Chief Inspector of Maharashtra, in his desperate self-defence at the Departmental Inquiry had challenged the authority of the Technical Advisor; and insisted that only Central Boiler Board could give the technical opinion. Reacting to this argument, Mr. Goyal had said with admirable restraint; “I am the Secretary CBB and Technical Advisor to Government of India. Any advice I give is under the Rules and Regulations, if there is any issue, let the Court decide my authority to give such advice”.

The Amendment Bill was considered ‘Goyal’s baby’. The CBB office is just a two room office. There are five or six clerical staff; but none of them is technical. An Assistant Director and the Joint Secretary are again the non-technical posts. V. K. Goyal did try to augment infrastructure during his tenure; “But it was not happening”. The amendment bill was in fact the one-man show.

It was his idea to introduce the Bill in Rajya Sabha; so that the it becomes perpetual, it does not lapse. The bill was passed in Rajya Sabha. It was to be raised in Lok Sabha. Member of Parliament and industrialist Navin Jindal called up V. K. Goyal to ask, where are all the issues we talked about? The seasoned bureaucrat assured him, “They are hidden well to avoid the opposition”. He smiles as he admits it to be a part of bureaucratic arts.

Under the 2007 amendments, Technical Advisor now becomes a statutory post. He can also act as the Appellate Authority under the Boiler Appeal Rules, 2013. Mr. Goyal says, “When I joined, nobody was interested in the post. When I left, everybody was striving for it”.

Technical Advisor was the post originally created for implementing changes in Regulations. There are three things. The Boiler Act which is enacted by Central Government. The Boiler Rules are framed by State and CBB; which are administrative in

nature and dealt by the Inspectorate. The Indian Boiler Regulations are technical in nature. CBB meets annually for two or three days; where technical discussions are held. CBB serves as a mechanism for updating the Regulations.

All the Chief Inspectors of the country represent on CBB. There used to be fifteen nominated members to represent various interests; manufacturers, users, representatives of industry etc. Since the Inspectors outnumbered the other nominated members; it became a major impediment to reforms. With 2007 amendments, the composition of CBB changed. The number of Chief Inspectors will now be same as the nominated members. However, it took three years after the Ammendments to constitute a new Board.

“All the powers are vested in Board, but they were not doing it. The new Rules for the functioning of the Board were to be framed yet. They were delaying it by whatever means. Unnecessary debates consumed the valuable time of Board meetings. Sometimes the Secretary seemed least bothered; sometimes he asserted,” narrates Mr. Goyal who had retired in 2007. It was the Boiler Industry that suggested his name. That is how, he was brought in on special duty to implement the reforms.

V. K. Goyal says with some satisfaction that he did it. He knew the ins and outs; and the ways it could be pushed through. His experience was far superior than all the Chief Inspectors. He had the technological authority to persuade them and manoeuvre things in a forward direction. The Boiler Inspectors wanted to go to Supreme Court. “They had gone up to High Courts in some States. Also, there were five thousand RTI applications filed on the issue. From all States by the Associations of Boiler Inspectors, Boiler Attendants and Boiler Users that had sprung up; and were raising objections. It was a task to find a way through that paperwork”.

He adds, “The new Act is industry friendly. They should now be vigilant and proactive”.

Much awaited amendments were sanctioned; but they came

in rather abruptly and suddenly. There was no vision for their implementation. Even after a year after the Amendments; the new Board was not constituted. The post of the Technical Advisor was still vacant. Delays and confusion lingered in the atmosphere.

As per the Amendments, small boilers were also brought in the purview of the Act. Those boiler users needed time to technically upgrade their facilities. Yet, hurried notices were issued by the Inspectorates that unless the boilers were upgraded to qualify to provisions of the Act; they would be liable for action. This created unnecessary panic. Small boiler users were apprehensive of the amendments. There seemed to be no policy in place.

CII had formed the Boiler Reforms Implementation Committee. There was to be a National Seminar on Boilers and Pressure vessels in New Delhi in May 2008. V. K. Goyal asked Ashok Atre to help Navin Jindal, the young and dashing MP who was to address the seminar. Navin Jindal was an industrialist elected from Kurukshetra. They had coal mines. Boiler was an allied matter; and he knew the issue.

Atre was no longer a member of CII. His membership was discontinued by CII Western Region outfit. Yet, he was special invitee for the meeting at CII Headquarters New Delhi. Dr. Sarita Nagpal the Deputy Director General, CII was the Head of the Reforms Implementation Committee. She needed help in understanding issues and drafting proposals and background papers. V. K. Goyal was present at the meeting. He knew Atre to be the best resource person, with perfect grasp on policy issues. Atre was the person who had worked on the draft amendments for IBMA. The draft proposals that were sent to CBB were not from IBMA office; but were personally contributed by Ashok Atre the Past President.

Ashok Atre participated in major meetings at Government level, on the issues of the pending Notification of 2007 Amendments and Reconstitution of the Central Boiler Board. Five persons that met Ajay Shankar the Secretary Department of

Industrial Policy and Promotion (DIPP) after the seminar; included Navin Jindal, Sarita Nagpal, V. K. Goyal, Mr. Unnikrishnan-MD Thermax and Ashok Atre.

The correspondence file shows that the inexhaustible amount of passion that Atre had, was used by CII for all the ground work. Written representations by Atre were directly incorporated by CII in their material without noting the personal credits. It may also be said that Atre allowed himself to be used by CII, or earlier by IBMA; for his was the hand that was drafting the policy. He was participating in its implementation. This was an irresistible challenge.

Sarita Nagpal was impressed by his command on the technological issues and clarity of his vision. At one point she actually suggested, why should he not become a Member of Central Boiler Board.

When the composition of the Central Boiler Board changed; the industry stirred. All the elements became active. All were vying to get their people on Board.

Representation on CBB was through the Industries Associations. Atre was not a member of CII. Once the theoretical structure was in place; then lobbying started. Industries Associations are essentially the group of competitors. They have no ideological framework. As long as the self-interest is getting served; they are unconcerned about vision and such. Atre was a misfit in this later phase. He was left out of the important meetings. He was too direct, too radical. He never possessed the qualities of amiability for being popular.

After his tenure as the President, even IBMA consciously avoided him. They were uncomfortable with his passionate approach. They avoided confrontation with Government at all points. They even removed his articles on reforms from IBMA website. Atre never did become the Member of CBB. Nobody lobbied for him; and he would never do the lobbying for himself.

He did carry a touch of melancholy from the episode.

However, this was not the first time something like this happened. It is not unusual that policy makers remain anonymous.

Their efforts are often hijacked by business and political interests that prevail over the policy and vision.

It is always individuals who change the system. This is a story of those individuals. Ashok Atre, R. C. Iyer, Azeez Khan, Pradeep Rawat, V. K. Goyal and Sitaram Shah were the people who dented the impenetrable defences of the Inspector Raj.

“No Boiler Inspector comes here anymore. No shop approval is required,” declares Atre.

“Some battles take long time to win. But, I can tell you that it works. You can win! This one took fifteen years,” he says. “And, I had to fight numerous battles to win this war”.

10 | *Entrepreneur Is One Who Leads a change*

“License Permit Raj is the soul of crony capitalism and crony socialism. They are two faces of the same coin,” says Atre.

“Whether it is school, colleges, public transport, electricity generation or anything, you are not entitled to start private enterprises in these fields. If I propose to start an educational institute where I will keep reservation only on economic basis, it is not allowed”.

He argues that when there is a deliberate change in the economic policy, there need to be corresponding changes in existing Law. The judicial process should also be responsive. You need to check whether the system is ready to usher into a new phase.

He insists that the need for Government permissions and endorsements at every step should be done away forthwith. “Admittedly, all systems have their own merit but what we have at hand, is a monumental crisis. The vested interests operating underneath and the manipulations at every level have completely perverted all mechanisms. The solutions will have to be in the nature of eco-political.

“Unfortunately, at political level, I don’t see an understanding of the fact that economic progress is linked with social development. In our country, electoral politics cannot be sole objective. What happens is selective representation of facts.

It is the very technique of crony capitalism and crony socialism to create political chaos”.

“Today the State has become a faceless system completely alienated from its purpose and having its own dynamics. Bureaucracy is a value destroyer and judiciary is made inaccessible which has added to the sense of general depression”. Atre refers to the classic ‘Octopus with thousand arms’ written by Sudhir Bedekar. He says that the system may appear heterogeneous but, in fact, it is unified in serving the prevalent interests.

He says, “As an entrepreneur, I am compelled to fight the system, especially when I am pushed to a dead end; but at the same time, I also have to adjust with it at other levels”.

Atre believes that change does not happen automatically; it needs to be pursued with conviction. Change must be injected in system. He is not the one to sit passive and wait for a situation to unfold, to decide his course of action. He believes that it is basically a matter of clarity about your own value system. Once you are clear about the direction that must be pursued, then you must act, to influence that change. By strategy, Atre is an interventionist. He reminds you that survival of the fittest cannot be without constructive confrontation.

Interestingly, he has sought judicial mechanisms and made them into battleground for challenging policies. The confidence and clarity in using a legal argument as a means, is something that Atre inherited among other things.

His father Dattatray Atre was M.A., L.L.B. He was not just another lawyer. He was a socio-political intellectual. He knew that constitutional rights were a product of socio-political process. He grasped the principles of jurisprudence well. He knew that justice was a tool, not an end in itself. The function of law was to maintain public order. The core objective of law was to protect the rights of people. Laws are obeyed because they create a structure for a civic society.

It is possible to understand that a theorist at heart, Dattatray Atre never practiced law in his career. He worked in

High Court administration for thirty-five years. He had thorough knowledge of law and he enjoyed the intellectual labour. He was among those who are still remembered for having contributed to the exhaustive compilation of the Criminal Manual issued by Bombay High Court in 1960. He had served on Bhiwandi Commission that investigated 1970 riots under Justice D. P. Madon. The experience helped him see the social reality more clearly compared to any theory.

Dattatray Atre was the one who keenly observed the game. There was no hero worship. He used to say that lawyers who excessively relied on shrewd arguments and procedural loopholes had hijacked the justice delivery system. Therefore, although we had an elaborate judicial mechanism, its efficacy and justness were highly debatable. He insisted that knowledge, integrity, as well as character, were essential for a lawyer. He was equally critical of judges and did not fail to notice how the honourable high court judges held biases. He was alert to the subtle political influencing of judiciary even in sixties and seventies. He was blessed with a long life and he saw the system degenerate further before he died in 2015.

Ashok Atre therefore, carried no illusions about judiciary. His father often said, "Read law, it is straight and simple to understand". If Ashok was to meet and discuss any of their company's matters with a lawyer, his father reminded him that a lawyer was a human being. It is important to read the law yourself and ask questions. If the lawyer is relying on some case law, then you should demand a copy. (In those days, there was no internet). Generally, a case law embodies a considered judgment which weighs both sides of the argument.

If the father was an intellectual who accurately theorized the judicial reality, he also instilled the faith in Ashok in the power of 'just and fair' argument.

Ashok Atre always read and prepared before taking the legal recourse. He maintained his own legal library. In the era of arbitration, when most contractual disputes are being referred to arbitration; he is a type of client who can be trusted to be well

versed with the original volumes of 'Russell on Arbitration', (a principal reference work on arbitration for practitioners for over a hundred years).

He never expected judiciary to play role of the God and right the wrong for him. His intention was fair and clear. "When we had to evoke arbitration proceedings, they were not aimed at finishing the opponent," says Atre. "Rather, they were to finally bring him across the negotiation table to negotiate peace". He emphasizes that he is an entrepreneur, not an activist. If both parties were reasonable, there would be no dispute. Dispute arises because either of the parties is too obstinate to respond to reason. The legal battle is necessary to break his resistance. Atre accuses many of the lawyers of being mercenaries who instigate their clients and add to the chaos in business. "As legal proceedings start, the opposite party begins to realize that we do have a case. We encourage that".

Atre has confronted the power structures several times. He firmly believes in holding them accountable". Our system is based on rule of Law. Power is vested in authority by Law. And, the limits of that power are also defined by Law. When a revolver is placed in the hands of a Police Officer, the circumstances in which he is permitted to use it are also specified".

He reflects that police, ombudsman, tribunals are the redressal mechanisms available to all citizens. "Justice is a relief and judiciary must represent an assurance of justice. It is always said that justice is not only to be delivered but must also be seen to be delivered; because the court cases impact the public morale. It is for this reason that justice has to be meted out in a timely and fair manner".

"Unfortunately, judiciary too has become a holy cow instead". He says, "The judicial process must be demystified for people". Atre is a strong advocate for the live recording of all the judicial proceedings right from Supreme Court to the Magistrate's Court.

When administrative appeals failed, Atre had taken the matter against the Chief Inspector of Boilers to Upa-Lokayukta. "It was a necessary battle. That my company's survival was at

stake was a primary and necessary stimulus. But, it was a worthy battle that had the potential for industrial progress”.

According to him the ‘protected bureaucracy’ is our main problem. He challenges that if you take away their immunity, you will see a dramatic rise in the accountability. “If Bureaucrats are deprived of their immunity shield, for some time, the courts will be flooded with cases against them. But, in the long run, system will become clean and efficient. It will benefit the public immensely”.

At a later stage when his flourishing business of Waste Heat Recovery boilers in cement sector was stalled by the Chinese bullies; Atre could not have just watched them bulldoze the market with their ‘wipe out all others’ strategies. He approached the Competition Commission with a well-researched case. It was a battle over policy and someone had to fight it.

TRANSPARENT was the first company to successfully install waste heat recovery system in Indian cement industry with their patented technology. Their first two projects with KCP and Ultratech were being tracked by entire cement industry worldwide. Impressed by their technological strength, Siemens Venture Capital(SVC) invested equity capital in TRANSPARENT. In next few years, TRANSPARENT received commercial offers from the reputed Indian and international customers. However, many players then jumped into the business.

Notably, Tecpro systems which had no experience in the field, partnered with Chinese Company NTK. Another such opportunist was Cethar Vessels. Unfair price undercutting was their only means to penetrate the market. They started taking orders at a price lower than the raw material costs. The strategy was to push all the existing competition out of business. Within a year of their entry, Tecpro and Cethar Vessels had grabbed many new projects in close competition with TRANSPARENT by quoting irrationally low ‘predatory’ prices.

Section 4. 1 of Competition Act of India prohibits abuse of dominant position by an enterprise. Further, under Section 4. 2 –

(a) – (ii) predatory pricing is treated as abuse of dominant position. However, Atre learned to his dismay that definition of ‘dominant position’ or ‘dominant player’ as defined in the law could be subject to convenient interpretation. It clearly lacked the global market perspective. Atre was to witness how the globally dominant players with deep pockets could escape the jaws of regulatory mechanisms and kill the meritorious players in the field.

Atre refers to the National Capital Goods Policy published by Central Government which itself shows how the defective policies grossly contributed to sickness of Capital Goods Industry. It admits to inverted duty structure being still prevalent in case of boiler manufacturing. He tried to argue the case of vulnerability of Indian Boiler industry in the face of Chinese competition under present policies, with research and data. However, the Competition Commission failed to address the issue of abuse of dominant position, predatory pricing and unfairness of the advantage to Chinese giant in the Indian market.

Atre argues that when you expose your economy to global competition, you must also foresee and provide remedies against any undesirable consequences. If it is free and fair competition that is very much desired, but then what happened in his case defeated the whole purpose. According to him the definition of ‘dominant position’ and ‘dominant player’ should not only consider mere market share but must also keep in view the financially dominant position of a player. The terms need to be correctly interpreted in present context and if needed, should be amended and widened; so as to judiciously respond in genuine cases, which call for the deserved positive intervention.

Another area of policy where Atre had to turn his attention in recent years is the drive for recovery of Non-Performing Assets (NPA) by the banks.

In past seven to eight years, NPAs of Commercial Banks have been increasing with no immediate resolution in sight. The fact that our country has risen to being the number three in terms of bad loans after the troubled European economies of Greece and Italy, sounded a panic alarm. Recent scams associated with large

business houses shook the banking sector out of its complacency. Bankers began to realize that they also have a 'sensitive underbelly in the Small and Medium Enterprises (SME) sector'.

Ironically, in these times of the prolonged recession, SMEs are still struggling to just stay afloat. It was therefore crucial that at such times the banks possessed the sense to differentiate between wilful defaulters and those enterprises, SMEs in particular, which called for patient and prudent handling.

Atre says, "When RBI forced banks to clean up their balance sheets through efforts to get rid of NPAs, all that Public Sector Banks could do in reality was to wipe off the small and medium enterprises, with little thought spared for the meritorious undertakings that were struggling with indifferent policies, adverse market conditions and deserved policy support".

He alleges an underlying conspiracy 'where bank officials are hand in glove with the new breed of financial capitalists which are running financial slaughter houses, where Small and Medium Entrepreneurs are butchered'.

"A vulnerable unit is pushed into sick category by deliberate ill treatment; by making unlawful and irrational decisions about credit facilities. And then, instead of helping or at least allowing an enterprise a breather to recover, such enterprise is promptly declared un-recoverable and dragged into recovery proceedings".

Atre says that the provisions of several laws, Acts and Regulations like SARFAESI (The Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002), RDDB (The Recovery of Debts Due to Banks and Financial Institutions Act, 1993) and forums like DRT (Debt Recovery Tribunals) are being blatantly misused to serve this purpose".

He informs that under Section 35-A of the banking Regulation Act, 1949 the Reserve Bank of India is statutorily empowered to issue, to any banking company, appropriate directions either to prevent its affairs from being conducted in a manner detrimental to the interests of the depositors, borrowers

and customers or prejudicial to its own interests, or to secure its proper management; and the banking companies are duty bound to comply with such directions, circulars and the guidelines.

Deriving from this supervisory power, Section 2.5 of Master Circular issued by the Reserve Bank of India directs that a lending bank is obliged to devise 'Fair Practice Code' and constitute a 'Grievance Redressal Mechanism'. The Board of Directors of the Bank is held responsible to execute these provisions, which in some cases, includes a Nominee Director from RBI itself.

Atre points out to the bitter fact that most banks do not have such Fair Practice Code; nor is there any awareness built among bank officers. Also, there is no Grievance Redressal Cell constituted for the aggrieved industrial borrower, to approach against the arbitrary and unfair recovery proceedings initiated by the banks.

He says, "Everyone concerned is fully aware as to how the so-called Asset Reconstruction Companies (ARCs) are, in fact, vultures and value destroyers". He asks why the Public Sector Banks could not set up their own Asset Reconstruction Companies. Consequently, Public Sector Banks are killing their own wealth, and killing the promoters and the other stake holders.

Instead, he suggests that Reserve Bank and Government need to work out an incentive scheme for Public Sector Bank officials to turn around all NPAs into performing assets. There should be a policy to discourage taking of NPA accounts to DRT or ARCs, unless forced in the exceptional cases. This is probably the best way to make Public Sector Banks eliminate their NPAs while promoting the industry.

He asks, when all loan applications and appraisals are critically processed and reviewed at various levels in a bank and also scrutinized by competent hands and competent committees, then why are the NPAs rising? Does it mean that the bank officers, policy makers at RBI and Government have also defaulted? Are they willing to introspect?

It is now well known that there are no buyers for assets of borrower companies taken to DRT for recovery of loan by sale of

assets. He says it is evident, that by the current method of loan recovery the sick industry is killed, jobs are destroyed, asset value is eroded, and the next buyers are scared. These are the bitter fruits of globalization for most industries, the SMEs in particular.

Atre points out that the lending decisions by banks are excessively based on security offered by borrower. Very little importance is given to competitiveness of the borrowing company in its product line, its technological prowess, the competency of promoter or its management and the past record. Crucial points like sector specific exposure, market situation, the capacity (or the overcapacity) of existing market are hardly taken into account. Loan funding is simply based on security and guarantees provided by borrower.

This oversimplified excessive reliance on security provided for sanctioning of loans, is one of the key reasons for overcapacity in certain sectors of industrial finance, says Atre.

Boilers needed in various sectors from chemical to power, is one such glaring example. There are no criteria regarding working life of a boiler as a machine. There is no defined clear policy regarding discarding of the old and inefficient boilers. Inspectorate thrives upon the repair business of such outdated boilers, while the country burns precious fuel inefficiently, to run them. The pollution caused by such boilers is another public nuisance. Financing replacement of such outdated boilers alone could turnaround the market conditions in boiler sector and save precious fuel for the country.

He suggests that the Banks must compulsorily buy an appropriate portion of equity in the borrowing company in the form of preference shares or similar instruments; and should have their own Nominee Directors on the Board of the borrowing company. Internal and external auditors of the company must be approved by the lending Bank; and their periodic reports must be made available to lenders. He calls this participative banking.

Atre feels if these checks and balances are introduced right at the time of lending and not at a stage when assets are stressed

or reached the NPA status, it could be the most practical solution. In an era of globalization the development banking introduced in early seventies assumes even greater importance. With the necessary corrections, the policy could help the industries become more resilient in face of unforeseen challenges like those emerging out of trade policies from overseas.

He observes that the Public Sector Banks do have a mandate to convert debt into equity, which is done only in case of large loans and big companies. He criticizes that the current banking regulations are designed to serve big industrialists and wilful defaulters. Banks do not take personal guarantees from big businesses, whether listed or unlisted. Mortgage of their shares suffice (whose stock market prices are often manipulated). Whereas, small and medium entrepreneurs are forced to sign personal guarantees; over and above the collateral securities that are insisted upon SMEs.

Atre also points out that RBI policies and directions obstruct the payment of personal guarantee commission to be paid to the guarantor by the company. Atre challenged this policy in High Court as discriminatory and also under the grounds that it is in contradiction with the Indian Contract Act, and against the fundamental rights of Guarantor. He suggests that at best, RBI could direct that the personal guarantee commission may be paid only after all bank dues are paid on an annual basis.

He notices that RBI is discriminating between family owned businesses from other types. "RBI seems to suggest that the ethics in all family owned businesses are questionable. Most small and medium enterprises being family owned businesses; RBI has forced their promoters to commit to personal guarantees, in order to protect lenders' interest".

"Whereas, the de facto family controlled and mercenary managed so called large corporates, who are exempted from giving personal guarantees and thus have no accountability or liability in individual capacity, could stash money in overseas tax heavens through manipulated import export transactions," alleges Atre.

Atre has consistently argued the case of Small and Medium

Enterprises; especially in face of the loss suffered by them due to economic recession and the unfair market conditions in past few years. He has repeatedly appealed for a policy and mechanism to fund the equity gap ensuring proper debt to equity ratio. Further, he also suggests that there should be exemption on Capital Gains tax if the capital gain is invested in equity of small and medium enterprises.

In a letter to Chief General Manager, Planning and Credit Department RBI, Atre suggested detailed modifications in RBI Master Circular pertaining to Guarantees and Co-Acceptances. He also pointed out that the present complex method of arriving at interest rate to be charged to a borrower, levies much higher and unjust interest upon Small and Medium Entrepreneurs (at a time when industry is adversely affected by market conditions;) and it completely disregards the years of punctuality of repayment on the part of the borrower.

He writes, “Excessively high interest rates are being charged at a time when servicing such rates is highly unsustainable”.

Atre further points out that Government freely uses tax payers’ money to support farmers and bails them out from their debts. He argues that the Small and Medium businesses deserve much better treatment; accounting for the fact that they generate large employment and pay taxes to Government.

It appears that Atre tried in every way he could to shake the system out of a deadly complacency and its unwillingness to hear and address the harsh truths. He met the top-ranking RBI officials. He wrote earnest and candid letters to then RBI Governor Raghuram Rajan, who came across as dynamic policy maker and generated hope for change.

Yet, for the SME sector the odds seem impossible, and the best that one can manage in present times is to hold steady.

It is obvious that no issue can remain just personal with Atre. To put any issue in the largest possible perspective is the training that can once again be traced back to his roots.

It was a family of intellectuals. Atre’s grandfather Narayan Rangarao Atre was a strong character. Atres originally hail from

village Pandeshwar near Jejuri. Narayan Atre came to Mumbai looking for job. He graduated from Pune University with Mathematics in the year 1920. Despite being so qualified, he found it difficult to hold a steady job in the times of worldwide depression. Ashok remembers him teaching maths in Railway Employees Cooperative School at Byculla. He was a Congress activist and an ardent Gandhian by his leanings. Dombivali, where the family resided had always been known as 'Hindu Rashtra' because of its identification with staunch Hindu nationalist ideology. In that atmosphere Grandpa used to stand at a public square and read out 'Harijan' for people who would stop and listen. Ashok remembers that for this reason, their family had even faced boycott in 1930s in their neighbourhood.

His father Dattatray was a left sympathizer. Ashok and his brother grew up listening to their grandfather arguing with their father, on how Gandhism was the model of development for this country, as against the Nehruvian leftist influence. Yet, ideology was a product of reason for this family, not faith.

Their mother Vijaya was well educated, although could not become a graduate due to circumstances.. According to Ashok she was the most intelligent member of the family. Like all strong women of her times, she held the family together with her maturity and wisdom. She created an emotionally secure world for children and was probably the strongest influence on them. She was a humanitarian and the most essential thing we learned from her was tolerance, says Ashok.

When neighbouring children called Ashok to local RSS 'shakha', the elders in family made it clear that Ashok would not go. The friendships among children across all the caste and class barriers were encouraged, but any kind of premature political influencing was vigilantly discouraged. The ability to see clearly, with an open and free mind, without prejudices, was important for this family.

Ashok realized this even more, after his short stint with the leftist movement while he was in IIT.

He had been a proud 'individualist' among his intelligent

friends blinkered by their ideology. “I have friends in RSS as also in left, but I have refrained from their dogmas. They are so blindly committed to their viewpoints that any logical discussion with them led to a dead end. I asked questions, I argued, I was impatient with their closed mindedness. Within two or three years of being amidst all this, I quickly realized that I can’t identify myself fully with any of them. I can’t surrender my inquisitiveness and independent mind. I distanced myself from all that, although my friendships are still very healthy, with Sanghists or the Communists like”.

“Ideology many a times can turn into dogma and thus becomes a constraint,” says Atre. “Some Czechoslovakian king had famously said that if you weren’t a Marxist in your twenties, you had no heart. And, if you still remained a Marxist beyond your twenties, you had no brains. I would say that I proved that I possess both”.

He says, “In my experience, it is a strongly willed individualist who is able to influence people’s minds. A leader has to be an ‘individualist’. Atre has always admired world leaders like Abraham Lincoln, Winston Churchill, Ho Chi Minh and Nelson Mandela. He finds King Shivaji’s life most inspiring. He is also profoundly influenced by the philosophy of Lokmanya Tilak. These were the men who dared ‘to challenge the conventional wisdom’.

When he fought for Boiler reforms, Atre wasn’t alone. He was able to mobilize support for his battles across the ideologies. Journalists, Government officers, Politicians, Industries Associations, legal experts, they all supported his cause. “What people get attracted to is clarity,” says Atre. “When they see your passion and commitment, when they see that you are doing some creative thinking and your intention are honest, people come forward spontaneously to extend support”.

Atre always had the natural confidence of a leader. To act decisively in a given moment is considered to be a mark of leadership. He always had that kind of courage, including the courage to make mistakes. “It is not as if I do not have any self-

doubt or the diffidence in me; but I try to understand an issue from all angles and deal with it rationally”.

“Once I am convinced that something needs to be done, then I just do it notwithstanding the consequences. It is not always possible to accurately predict the outcome of a decision, but I wholeheartedly accept the consequences of such decisions. I have seen that if you are honest, you have the integrity and wider interests at heart, then people are willing to understand and accommodate for the situations when you have to face the unwanted results of certain choices”.

His social commitment has been evident right from the inception of TRANSPARENT. The brand has grown around the key concerns for energy conservation and clean environment.

“I have always tried to make my business socially responsible; and my products environmentally sustainable in the best possible manner. I could not have identified myself with the activity otherwise,” says Atre. Contrary to popular belief which is ‘to serve the market what it wants’, he believed in changing the market attitude through value adding innovations. TRANSPARENT is the brand known for developing pathbreaking energy efficient and environment friendly technologies in energy, water and boiler business. All their products support climate change initiatives and earn carbon credits.

His company has stood firm on these principles, even when the cost of it could be seen as high. During the times when other boiler manufacturers were making handsome profits with Fluidized Bed Combustion technology (AFBC) that causes heavy particulate emissions; TRANSPARENT refrained from joining the fray ‘because it was against their conviction’. Instead, they diversified in Bag Filters that would cleanse the air pollutants emitted by then mushrooming Thermal Power Plants. They visualized the need for the more ambitious FGD (Flue Gas Desulphurization) technology in India and invested their faith and resources in R&D ahead of all others.

They have ‘repeatedly and willingly grappled with such

difficult technology choices'. Difficult, because their conviction for sustainability and the values associated with it, had to be weighed against the option of quick profits.

Atre informs that worldwide there exist benchmark standards (star rating) for energy conversion machines like boilers, turbines, compressors etc. However, there is no awareness and no initiative on the part of Indian boiler manufacturers or the boiler users for such measures. Cheap price is the only decisive factor that works in the local market. The boiler that is preferred is the one which is cheap enough to reduce the initial project cost. So it falls on the Government to enforce these norms on the boiler industry.

“In boiler business, in general, cost cutting is achieved by ignoring even the mandatory pollution control standards. Vital factors like fuel efficiency, the running cost and maintenance cost are seldom brought to the attention of the buyer. It's a sad reality that majority boiler manufacturers, boiler users, Pollution Control Board officers, Bureaucrats and politicians have together prospered at the cost of severe environment pollution,” says Atre.

Since the Paris Summit, there has been some talk about India's stand on reduction in Carbon Dioxide emissions. However, what is currently overlooked is the urgency of its widespread implementation. Also, there is even less awareness about the hazards of Oxides of Sulphur and Nitrogen and the Suspended Particulate Matter (SPM) which pose a major threat to public health. It's the kind of pollution that directly affects the people.

Atre observes that the pollution caused by burning coal and pet coke is rampant in our country. Even the outdated and the most lenient pollution control norms currently existing for various categories of coal fired boilers, are not faithfully implemented. Serious compromises are being made in design, engineering, installation, operation and maintenance of, especially, the pollution control equipment.

He suggests that the solution to this is the mandatory installation of Continuous Emission Monitoring Systems (CEMS)

with real time online recording of all parameters along with internet access and public displays. Such systems are now easily available and are also reliable. They should be enforced on boilers of all sizes and capacities. “No boiler however small or big should be allowed to pollute”.

“For another twenty-five years, we don’t see any option to burning of coal. Hence, what we can and must do is to adopt the clean coal technology,” says Atre.

Atre says, “The 2007 Amendment to Boiler Act is not the end. The mentality of Boiler industry towards these issues needs to be challenged. We need another round of reforms in Boiler sector”.

Next to coal, stands the challenge of clean burning of biomass and Municipal Solid Waste. Presently, this is a burning issue with all the municipalities and tenders are being floated for ‘Waste to Energy’ projects as a popular solution. Atre has an interesting case study to offer on how such projects are being handled.

Such projects are being awarded on EPC basis i. e. from Engineering and design, to Procurement and Construction, the entire project is to be delivered as a package by the contractor.

The tender process is elaborate. It involves various stages like pre-bid meetings and discussions, engagement of technical and legal consultants, tender specifications in standard format, short listing of the bidders, bid evaluation, appraisal of deviations, further negotiation on commercial and legal clauses in contract and so on. It’s a time-consuming process and by the time it reaches commercial negotiation phase, every bidder, having spent huge amount of time and resources, is extremely eager to win the contract.

Having reached this stage, the strategy of any seasoned EPC contractor is to somehow win the contract by employing all street-smart tactics, including unethically buying the sympathy of key executives in the establishment as well as of the third-party consultants (legal and technical) through various means. It is observed that many of these tenders are conspicuously silent about

details about the choice of technology and are devoid of thorough technical specifications. It results in an opportunity and tendency to save on technology costs by opting for substandard equipment, in order to minimize the project cost, as also, to cover under the table payments to such executives and consultants.

EPC contract does involve intricate performance guarantees. However, once the project is awarded, the tables are turned. The EPC contractors start showing their true colours by raising demands for extra costs through convenient interpretation of contract terms. Usually, the executives from buyer organization and consultants many times support these demands by citing dependence and vulnerability of the buyer organization towards the contractor.

It is true that till the time the project is delivered, installed and commissioned, the procurer is highly dependent on the contractor. Even if bank guarantees acquired for advances paid to the contractor are invoked, (should the contractor default at any stage of execution,) the delays in project execution and the costs of re-issuing tenders, as well as the time and resources lost in the first procurement process are almost non-recoverable. Therefore, in most cases, procurer is at much heavier loss than the defaulting EPC contractor.

Atre says, "This sort of methodology is so common in Government contracts where the corrupt process has now become a perfected 'proven' process and where the original bid price is intentionally kept so low that it is impossible for the ethical companies to deliver contractual obligation at that price without incurring huge losses.

Combustion of organic substances by incineration process and to generate electricity as usable product is currently a preferred method by civic bodies. Technically, the major challenge in the process is that there is no consistency in this kind of combustible material because there is limited control over what could constitute the biodegradable waste. Hence, it may have to be supplemented in some proportion by burning coal or biomass or petroleum fuels. This adds to the project cost, both in terms of

the initial cost as well as the running cost. Further, incineration of biodegradable waste requires an advanced and completely automated technology. If contractors opted for semi-automated or partly manual processes in order to do the cost cutting, it's bound to result in severe air pollution.

The waste material keeps decaying further at a garbage depot. A constant chemical reaction that takes place in biodegradable waste is a serious technical issue. It constantly generates hazardous gases. The smoke from incinerators may contain pollutant substances like dioxins, compounds of mercury or hazardous gases like Sulfur Dioxide and Nitrogen oxide. This may actually increase the level of pollution in cities. Hence, the techno scientific scrutiny of such projects is the most crucial process.

However, Atre points out that the consultants appointed by civic bodies for the purpose on high remuneration, actually have no experience in project design, operation and maintenance. Their only responsibility seems to be the selection of contractor on specified parameters. They have no direct accountability if the chosen contractor does not perform satisfactorily. Neither are they accountable for the timely completion of the project.

Atre insists that a municipal body cannot escape their accountability or responsibility simply because the project is awarded on BOO (Build, Own, Operate) basis and just because municipal funds have not invested their own capital in the projects. A municipal body is fully answerable to the public for complete success of the project, no matter what is the source of invested funds and who has designed, built and operated the plant. He is amused when some Municipal bodies try to escape from owning their failures by citing the BOO structure of the contract and put sole blame on BOO or EPC Contractor.

At an official meeting for opening of tenders, representatives from TRANSPARENT demanded that the Government should provide certified copies of all original tenders to everyone present. They certainly did not mind their tender been shown to all others. This was such an unprecedented demand at such a meeting that

nobody was prepared to handle it. So the representatives from TRANSPARENT were asked to leave the place.

Atre suggests that sensible organizations as buyer of EPC project should employ an open book method of evaluating the estimates of project cost with each bidder and also should insist on evaluating the bidder's cash flow model. He demands that ideally, only those bidders who are willing to share these details for joint appraisal of project cost estimates should qualify in the short list.

He further challenges the logic of preferring the lowest bidder. 'It is irrational and unscientific'. He has a radical suggestion which could be practically useful. He says, the bidders should be informed in advance that both the highest and lowest bids will be rejected. Let there be a policy that only the bids around the mean value between the highest and the lowest would be considered and then would be rigorously evaluated on required techno-economic criteria.

Atre predicts, "If anyone conducts a study of all the underperforming and heavily delayed projects, it will be discovered that most of them were projects awarded on merely lowest bid basis".

He has been forever challenging the established practices and making such radical suggestions wherever he can. The moot question remains i. e. while it is realized that a thing is not working; why it is not corrected. "There is such resistance and apathy all around that even the absolute best efforts by the leaders with courage, fail to provoke the changes that are called for'.

Atre fought against the irrational and oppressive orders of the Chief Inspector of Boilers. His quest for justice made him realize that at core, all issues are systemic. It made him actively lead the movement for reforms in the Indian Boiler Act, 1923. He filed a Writ Petition in High Court challenging the validity of some of its provisions. Finally, the Act was amended in 2007.

He was also one of the first proponents of control measures over the hazardous gaseous emissions from Thermal Power Plants.

He had been advocating the cause for a decade. In the wake of Paris Summit, Ministry of Environment in December 2015 in its milestone legislation notified stringent norms for Thermal Power Plants. Atre was once again proved a visionary. Their investment in FGD (Flue Gas Desulphurization) systems proved to be a step in the right direction.

However, it seemed that the system defied all logic. The resistance from the industry has been so powerful that the norms still remain on paper. It seems to suggest that it is not enough to develop and promote clean technologies. The struggle and the patience for the laws to change need not be conclusive. As the next step, you may have to be ready to fight at the National Green Tribunal to execute these changes. If you could fight, you must fight right through to the end.

It was probably for this reason that he had to choose his battles wisely. There were a few battles that were valiantly fought and lost. And there have also been those battles where he knew he was right, but they were not fought.

It seems as though he has been saying these things over and over again. The expression has become so concise and his arguments so intense that it is not easy for anyone who meets him for the first time to comprehend all that he says.

For a man of machines, he is very well read. He can quote accurate references about formation of Islam or about the political analysis of the World Wars. He can surprise you with some beautiful quotes from 'Purush-Sukta'. "There is a continuous dialectics between randomness and orderliness in this world; their sum total is forever balanced".

In recent conversations with him, there have also been references to philosophies from lesser known Hindu scriptures like 'Ashtavakra Gita'.

He reads all the economic news in minute details on daily basis. Socio Political developments, Economic policy, Business Ethics, Value based Management and Leadership are the academic areas of his interest. He tries to interact with the policy

makers, Bureaucrats and the politicians through letters and suggestions as a means of taking the public debate forward.

There certainly reflects an increasing balance in his public and personal spheres. He tells you that he spends a few hours on Sundays performing 'puja' and why not? It is the quality time spent with self. For him, it's an indication of growing openness within him, a sign of introspection and tolerance.

Meghana, his wife, has seen the intellectual journey of Ashok Atre from the direct and material to the abstract and philosophical. A practical person herself, she has observed from a certain distance his passions and his struggles and the pain associated with them.

Meghana is from the well-known Dani family in Jalgaon. Being a motherless child, Meghana learnt to believe in her own rationality early in life. She was introduced to Ashok through some common friends. She remembers their first meeting at Poona Coffee House on Deccan Gymkhana. There must have been other complementary factors; but Meghana prefers to hold that they decided to get married chiefly because they were both atheists.

"He has changed now. He has become more philosophical". she says with a smile, "I am still the same".

It was no abnormality for them that they had never been to a theatre to watch a movie together in their entire married life. It was not a routine romance.

She was brought up in Maharashtrian middle class culture, just as him. When the business flourished and there was money at disposal, it did not create the lust for material in her. She remained unchanged; and their life continued on Spartan basis. She had no security concerns when Atre propelled all his profit back into his passion that was his business. She did not feel threatened by the furious battles he fought or by the fear of defeat. She could not stand injustice, just as him, and she knew that he must fight.

As a child, she loved mathematics. When she was in school, the mechanical drawings of her elder brother appealed to her sense of order. She graduated in Mechanical Engineering with special

distinction. She comes across as an upright woman and she is known to be a highly independent member on the ‘Team TRANSPARENT’. However, she was also the one to take a backseat in business when their children were born. She felt that she could give justice to only one role at a time. She kept herself busy with some small initiatives with the local NGOs.

She stoically survived the professional gap of sixteen long years. She joined their company back in year 2000. She decided to start with checking the costing formats. Although Meghana lacked scientific basis for costing; she had an innate sense to realize that business must sustain at a level above the break-even point. She was also creative. She developed their in-house software for drawings. It is an auto system which displays calculations simultaneously with drawings.

If Atre admits to being emotional, Meghana is known to be a strict task master. She synchronizes all departments, herding them to a common goal. She takes the weekly review meetings where she refuses to entertain excuses. She is unapologetic when she tells her husband that she has closed the drainage holes of the company. Being a woman, Meghana is naturally more ruthless among the two.

A client was insisting on the penalty clause to cover the possible delay. She asked them if they would give her a bonus if the order was delivered before time. The client agreed. And Meghana managed to pocket the five percent bonus. She is passionate in her own way. That probably explains how she and their children Anand and Asmita managed to hold on to their own distinct personalities, in the charismatic presence of Ashok Atre.

Both Anand and Asmita have been working in TRANSPARENT for more than a decade now. Asmita has done Engineering and Management. Research and Development remains her core competency; although she has handled all aspects from design to execution and the commercialization of the products quite successfully. She is known to be as intense as her father and a workaholic. Anand, like his father believes in being creative

when the market is lean. He observes that machine business is more of project based and ‘lumpy’ in the sense that it is challenging to manage steady cash flow therein. Hence, it is necessary to subsist on lean, tidy infrastructure and doing something always new. Instead of pursuing energy or environment engineering, he studied food technology. He and Asmita have created their own niche by diversifying in clean and hygienic jaggery plant which replaces the conventional methods of jaggery making. They developed the project from scratch, managing everything from production to sales. They are exploring the concept for its growth potential, like setting up a chain of such plants in sugar belts all across the country.

Both of them have inculcated their father’s determination in face of adverse circumstances. Asmita thinks what is characteristic about their father is that he never loses his balance of mind in whatever situation. “The external factors do not dominate over him. He draws his opinion from his own experience”.

Ashok Atre became an entrepreneur against all odds. In his words, “The ease of doing business had never existed in local market. There was always the paucity of working capital. Government failed to devise policy incentives to nurture the true industrial culture. Proper business environment that would support quality, technology and merit was absent.

“The organized sector was so over protected that there was no compulsion or need for them to innovate so as to improve the competitiveness, either for the local or the export market. Government policies and regulations protected these corrupt cartels and crony capitalists and their mediocre products.

He says, “The inefficient police, the jungle of outdated laws since the British times, a poorly functioning and biased judiciary, inspector raj and lumpen tax collectors greatly contributed to the vicious industrial environment”.

Amidst all this, Ashok Atre succeeded on merit and principles. It’s a great triumph.

When he was pushed to a wall, he resolutely refused to accept defeat. He fought hard and long to make his case and

refused to be cowed or dissuaded; often discovering new opportunities in doing so and rebounding through professional innovations. In business, he could identify the new prospects quickly and accurately. He inspired his team to do and give more. He made a radical departure from the established concepts of doing street-smart business.

At this point it is possible to see the consistency in the argument he built up against the existing policy. He raised questions and challenged the existing policies. He pursued the reforms with a passion to make a social impact. He also found critical allies in this cause. Throughout his career he has fought the battle of perspective and led from the forefront.

It seems to fit well into the classical concept of leadership. Atre proved it once again that an entrepreneur essentially functions with the same skill set. It has been a journey of a true leader.

11 | *SMEs, Beware of “Big” Capital*

While I write this epilogue, the weapons of crony capitalism have shifted from License Permit Raj to Big Capital being used to kill SMEs through policy induced patronage of Big Capital, such as unfair competition, lobbying to stall technology progress so as to protect & keep in market outdated products.

1. Big Capital is killing Small Capital!

In 2016, the ratio of annual sales revenue of top 500 Big Corporates in US to GDP of that country was around 65 % (Ref: Fortune 500 US). For India, not top 500 but even if sales revenue of all the listed corporates is compared with our GDP, the ratio, as per one of the estimates is not more than 20%. One reason is significant contribution of Small and Medium Enterprises (SMEs), both belonging to formal as well as informal sector, in India's GDP. The economic agenda, being implemented by the Indian state, post 90s, is aimed at increasing the share of big corporates in Goods and Services being sold in this country. This major shift in political economic paradigm in our country is the single most important reason behind strangulating “neglect” being experienced by Indian SMEs. This “neglect” by the state is not only by “omission” but also by “commission”, as more the economic space presently available for SMEs shrinks, more it will be available for Big Corporates.

Shri Ashok Atre's book “(License-Permits) The Inspector

Raj” is different in many ways. The book has two strands running simultaneously. One forthrightly states that these three, viz. licenses, permits and Inspector raj do not emanate from bureaucratic lethargies, but they serve perpetuation of crony capitalism. The second, equally important strand is about “how a first-generation entrepreneur challenged this system successfully”. The first one provides a window to the reader on how political economy of our country in general and the state of Maharashtra in particular have been functioning from (say) 1980s till today. The second one informs us how an individual with values and convictions alone can take on the “system”.

There are umpteen number of books written on political economy in our country. Majority of these books are penned by the authors who “sit” in cosy university campuses and “observe” the economy from side-lines. Ashok Atre, for decades, has been in the thick of “real” economy, where actual production of goods takes place, the place full of dust, rust and sweat and even “frustrations”. There are very few books on political economy written by the “entrepreneurs”. The second important feature of the book is Ashok Atre refrains from presenting his bitter experiences as personal “tragedies”. He seeks to trace back their roots to the prevalent system, be it economic, administrative, legal or banking. He has diagnosed these systemic problems in his own way.

I also intend to adopt this “systemic” approach adopted by Ashok Atre in this small essay. Ashok tries to unravel burning issues in our “national economy”. I would like to provide their interface with the developments in the “global economy”.

There are three reasons for taking such “broader” approach:

1. I tend to believe that the saga of Shri Ashok Atre, as one of the most promising entrepreneurs in the country, is not an exception but a representative story of many more first-generation entrepreneurs in different parts of our country. These entrepreneurs, almost all of them belonging to the Small and Medium Enterprises (SME) Sector, do not derive their strengths from “capital” inherited from resourceful families, but their “faith in their dreams and abilities”. Post

90s SMEs are being treated as “secondary citizens” in the national political economy; wherein the “first citizenship” has been usurped by the Big Corporates. And that leads me to my second reason.

2. Ashok Atre’s entrepreneurial journey overlaps with a period during which Indian economy is increasingly integrated with the global economy. These changes are said to be brought out by Liberalization, Privatization and Globalization (LPG) economic thought. Left to me I would have termed it simply as an “Era of Big Capital”, simply because “Big Capital” has been the driving force and also the largest beneficiary of the LPG economic policies. The pertinent question needs to be examined is whether the economic forces behind the LPG policies are the same economic forces which has been partially, if not solely, responsible for frustrating SME sector in our country? I tend to believe so.
3. It will be rather farfetched to say that since independence the statutory, legal, administrative frame governing the industrial sector, big or SMEs, has not changed. It has. If so, one will have to identify those sectors and trace back driving forces behind such changes. One sector in which “cronyism” was most rampant in pre-90s and have witnessed most dramatic changes, for better, in post-90s is Indian Capital Market. Setting up of Securities Exchange Board of India (SEBI), is one of the most successful stories of regulatory reforms in post-independence history of our country. Similarly, setting up National Stock Exchange (NSE), with most sophisticated “systems” in place, be it technology, risk management, transparency or overall governance is an allied success story. It is reported that the systems prevalent in NSE, just 25 years old institution, are on par with those prevalent in more than a century old stock market of developed capitalist countries.

Let us note that these changes have not been effected by any “Left” or “Anti-capitalist” political dispensation taking power at the centre. These changes were introduced by the same “system”

which “simultaneously” allows perpetuation of “crony” capitalism in other sectors of economy. This needs explanation. Clearly,

“system” differentiates among the sub-sectors of the economy. Some sectors (Big Corporates) are allowed to have their “say”, whereas some others (SMEs) are allowed to rot in decades old unreformed policy framework. This takes us to another question. Who drove and driving these “selective” reforms? Simple answer is the potential beneficiaries of these selective reforms, that is “Big Corporates”.

I believe that dawning of “Big Capital” era has tilted the scales of Indian Economy in favour of Big Corporates and against the SME. State is more than eager to solve the concerns of the Big Capital pro-actively and lending a deaf ear to SMEs life threatening issues. For example (a) reforms in the capital markets, which are accessed only by the Big Corporates and never by SMEs, are being conducted on fast track; whereas banking sector, on which SMEs are solely dependent on, are following age-old “moneylenders” approach, (b) National Company Law Tribunals and Insolvency and Bankruptcy Code has been enacted and activated within no time; whereas lakhs of SMEs are allowed to be in “half-alive-half-dead” conditions for years and (c) “ease of doing business” is being advertised in all investor’s conferences abroad; whereas rigidities in administrative and regulatory laws and cost of compliance, including “License- permit-Inspector Raj” as Ashok Atre has rightly labelled, for SMEs continues to more or less archaic. Let me hasten to add, necessary in ongoing polarized political debates in our country, that my criticism is aimed at Indian State and is independent of the ruling political parties.

If Big Corporates are playing such a decisive role in Indian economy, it requires to trace back its evolution in recent past.

2. Evolution of Oligopolies of Big Corporates

It is customary in an era of “globalization” to broadly classify capital into “global” and “national”. But this crude division glosses over the class alliance, between “big capital” of Indian origin and the one coming from outside the country.

Hence, we are using the term “Big Capital” for a class alliance between Indian big capital and global capital. It may also be noted that the term “Big Capital” includes both “big” industrial capital and “big” finance capital.

We are distinguishing between Big Capital and Big Corporates. “Big Capital” connotes a “system”, whereas “Big Corporate” is the front organization of that system. The other components of the system are commercial and investment banks, all types of funds (Mutual, Insurance, Pension, Private equity, Hedge and Sovereign Wealth Funds), multilateral financial institutions, international management consultants, credit rating companies, Big-4 accounting firms (KPMG, E & Y, Deloitte and PWC), corporate lawyers, political and administrative decision makers, academicians, think tanks and business media!

Big Capital is not attached to any particular promoter, product, company or national boundaries. It is only attached to its own interests of multiplying itself. It is single-minded, almost blind folded, in its pursuits of earning maximum returns in shorter time horizon and getting exposed to minimum risks.

In order to understand emergence of Big Corporate, there is a need to understand the phenomenon of Finance Capital.

In a classical capitalist model, it is presumed that the surpluses generated from the ongoing production cycle will eventually be absorbed in enhancing the production capacities further to meet the growing demand. Now imagine a situation wherein, for many reasons demand in general stagnates and the installed production capacities are underutilized. No rational entrepreneur will venture in creating fresh production capacities in such a situation. At most the “demand” for capital will be limited to replacement of depreciated assets. On the other hand, surpluses from the existing production levels will continue to be generated. The system as a whole, starts generating excess capital than what it can digest.

This stage of economy gives birth to “finance capital”. Such unabsorbed finance capital is being poured in in the global economy for last three decades and largely gets itself invested in

the secondary trading of financial instruments, viz., shares, bonds, foreign exchange, derivatives etc. Electronic trading and satellite linked computers have facilitated its entry and exit from the economy at its own will. It may be noted that investments in secondary markets do not create any fresh productive assets, insulating existing producers from any fresh competition.

Oversupply of capital in the secondary markets of financial assets leads to overbidding. The prices bid by the consecutive bidders lose any relationship with the intrinsic value of that financial asset. Take for example Price to Earnings Multiple of equity shares. There are instances wherein PE multiple crosses unthinkable numbers and even shares of loss-making companies are routinely traded at unbelievable prices. In stock market parlance this phenomenon is called as formation of an “asset bubble”. Being unsustainable, these “bubbles” burst, eventually, destroying huge amounts of capital invested. Excesses of finance capital, time and again, proves to be “suicidal” for itself.

Learning hard lessons, over the decades, finance capital started scouting around another form of “assets”, other than the financial instruments issued by a company, which can be “traded”. It set its eyes on the “company” itself. It devised ways to “trade” entire companies. Companies are tossed around, stripped off, purchased and sold and even “killed” by newer investment and disinvestment strategies. With this, new “industry” emerged known as Mergers and Acquisitions (M & A) industry.

This may be a story from the “finance capital” point of view. But M & A was also serving the needs of “industrial capital” too. We will see how.

When surpluses generated remain un-invested, the net-worth (paid up capital plus cumulative retained earnings) of the company increases whereas level of annual net profit does not increase commensurately. This pulls down the rates of Return on Net Worth. (Net-worth comprising of paid up capital and accumulated retained earnings). With falling RONW, sponsors and managers responsible for ensuring attractive RONW become anxious that

the investors will pull out capital from their enterprise, compounding the existing problems. The only way to overcome this anxiety is to “kill” competition and increase market share.

Not surprisingly, this has led to emergence of oligopolies in many major industries. US, as always, leads these trends. But even in developing economies like India, sectors after sectors, fewer producers are producing larger volumes than those few years back. For example, cement, pharmaceutical, telecom, steel, e-commerce and many others. It is not the size which shall be the concern of the society at large but the concomitant political power they acquire by virtue of their size.

Acquiring and merging potential competitors is a direct way to kill competition. Another indirect strategy is aimed at diffusing potential competition from the SMEs. Many SMEs in diverse industrial sectors are doing extremely well, in spite of many odds. They have created their “niche” customer base and their customers are also “loyal” to them. Each SME, on stand-alone basis may not have great sales volume compared to Big Corporate also operating in that field. However, the aggregate volume of sales of all the SMEs will be substantial. These small “walled fortresses” of SMEs are seen as obstructions by ambitious Big Corporates aspiring to grow year on year. The only way left to them is to frustrate SMEs, entangle them with “unease in doing business” and make access to capital difficult and costly. It has been documented that how de-monetization in our country have provided “near-to-death” experience to lakhs of SMEs.

Having distinguished between Big Capital and Big Corporates, let us understand the distinctions between Big Corporates and SMEs

3. Distinct Features of Big Corporates and SMEs

Let one thing be made ample clear that the promoters and sponsors of Big Corporates and SMEs are non-charitable entities. They are primarily, if not solely, driven by the profit motive. Almost all the Big Corporates and part of SMEs are registered as companies under the Companies Act of the respective countries. Notwithstanding these common features, there are two prominent

distinctions between the two, (a) Promoters' Profile and (b) Access to Financial Resources and Risk-Taking Abilities, which partly explains phenomenon of strengthening Big Corporates and weakening SMEs.

Promoters' Profile: The promoters of the Big Corporates are either individuals from resourceful families, accumulated their resources over the generations in trading, moneylending, contracting, land-lording or manufacturing or else old established corporate groups. Yes, it is true that in recent past there are instances of a first-generation entrepreneurs going from "rag to riches". No one belittles their success. However, the number of such stories is miniscule compared to total number of SMEs entrepreneurs.

Neither original promoters or equity owners nor the executives of the Big Corporates are "emotionally" involved with their respective enterprise. Founders of the company sell their equity shares to whoever pays high price. Top executives sermon the junior employees on the importance of loyalty to the employer company, typically on (say) company's foundation day, walk over to the rival company in the same industry overnight.

Whereas most SMEs promoters do not hail from resourceful families. They are dreamers, essentially risk takers. The enterprise demands their sweat, flesh, wealth, peace of mind, physical health and even simple joys in family lives. Many of them are compelled to put their living homes and even ornaments of their wives at stake as a collateral security to the lenders.

Access to Resources and Risk-Taking Abilities: Big Corporates, routinely access capital from Banks, NBFC etc. as also from capital market, domestic as well as international. Backed by Merchant Bankers and Investment Bankers, they ensure hefty premiums for their equity shares. This in turn helps them to leverage and raise substantial debt capital.

SMEs do not access funds from capital market. Most of them are locally funded by promoters, their family and friends and business relations, cooperative banks and local branches of the commercial banks.

Big Corporates have another guaranteed access to funds by virtue of being a member of a corporate group; each member bails out the one who is in need by extending intercorporate deposits. Corporate office of the corporate group coordinates and directs these activities and no group company is allowed to sink, against the wishes of the Corporate Office. As against this, SME invariably operates on a stand-alone basis, and are deprived of life support systems enjoyed by the Big Corporates.

It is customary to say that “entrepreneurship is all about ability to take risk”. Yes, it is true that a risk averse individual cannot be a good entrepreneur. But risk-taking ability is not about “mental” orientation of an entrepreneur. That is certainly applicable for a “start-up” phase of an enterprise. In the long run, the “risk taking ability” is all about access to hard money and capacity to withstand “bad patches” It has been empirically proven that majority of SMEs sink permanently during such phase. Entrepreneur need not have to have unlimited money in his own bank account but shall have a backing of external “capital owners”.

To say that any risk-taker can become an entrepreneur is akin to say that a courageous person can be sent to war front as a soldier, without talking about the entire wherewithal, viz., requisite supply chain and airplanes providing him air cover when he advances in the enemy’s territory.

4. Unique Features of Big Corporates

There are popular perceptions about how Big Corporates become big. These include Big Corporates (a) are profit minded, (b) do not pay heed to social and environmental considerations and (c) indulge in corruption. All three are valid but do not add up to provide us full picture. Fact is Big Corporates also derives its strengths, unmatched by any other social entity, from nonfinancial domain also.

We may list down few of them, but what needs to be noted is all these enlisted strengths exist simultaneously, they feed into one another.

Big Capital owning class is highly conscious about its class interests. No other economic class, be it farmers, workers, middle

class, traders or SMEs entrepreneurs can match this level of class consciousness. They are acutely aware that their class interests can only be protected and furthered collectively and never individually. They do compete with each other over market share etc. but no member hits another “below the belt”. Whether to take a public posture or representing to the state for some policy changes, they speak in one voice.

Another strength of Big Capital system is its cadre building. They build their cadre from middle / lower middle-class youth, educated and well trained and more importantly ideologically committed to the class interests of the Big Capital. They man top positions in corporates, banking and finance, bureaucracy and judiciary, auditing and consultancy firms and many others.

With this Big Capital as a system, acquires greatest power in influencing economic policies of the state. This is achieved partially by ensuring “appropriate” individuals at “appropriate” places in the system at “appropriate” time. These bureaucrats, regulators, judges and even ministers abiding by the prevalent laws and administrative procedures protect and further the interests of the Big Capital. Note, when an individual is integrated into a “system” the need to bribe and oblige him diminishes. It may be recalled that in UPA regime the cabinet minister for petroleum was changed number of times to suit a particular industrial house in the country.

They are not in a hurry and will never be seen as locking horns with the political decision makers, as they do appreciate that running a country as a politician is altogether different than running a company. But as a class they ensure that the direction of policy changes is irreversible, independent of whichever political dispensation comes to power.

Wherever beneficial Big Corporates will deploy the most advanced technology available and if its is going to add to its bottom line, it will deploy poor women in Bangladesh or Vietnam in “sweat shop” to do work manually, for twelve hours a day in most inhuman working conditions, while paying them pittance; the work which otherwise could have been done by a machine.

They do not forget to earn a political mileage in claiming that its decision leads to employment generation in poorer countries.

Wherever feasible Big Corporates may implement most sophisticated organizational practices and will not feel shy, if need arises, enter into a tacit understanding with the pre-capitalist feudal social and political forces. Two instances will make this point clear. In many African countries, quite a few MNCs are indulging in “grabbing” millions of hectares of land from the poor farmers, for corporate farming. In the absence of modern rule-based state in many of these countries, MNCs routinely take “help” of local feudal lords and tribesmen while “purchasing” huge tracks of lands. Second example is from India’s micro finance industry. Indian micro finance sector is increasingly getting corporatized and raising funds from both Dalal Street and Wall Street. This industry, dispensing unsecured loans to millions of poor people in rural and urban areas, routinely rely on muscle powers and leaders from the caste panchayats to recover their loans.

5. Relationship of Big Corporates and SMEs

Big Corporates and SMEs, both being “privately” owned one may think that the “Big” will be playing a caring role towards SMEs for its ideological commitments to private ownership. However, the reality is different.

In our country, till 90s, Big Corporates and SMEs appeared to have coexisted, partly because of state active support to SMEs and Big Corporates were also not so “big”. They were not so big because, in order to become bigger, any corporate need external “capital”. For many decades, external capital flows to the corporates were constrained due to (a) “rationing” of bank finance, post banks nationalization, (b) underdeveloped domestic capital market and (c) restrictions of entry of foreign capital.

Taking advantage, many SMEs created market niches for themselves. Some of them could even register impressive growth rates and elevated their status to mid-corporates, reflected in few medium size companies listed on national stock exchanges.

The scene started changing post 90s when state started withdrawing its patronage to SMEs, forcing them to “play” with

Big Corporates on “level playing field”. Big Corporates benefited with higher saving rates in the economy coupled with liberalized banking and maturing capital markets. Most importantly, with the advent of LPG, flows of global capital multiplied, years after years. This was affected largely by greater flows of global capital into our country (FDIs, FIIs) and also by Indian Big Corporates accessing global financial markets (GDRs, Bonds).

Let us also note that Big Corporates do not have any ideological enmity with SMEs. They are not out to demolish SMEs as, say American troops were out to finish Vietnamese in 60s. Big Capital has its own agenda to establish its primacy over every other form of capital, including SMEs. It wishes that SMEs shall not operate as an autonomous production entity and adapt themselves as “sub-contractor” or auxiliary unit in its “ecology”. It wishes that SMEs shall be available on “call basis” for supplying goods and services needed by the Big Corporates. They expect SMEs to take care of their own capital requirement and also have requisite skill sets. They shall do all the dirty work, particularly labour-intensive work, one of the most politically sensitive aspects of the running a business, so that it can keep its own workforce lean. This will help in many ways, i.e., keeping the number of workers less will not attract provisions of labour laws or cost of statutory compliance like Provident Funds, Medical facilities etc. Big Capital wishes let there be large number of SMEs in the respective field so that they will compete with each other and that competition can be leveraged by the Big Corporates. They see SMEs as mitigating mechanism to manage variations in its own cash-flows better, and accordingly wishes SMEs to accept the terms of payments set out them.

Big Corporate see SMEs, in formal and informal sectors, as useful “bottom of pyramid” units in a hierarchical structure. For example, Big Corporate operating in retail sector see SMEs utility in ensuring “last mile connectivity”. E-commerce companies will adapt traditional grocers in their value chain and reduce them as delivery points. Micro Finance corporate see Self Help Groups as platform for credit delivery and recovery. Uber and Ola cab

aggregators will coop individual taxi and auto drivers in their fleet.

6. Concluding Observations

SME sector helps in fulfilling many socio-political goals in many societies, more so in India. For example it (a) provides systemic response to entrepreneurial aspirations of lakhs of youth, particularly technologists. This helps national economies, in the long run, to be self-reliant and acquire competitive edge in global economy, (b) facilitates distribution of wealth widely. As they rightly say that goals of political democracy cannot be meaningfully achieved without economic democracy and encouraging SMEs is a time-tested mechanism for to achieve that and (c) generates much more employment per unit of capital invested compared to Big Corporate sector. This is one of the most desired features in a populace country like ours.

It may be seen that applying narrow financial criterion like “Return on Equity” to SMEs do not capture their above mentioned non-financial achievements. Thriving SME sector is in the interest of the society. This puts an onus on the state to ensure that SMEs are alive and kicking. No, we are not prescribing yesteryear’s prescription of subsidies. Efficiencies, productivity and quality of goods and services need not be compromised even for SME Sector, simply because in the long run, everyone proves to be a loser. What state can certainly do is to create a legal, financial, administrative and regulatory SME friendly framework in the country and eliminate “License-Permit-Inspector” raj for SMEs. Let state ensure “level playing field” between SMEs and Big Corporates in terms of “ease of doing business” and “access to capital”. In the absence of such conducive frame, SMEs are going to get reduced to merely an “annexure” of the Big Corporate.

It is bankruptcy of ideas and lack of vision of our political leadership cutting across political parties that in post 90s they allowed themselves to be dictated by the dogmatic neo-liberal economic ideas propagated by the Big Capital. That paradigm shift in nation’s economic philosophy left SMEs in lurch; instead of reforming or rather eliminating “license-permit-raj” for SMEs,

policy makers allowed it to perpetuate. Ideally, taking a leaf from Chinese economic policies, what was needed was to formulate economic policies which will build an economy with “Indian characteristics”, which means a thriving SME sector at the centre of the economy.

Changes need “change agents”. All of us also agree that yes, changes are taking place in the Indian economy, selectively and in ad hoc manner. Hence, equally important questions need to be addressed are “what kind of changes” and “what will be modalities for bringing about those changes”. Here, the values and world view of an individual “change agent” plays crucial role. This is one of the biggest take-away from Ashok Atre’s book, for all the readers.

Let us wish that our country be blessed with lakhs of Ashok Atres in years to come. Let these Ashok Atres not be confined themselves to SME sector but also occupy positions of administrators, regulators, bankers and most importantly political leaders.

There are many young professionals in our country who are coming forward to “start-up” with their business idea. Certainly a welcome development for our country. This book is a “must read” for these young entrepreneurs.

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September 1, 2018

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Appendix

BEFORE THE UPA-LOKAYUKTA, MAHARASHTRA STATE, MUMBAI
No. ULA/COM/539/2001(SO-II/7-11)

Shri Ashok Atre,
Managing Director,
TRANSPARENT ENERGY SYSTEMS
PRIVATE LIMITED,
'Pursha Heights', 1st Floor,
Bhavewadi Corner,
Pune - 411 037

... Complainant

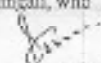
V/s
Shri B.L.Halingali,
Chief Inspector of Steam Boilers,
PUNE

... Public Servant
complained against

RECOMMENDATION UNDER SECTION 12(1) OF THE MAHARASHTRA
LOKAYUKTA AND UPA-LOKAYUKTAS ACT, 1971

M/s Transparent Energy Systems Pvt. Ltd., Pune represented by their Managing Director Shri Ashok D. Atre, made a reference/complaint/allegation No.TESPL/2001/1285 dt. 11.01.2001 addressed to this authority alleging undue pressure and intentional harassment to them and their sister concern Transparent Technologies Pvt. Ltd. (previously M/s Atre Thermal Products Pvt. Ltd.) in his official capacity as Director, and earlier as Joint Director, Steam Boilers, Maharashtra State, by Shri B.L.Halingali, who

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Upa-Lok Ayukta Member

is a public servant under the provisions of Sec.2(8) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971. A full copy of the text of the complaint and supporting documents were already forwarded to the Secretary, Labour with this authority's d.o.latter No.UILA/COM/530/2001 (SO-11)/T-11 dt. 15.01.2001 and is therefore available with the Department, but is again enclosed with its enclosures. The Department was thereafter reminded demi officially at the level of Secretary by reminders dt. 31.01.2001, 12.02.2001 and the 27.02.2001 since the complaints related to an officer who was due to superannuate by the 31st March, 2001 and it was considered necessary to take a view on this matter well before the above date, after completing such enquiries as were considered necessary. [The Department under its reply No. IBA-1099/CR-0041/LAB-9 dt. 28.02.2001 furnished a reply explaining the stand of the Department in the matter indicating the enquiries made, the action taken at Government level and enclosing copies of certain documents.]

2. As this authority was not satisfied with the replies furnished by the Government it was considered necessary to seek certain further clarification from Shri Halingali and the Department on some of the issues that has been raised and the Department was also requested to clarify the position on some of these issues and a first hearing of the matter was taken up on that date on 7.3.2001. On receipt of replies to the clarifications sought, a further discussion/enquiry was held by this authority on the 13.03.2001 when Secretary,

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
Labour Dr. M.I. Gautam, Dy Secretary Shri G.T. Bandri, Shri B.L. Halingali, as also the complainant Shri Atre were all present. On the basis of the discussions held on that date a note was recorded on the agreed facts in this case on 13.03.2001 and the comments of the Department (Shri Halingali) on these agreed facts was sent to them and they were asked to reply latest by the evening of the 16th March, 2001. Reply from Shri Halingali to the note has already been obtained. Government has also replied that the minutes are correctly recorded. Shri Halingali has also furnished a statement showing the various charges held by him in the last ten years, before finally taking over as Director, Steam Boilers on 6.4.2000 in a substantive capacity. Shri Halingali is due to retire on 31.03.2001. He has also furnished some details regarding his son's employment with M/s Thermax Ltd. Pune, including copies of intimations that were sent in this respect to Government and a document showing the details of employment of Shri Vidyasagar Halingali, his son, along with other details in response to the queries that were raised in the meetings held on 7.3.2001 and 12.03.2001. The documents furnished by the Department in reply are no longer required in this office and are being returned herewith for ready reference. Subsequent to the above enquiry held on 12th and 13th, Shri Atre has also provided two copies of a letter No.TESPL/2001/1580 dt. 15.03.2001 to show the products of M/s TESPL which are in competition with M/s Thermax Ltd., Pune, (copy enclosed). One copy of this document was shown to Shri

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The Lab. Asstt., Bombay

Halingali when he met the undersigned to file his written reply on the 16th March, 2001 and was perused by him and returned to the undersigned by him stating that he had no specific comments to offer.

3. During the course of the hearings it was made clear to Shri Halingali that he should note that since allegations made against him were of a personal character, he should be careful in submitting which particular matters he agreed with and which were the matters he did not agree with and he has duly taken note of this position. Some of the other documents which were furnished by Shri Atre during the course of enquiry/discussion, which were not sent to the Government earlier since they are not considered essential to arriving at the conclusions which this authority has arrived at in the present report, are also enclosed herewith for ready reference. Since a copy of the original complaint of 11.01.2001 of Shri Atre and all subsequent documents filed and which have been relied upon in the enquiry are enclosed, it is not considered necessary to repeat the contents of these documents or to refer to them in full, for the purpose of the conclusions arrived at in this enquiry, but wherever necessary they will be referred to briefly. Letters No. TESPL/2001/550 dt. 5.3.2001, 1568 dt. 10.3.2001, 1569 dt. 12.3.2001 and 315 dt. 13.3.2001. Letter No. TESPL/2001/1580 dt. 15.3.2001 relating to similarity of products with M&S Thermax Group was obtained on request and will be referred to later in this report. Report on the visit of Dr. Gaunam in the factory vide letter No.


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Uda-Lok Appals, Bombay.

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TESPL/2201/417 dt. 5.2.2001 recording Dr. Gautam, Labour Secretary's visit to the factory is also enclosed for record, copy already having been made available to Dr. Gautam directly).

4. It is first necessary to deal with the complaint contained in paragraphs 4 and 10 of the representation of 11.01.2001 with particular reference to the complaint that the son of Shri Halingali Shri Vidyasagar Halingali was employed as an Engineer with one of the competitors of M/s Transparent, which according to Mr. Atru, was M/s Thermax Ltd., Pune. We will first deal with the limited question of the employment of Shri Vidyasagar Halingali with M/s Thermax Ltd. [A statement showing that the various jobs held by Shri Vidyasagar Halingali, son of Shri Halingali, Chief Inspector, from time to time, and the intimations admittedly sent by Shri Halingali to the Government in regard to his employment in 1992 and 1994 are enclosed.]

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Even though there are only photocopies, these are admitted by Shri Halingali as correct. These intimations clearly show that Shri Halingali was fully aware of the provisions relating to the MCS (Contract) Rules, 1979 and of the provisions of Rule 4 thereof. The intimation sent on 26.05.1992 relates to training in the factory of M/s Thermax Ltd., Chinchwad, Pune and therefore does not amount to regular employment but even so, Shri Halingali appears to have intimated the Government presumably by way of abundant caution, the training course undertaken by his son although it is not appointment.....

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Office of the Lab. Dykes &
Ops-Lab Dykes, Bombay

and specifically asked that Government may be informed. His subsequent intimation of 27.07.1994 talks of his son having been selected by campus interview on completion of his four year Engineering Degree Course and again requests the Director to obtain the Government's sanction in this case and communicate it to him showing that as an officer having official dealings with the Company, namely M/s Thomas Ltd. Shri Halingali was fully aware of the requirement of having to obtain prior Government sanction in such cases or that he was required to act under the proviso to Rule 4(2)(a). For purposes of clarity one point needs to be recalled here, namely that even though he was then Jt. Director, Steam Boilers, Ahmednagar, even according to his own letter he would have official dealings with M/s Thomas Ltd., Pune whose manufacturing facility came within the jurisdiction of the Jt. Director, Pune. This is because all inspectors of steam boilers wherever located are required to conduct annual inspections of steam boilers located within their jurisdiction and therefore Shri Halingali was himself not in doubt that in his jurisdiction in Ahmednagar, there were many installed boilers of M/s Thomas Ltd., which would come up for annual renewal according to the provisions of the Act. Subsequent to the above intimation, Shri Halingali according to his own signed statement was posted as Jt. Director, Steam Boilers, Pune on 13.07.1995 and had charge till 24.05.1999 when he was again transferred from Pune to Ahmednagar as Jt. Director. During this entire period apart from inspection of


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Office of the Jt. Dy. Secy &
Upa-Asst. Secy, Bombay

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installed boilers he also had jurisdiction over the manufacturing facilities of M/s Thermax Ltd. The position that he had official dealings with M/s Thermax Ltd. at all stages of his career including during his tenure in Pune, his subsequent tenure in Ahmednagar and as Additional Director Steam Boilers holding charge of Director from 1.11.1999 and subsequently as Director Steam Boilers from 06.04.2000, is therefore not in any doubt.

5. The statement furnished by the Department and accepted by Shri Halingali shows that Shri Halingali failed to secure compliance with Rule 4(1) at the stage when his son Shri Vidyasagar first employed with M/s Thermax Ltd. for a one year period from 01.08.1996. The statement also shows that from 1995 to 1997 roughly two years, Shri Vidyasagar underwent an MBA course in Pune University which he passed in distinction after which he was again management trainee with Praj Industries from 02.06.1997 to 18.12.1997. Thereafter he was again employed as a Senior Executive in M/s Thermax Ltd., Pune "through interview" on 19.12.1997, which post he held till 30.06.2000 and was promoted as Asstt. Manager through performance appraisal on 09.07.2000 (after Shri Halingali became Director holding regular charge on 06.04.2000). It is not, at any stage, claimed that Shri Vidyasagar was a continuous employee with M/s Thermax Ltd. The fresh employment in December, 1997 was through interview, after having completed a business management degree. Shri Halingali did not follow up his earlier request made in 1996 but has explained this in a

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reply furnished to this office on 16.03.2001 that the then Director ordered "to record this fact in his office", even though his own letter clearly says that sanction of Government was sought. So far as rejoining the same organization on 19.12.1997, he felt "it was not necessary to again intimate the Directorate". In short, it will be seen that on earlier occasions and particularly in 1992 when Shri Halingali even chose to intimate the Government a training course undertaken by way of abundant caution, he did not even think it necessary to intimate the Government in 1997, notwithstanding that this was admittedly fresh employment with a Company with which he has official dealings. It thus becomes clear that Shri Halingali has violated the provisions of Sec. 4 of the MCS (Conduct) Rules, 1979 with whose provisions he was fully familiar. It will be possible to take a view that it was all the more necessary for him to intimate employment of his son when had taken over as Jt. Director, Pune having direct control and right of inspection over the manufacturing and other facilities of M/s Thermax Ltd.,

6. We now come to the more important parts of the complaint dt. 11.01.2001 as contained in paragraphs 2,3,4,5,6,7,8,9,11 and 12 of the representation of 15.01.2001 which need to be read in conjunction with the complaint in paragraph 10 on Halingali's son's employment in M/s Thermax Ltd., a competitor Company in respect of certain items according to Shri Atre and in respect of which failure to comply with the provisions of Sec. 4 of the

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Jt. Secy. (Admin.)

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MCS (Conduct) Rules, 1979 by Shri Halingali as already been pointed out above. To substantiate this complaint that this was a competitor Company Mr.Are was requested to furnish a list of products which are manufactured by them and are also manufactured by M/s Thermax Ltd.(please also see paragraph 2 above). In reply he has furnished a letter No.TESPL/2001/1580 dt. 15.03.2001 giving details of products manufactured by them and indicating where there is product competition with M/s Thermax Ltd. While this list has not been cross verified with any documents furnished by Thermax, this letter encloses photocopy of a document stated to be published by M/s Thermax and which is also available on their web site, which shows that they manufacture many other items besides regulated steam boilers which are also manufactured by TESPL, such as Thermic Fluid Heaters (which are not however subject to IBR inspection). A copy of the letter of 15.03.2001 and its enclosure was shown to the Chief Inspector of Steam Boiler, Shri Halingali when he came to this office on 16.03.2002 to file his written reply to my letter of 13.03.2001 and he did not have any specific comment to offer on this document as already mentioned in paragraph 2 above. It would therefore be reasonable to assume that there is atleast some truth in the contention of M/s Transparent Energy Systems Pvt. Ltd. that there are a range of products in which the two companies are in competition with each other.

2. It is now necessary to come to the main part of the complaint

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regarding mala fide exercise of authority by Shri Halingali right from the stage that he took over as Jt. Director Steam Boilers, Pune Office. In para 2 of his complaint dt. 11.01.2001, Mr. Halingali allegedly rejected the application of the sister organisation then called M/s Atre Thermal Products Pvt. Ltd. and now known as M/s Transparent Technologies Pvt. Ltd. for a boiler manufacturing license on the ground of ATPL not have its own plate bending machine and Tubesheet Drilling Machine. He has however claimed that the Chief Inspector of Boilers found the objection unsustainable and approval was granted to manufacture the complete boiler with plate bending and tubesheet drilling activities sub contracted. When this complaint was investigated certain documents in the possession of the Director of Steam Boilers were looked into, although they were not formally brought on record. During the relevant period in 1996 these documents only show that the Dy. Director in Pune Office Shri D.A. Achad has made observation that a sister company of the applicant had plate bending machine and therefore there is no objection to licence being granted. This report was forwarded by the then Jt. Director Shri Halingali to the Chief Inspector of Boilers on the basis of which necessary licence was issued, creating the impression that the requirement of inhouse plate bending machine was considered necessary by some authority at some level, but that finally it was not insisted upon at the time when the licence was issued.

Otherwise the observation regarding this requirement being met by a sister

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company need not have been made by the Dy. Director on his own, particularly since earlier licences issued to TESPL did not make this stipulation. In view of the limited time available in this enquiry Shri D. K. Avhad, Deputy Director could not be called for verification but he has since been asked by me on telephone and states that such requirement was indeed insisted upon by the then Joint Director in the Pune office in this particular case. He has also stated that the case of this company was unique in that this is the only company which got its plates rolled in circular form outside but subsequently did the welding within their own shop, all other organisations getting both the rolling and welding outside or entirely inside in their own premises. If a formal enquiry is decided to be held, the note of the record of the inspection done by Shri Avhad before grant of licence to M/s Atr Thermal Products Ltd. and his oral evidence, will have to be recorded to arrive at the correct position, on whether Shri Halingali even at that stage was insisting on manufacturers having their own plate bending machine and tool sheet drilling machine. It is the claim of TESPL that the head office at the time of grant of licence in this particular case overruled the Joint Director which is why a letter granting licence dated 12 August 1996 did not impose this condition. In fact, if this is read with the subsequent notices issued to the Company after Halingali took over as Director, where he has taken a clear view that such machine will required to be provided, in letters of 12.6.2000 and 15.9.2000 and in the same direction also states that the full shell

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Upa-IAC Ayubia, Bombay

should be rolled and welded outside or in the alternative a machine for rolling would have to be kept by the manufacturer themselves in their shop for the purpose of rolling (taking the position that outside inspection must necessarily accompany any outside rolling into circular form but without welding), this substantiates the contention raised by the TESPJ that he has been insisting on this requirement even as Jt. Director, but was then overruled.

8. M/s Vaper Energy Machines Pvt. Ltd whose name was subsequently changed was issued a license on 31.03.1994 when Shri Halingsali was at Ahmednagar and he could not have had any role in making any recommendation at that stage. But M/s Exothermic Metal Composite Pvt. Ltd. which secured a license on 12.08.1996 was the case in which Dy. Director Pune Shri A-shad made a site inspection referred to above which was duly forwarded by the Jt. Director. This company subsequently became M/s Transparent Technologies, a name which has been approved by the Chief Inspector and the subsequent letter of 28.08.2000 clearly talks of the requirement of plate bending and drilling machines and is duly signed by the Director Shri Halingsali even though the original license condition did not make any such stipulation.

9. It has come clearly on record that all this has happened as part of the "renewal" exercise in respect of all manufacturers admittedly taken up by Shri Halingsali, after he started officiating as Director Steam Boilers and the

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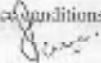
phrase "renewal" appears in all the letters issued by him to manufacturers commencing in February 2000 as part of his exercise. Incidentally the use of this phrase "renewal" in respect of boiler manufacturers who have been licensed is not supported by the relevant provisions of Rules 152 to 155 of the Maharashtra Boiler Rules, 1962 which provide for approval of firms for manufacturers of boilers or economisers as also for withdrawal for approval. It is significant to note that there is annual approval under Rule 151 for Boiler repairers. Therefore, even without going into the reasons (none have been recorded by the Chief Inspector at the time of undertaking the so called renewal exercise), the use of the phrase "renewal" in all the letters issued was unjustified being unsubstantiated by the rules in existence, and suggests an attempt at bringing undue pressure on all concerned.

10. The requirement of plate bending machine and shell drilling machine which appears in the letters issued by the Director in his letters of 12th June, 2000 addressed to TESPL and his letter of 28.08.2000 addressed to M/s Transparent Technologies Pvt. Ltd taking a clear position in this respect is again not supported by any line of reasoning on the files relating to these two companies in the office of the Director of Steam Boilers. In the normal course, when a departure from the previous condition of license is intended to be made and a departure from views taken by the predecessors in this respect is intended one would expect a recorded note giving a clear line of reasoning on the file.

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Spa-Sak Aysak, Bombay

During enquiry it transpired that no such notes have been recorded in either of these two cases, leave alone the fact that no note is recorded for undertaking a suo-motu "reviewal" exercise in general. These were admittedly followed in respect of M/s TESPL by letters signed by the Director (Shri Halingsali) which have objected to getting the work (of banding shell into circular shape) done outside without prior permission or alternatively suggesting installing shell rolling machine and the radial drilling machine within the shop. A copy of this letter has been endorsed to the Jt. Director Steam Boilers asking for a report. This has been followed up by letter dt. 19.09.2000 advising the Company to comply with the requirement, failing which "visits of the inspection officers will be stopped," in other words, amounting to a suspension of the operations of the company. This letter of the 19/09/2000 followed the earlier letter without awaiting report of the Jt. Director which was called for by endorsement in the letter of 15.09.2000 and which was received subsequently on 28.10.2000. It is thus seen that during hearings and even subsequently in his written statement of 16.03.2000 Shri Halingsali has not explained satisfactorily why letter of 19.09.2000 was issued without awaiting report of the Jt. Director which was called for by endorsement in the letter of 15.09.2000. This clearly indicates undue haste in attempting to impose a point of view on the company and its sister concerns without recorded reasons and for departing from past practices and tested conditions in this respect and without any recorded reasons. It is


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at this stage that M/s Transparent Technologies sought the intervention of Secretary, Labour and held a discussion with him at Aurangabad on 30.10.2000 and as a result of which the status-quo in respect of existing practice continued. (Letter of 2.10.2000 recording this discussion)


11. On the (so called) technical issue involved relating to this point viz. whether it is permissible to perform the bending operation of a sheet prior to its welding at an outside work and bring it back into the manufacturer's shop for welding purpose without having an inspection at the outside shop where the plate bending takes place, the point has been adequately discussed and dealt with including in the letters of 25.11.2000 addressed to the Technical Adviser to the Central Boiler Board and the reply given by the Technical Adviser, Boilers of 27.11.2000 which dispose of this issue completely. Shri. Atre had sought intervention of Central Boiler Board on the advice of Secretary, Labour and has secured a clarification in this respect, the original of which is available with him and is seen by me. He has also explained in his letter why he has sought clarification and he has obtained the necessary clarification. The reference in this respect which has been made subsequently by the Chief Inspector of Boilers (please see in this respect reference made by him on 2nd December, 2000 to the Central Boiler Board) stating that the matter is pending, cannot therefore have any value against a clear reply secured by the Company from the Chief Adviser Boilers. This is strictly a technical issue (technical fact)

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 Upo-Lok Ayukt. Board

It is not but involves only a simple interpretation of the existing provisions of the Indian Boiler Regulations as contained in the relevant forms, Form- 3 regulation 4 at pages 468 of the IDR (with amendments up to 1.7.1998 published by the Techno Printers, Delhi and accepted as valid by the Chief Inspector) as also of Appendix J contained at pages A 167, 168 and 169 of the same publication. It is sufficient to mention here that this matter was discussed at length with all concerned in the proceedings before me, I shall not choose to express any opinion in this matter except to say that it presently stands disposed of by their reply to the Company dated 27.11.2000 given by the Chief Advisor of Boilers, G.O.I., New Delhi in the absence of even an interim reply to the subsequent reference of the Chief Inspector dated 2.12.2000. The important point here is that if the Chief Inspector was genuinely in doubt on the interpretation of the provision, he should have made a reference at the time of undertaking a renewal exercise or at least at the time of departing from the license conditions already allowed to these two companies, instead of imposing these additional restrictions which he has done under letters under his own signatures, without even recording any reasons for making this departure.

The subsequent reference to the Boiler Board would appear to be in the nature of an afterthought to seek an ex post facto justification for a stand already taken. While it may therefore be true that actual operations of these companies were not stopped and inspections were never refused, as stated by Shri Halingali


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Orally in the enquiry before me, this happened only after higher intervention and it would be reasonable to conclude that undue pressure was attempted to be brought on the manufacturer by Shri Halingsali himself to secure certain costly items of equipment or in the alternative to change the practices being followed in respect of bending of sheets (which admittedly could result in time delays and therefore lower profitability) without recording reasons. If this is noted in conjunction with the failure of Shri Halingsali to follow the provisions of the conditions of service rules in respect of his son's employment in a competitor company (competitor because TESPL have produced a list of items which both manufacture and this is not been rebutted by Shri Halingsali) the charge of mala fide intent to bring undue pressure on TESPL and its sister companies would in all likelihood be sustainable. Of particular relevance in this respect is the argument repeatedly presented by Shri Atre that his was the only organisation in the Pune area which got bending done in outside works and finally brought back the bent plate for welding in his own works. His point was that the bent plate is required to be measured and checked when offered for inspection before the welding as part of the process of manufacture of shell (in fact the I.B.R. clearly stipulates that this is the first step in the manufacturing process at which the part has to be offered for inspection, and there is no earlier stage), and he was complying fully with these requirements and no one ever raised any objections before on this issue and further more the bending was

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Office of the Ldg. System &
Upd-Ldg. System, Bombay

being done in works which were duly licensed by the Chief Inspectorate so that it was always open to them to conduct a surprise inspection of any plate at any stage when it was actually being bent in any of these outside licensed works. He further contended that it is even on record in which of the works his plates were being bent (this is correct) and the movement of the plate was always recorded because this was a Central Excise requirement. The insistence on verifying a bent plate both outside at the place where it was bent and again after it was transported back to his own works before welding was not justified and could result in time delays in completing the manufacturing process. Shri Atri again focused on the point that in the Pune region the practice of getting the plates bent outside and the welding done in their own works was unique to his companies. Welding is a critical operation and hence they felt close direct supervision was necessary. It is his claim that this was the reason why it was possible to single out his concerns for insisting on the conditions which Shri Halingali was trying to impose without affecting other manufacturers of pressure vessels in this area. This contention could not be rebutted by Shri Halingali during the course of the hearings before me.

12. Before parting with this issue we need to deal with one more part of the complaint i.e. the case relating to M/s Balkrishna Tyres, Aurangabad which related to the period in 1999 when Shri Halingali was holding charge as


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Jt. Director, Ahmednagar in addition to his main charge at Pune. This has been referred to at paragraph 3 of the main complaint dt. 11.01.2001 and has been referred to repeatedly in the various documents that have been produced by Shri Atre. I have gone through all the documents and papers produced by TESPL and have also heard them and also Shri Halingali but have been unable to draw an inference that the objections raised in the installation of boiler in this particular Company were done by the Jt. Director with mala fide intention. While it is true that expansion of the tubes seems to have been done in this case without giving proper opportunity to the manufacturer via TESPL, to verify the facts, it is also true that the manufacturers are now absolved of any future liabilities or consequences arising therefrom. For want of sufficient time it was not possible to call the other persons concerned with this complaint including the officers concerned of the Company and the existing record is not able to support the complaint at paragraph 3 of the original complaint. It is open to the Government to look into this matter further if they consider it appropriate.

13. Finally, a word needs to be stated about the documentation in this case. The complainant needs to be complimented for the systematic manner in which he has brought all documents on record, but at the same time it needs to be emphasized that this authority has not in anyway been impressed merely by the documentation and reference to these documents has been made only where necessary in the preceding paragraphs. Only the essential feature of the


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Uttar Lok Ayukta, Bhubaneswar

complaints and the reasons for drawing the various conclusions have been looked at, as briefly as possible.

14. Consistent with the policy of the Government of Maharashtra to encourage the development of the small industries, (the complainant companies are registered as small scale industries unit in Pune), it is important for Government to send a clear message to all public servants dealing with the rules and regulations that they must be applied fairly to all units big and small; otherwise small units which are already suffering will continue to suffer further at the hands of big units which are in a position to dispense favours to public servants which small units are not. It is therefore important to ensure that when a case of this nature arises and it is found that interpretations of Rules have been made with a motive, appropriate action after following the procedure is taken against the officer concerned.

15. The material in the present case is, in my opinion, sufficient to institute Departmental proceedings to inflict appropriate punishment on Shri B.L.Halingali. Since he is due to superannuate on 31.03.2001 and any reduction in pension, which is the only penalty possible thereafter will require proceedings for major penalty to be initiated, immediate steps may be taken to serve an appropriate charge sheet upon him after obtaining approvals well before 31.03.2001. To facilitate timely action documents relied upon have been monitored in pencil and enclosed, even if these are photocopies, some of which


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Dra-Lok Ayukta, Bombay

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have been furnished by Shri Ane, the originals should be available with the Department and have also not been denied by the Department or by Shri Halingali during the proceedings before me. This report could have been finalised earlier, had the Department responded to my earlier communications with greater speed.

16. This may be treated as a recommendation made by the Upa-Lokayukta under Section 12(1) of the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 and I am also endorsing one copy of this report but without enclosures to the Chief Secretary for appropriate follow up to ensure that action as in paragraph 15 above is completed well before the above date by the Competent Authority, namely, the Government of Maharashtra.

Upa-Lokayukta.

Mumbai
Date : 20.03.2001

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Free lance translation of Confidential Circular issued by Director, Steam Boilers, Maharashtra State

Confidential

No. 85-10CL-06/2000/25
Boiler Directorate,
Maharashtra State, Third Floor,
Tardeo Road, Mumbai - 400 004
Date: 26th Sept, 2000

Subject: Steps to be taken by Maharashtra Boiler Directorate with the objective of rendering more useful, competitive and excellent services in Public Interest.

Office Circular No. 07/2000

During this shorter, from time to time, this Directorate has issued circulars advising concerned officers and staff to perform the duties of this Directorate with alacrity about Public Interest.

2. Even in our country, the Economic System is undergoing unprecedented transition to globalisation. As per demand of Globalisation, various Indian Laws will be simplified to a large extent and this evolution has caught many, from the present situation.
3. The Central Government is taking steps to improve / modify the Indian Boiler Act 1923 with a view to provide better inspection.
4. A meeting was conducted under the Chairmanship of the Hon./Chief Secretary in the presence of Hon./Labour Secretary, Hon./ Industries Secretary, representatives of various Industries Association and other concerned persons, with the objective of solving the problems faced by the Industries in Maharashtra, to speed financial / economic distress on account of Globalisation. In this meeting, the President of Confederation of Indian Industries (C.I.I.) Maharashtra State Branch, stated a complaint that the Boiler Inspectors do not become available when needed for inspection. This results in loss of production and thereby also Government Revenue.
5. In the next meeting with the Hon./ Labour Secretary, the Hon./ Labour Secretary clearly stated that, the Industries are no longer in the same strong position as in the past. Their economic strength is affected / lower is reduced and hence their complaint is valid. Considering this situation, with a view that, there should be no delay in inspection from the Boiler Directorate and to avoid losses incurred by industries, the Hon./ Labour Secretary expressed his aptness that all officers must take care.
6. Chief Inspector Boilers / Director had previously circulated circular and clarified time and again that, due to the self-interest, interest from the point of view of personal gains, if someone is observed that, the Inspectors have issued the colour of Boiler to concerned person, under the rule no. 10 of Maharashtra Boiler Rules 1967, in respect of date on the history of boiler the sunset or has occurred Parliament, then proper action will be taken against the responsible Inspection Officer.

7. It is assumed by the Promotion (Decking) Review Committee under the Chairmanship by the Labour Secretary that, the officers will work for ten hours per day.
8. Considering the present state of the Industries, all officers are once again warned that, all concerned should note that, proper action will be taken if observed that the industry is harassed.
9. Information is received that, some officers inherently suggest that, it is their wish that, specific contractors should be entrusted with the work, in connection with their activities of the officers, when the Contractors are selected, the concerned persons have to bypass the law to protect interests of the concerned officers. Hence, this Inspector do not have the high means of quality conveyed but the means of understanding get established.
10. According to the suggestion made by the Hon. Chief Secretary with a view to enable time compliance of all the provisions of the requirements of inspection as also to avoid losses of the industry and to bring in competitive alternative to the present manner of Boiler Inspection, an agreement has been made to M.T.T., Mumbai, I.I.T., Mumbai and W.L.P.C. Nagpur to enquire whether, it is possible to assign Inspection Work to a person employed in these High-Technology Educational Institutes.
11. If this alternative becomes available, the Directorate will have entered the competition particularly so far as the quality of work and cost/loss are concerned. All officers should realize this point and must change their mind set. Otherwise, it is only key to know a warning that the existence of the Directorate of Steam Boilers will come to an end.
12. If the modifications to Indian Boiler Act, 1923 undertaken by the Central Government come into effect, competition with the private inspection agencies is inevitable. Therefore all concerned must read the details of this and with a view to demonstrate that, our Directorate is efficient, both and overcome most valuably steps to make the working of the Directorate more Coste Effective and also to serve in the Public Interest. Chiefly, everyone is put in efforts, from the point of Social Obligation to ensure that, in the field of the technical and managerial work and in all other respects, our Boiler Directorate stands better than International Inspection Organizations.

201
 Director
 Boilers, Maharashtra State, Mumbai

B.G. Gajar

Director General (R&D),
Defence Public Enterprises, Palam Road, New Delhi
C-40/2001 - Raja Sabha Market

14 B-1/12, Siddarth Nagar, Anand,
Pune - 411 007,
Tel. 020-4881734

DMR / 14 / 2003

To,
Shri. Ashok Ahir
President,
Indian Gunners Manufacturers' Association,
Purupa Heights, IT Park,
Blewood Corner, Pune - 37
Tel : (020) 4211347, 4212566
E-mail : gumar@rediffmail.in

Dear Shri Ahir,

Thank you for your letter of the 7th March. I have considered the matter in the light of our discussion, constitutional position and relevant material made available to me. A note containing my views in the matter is enclosed.

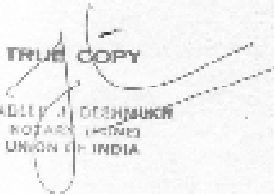
I hope you will find it useful.

With kind regards,

Yours sincerely,


[B. G. Gajar]



TRUE COPY

PRADIP J. DESHPANDE
NOTARY PUBLIC
UNION OF INDIA
17 MAR 2003

B.G. Gular

Chartered Accountant (FICA),
Public Service Commission, Maharashtra (Retired),
Consultant - Royal Institute of Chartered Accountants



14 E-1/12, Siddharth Nagar, Aundh,
Pune-411 007
Tel: 020-28817331

Opinion in respect of powers of State Government / Legislature under the IRR Act.

The following two points have been posed for my consideration :-

- 1) Scope of State Legislature's power to amend the IRR Act.
- 2) Scope of State Government's power under section 246(a) or any other relevant section of the IRR Act.

In the light of my personal discussion with and clarifications given by Shri. Ashok Datar, Managing Director of Transmission Energy Systems Pvt. Ltd., Pune, and the relevant material placed before me, my view on the matter are given below. However, answering the specific queries, it is essential to look into the provisions of the Constitution of India having a bearing on the matter under consideration.

Article 245 of the Constitution deals with powers of Parliament and State Legislatures to make a law on a subject-matter. Under clause (1), Parliament has exclusive power to make laws with respect to a matter enumerated in List I in the Seventh Schedule (Union List). Clause (2), confers power on the State Legislature to make laws with respect to a matter in List II (State List). But notwithstanding this power both Parliament and State Legislature have power to make laws on a matter enumerated in List III (a Concurrent List) under clause (3). That clause reads as under :-

Notwithstanding anything in clause (2), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

"Borrow" is listed in Item 87 in the Concurrent List. Hence it is quite evident that both Parliament and State Legislature have power to enact a law on that subject, i.e. "Borrow". This already is an old Act, called the Indian Borrow Act of 1923 (V of 1923), made during the pre-independence days, which was a synonymously called "borrowing law", which means any law, Ordinance, order, by-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such law, Ordinance, order, by-law, rule or regulation [vide article 394 (1)(c)]. In view of this, the question of making any fresh law on the subject may not arise. However, in view of the changing circumstances and technological advancements, the need may arise to amend the existing law (i.e. IRR Act). The State Legislature has powers to do so as per the provisions already cited.

The Constitutional provision which is basic and of paramount importance is advanced further by section 246(b) of the IRR Act. That section reads as under :-

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Page 1 of 4

If the State Government is satisfied that, having regard to the material, design or construction of boilers and to the need for the rapid industrialization of the country, it is necessary to do so, it may, by notification in the Official Gazette and subject to such conditions and restrictions as may be specified in the notification, exclude any specified class of boilers or steam-boilers in the whole or any part of the State, from the operation of all or any of the provisions of this Act.

The net result of the constitutional provision and the statutory provision (Section 24(2)) is that neither the State Legislature nor cannot the President act on his or without doing so, the State Government may act under Section 24(2) thereof by issuing a notification and thereby carry out the purpose of the law alternative to my mind, the former is time-consuming requiring legislation, whereas the latter is expeditious, more convenient and requiring any or executive action i.e. Gazette notification.

I understand that the Madhya Pradesh Government has also resorted in section 24(2) with a view to exempting a class of boilers from several provisions of the IBR Act, by a Gazette notification. Therefore, in my opinion, the State Legislature doing under Article 246(2) of the Constitution of the State Government acting under section 24(2) of the IBR Act is consistent and constitutionally and legally empowered to carry out the desired reforms in the matter of boiler inspections.

Another aspect regarding the State Legislature amending the IBR Act may also be noted. It may be possible that an amendment of the IBR Act may give rise to a conflict since both the authorities i.e. Parliament and State Legislature exercise concurrent powers in connection with the subject "Boilers" in the Concurrent List. Article 254(1) envisages such an eventuality. It says that if a State law relating to a concurrent subject is repugnant to a Union law relating to that subject, then, wherever the Union law is prior or later in time, the Union law shall prevail and the State law shall, to the extent of such repugnancy, be void. But this does not prevent the State Legislature to legislate with respect to a concurrent subject merely because there is already a Union law relating to the same subject, Article 254(1) is attracted only if the State law is repugnant to the Union law. If any legislative repugnant law being enacted.

In this connection a question may arise as to when does repugnancy arise. The following are the possible cases of such repugnancy:-

When there is a direct conflict between two provisions i.e. —

- where one cannot be obeyed without disobeying the other or
- where one says "do" and the other says "don't do" or
- where one says "do" and the other says "don't do" or
- where both prescribe differing punishments in degree or kind or procedure.

In all such cases Parliament law will prevail.

But

- if the Union law contemplates State Legislation on matters not dealt with by it or
- if both the laws deal with separate and distinct matters though of a cognate and allied character or their purposes are different or
- where the encroachment on Union law is not substantial or

Page 2 of 4

- d) where the two Acts prescribe two different levying authorities but it is possible for them to co-exist or
- e) where State law prescribes additional, or supplemental provisions, additional evidence or create distinct and separate offences,

there is no repugnancy.

In this context, reference may also be made to the inspection scheme of the Act and the Regulations. Under the Act, the State Government appoints the Chief Inspector and host of inspectors who exercise the powers and perform the duties conferred and imposed on them by or under the Act. They are public servants within the meaning of IPC. The Chief Inspector is the "Competent Authority" and "Inspecting Authority" (Regulation 2(g) 2000) to issue certificates in Form II. Central Board has given recognition only to the Chief Inspector of Boilers (CIB) of the State as "Competent Authority" and "Inspecting Authority". No other officers junior to CIB have been recognized by the Board for certification, registration etc. For doing so we had the necessary approval of the Ministry. Section 21 of the IBR Act, subject to the orders of appellate authorities, vests finally in the order of the CIB. The aim of all these provisions is that CIB's order is for all practical purposes conclusive of the compliance with the Act and the Regulations. According to trade practices also, Form II is acceptable all over our country for inter-State trading.

However, when it comes to export of boilers, the importer has to be convinced about the quality of our product. That only experts of boilers manufactured in India could get a local, with a view to achieving this objective, the manufacturer may be permitted to engage suitable agency for inspection purposes. Appendix G of the Regulations already contains a list of inspecting authorities recognized by the Board. Moreover the note appended to Regulation 2 also states that certificates issued by an authority of a foreign country may be accepted in India if a) Import; b) therefore, foreign inspection agencies are permitted to be utilized by our manufacturers. A lot of work load on our inspection staff at the manufacturing levels will be reduced, revenue will accrue to our Government by way of professional / service tax, foreign trade etc. and the goods will pass off our shores without question as to their quality and specification.

To sum up, my views are as follows :-

- 1) State Legislature has jurisdiction to legislate on Boilers (Item 37 in the Concurrent List) provided that such a legislation is not in conflict with the IBR Act.
- 2) Section 24(2) of the IBR Act gives ample and extensive powers of exemption to class of boilers in the interest of, inter alia, "need for the rapid industrialization of the country" (and not only State) by an executive notification.
- 3) Section 22 of the IBR Act gives power to the State Government in some cases. Such rules being procedural may make a suitable provision enabling a manufacturer to engage the services of a recognized foreign agency which has an establishment and trained staff located in Maharashtra. Government may grant recognition / license for inspection etc. to such an agency after satisfying itself about its credibility, competence and credentials and on such terms and conditions as it may deem fit to

Page 3 of 4

presented. The rules may also provide that the inspection carried out by such an agency may also be subjected to confirmation / endorsement of CIR in Form II. This will ensure compliance required for Inter State sale since the Chief Inspector of Arms (CIA) being the only recognized "Inspecting Authority" and "Competent Authority" under the Regulations, will be endorsing the inspection documentation. Thus the existing and procedure will not be disturbed and the manufacturer will also have a freedom to avail of best services at the floor level / manufacturing stage. In such a case the proposed Agency inspection will be supplemental to and not superseding or substitutional of the final authority, namely, the CIR. Such an arrangement will also be in accord with section 21 of the Act.

Date: 11-4-2003

[Signature]
A.S. Singh



TRUE COPY
PRADIP D. DESHMUKH
NOTARY PUBLIC
GOVT OF INDIA
117 MAR 2003

BIO-DATA OF H.C. GUJAR

- Name** : H. C. Gujar
- Address** : 14B-102, Siddhesh Nagar, Aurdi, Pune - 411 007.
- Tel.No.** : 5881334
- Date of Birth** : 11th December, 1931
- Academic Qualifications** :
- 1) B. A. (Hon), L.L.B. of Pune University.
 - 2) Passed the qualifying examination of the Bar Council of the High Court of Judicature at Bombay in 1952, for admission as an Advocate of the Bombay High Court.
- Work Experience** :
- 1) Worked in the Rajya Sabha Secretariat, Parliament of India, New Delhi from 1958 to 1997, in various capacities.
 - 2) Retired as Director from Rajya Sabha Secretariat in 1994.
 - 3) Was thereafter appointed as full time consultant from 1994-1997.
 - 4) While in that Sectr. was an Officer-at-the-Table for a long time and in that capacity was required to advise the Chairman (Vice President of India), Deputy Chairman, Vice-Chairmen and MPs on various aspects of parliamentary procedure and process, conventions, precedents, etc. Was in-charge of parliamentary legislation and committees.
 - 5) Was appointed as an Assistant Returning Officer for election of the President of India held in 1992.
 - 6) One of the first fellows of the Institute of Constitutional and Parliamentary Studies, New Delhi, besides being its Faculty member, was also a research guide for the fellows mostly from foreign countries.
 - 7) Faculty member in the Bureau of Parliamentary Studies and Training, Lok Sabha Secretariat, Training Unit of the Rajya Sabha Secretariat and delivered regular talks in various categories of officers including IAS, IFS probationers.
 - 8) Attended Conferences of All-India Presiding Officers of Legislative Bodies in India and participated in the Conferences of Secretaries of Legislative Bodies in India on a number of occasions. Also attended the Commonwealth Parliamentary Conference in 1991.



Achievements

- 1) Visited London to study the working of the House of Commons under Salans Plan in 1963
- 2) Visited USA to acquaint with the functioning of the Senate of USA
- 3) Co-authored (with Shrihari V.S. Ramu Desai, the then Secretary, Council of Rajya Sabha, and later Governor of Himachal Pradesh and Karnataka) a book entitled "RAJYA SABHA AT WORK". It was released in English and Hindi (Karyalaya Rajya Sabha) by Shri K. R. Narayanan, the then Vice-President of India in the main Committee Hall of the Parliament House Annexa, New Delhi, in 1997. The function was attended by high dignitaries. The book is first of its kind on the procedures and practices of Rajya Sabha and was hailed as a "Bible of the Rajya Sabha" by a renowned critique.

Post-retirement activities

- 1) Faculty member of the Yashwantrao Chavan Academy of Development Administration (presently Pune, a Government of Maharashtra Institute for training administrators and field officials.
- 2) Faculty member of the National Centre for Advocacy Studies (NCAS), Pune, an NGO for training social activists, policy researchers and development professionals towards "People-Centred Advocacy".
- 3) Contributes articles on constitutional and parliamentary topics of current interest for publication in newspapers, especially "SANKALP" at Pune.



TRUE COPY
TRADEFF J DESHMUKH
notary public
UNION OF INDIA

17 MAR 2003

PRADEEP RAWAT
Member of Parliament
(Lok Sabha)



Residence:
7, V.P. House, Park Marg,
New Delhi - 110 001
Tel: 011-3295448

Dear *Thiruv Murasoli Manan*

23rd November, 2001

My heartiest congratulations for your heroic efforts at **WTO Doha Summit** for the just cause of India & other Developing Nations. Your efforts have given you individually & India as a Nation a historic position to lead Developing Nations at WTO. I wish you all the success. It is for similar historic cause that I am addressing this letter to you.

Efforts to change Indian Boilers Act began as early as 1975 & after lot of deliberations by Govt., industry and with your initiative, I understand that the Indian Boilers (Amendment) Bill 1994 is accepted by Cabinet Committee & is now ready in all respects to be introduced in upper and lower houses for approval.

I have enclosed representation I have received on this subject from Mr. Ashok Atri, President Elect of Indian Boilers Manufacturers' Association (IBMA). The representation of IBMA explains well as to how existing outdated IBR Act breeds energy efficiency & justifications of proposed Amendments. I have also enclosed printouts of articles of PCRA (Paradigm Corporation Research Association) on Energy conservation Potential. These articles are displayed on PCRA website www.pcra.org

On my study I see following enormous benefits India as a nation will derive in terms of energy conservation, foreign exchange savings, machinery exports boost and employment generation. The benefits are:

(a) Energy Savings potential	11430 Crores/year.
(b) Increased Business Generation	8176 Crores/year.
(c) Exports potential	300 Crores/year.
(d) Additional employment Generation	18350 persons.

The savings projected by IBMA were compared by me and found to be consistent with those projected by PCRA. Infact PCRA projects higher savings than those projected by IBMA.

Continued.....

"Tirumal" 484/93, Mahaveer Colony, Pune-411 003 (Maharashtra) Tel: 020-4482040
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PRADEEP RAWAT
Member of Parliament
(Lok Sabha)



Residence,
7, V.P. House, Rethi Marg,
New Delhi - 110 029
Tel: 011-2625419

2.

Looking at the huge magnitude of savings possible and considering India's dependence on imports of Petroleum Products, I sincerely request you to place the referred bill before both the Houses during the current winter session for their urgent attention and approval.

Approval of this bill will fulfill the commitment of NDA Govt. of dismantling Inspector Raj and free Indian Industry to compete globally. To do this urgently for early realisation of huge benefits of this bill it may be transferred from 'C' list to 'B' list.

I once again urgently request you to be of help to Indian Industry which your leadership has been providing in such crucial times.

You will have unique and permanent place in history of India for having served such a great cause.

With warm regards,

Yours sincerely,

(PRADEEP RAWAT)

Thiru Murali Manan,
Minister of Commerce & Industry,
Govt. of India,
Udyog Bhawan, New Delhi.

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Fax: 0991-420-2013, 420-2015
Website: www.praadeep.com
E-Mail: pradeep@pradeep.com

Indian Boilers Manufacturers' Association

Admin. Off. : 101-C, Market Chambers, 48, Anna Road, New Delhi-110 006



Date : 19/11/2014

President-Elect

Ashok Dab

Tel : 022-4211340 / 4211341

Fax : 022-4212220

e-mail : ibma@ibma.org.in

INDIAN BOILERS (AMENDMENT) BILL 1994 (Bill No. XXXIX of 1994)

President

Prabhu Mittal

Tel : 011-6511449/1492

Fax : 011-2791800

e-mail : prabhu@ibma.org.in

NATIONAL IMPACT OF THE PROPOSED BILL.

Inst. Prod. President

M. P. Javed

Tel : 011-2716209

Fax : 011-2716240

e-mail : mpjaved@ibma.org.in

A.	PETROLEUM FUEL SAVING	PER YEAR	RS. 11,430 CRORES
B.	INCREASED BUSINESS ACTIVITY	PER YEAR	RS. 917.6 CRORES
	Hotels & Related Service	Component Industry	: Rs. 592.0 Crores : Rs. 325.6 Crores

TOTAL : Rs. 917.6 Crores

Vice President

V. Ramakrishna

Tel : 0431-250070

Fax : 0431-250440

e-mail : vramakrishna@ibma.org.in

C. EXPORT POTENTIAL PER YEAR RS. 300.0 CRORES

Executive Committee Member

S. J. A. Nigam

Tel : 022-2621133

Fax : 022-2621945

e-mail : sjnigam@ibma.org.in

D. INCREASED REVENUE - CENTRE PER YEAR Rs. 45.09 CRORES.

E. INCREASED REVENUE - STATE PER YEAR Rs. 48.13 CRORES.

F. INCREASED INTEREST - BANKS PER YEAR Rs. 207.20 CRORES.

G. INCREASED PREMIA - INSURANCE PER YEAR Rs. 25.00 CRORES.

H. ADDITIONAL EMPLOYMENT GENERATION 18,360 PERSONS

M. R. Egojan

Tel : 022-2619100

Fax : 022-2619100

e-mail : mregojan@ibma.org.in

M. S. Jayaram

Tel : 020-7494400

Fax : 020-7494000

e-mail : mbsjayaram@ibma.org.in

M. M. Kulkarni

Tel : 022-746024

Fax : 022-730224

e-mail : mukulka@ibma.org.in

THE IMPACT IS STUPENDOUS

**THEREFORE THE BILL MUST BE INTRODUCED AND PASSED
WITHOUT FURTHER DELAY.**

ENCLOSED 4 SHEETS CARRY DETAILED INFORMATION / DATA.

From:

**Ashok D. Dab (President - Elect, IBMA),
Transparent Energy Systems Private Ltd.,
Indraprastha, 1st Floor,**

Bhikeshwar Corner, Phase - 411 037 (INDIA)

Tel : 91-20-4211947, 4211985, Fax : 91-20-4212535

E - Mail : ashokdab@transetm.com

Regd. Off. : 101-C, Market Chambers, 48, Anna Road, New Delhi - 110 006

Indian Boilers Manufacturers' Association

Address: Off. : 1517, Herbert Street, 66, Anna Road, New Delhi-110 016



President - Elect
Genelia Joshi
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Date: 18/11/2001

INDEX

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1. Indian Boilers (Amendment) Bill 1994 (Bill No. XXXX Of 1994) National Impact of The Proposed Bill.
2. Energy Savings from implementation of IBR Boilers (Amendment) Bill, 1994.
3. Business Generation and Government Revenue Generation from Implementation of IBR Boilers (Amendment) Bill, 1994.
4. How Existing Outdated IBR Act Breeds Energy Inefficiency.
5. Proposed IBR Amendment Bill highlights Justifications and Present Status of Bill.
6. SO SAYS - Petroleum Conservation Research Association (PCRA).

Regd. Off. : 1517-C, Herbert Street, 66, Anna Road, New Delhi - 110 016

ENERGY SAVINGS FROM IMPLEMENTATION OF IBR BOILERS [AMENDMENTS] BILL, 1994.

No	Description	Unit	Replacement of Old Type Non IBR Boilers (Oil Fired)	Replacement of Non IBR Boilers & Installation condensate recovery	Replacement or upgradation of IBR Boilers (Oil Fired)	Improvement of IBR Boilers
A.	ENERGY SAVINGS :					
1	Economy boiler population	No.	2520	Lumpsum	2520	Lumpsum
2	Annual Boiler Output Range	Kg/hr	350 - 25000	Lumpsum	1000 - 25200	Lumpsum
3	Average Fuel consumed per boiler	L/hrs	40	7200	400	-
4	Working hours per year	hrs	1000	7200	7020	7020
5	Fuel consumed by the boiler population 2520% reduction	Mt in Metric Tons (M/T) / year	42 MMT / year	-	25 MMT / year	-
6	Present boiler Efficiency on NGV New Boiler Efficiency on NGV		87%	-	90%	-
7	Savings due to increase boiler efficiency		92% to 96%	-	92% to 96%	-
8	Savings due to condensate heat recovery		12%	-	5%	5%
9	Savings due to pre-heat IBR steam & maintenance of pipelines (flanges, joints, valves etc.)		-	12%	-	5%
10	Savings due to prevention scale formation by recirculate water recovery		-	3%	-	2%
11	Savings in fuel	Mt in Metric Tons (M/T) / year	0.5 MMT / year	0.5 MMT / year	2.1 MMT / year	4.2 MMT / year
12	Total Savings	Mt in Metric Tons (M/T) / year	1.04 MMT / year	1.04 MMT / year	6.1 MMT / year	6.1 MMT / year
13	Typical fuel oil used	HSD / LDC	17500 Rs./MT	17500 Rs./MT	15000 Rs./MT	15000 Rs./MT
14	Average Fuel Price	Rs. / MT	15000	15000	15000	15000
15	Savings due to fuel savings		150 Crores / year	150 Crores / year	2520 Crores / year	2520 Crores / year
16	Savings due to change of fuel from Light Oil to Heavy Oil		2100 Crores / year	2100 Crores / year	-	-
17	Total Savings in Rs.		3870 Crores / year	3870 Crores / year	7591 Crores / year	7591 Crores / year
18	Total Savings due to new IBR Act		-	11533 Crores / year	-	-

Note: All saving heads are possible after the New IBR Act is introduced.

**BUSINESS GENERATION GOVERNMENT REVENUE GENERATION FROM IMPLEMENTATION OF IBR BOILERS
(AMENDMENTS) BILL, 1994.**

No	Description	Replacement of Oil Type IBR Boilers (Oil Fuel)	Replacement of IBR plant/sets & installation of condensate recovery	Replacement or upgradation of IBR Boilers (Oil Free)	Improvement of IBR policies
B. BUSINESS GENERATION					
1	Primary Business Development Per Year:			250 Crores/year	
a)	New Boilers as replacement	140 Crores/year	306 Crores/year		100 Crores/year
b)	New plant/sets & add-ons		562 Crores/year		
c)	Direct total business development				
2	Secondary Business Generation per year:				
a)	In Direct Total Investment Values / Purposes @ 55% of primary business	77 Crores	55 Crores	138.6 Crores	55 Crores
b)	Secondary Total Business Generation		325.6 Crores		
	TOTAL DIRECT & INDIRECT BUSINESS GENERATION			917.6 Crores	
C. GOVERNMENT REVENUE GENERATION:					
1	Central Government:			45.88 Crores/year	
a)	Central Government Central Excise @ 5% on primary & secondary investment				
2	State Government:			38.50 Crores/year	
a)	State Tax on pitium & Secondary Investment @ 4%				
b)	State Inspection Fee @ 1%			38.50 Crores/year	
3	TOTAL STATE GOVERNMENT REVENUES			46.13 Crores/year	
4	Other:				
5	Private Insurance revenues @ 1%			8.8 Crores/year	
6	Risk Insurance			28 Crores/year	
7	Bank Term Loan Interest @ 10% of primary investment & working capital interest on 3 Months Turnover			171.8 Crores/year	
	EMPLOYMENT GENERATION:				
D.	Audited employment generation @ 2400 Mandays per person per year & 20 persons per 1 Crore Turnover			16252 Persons	

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Date : 19/11/2001

How Existing Outdated IBR Act Breeds Energy Inefficiency:

1. The inspection of Boilers is a monopoly of State Government appointed inspectors. These inspectors however users to collect money.

These inspectors have their favoured contractors which work as agents to collect money.

These agents / contractors use monopoly of User Inspectors as their monopoly for earning business.

Any business activity related with boilers is therefore an extremely unfriendly activity for users and meritorious manufacturers.

2. To avoid interaction and clashes of Boiler inspectors, users install "Non-IBR Boilers" in multiple nos, which do not attract any regulatory inspection.

These Non-IBR Boilers do not have adequate heating surfaces, hence are about 12% less efficient.

They are not fit for continuous duty use.

These boilers are very susceptible to scale formation.

The slide/see enclosed shows tremendous energy loss India as a Nation incurs.

There are about 25,000 highly inefficient Non-IBR boilers in USE.

These boilers also do not accept condensate heat recovery due to which further 10% energy loss takes place.

Since condensate recovery can not be done, it puts excessive load on water treatment and these Non-IBR Boilers are very sensitive to water treatment and scale formation. This further reduces efficiency by 5%.

3. In case of IBR Boilers, replacement and modernization of Boilers and pipelines attract time consuming, unfriendly and torturous Government Inspection Procedures.

To avoid this torture, users are compelled to compromise on safety efficiency and are forced to continue to work with old boilers and systems.

For example, in a continuous process plant, leaking valves and flanges can not be replaced promptly due to long shutdown time needed to complete inspection formalities. Maintenance Managers are compelled to tolerate energy loss through such leakage.

This results in tremendous loss of energy.

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Proposed IBR Amendment Bill highlights Justifications and Present Status of Bill :

I] Present Status of the Bill :

1. The bill has been passed by full cabinet committee.
2. The bill is on agenda of upper house (Rajya Sabha).
3. The bill is to be then presented to lower house (Lok Sabha).

II] The Proposed Amendment:

1. The amendment in the bill will re-constitute the Central Boiler Board (CBB) to give fair representation to Exporters, Manufacturers of Boilers, Users, Inspection Agencies and Experts in the field. Currently the constitution of CBB has majority interest of Chief Inspectors of Boilers, of Inspector Raj.
2. The amendment empowers CBB and its officer's rights to appoint deserving Private Inspection Agencies.
3. The amendment also empowers the newly constituted CBB Competent Persons to carry out inspection.
4. The amendment specifies procedures for selection and appointment of Chief Inspector of Boilers.
5. The amendment makes Third Party Energy Audit mandatory for Conserving Energy and Increasing Thermal efficiency of the boiler.
6. The amendment authorizes State Government to do deletions in the IBR Act to suit regional requirement.
7. The amendment empowers CBB to carry out certain modifications to improve functioning of Boiler Industry and Inspection Procedures.

A) Benefits of Amended IBR Act to Risk Insurance Companies and Users :

1. Relaxation of boiler inspection will empower the risk insurance Companies and users to derive comfort from the fact that they can select their own inspection Agency.
2. This will facilitate reasonable assessment of risk and loss. This will be in line with the modern practices followed in more advanced countries over the world.

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3. This aspect will become absolutely essential when the user has multiple choice of Insurance Agencies. Already it is known that Indian Industry is rapidly trying to gear up to face the effects of Globalization.
4. Chemical plants have a larger number of pressure vessels; about ten times the number of boilers that they use. However, accidents statistics indicate that boilers which are inspected by the boiler office attract most accidents.

B) Benefits of Amended IBR to Exporters and Manufacturers of Boilers and Pressure Vessels:

1. The bill will tremendously increase boiler exports which are rapidly falling.
2. In the Export Market, only internationally recognised private inspection agencies are accepted.
3. The export market demands short or even ex-stock deliveries.
4. If packaged boilers can be produced to design codes and inspection agencies that are common for India and International Market, only then they can be mass produced and offered ex-stock to both export and Indian customers. Mass production will make prices and quality globally competitive.
5. Quicker and wider availability of inspectors : thus reducing waiting time-an advantage already enjoyed by Boiler Exporting manufacturers.
6. Obviously, in the current situation, a boiler made for export can not be sold in Indian Market, thus preventing manufacturer from stocking boilers.
7. Currently a boiler made for Indian market and also for export is not competitive due to higher material and double inspection cost.
8. Currently, boilers exported from India already are inspected by internationally recognised inspection agencies.

However, such boilers can be sold in India in the event of Exports not materialising.

This reduces export risks tremendously.

9. Along with the privatization of inspection (or in the wake of it), it is very essential to accept the Boiler Codes of more advanced nations (ASME, BS, & TND). These codes are obviously universally acceptable in the export market.

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C) Benefits of Amended IBR Act : To Governments - State and Central

1. Central and State Government will now be able to generate revenue from inspection agencies. In this process by levying suitable duties and taxes from the inspection agencies.
2. The entire inspection operation becomes privatized and thus becomes smoother, more components will come under the ambit of inspection. This will give the state government added revenue of an unprecedented scale at practically no cost.
3. Today, large number of equipments and components technically needed to be made as per IBR are not made so to avoid cluttering of Boiler inspectors.
4. So far State Governments had not considered Boiler Inspection as a means of generating significant revenues. The view had mainly been one of Social Service and as a duty to the society. Privatization will change this view.
5. On the one hand the State Governments can reduce their Expenditure on Inspection Offices and on the other, they can earn substantial duty / tax.
6. The state Governments are already under pressure to reduce unproductive costs and manpower. Privatization of inspection should give them the much needed reprieve.

D) Benefits of Amended IBR Act : To Nation and Society at Large

1. Nation will save precious and costly foreign exchange spent on petroleum fuels due to old, inefficient boilers going out of service.
2. Environmental pollution will greatly get reduced due to inefficient, old polluting boilers going out of service gradually.
3. Exports will be boosted improving foreign exchange earnings.
4. Modernization and export drive will generate enormous productive employment to highly skilled engineers.
5. Bolster image of India in international business and politics.

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Present Scenario : The Monopoly Of "Inspector Raj" and Opposition of the Govt. Boiler Inspectors to Privatization,

1. All State Governments in India have a boiler office that checks design calculations and carries out inspection only in regard to the Safety Aspect.
2. This office is a State monopoly. At least one state has reportedly shown awareness that some boiler inspectors are resorting to malpractices. In fact, the situation is far worse. A confidential circular issued by Govt. Maharashtra with 'Original copy in Marathi' and its English translation is enclosed.
3. In order to escape from the pinners of the boiler attendants on one side and the boiler inspectors on the other, many users install the Non - IBR category boilers which are highly inefficient and cause regional energy loss. They prefer to forgo the national interest - as highly distressed are they from facing the boiler attendants and boiler inspectors.
4. Some users also have installed IBR boilers. Illegally as Non IBR category. There are users who have converted their IBR category installation to Non IBR category. They preferred to face labour trouble as the Boiler Attendants refused to accept other work.
5. Boiler inspectors are never 'at fault' in case of an accident. It is either the user or the manufacturer who have to perform with the responsibility. The Boiler Attendants are protected fully.
6. When the boiler is made in a different place than the plant location, it is the boiler manufacturer who is blamed in the Accident Investigation Report.
7. When the boiler is made in the same state as the plant location, it is the management of the Boiler user which has to take the blame.
8. Such Boiler Attendants are known also to be ready to fabricate Accident Investigation Reports thus allowing 'Cover' and 'Convenience'. This can only work under the present situation of Monopoly.
9. Union Protected Boiler Attendants are given a protection umbrella by Boiler inspectors because the attendants are also certified by the same boiler office. This increases manifold the troubles on account of monopoly.
10. Majority of boilers are manufactured in Maharashtra, Andhra Pradesh and Tamilnadu. Naturally, some manufacturers and boiler inspectors in these states would find themselves in deep waters when the 'convenience' of Boiler Office system of old inspection procedure is removed.

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11. What the operators really want is the convenience of frequent repairs of old, inefficient boilers which guzzle fuel and pollute to unconscionable levels, to provide the convenience it is found that some sinister and invisible partnerships have been operating. Old boilers give rise to a situation of recurring 'emergency' breakdowns which give the corrupt inspectors a much desired 'pressure point'.
12. At present the IBMA has a majority composition of state chief inspectors of boilers and naturally, no proposal leading towards fundamental improvements past the DBS.
13. This helps protect the monopoly situation and its attendant 'convenience'. It does not help that the state boiler officers normally report to the state Labour Secretary, who is not necessarily an expert on boilers. This adds to the monopoly protection.
14. Monopoly situation has kept away the suffering community of boiler Manufacturer and Users from expressing their problems openly. It is understood that a few small manufacturers have been systematically victimized.

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Date : 18/11/2001

SO SAYS

Petroleum Conservation Research Association (PCRA)

1. Indian Industrial Sector consumes 50% of the total commercial energy.
2. The energy saving potential is between 20 to 30% of present consumption.
3. The fuel oil savings of 18 MMT per year can be achieved if there is a national will.
4. Inter-ministerial Working Group have estimated that, efficient use of Petroleum Products and curbing of wasteful practices can bring about a saving of 20 to 25% of present oil consumption.
5. The main reasons for higher specific energy consumption in Indian Industries are obsolete technology, lower capacity utilization, casual metering and monitoring of energy consumption, lower automation, raw material quality and poor handling, operating and maintenance practices.
6. A well focused and coordinated approach is called for to achieve energy efficiency gains. A successful energy efficiency strategy requires that policy priorities are clearly defined and appropriate instruments and sufficient resources are deployed. Enterprise also needs to be strengthened in project design and evaluation, and assessment of the costs and benefits of energy efficiency program and projects.
7. There is an urgent need to have legislation on energy conservation, which makes energy audits mandatory for industries, energy labeling of equipment necessary and BEE standards mandatory. The old engines, equipment and process that do not meet environmental standards must be scrapped under this policy.
8. Petroleum Products demand (MMT):

Year	Fuel Oil Demand (MMT)
1950	4.0
1970	35.0
2001	113.0
2005	155.0

4/11/2001

Article published by
Petroleum Conservation Research Association (PCRA) of India

EFFICIENCY IMPROVEMENT IN UTILIZATION OF NON-RENEWABLE RESOURCES

Energy is one of the most important factors in the development of the country, which is also one of the most precious resources in the country. The efficient use of energy resources and conservation of energy, which are the main aims of petroleum conservation, should be the main aim of the petroleum conservation research and development work. The efficient use of energy resources is the main aim of the petroleum conservation research and development work.

INTRODUCTION

Energy is essential both as a source of production and for its contribution to quality of life. The pace of exploration of the energy resources has been slowing down over time and has taken a gradual reduction of scarce resource. Efficient use of resources is necessary both in an environmental and economic sense.

Using energy inefficiently wastes waste in all the world's economies and has environmental effects with local regional and global implications. The steps to create a sustainable energy system begins with the wise use of resources. It contrasts with the increased use of renewable resources and also controlled use of non-renewable resources. Energy efficiency is the centre that leads to a sustainable energy system.

The striking characteristics of the Indian energy consumption pattern is the continued dependence of non-renewable fuels in conjunction with conventional energy forms. The use of non-renewable fuels was significantly the main source of energy in India. In the last few years, the use of conventional fuels in rural and semi-urban areas. India's economic progress has been made possible mainly through conventional development of energy resources and supply industries (oil, gas, coal, nuclear power etc.). In India the consumption of primary energy is quite low as compared to the developed nations.

Although coal continues to be the basic primary commercial energy source, the economy is progressively becoming oil intensive. The consumption of petroleum products in our country increased from about 4 MMt in the year 1970 to about 28 MMt during last year. Petroleum product demand is projected to reach 108 MMt p.a. by the year 2001 and 195 MMt p.a. by the year 2005, which is almost double our present consumption. In the year 1980-81 we spent a massive Rs. 27,000 crore in foreign exchange for the import of petroleum products which is about 24% of our total export earnings. The way which the international price of crude was \$ 10 per barrel. Now this price of crude has almost doubled, as the projected indigenous crude availability, by the end of the 10th Five Year Plan our country may have to import 120 MMt of crude and products which may cost around Rs. 50,000 crore at the current international prices.

BANKING ON ENERGY CONSERVATION

The oil crunch has recognized energy conservation and efficiency as a tangible resource, which correlated economically with other energy options. It helped in increasing the international credit facilities of the economy by reduced cost of production and also optimized the use of limited financial resources through lower capital requirements in conservation measures in preference to the series of engineering, mechanical, electrical, computer systems. Thus, the importance of an energy shortage situation can be energy conservation measures, which provide a major step towards the same level of energy. The responsibility to use increasing use of energy lies the depletion of State fossil fuel reserves and environmental pollution.

With the growth in industrial and economic activities, it is but natural that the demand for energy (including petroleum products) will increase. However if we use other these products efficiently we may be able to reduce our foreign exchange out go on account of import of petroleum products. The Industrial Working Group has estimated that efficient use of petroleum products & saving of material practices can bring about a saving of 20-25% of our total consumption.

SCOPE FOR CONSERVATION

Over the last four decades the country has made rapid strides towards economic self-reliance. Intensive process has been made in the fields of industry, transport, communications, agriculture and other sectors necessitating growing consumption of petroleum products for developmental and economic activities. However, it remains a fact that many of our processes and activities, which utilize the petroleum products, are not efficient when compared to international standards. The main reasons for higher specific energy consumptions in Indian industries are obsolete technology, lower capacity utilization, casual maintenance and monitoring of energy consumption, lower automation, raw material quality and poor feeding, operating and maintenance practices.

PETROLEUM CONSERVATION IN INDIA

The growth of the conservation of petroleum products in India has outpaced the indigenous production of crude oil, meeting sharp decline in the level of self-sufficiency. This has however, starting attention to the problem of depletion of our fossil fuel reserves and environmental pollution.

The demand for petroleum products is expected to further increase sharply to around 132 MM by the terminal year of 2011 FAO (2001-02) and 135 MM by the terminal year of 2011 Plan (2006-07).

Moreover, in India the profile of renewable crude oil reserves have shown a declining trend and currently the country has reserves of around 729 MMt, which would sustain production flow for a few decades at the current rate of depletion. This underlines the imperative need for maximizing petroleum conservatives in addition to resorting to major technological changes and use of alternative forms of energy.

A PROGRESS WITH A PURPOSE

PCDA strives to maximize the conservation of petroleum products with a view to reduce substantially the import bill for oil & petroleum products. Its main objective is to spread the message of awareness (beyond beliefs of conservation, economic development and environment protection). The strategy for achieving the objective is as follows:

- **Augmentation of the base of mass awareness**
- **Adoption of improved house keeping methods**
- **Training & education**
- **Technological investments & innovations**
- **Fuel substitution including maximum possible usage of renewables.**

PCDA now aims to enter into strategic alliances with both domestic and international agencies to carry out consultancy studies and promote R&D. Efforts are on to encourage the alternative sources of non-conventional and renewable energy like solar, wind, bio-mass, bio-gas etc. Initiatives are being taken to use coal in place of furnace oil wherever feasible. Mass awareness, propagation of energy efficient technology and legislative measures have to go hand in hand for creating a perceivable impact as the energy scenario in the country. Innovative ways for mass awareness in addition to exclusive use of electronic media, print, printed literature etc are adopted to achieve the objective.

PCDA's concerted efforts over the years have resulted in reducing about a net saving of about 6.7 million tonnes of oil during 93-95. This is approximately one third of the annual refining capacity of a medium sized Indian refinery. In terms of money, it is worth Rs.1049 crore. However, this is not the bit of the iceberg compared to the vast potential of about 17 million tonnes out of the 85 million tonnes of oil consumed in our country each year. PCDA's conservation drive has been directed mainly towards curbing the increased demand through efficient and effective utilization of petroleum products by minimizing wasteful practices.

ENERGY EFFICIENCY IMPROVEMENT

While energy efficiency is widely viewed as an important element of energy and environmental policy, there is little agreement on specific energy efficiency goals and the best ways to achieve them. Surveys of energy efficiency improvements and their impact on energy demand are based on assumptions about technical factors, equipment costs, expected rates of market penetration, consumer behaviour and policy measures. The potential of energy efficiency improvements can never be fully realised unless and unless these energy uses take into account, either explicitly or implicitly, the energy economic consequences of low carbon investment decisions.

A multi faceted and coordinated approach is called for to achieve energy efficiency goals. A successful energy efficiency saving requires that policy priorities are clearly defined and appropriate instruments are selected. Incentives are required. Strategies also needs to be strengthened in project design and evaluation, and assessment of the costs and benefits of energy efficiency program and projects.

FUTURE THRUST AREAS

Promotion of energy conservation in the country would require initiatives in a number of areas. Much of the challenge is creating a sustainable energy system fit to new technological advancement can be put to use faster and more widely and have the behaviour of design sites adapt to these new opportunities. Realizing this need PCDA is planning to continue special thrust in several areas viz:

- **Development of specific dissemination norms and format codes**
- **Development of database for evaluation of efficiency standards**
- **Networking with all concerned states and industries creating awareness**
- **Integration of all consumers, equipment manufacturers and R&D institutes for technological upgrade and efficiency improvement**
- **INTEGRATED APPROACH involving PCDA, various ministries, industry along with one stop for development, coordination and implementation of energy conservation program**

CONCLUSION

In order to attain rapid economic growth, sufficient investment facilities at affordable cost is very crucial. Hence, both an immediate investment of the infrastructure costs has to be ensured on a continuous basis. While on one hand, the demand for energy is increasing, on the other hand the energy generating facilities prove to be costlier. This has compelled decision makers to adopt a systematic approach towards present needs of energy conservation by seeking innovative and practical ways to conserve.

Secondly, energy conservation requires lot of management inputs. Energy conservation should not be considered only a technical problem. It must be integrated into management plan of the company. The need for personnel conservation & this is difficult task can be achieved easily through proper planning correct investment and knowl- edge of bringing about structural changes within the company. Industry Associations, State, Research Institutes and other government and non-govt. organisations working at global level can address this specific task through various efforts and mutual cooperation. Each one of us should make suitable contribution to the cause of energy conservation by avoiding wasteful practices and spreading the caution in the use of petroleum products and other forms of energy in our own areas of day-to-day activities and activities.

Article published by
Petroleum Conservation Research Association (PCRA) of India

ENERGY EFFICIENCY IN INDIAN INDUSTRIES AND POTENTIAL FOR CONSERVATION

In India, as in other developing countries, the gap between production and consumption of oil continues to widen. Although the source of energy may not be ideal to stop this one branch of energy usage, conservation of oil is a must. This is the matrix that PCRA tries to cover in the course of its work. This article addresses the energy sector of oil use related to conservation, including sustainable development.

Oil Demand & Supply Scenario

At the beginning of the new millennium, according to OPEC forecasts the global demand for oil will be reaching 75 million barrels per day (mtpd) by the year 2020. This amount will have to be provided by OPEC. Much of this demand no doubt, is fuelled by the increasing economies of the industrialized world. However, the strongest growth is expected to come from the emerging economies of Asia, with the estimated demand in this region almost doubling between 1995 and 2020.

Will it still rely on some form of fossil fuel for the future of this volatile economy? More is the pity, that with the onset of global warming, the 2000 oil production scenario shows that 60% of the world's crude oil, per day only 24% of the increasing energy needs of mankind. India itself has exhausted considerable resources to tap the offshore sources of crude oil, the remaining gaps come in the form of oil and gas import of about 55 MTPD over the past decade. Meanwhile, the consumption continues to rise and the production and conservation measures in place.

Oil prices are still not stabilized and are rising. It is estimated that India will need to import about 60 million tonnes of crude / petroleum products during 1995-2000. To meet its requirements, alternate non-conventional sources of energy do not yet contribute appreciably to the total energy demand in our country. Because of energy and logistic cost it is unable to meet the primary energy demand. Oil is used as a scaling fuel at 40% of GDP.

Energy Intensity

The energy intensity measures how much energy is consumed per unit of real G.P. output. Energy efficiency is an important aspect of energy economy. In order to analyse the trends in energy intensity, it is necessary to consider energy intensity changes (to structural & behavioral) changes on the one hand and technical energy efficiency changes on the other. The energy intensity is mainly related to economic of energy pricing, technology, conservation & control, structural changes, governmental policies and end user behavior.

As per World Energy Review (IEA 1999) the energy intensity of India's GDP reflects significant weaknesses in economic activities. In 1997 at 1.44 Ktoe per \$26 (1997 prices) of GDP, it was more than double the world average. Even accounting the large part of the energy supply from the use of combustible coal/water and waste, the energy intensity remains high at 0.6 Ktoe per dollar with the per capita energy consumption of 0.7 Ktoe per \$200 per GDP in 1997. Even if that is the low per capita demand, India has to depend heavily on oil imports, with reserves of heavy burden on its foreign exchange reserves. It spends over 25% of its annual budget savings on imports of petroleum products, which may cross \$ 6 billion during the year 2000/2001. The per capita demand is expected to grow as the country moves on to the path of accelerated development, with the promise of prosperity and improved quality of life for all.

The Only Market "Growth" for Sustainability

The four major oil-consuming sectors are the Transport, Agriculture, Industry and Reservoir. A comparison of energy intensity in India and abroad by the core sectors of steel, cotton, paper & pulp, fertilizer and, vehicles that India ranks amongst highest in this category (part of oil-based products usage).

In the Indian economy, industrial sector consumes 50% of the total commercial energy. The energy intensive industries include iron & steel, fertilizer, textiles, cement, pulp & paper, Aluminium, glass, rubber, bricks, foundation & furniture and refractory. In steel sector alone, consumption of energy intensity / ton of crude steel (average demand) in India (5-6 Gcal) is India (4-5 Gcal) is a glaring anomaly, where energy intensity can be reduced. This high energy intensity is attributed to the quality of raw materials (linked to the quality, scale of quality, operational practices and obsolete technology). The simple steps that can reduce energy intensity here include: improvement of the furnace, blast furnaces or technological demand but require better industry regulation. Similar examples can be traced from other major industries.

In the four major oil-consuming sectors: Transport, Agriculture, Industry and Domestic, there is an energy saving potential between 20% -30%. Although, there is some conservation of oil, there is still a substantial scope, and this is the prime concern area of Petroleum Conservation Research Association (PCRA).

PCRA is convinced that the only way to get out of this predicament of high-energy intensity is to embark on the path of sustainable development. To achieve this, the solution lies in the one word marine, **CONCRETE**. Set, fundamentally, on direct energy, or how we deal with our stored resources & reserves. Sustainably also depends on practical will combined with national action.

For over two decades this marine has been the driving force behind the agenda of the research & promotion, created by the Government of India under the Ministry of Petroleum & Natural Gas. PCRA was conceived primarily to create awareness among the public about the importance, benefits and benefits of conserving petroleum products. Over the years it has established a strong communication to positively the environment. PCRA is convinced in doing this through its education and development, efforts, by using more efficient energy systems, promoting efficient technologies, equipment and devices, and through spreading training and technical advisory services wherever possible. PCRA also establishes demonstration projects concerning the highly dispersed oil users i.e. households, farmers, craftsmen and industrial activities.

PCRA spreads the message 'Conserve' through multimedia campaigns, targeting each of the major consumer groups. PCRA shows the way through improved technologies, products and services. Its activities go beyond R&D to development of products and commercial sales, training & also imparted to drivers to improve their RPM (kilometers per liter) performance. The public awareness workshops, clubs and participation in Awareness. It encourages farmers to reduce pesticide food wastes and exerts children to influence their parents to adopt better practices. PCRA also promotes the use of alternate sources of energy.

The Challenge

PCRA's efforts of nearly 20 years have contributed to significant savings over the years. In 1985-89, the total oil savings in the industrial sector were to the tune of Rs. 500 crores. The domestic sector made approximate savings valued at Rs.277 crores. The transport sector showed a rise to the value of around Rs.110 crores. And in spite of a very limited scope of water conservation, the Agriculture Sector also made savings valued at around Rs.8 crores. The total value of savings generated, including other sources of oil savings, across all the sectors due to PCRA efforts & activities came to 1.8 million tons worth Rs.1000 crores. And this is only 10% of the savings envisaged by the tremendous oil saving potential of 1.8 million tons that exists and can be realized if there is a national will.

To achieve this, PCRA's workforce of committed engineers, research team, management and field force work in tandem round the year to identify the need and ways of oil conservation and improve energy use efficiency. PCRA is convinced it is necessary that without use of all leads not only to depletion of an already diminishing resource, but it also generates higher levels of pollution causing great environmental damage. An unhealthy environment means ailing my generation and an unhealthy future generation.

Another important issue is the quality of fuel used. In a fuel, petroleum or any other fuel the calorific value and its conversion as a result of combustion are important parameters governing their use. Petroleum because of its ease of use and clean nature has been preferred as a source of energy over other fuels. However, with oil clean also the quality of fuel is an important aspect for which PCRA has always raised concerns in various forums. PCRA has lent technical support to the Ministry of Environment & Forests & organizations like Central Pollution Control Board to come out with emission norms and standards.

Further, based on the energy use studies carried out by PCRA in the industrial sector, to improve efficiency in fuel consumption leading to reduction of Green House Gases (GHGs), technology upgrade projects have been proposed to Steel & Metals Enterprises (SMEs). The SME industries include steel rolling, forging, aluminium die-casting, steel & stainless steel etc. These SMEs are highly energy intensive and pollute the environment excessively. Present, these SMEs are concerned for trained manpower and financial resources. Hence PCRA acting as catalytic agent has proposed projects under various international funding mechanisms as GEF / GSP etc.

To provide direct incentives to oil conservation efforts, we must have an assigned energy policy, more than that, there is an urgent need to have a legislation on energy conservation, which makes energy audits mandatory for industrial energy labeling of equipment necessary and BIS standards mandatory. The oil industry, equipment and process that do not meet environmental standards must be stopped under the policy. Further reduction of energy consumption and pollution reduction should be in the hands of all levels and citizens, would go a long way in 'lockdown' conservation as a habit that can bring an ecological change in the right age throughout the country.

Energy Subsidy's Impact on energy intensity

Energy subsidies, particularly those subsidizing energy consumption by keeping the energy prices low, impose a heavy burden on the economic efficiency, environmental performance, governmental budgets and increase the energy intensity. Removing energy subsidy based support the main priority area of sustainable development: social welfare, environmental protection and economic growth. Funds supporting subsidies could be redirected to boost energy efficiency programs.

However for our country, subsidies on oil & gas have been inconsistent. Kerosene and LPG have the highest subsidies at 52.6% and 51.6% respectively and these will go down gradually until 2002, whereas per plant diesel, LPG prices will reach a subsidy level of 18% of the import-parity price, and kerosene will reach 33.5% of the import parity. These subsidies are designed to give access to the poor & needy strata of the society, more advanced forms of energy than fuel wood, for use in the kitchen.

Conclusion

It can be said, that despite the low values of GNP and per capita energy consumption the intensity of energy in industrial sector has been steadily increasing. Out of several ways that improve energy intensity in Indian industries, some include:

- Legislation on energy conservation and penalty for non-compliance
- Spreading mass awareness to effect attitudinal change
- Introduction of mandatory energy audit, educating and training managers, professionals & technicians in the field of energy conservation
- Establishment of comprehensive technological base and data on specific energy consumption in each sector, benchmarking the best and updating the benchmark to the world's best and
- Technological upgradation with the development of required infrastructure for financial support

Thus, only conservation as a mantra is a sure recipe for reducing energy intensity in the Indian industry for the huge energy saving potential that can be realised.

**Article published by
Petroleum Conservation Research Association (PCRA) of India**

EFFICIENT ENERGY UTILIZATION IN INDUSTRIES

India today faces a formidable challenge on the energy front. The dilemma is clear while on the one hand, the country needs more power for its economic development, it can ill afford the colossal import of crude oil which at present is of the order of Rs.80,000 crore as compared to around Rs.57,000 crore in the previous years.

With indigenous production of crude oil hovering around 22 MMT and present consumption at 90 MMT, the gap is widening. The consumption is likely to go up to 155 MMT by 2006 increasing the import bill to mindboggling levels. India has therefore no option but to utilize petroleum products more efficiently. According to one estimate about 20-25% energy can be saved if conservation of energy becomes a national concern at all levels.

Conservation of energy means using less energy for the same level of activity and brings down costs of production, optimizes the use of limited financial resources, increases global competitiveness of industry and reduces depletion of India's fossil fuel resources. Since energy conservation has a direct impact on economic development and also environmental protection, the saving of energy becomes a crucial issue, specially for developing countries like India.

While Indian industry has made rapid strides on several fronts since Independence, many of the practices and activities which utilize petroleum products, however, are not efficient as compared to international standards. This is on account of the use of obsolete technology, lower capacity utilization, and poor handling, operating and maintenance practices. If industry saves energy, it will not only reduce costs of production but also the level of pollution.

The Ninth Plan envisages an industrial growth rate of 9.3% per annum. This necessitates adequate availability and requisite quality of energy. The industrial sector is a major energy-consuming sector and alone accounts for 50% of the total commercial energy, representing 26% of the petroleum products consumed in the country. Considering the projected economic growth in the coming years as well as deficits of coal and electricity, the industrial sector will consume petroleum products and natural gas in increasing volumes, at least up to the year 2020. Industry, therefore, has no option but to become conscious and take effective measures to conserve by efficient use.

Industry is responsible for oil and gas conservation in two distinct ways - viz. consumption of oil and gas and production of goods including equipment, machinery, engines and instruments. Its endeavor, therefore, should be to reduce the consumption of oil and gas of industrial output through the adoption of appropriate conservation measures and to increase the oil and gas use efficiency to bring down the cost per unit of the products so that the benefits of conservation can become available to the consumer as well as the country.

The industry sector is heterogeneous and produces a vast variety of products. The variety and complexity of this sector precludes the adoption of standardized oil and gas conservation measures in contrast to the transport, agriculture and household sectors, which are the other major users of petroleum products. According to one estimate, the overall target of conservation of petroleum products in the industry sector as a whole could be over 30% of the level of consumption of oil and gas in 1998-00.

A variety of external and internal barriers affect energy conservation in the industrial units. These include poor quality coal, power cuts and distributions in the supply of electricity, inadequate availability of energy efficient equipment, machinery and measuring instruments, paucity of trained energy managers, energy auditors and energy efficiency personnel, lack of management commitment and low priority accorded to investment in energy conservation.

Specific measures suggested to achieve savings in energy by the industrial sector include upgrading of technology, conduct of energy audits, optimization of operations, use of improved and reliable instruments, retrofit technology/equipment replacement, use of improved catalysts, plugging of leaks, provision of steam trap feeders, improving the

design of burners, boilers, compressors, turbines and furnaces etc. These strategies need to be industry-specific and based on the latest technologies and processes. Also, all possible measures should be taken to ensure the availability and supply of other forms of commercial energy with a view to limiting the use of petroleum products to the most appropriate applications only.

It can be said that despite the low values of total and per capita energy consumption the intensity of energy in industrial sector has been steadily increasing. Measures adopted for improving energy efficiency in Indian industries will go a long way resulting in huge saving potential that can be realized. Some of the measures are listed below:

- Legislation on energy conservation which makes energy audit mandatory for industries, energy labelling of equipment necessary, and BIS standards compulsory. This would set minimum energy efficiency standards for specified energy-using products. Old engines, equipment and processes that do not meet environment standards should be scrapped under this policy. Energy labelling would enable consumers to compare products and make choices that will save both money and energy. In this way, the consumer can encourage the sale and availability of energy-efficient products.

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Member of Parliament
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Date : 10-6-2003

To,
Hon'ble Shri Arun Jaitley,
Minister of Commerce & Industries,
Government of India,
146, Udyog Bhawan, New Delhi - 110 001.
Tel : 011-3010008, 3011492, 3015223.
Fax: 011-2613588 / 3013947.

Dear Mr. Jaitley,

I understand that a meeting has been arranged on the subject of Boiler Inspection Reforms by Mr. A. E. Ahmed, of your department alongwith several Chief Inspectors of boilers of various states, Industry Associations etc.

As you are aware, myself and Mr. Ashok Atri, the present President of Indian Boilers Manufacturers' Association (IBMA) have made many representations to Maharashtra State & Central Government on this subject and created awareness among Cabinet Ministers, Members of Parliament and Public at large. We have also studied in depth the present and proposed IBR Act and the exact impact of the reforms.

I strongly recommend that Present President of IBMA and myself should be present for all such meetings and our participation should not be avoided either by ignorance or by intentions.

I would like to briefly sum up the important contributions from the President IBMA and myself to bring the subject in focus :

- a) At our instance Shri. B. G. Gujar, Retd Director Rajyasabha has given his expert legal opinion which fully supports IBMA viewpoint regarding powers of State Government.
- b) At our instance The Technical Advisor Central Boilers Board, Delhi also has confirmed that State has all the powers to carry out reforms.
- c) As a result of our efforts, Industries department of Maharashtra Government has strongly recommenced reforms demanded by IBMA and confirm that State Government has all the powers needed to carry out reforms.

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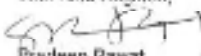
- d) When the issue was explained to him Lok Upayukt, Maharashtra Government has also strongly recommended Boiler Inspection Reforms.
- e) As a result of our efforts Engineering Export Promoter Council of India has recommended Boiler Inspection Reforms to boost exports.

Further, I understand, Mr. Ashok Ahe has written a letter to you as per copy attached. He has basis to doubt that the ability of Boiler Inspectors, alongwith some elements in bureaucracy, is trying to retard this process so that they can continue to exploit their present monopoly position.

I am really surprised as to how this has been ignored. Anyhow still time is available for immediate correction.

I look forward to your positive support.

With Kind Regards,


Pradeep Rawat
Member of Parliament

CC to

Mr. A. E. Ahmed | Joint Secretary, Department of Industrial Policy & Promotion)
Mr. Sudheendra Kulkarni | Officer on Special Duty)
Mr. Govindrajn | The Chairman, Central Boiler Board, Department of Industrial Policy & Promotion)

Indian Boilers Manufacturer's Association



Ashok D. Ahir,
President

Transpower Energy Systems Pvt. Ltd.
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Ref: IBMA/2003/116

Date: 16-5-2003

To,
Hon'ble Shri Arun Jaitley,
Minister of Commerce & Industries,
Government of India,
149, Udyog Bhawan, New Delhi - 110 001,
Tel: 011-3010008, 3011482, 3015223,
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Dear Mr. Jaitley,

As you must be aware, IBMA has been pressing hard for reforms in Boiler Inspection Procedures and pursuing your ministry to take up for consideration and passing the Indian Boilers (Amendment) Bill 1994 long pending since last nine years.

We had heard from press news that appeared in Marathi news paper "Loksatta" dated 4/4/2003 of Indian Express Group, that you promised to study this issue. We hope you could find time to do so and look forward to knowing what exactly are your findings as well as proposed course of action.

I, as President of IBMA has done in depth study of this subject and would be pleased to place before you my thoughts and recommendations.

Do let me know your interest.

I would be pleased to receive a reply from you.

Thank you.

Ashok Ahir
President, IBMA.

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Date : 14-6-2003

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Sub : The Indian Boilers (Ammadments) Bill, 1994.

Dear Mr. Jaitley,

I request your urgent attention to the following facts about Boiler Inspection Reforms not only because you are Commerce & Industries Minister but as an eminent expert on Law and Judiciary.

- 1) The current outdated Boilers Act was brought into existence in year 1923 and has several oppressive provisions against the basic Constitutional Rights which came into existence much later in 1952.

To give you an example, the present Act (Section 21) prevents a user or manufacturer from going to any judicial court for seeking reliefs / remedies against injustice done by Chief Inspector of Boilers.

The Boiler Inspectors claim that there are no complaints against them at all ! The answer is simple - who will dare to complain when we Indians are prevented even from going to Courts against them? The state level Appellate Authority that is expected to be in place also does not exist in any state even today though the outdated Act provides for it !!

- 2) It may be possible that, such fundamental contradictions can be exposed and eliminated by taking the matter to appropriate Court even as Public Interest Litigation (PIL). However it would certainly appear as if the courts are pursuing reforms more aggressively and not the parliamentarians.

Page 1 of 2

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- 3) The subject of Boiler is in "concurrent" list in the Constitution. The lobby of Boiler Inspectors is using this fact to confuse the State bureaucracy as well as industry associations, media and public at large because not many are aware about the detailed provisions of the Act.
- 4) Most importantly, it is industry, which is suffering most. Unshackling of Inspector Raj and License Raj has been the agenda of NDA Government and the Honorable Prime Minister Shri. Atalji has been repeatedly speaking about it in many public gatherings.
- 5) While Central Government has not found opportune situation up till now to take the Rollers Bill State Governments, particularly Congress Governments, have shown initiative in this regard. Government of Madhya Pradesh has even implemented reforms more than a year ago.

It is my sincere desire that the NDA Government should be much ahead of Congress run State Governments when it comes to carrying out pro-industry reforms. With national elections likely to come up some time next year, it will further help to boost image of our Government.

In your busy schedule you may not have found time to personally look into the outdated provisions of the current Act and the urgency of reforms. Hence this letter.

I am having high hopes from a visionary leader like you.

With kind regards

Pradeep Rawat
Member of Parliament

Page 2 of 2

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Date: 21-8-2008

To
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E-mail: cm@maharashtra.gov.in
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Sub: Boiler Inspection Returns

Ref: Letter No. DA 002000(7605)LD 9 dtd. 5.3.2003 received from Shri. Ashok Khel, Principal Secretary, Mumbai, Maharashtra Government.

Dear Shri Shindeji,

In response to my letter addressed to you dtd. 7th Feb, 08, I have received above said letter from Shri. Ashok Khel, Principal Secretary (Mumbai).

In addition to the views expressed by me dtd. my letter dtd. 21st Feb, 08, I wish to place before you following for your immediate consideration and action.

Last year during January to March, 2007, I conducted two joint meetings with Indian Boilers Manufacturers' Association (IBMA), Maharashtra Small Scale Steam Boiler Association (MSSSBA) & Boiler Related Industries Association.

Several members of all these associations as well as one retired Boiler Inspector, attended the meetings.

Obviously some members of these associations were trying directly or indirectly to subvert that Boiler Inspectors Monopoly Raj should be retained. Their ways and means of doing this were varied. They were tried to create confusion about legal powers available to both State Government and Central Government to carry out reforms.

Subsequently I verified in my own ways how Boiler Inspectors have 'backdoor' partnerships with many boiler repairers, component fabricators and even some large scale manufacturers. Obviously these members are going to be used by Inspectors lobby to create deliberate confusions about such alliance links and straight forward facts. Now, for last 55 years, the needs of industry, bureaucrats/politicians have been properly explained (especially Inspector and License Raj) is very well known to the entire Indian population.

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As regards Boiler Inspection Reforms the issue is very simple, i.e. to introduce healthy competition and destroy monopoly of Boiler Inspectors and also help industry to locate experts from Maharashtra by allowing Private Inspection agencies of International repute.

I have verified through legal experts on constitutional law that State Government does have all the necessary powers within the framework of IBR Act as well as Constitution of India. Because the subject of 'Boilers' is in concurrent list.

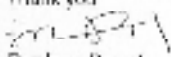
It is well known that monopoly breeds complacency, incompetence and corruption.

To conclude, I see no necessity of having so called "unanimity" of views especially when it is assumed that State Government is going to continue its own Boiler Inspection Department for the benefit of those who may like to avail their services. For merely introducing additional inspection agencies, if Government gives undue importance to the lack of unanimity then it will be only seen as lack of 'political will' on part of the Maharashtra Government, which I believe surely is not the case. Of course, only the actions and results will be the ultimate acid test of the true political will of the Government.

For your benefit, I am attaching with this letter a legal opinion that Indian Boilers Manufacturers' Association submitted to me recently which obviously further strengthened my views.

I hope the Maharashtra Government will not waste any more time in this matter and urgently initiate the reforms.

Thank you


Pradeep Rawat
Member of Parliament

Mr. Pradeep Rawat,
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26636, 26637, 26638, 26639, 26640, 26641, 26642, 26643, 26644, 26645, 26646, 26647, 26648, 26649, 26650, 26651, 26652, 26653, 26654, 26655, 26656, 26657, 26658, 26659, 26660, 26661, 26662, 26663, 26664, 26665, 26666, 26667, 26668, 26669, 26670, 26671, 26672, 26673, 26674, 26675, 26676, 26677, 26678, 26679, 26680, 26681, 26682, 26683, 26684, 26685, 26686, 26687, 26688, 26689, 26690, 26691, 26692, 26693, 26694, 26695, 26696, 26697, 26698, 26699, 26700, 26701, 26702, 26703, 26704, 26705, 26706, 26707, 26708, 26709, 26710, 26711, 26712, 26713, 26714, 26715, 26716, 26717, 26718, 26719, 26720, 26721, 26722, 26723, 26724, 26725, 26726, 26727, 26728, 26729, 26730, 26731, 26732, 26733, 26734, 26735, 26736, 26737, 26738, 26739, 26740, 26741, 26742, 26743, 26744, 26745, 26746, 26747, 26748, 26749, 26750, 26751, 26752, 26753, 26754, 26755, 26756, 26757, 26758, 26759, 26760, 26761, 26762, 26763, 26764, 26765, 26766, 26767, 26768, 26769, 26770, 26771, 26772, 26773, 26774, 26775, 26776, 26777, 26778, 26779, 26780, 26781, 26782, 26783, 26784, 26785, 26786, 26787, 26788, 26789, 26790, 26791, 26792, 26793, 26794, 26795, 26796, 26797, 26798, 26799, 26800, 26801, 26802, 26803, 26804, 26805, 26806, 26807, 26808, 26809, 26810, 26811, 26812, 26813, 26814, 26815, 26816, 26817, 26818, 26819, 26820, 26821, 26822, 26823, 26824, 26825, 26826, 26827, 26828, 26829, 26830, 26831, 26832, 26833, 26834, 26835, 26836, 26837, 26838, 26839, 26840, 26841, 26842, 26843, 26844, 26845, 26846, 26847, 26848, 26849, 26850, 26851, 26852, 26853, 26854, 26855, 26856, 26857, 26858, 26859, 26860, 26861, 26862, 26863, 26864, 26865, 26866, 26867, 26868, 26869, 26870, 26871, 26872, 26873, 26874, 26875, 26876, 26877, 26878, 26879, 26880, 26881, 26882, 26883, 26884, 26885, 26886, 26887, 26888, 26889, 26890, 26891, 26892, 26893, 26894, 26895, 26896, 26897, 26898, 26899, 26900, 26901, 26902, 26903, 26904, 26905, 26906, 26907, 26908, 26909, 26910, 26911, 26912, 26913, 26914, 26915, 26916, 26917, 26918, 26919, 26920, 26921, 26922, 26923, 26924, 26925, 26926, 26927, 26928, 26929, 26930, 26931, 26932, 26933, 26934, 26935, 26936, 26937, 26938, 26939, 26940, 26941, 26942, 26943, 26944, 26945, 26946, 26947, 26948, 26949, 26950, 26951, 26952, 26953, 26954, 26955, 26956, 26957, 26958, 26959, 26960, 26961, 26962, 26963, 26964, 26965, 26966, 26967, 26968, 26969, 26970, 26971, 26972, 26973, 26974, 26975, 26976, 26977, 26978, 26979, 26980, 26981, 26982, 26983, 26984, 26985, 26986, 26987, 26988, 26989, 26990, 26991, 26992, 26993, 26994, 26995, 26996, 26997, 26998, 26999, 27000, 27001, 27002, 27003, 27004, 27005, 27006, 27007, 27008, 27009, 27010, 27011, 27012, 27013, 27014, 27015, 27016, 27017, 27018, 27019, 27020, 27021, 27022, 27023, 27024, 27025, 27026, 27027, 27028, 27029, 27030, 27031, 27032, 27033, 27034, 27035, 27036, 27037, 27038, 27039, 27040, 27041, 27042, 27043, 27044, 27045, 27046, 27047, 27048, 27049, 27050, 27051, 27052, 27053, 27054, 27055, 27056, 27057, 27058, 27059, 27060, 27061, 27062, 27063, 27064, 27065, 27066, 27067, 27068, 27069, 27070, 27071, 27072, 27073, 27074, 27075, 27076, 27077, 27078, 27079, 27080, 27081, 27082, 27083, 27084, 27085, 27086, 27087, 27088, 27089, 27090, 27091, 27092, 27093, 27094, 27095, 27096, 27097, 27098, 27099, 27100, 27101, 27102, 27103, 27104, 27105, 27106, 27107, 27108, 27109, 27110, 27111, 27112, 27113, 27114, 27115, 27116, 27117, 27118, 27119, 27120, 27121, 27122, 27123, 27124, 27125, 27126, 27127, 27128, 27129, 27130, 27131, 27132, 27133, 27134, 27135, 27136, 27137, 27138, 27139, 27140

महाराष्ट्र शासन

नोंदणीकृत पोच देव हाकेने

6

क्र.एनबीई-२०२००१/क्र.क्र.११०६ (भाग-२)/वसुधवार-१

उद्योग, ऊना व कामगार विभाग,

मंत्रालय, मुंबई ४०० ०३२.

दिनांक :- २५/०३/२०१७

प्रति,

✓ श्री.प्रमोद मुजुमदार,
उपाध्यक्ष, (जनसंपर्क),
से.ट्रान्स्परन्ट एनर्जी सिस्टीम प्रा.लि.,
पुण्या हाइटस, एल मंगला, विक्टोरियाडी कॉर्नर,
पूणे-४११ ०२७.

विषय :- श्री.बी.एन.हाडगेवाडी राज्यानिर्वाह संचालक, बांधके संचालनालय यांच्या विभागीय चौकशीची कागादपत्रे उपलब्ध करून देण्याबाबत.

संदर्भ :- उपरोक्त विभागासंबंधीचे आगले दिनांक २८/१२/२००९ चे पत्र.

सोदर,

संदर्भातील पत्रांमध्ये आलेखीर श्री.प्रमोद मुजुमदार, उपाध्यक्ष (जनसंपर्क) यांनी उपरोक्त केलेल्या मुद्द्यांचे भरिली आलेखीप्रमाणे आहे :-

मुद्दा क्र. १ :- श्री.बी.एन.हाडगेवाडी, यांना श्री. सतिश त्रिपाठी यांच्याद्वारे झालेल्या चौकशीत कोणते उपरोक्त आलेखी आहे वर?

✓ ख्यातास :- श्री.बी.एन.हाडगेवाडी, संचालकीय संचालक, बांधके संचालनालय यांच्या विरुद्ध करण्यात आलेल्या नकारात्मकपत्र श्री. सतिश त्रिपाठी, उपाध्यक्ष संचालक तथा विशेष चौकशी अधिकारी (२), सामान्य प्रशासन विभाग यांनी चौकशी केलेली असून त्यांनी त्यांचा चौकशी अहवाल दिनांक १७/०५/२००७ रोजी प्राप्तनाम सादर केलेला आहे. सुलग संस्थांसाठी उतर अहवालाची प्रत सोबत जोडली आहे.

प्रस्तुत चौकशी अहवालांमध्ये चौकशी अधिकारी यांनी चौकशीपत्र क्र.(१) अंततः सिध्द होतो व चौकशीपत्र क्र. (२) सिध्द होत नाही, असा निष्कर्ष नोंदविला आहे.

मुद्दा क्र. २ :- श्री.बी.एन.हाडगेवाडी, यांना काय राना देण्यात आली ?

✓ ख्यातास :- प्रस्तुत प्रकरणी चौकशी अधिकारी यांनी सादर केलेल्या अहवालाच्या साधरी श्री.बी.एन.हाडगेवाडी, सेवानिवृत्त संचालक, बांधके यांना त्यांच्यावर देण्यात आलेल्या चौकशीपत्रातून चौकशीपत्र करण्यात यावे, असे प्रस्तावित करण्यात आले.

सरर प्रसन्ननास तन्मन्तोन वा.पुष्पकोशी भांनी वाचका विलेले आहे. स्वामुख
आचरणक ते शसन निर्गद वि.नं. २०/२६/२००८ मेरी निर्णित बरुणत आहे.

प्रश्न क्र. ३ :- श्री. रमिषा विपल्ले यांच्या शिफारसी नेमना कया आहेत ?

जवाब :- प्रस्तुत चौकशी अन्वयात्माध्ये चौकशी अधिकारी यांचे दोषारोप क्र.(१) अंशतः
दिव्य होना न दोषारोप क्र. (२) सिद्ध होत नाही. असा निष्कर्ष नोंदविलेला आहे.

साधन,

मिस्ताप्यकर
(अ.नि.साधनकार)

काळ अधिकारी

साधन : नवीलप्रभाणे.

गोपनीय

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SECRETARY GENERAL AND
SECRETARY
20/11/2007
20/11/2007
20/11/2007

क्र.विभागीय-२/बीएलएच/२००९/विद्योक्त- (२)
अपर मुख्य सचिव व विशेष नीकसी अधिकारी(२) कार्पो
कर्यालय, पालन क्र.५५२(मुद्रण), पाषाण बनला,
सामान्य प्रशासन विभाग, मंत्रालय, मुंबई- ४०० ०३२.
दिनांक :- १७ नुवें, २००७.
दुरध्वनी व फॅक्स क्रमांक : २२८२१०२७

प्रति,

सौ.सुधा/सहाय्यारी,
उद्योग,ऊर्जा व स्वभागर विभाग,
मंत्रालय, मुंबई- ४०० ०३२.

विषय :- विभागीय चौकशी

श्री.जी. एल. इन्डियाली, सेवानिवृत्त संचालक (पालक)

संदर्भ :- आपले अदेश क्रमांक एसबीजेई-१०२००२/सीआर-११०५/
कायदा-२, दिनांक ५, सप्टेंबर, २००५.

20/11/07

Handwritten signature

संदर्भातील अदेशान्वये वाढी सार विभागीय नीकसीसंबंधाकडे चौकशी प्रक्रियारी म्हणून
नेमवून करण्यात आलेली होती.

Handwritten signature

२. सार विभागीय चौकशी पूर्ण करण्यात आली असून विभागीय चौकशीचा अहवाल या
पुत्रसंकेत पूर्वील योग्य त्या कार्यवाहीसाठी आवश्यकते पठविला आहे.

Handwritten signature

सोबत : १) विभागीय चौकशीचा अहवाल
२) जोडपत्र-अ

(सहाय्यारी)
चौकशी अधिकारी
१७.७.२००७

Handwritten signature

J-974
10/12/07

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**महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ मधील नियम ८,
घोटनियम - २५ नुसार चौकशी प्राधिकरणाचा अहवाल.**

प्रस्तावना :

उद्योग, उर्जा व कामगार विभाग, मंत्रालय, मुंबई यांनी श्री. भा. ल. हाडगीळी, तत्कालिन संचालक, बालके संचालनालय, मुंबई यांचे विरुद्ध महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ च्या नियम ८ नुसार विभागीय चौकशी प्रस्तावित केली आहे. ही चौकशी करण्यासाठी उद्योग, उर्जा व कामगार विभागाच्या आदेश क्र. प्रसोई १०२००१/सीआर-११०६/कायदा-१, दिनांक १० मार्च, २००१ अन्वये प्रथम सचिव व विशेष चौकशी अधिकारी (२), सहाय्य प्रशासन विभाग यांनी चौकशी अधिकारी म्हणून व सहाय्यकार्याच्या दिनांक १०.७.२००१ च्या शासन आदेशान्वये उप सचिव व सादरपत्रां अधिकारी-२ यांची "सादरकर्ता अधिकारी" म्हणून निवडली गेली आहे. तदनंतर उद्योग, उर्जा व कामगार विभागाच्या समकक्षकार्याच्या दिनांक ५ सप्टेंबर, २००५ च्या आदेशाद्वारे सादर चौकशी प्रथम सचिव व विशेष चौकशी अधिकारी -१ यांच्याकडे हस्तांतरित करण्यात आली. श्री. भा. ल. हाडगीळी, तत्कालिन संचालक, बालके संचालनालय, मुंबई यांचेवर ठेवण्यात आलेल्या दोषांतून शासना चौकशीच्या नोंदपत्र १ मध्ये नमूद करण्यात आले असून नोंदपत्र २ मध्ये प्रत्येक दोषासोबतच पुढीलपरी वेबसाईटाच्या किंवा वेबपत्रांपुढीच्या आरोपांचे विवरण करण्यात आले आहे. नोंदपत्र ३ मध्ये त्या कागदपत्रांच्या आधारे दोषासोबत मिळवून घ्यावयाच्या आहे, त्या कागदपत्रांची यादी देण्यात आली असून नोंदपत्र ४ मध्ये सरपत्र साद्रीपत्रांची यादी देण्यात आली आहे.

२. सुलवातीस या प्रकारातील घटनाक्रमाचा संक्षिप्त गोपचात खालील प्रमाणे नमूद करण्यात येत आहे :-

२.१ शासनाने श्री. भा. ल. हाडगीळी, तत्कालिन संचालक, बालके संचालनालय, मुंबई यांच्याविरुद्ध महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ च्या नियम ८ अन्वये विभागीय चौकशी सुरू करण्याचा निर्णय घेतला व शासन शासन उद्योग, उर्जा व कामगार विभाग, क्र. आदेशीय-१०९९/प्र.क्र.६९४८/कायदा-१, दिनांक १० मार्च, २००१ द्वारे त्यांचेवर दोषासोपना केल्याकडे. या शासनासोबतच्या नोंदपत्र एक व दोन मधील दोषासोपनासोबतचे आपले बचावाचे लेखी निवेदन श्री.

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इच्छीगळी चांनी दिनांक ६.४.२००१ रोजी सादर केले व सर्व दोषारोप नाकबूल केले. त्यानंतर उद्योग, उर्जा व कामगार विभागाने आदेश क्र. एसबीई १०२००४/सीआर-११०६/का.प्रण.२-९, दिनांक १० जुलै, २००१ द्वारे सामान्य प्रशासन विभागातील सचिव व विशेष चौकशी अधिकारी (२) यांची "चौकशी प्राधिकारी" म्हणून तर उपसचिव व सादरकर्ता अधिकारी (२) यांची "सादरकर्ता अधिकारी" म्हणून नियुक्ती केली.

२.२ तथापि, पुढे या प्रकरणात त्या विभागाने समजाविकाऱ्या दिनांक ५, सप्टेंबर, २००५ च्या आदेशाद्वारे सामान्य प्रशासन विभागामधील प्रथम सचिव व विभागीय चौकशी अधिकारी (१) यांची "चौकशी प्राधिकारी" म्हणून तर उपसचिव व सादरकर्ता अधिकारी (२) यांची "सादरकर्ता अधिकारी" म्हणून नियुक्ती करण्याबाबतचे सुधारित आदेश काढले.

२.३ यरीत प्रमाणे प्रस्तुत प्रकरण विभागीय चौकशी अधिकारी (२) कडून विभागीय चौकशी अधिकारी (१) यांचेकडे हस्तांतरित होईपर्यंत प्राथमिक स्वरूपाच्या बाबींची पूर्तता झालेली होती. त्यानंतर हे प्रकरण विभागीय चौकशी अधिकारी (१) यांचेकडे प्राप्त झाल्यावर पुन्हा साहाय्यीक जाणून घेण्यासाठी एक प्राथमिक सुनावणी आयोजित करण्यात आली आणि तद्नंतर या प्रकरणातील सरकारी पक्षाच्या २ साक्षीदारांच्या साक्षी नोंदविवथाचे फक्त सुरु करून पूर्ण करण्यात आले. त्यानंतर अपघाती अधिकारी यांना विभागीय चौकशी निघम पुस्तिकेतील परिच्छेद ६.२२ अनुसार आपले बचावाचे प्राथमिक निवेदन सादर करणाऱ्याची संधी देण्यात आली व खलःचे साक्षीदार म्हणून त्यांची सात नोंदविवथाची देखील संधी परिच्छेद ६.२४ व ६.२५ अनुसार श्री. इच्छीगळी यांना देण्यात आली. त्यानंतर श्री. इच्छीगळी चांनी त्यांचे अन्व कोणाही यथार्थ साक्षीदारांच्या साक्षी नोंदविवथाच्या नसल्याचे सांगितले. या प्रकरणात श्री. इच्छीगळी चांनी स्वतःचा स्वतःचे साक्षीदार म्हणून तमासून घेतले असल्यामुळे परिच्छेद ६.२६ अनुसार त्यांना चौकशी प्राधिकार्यांनी अनिवार्य प्रश्न विचारण्याची आवश्यकता उरली नाही. त्यानंतर विभागीय चौकशी निघम पुस्तिकेतील परिच्छेद ६.२० मधील तरतुदीनुसार सादरकर्त्या अधिकार्याचे लेखी टाथग दिनांक १०.३.२००५ सादर करण्यात आले.

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२. या प्रकरणातील चौकशीच्या विषयाची खोटावयात पाहणेपूर्वी खालीलप्रमाणे आढळते :-

२.१ श्री. अशोक इ. अत्रे, कार्यकारी संचालक, मेसर्स ट्रांस्परंट एनर्जी सिस्टीम्स प्रा. लि., पुणे यांनी दिनांक ११.१.२००१ रोजी मा. उप लोकसायुक्त यांचेकडे एक अर्ज सादर केला (पौ.१) आणि जसे निदर्शनास आणते की, त्यांची कंपनी गेल्या १० वर्षांपूर्वीपासून अतिशय वेगवेगळ्या कारणांमुळे आणि इंधनाचे वाढता वाढता वाढत चालत आहोत आणि त्यांचेकडे आय.आय.टी. मनुष्य श्रमिनिअर आणि परदेशीतून मागणी असूनही देशासाठी काम करण्याची तयारी असलेले उच्च शिक्षित कर्मचारी /अधिकारी उपलब्ध आहेत. त्यांच्या कंपनीने तयार केलेले वायफक ग्राहकांनी उपकरणांच्या कारणावरून नाकारण्याचे गेल्या १० वर्षांत एकही उदाहरण नाही आणि त्यांची उत्पादने अनेक परदेशी उद्योगांमध्ये देखील त्यांच्या निरीक्षण यंत्रणेपासून पासून पोहोचले आहेत. असे असताना त्यांना तसे शासनाच्या वायफके संचालनालयाचे संचालक, श्री. हाजींगळी यांचेपासून या या त्या कारणावरून वाईट हेतूने त्रास देण्याचा प्रयत्न केला जात आहे. आपल्या तक्रारीमध्ये श्री. अत्रे यांनी श्री. हाजींगळी यांच्याकडून कंपनीच्या कामासंबंधीतील हस्तक्षेपाबाबतची काही विशिष्ट उदाहरणे देखील नमूद केली होती. त्याचप्रमाणे त्यांनी आरोही निदर्शनास आणले होते की, श्री. हाजींगळी यांचा मुलगा मेसर्स वायफके प्रा. लि. या कंपनीत नोकरी करतो आणि त्या कंपनीकडूनही वायफके निर्मातेचे काम घेले जात असते. त्यांनी असा आरोप केला होता की, मेसर्स ट्रांस्परंट एनर्जी सिस्टीम्स प्रा. लि. या कंपनीकडून मेसर्स वायफके कंपनीला होणाऱ्या सर्वेसा आळा घालण्यासाठी श्री. हाजींगळी यांनी त्यांच्या कंपनीला असा दबाव सुरुवात केली होती. त्यांनी असेही नमूद केले होते की, कंपनी जो सध्या भाव अर्थ कंपनीकडून वर्षानुवर्षांपासून बनवून घेत होते तो भाव देखील स्वतःच बनवता असा आढळ परंपर्यात श्री. हाजींगळी यांनी सुरुवात केली होती व तसे न केल्यास कंपनीचे निरीक्षणाचे घन थांबवून पुढील उत्पादनाचे बंध पाहण्याची धमकी दिली होती. असा प्रकरणाचे संज्ञा स्वतःच्या कंपनीत उपायचो लागून कंपनीस मोठी आर्थिक गुंतवणूक करावी लागली व त्यामुळे कंपनी आर्थिकदृष्ट्या कमकुवत केली आणि श्री. हाजींगळी यांचा मुलगा ज्या कंपनीत कामाला होता त्या कंपनीची सध्या कधी नव्या पा हेतूने श्री. हाजींगळी यांनी त्यांना त्रास देण्यास सुरुवात केली होती असा त्यांनी आरोप केलेला होता.

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३.२ ना. उप लोकसाधकांनी वरील तक्रारी संदर्भात संबंधित विभागांशी चर्चा, विचार - विनिमय करून प मुनावणेची प्रयत्नाही करून आपला अहवाल शासनास सादर केला होता आणि श्री. हाजींगळी यांच्याविरुद्ध विभागीय चौकशीची कारवाई करण्याची शिफारस केली होती. या शिफारसीच्या अनुषंगाने विभागाने उच्चतमोत्तम मान्यता मिळवून प्राप्त विभागीय चौकशी सुरू केली आहे.

जोडपत्र - एक

श्री. श्री. एल. हाजींगळी, संचालक, बायके संचालनालय, मुंबई यांच्या विरुद्ध तक्रार करण्यात आलेल्या शोषारोपार्थीत बाबींचे विवरणपत्र.

बाब एक : उक्त श्री. सी.एल. हाजींगळी, संचालक, बायके संचालनालय, मुंबई येथे कार्यरत असतांना महाराष्ट्र नागरी सेवा (वर्तमान) नियम, १९०९ मधील नियम ३ नुसार संचालक पदाची बर्तव्ये व नवाबदारी पार पाडण्यात कसूर केली व पदाचा गैरवापर केला.

बाब दोन : पुर्वोक्त कालावधीमध्ये अग्नि पुर्वोक्त कार्यरताना काम करताना उक्त श्री.सी.एल. हाजींगळी, यांनी राष्ट्र संचालक (बायके) पणे, म्हणून कार्यरत असतांना महाराष्ट्र नागरी सेवा (वर्तमान) नियम, १९०९ मधील नियम ४ नुसार जबाबदारी नसलेल्या बाबींमध्ये किंवा बाबींमध्ये कार्यरत नसतांना शक्यतो मान्यता घेतली नाही.

जोडपत्र दोन

श्री. श्री. एल. हाजींगळी, संचालक, बायके संचालनालय, मुंबई यांनी बायके संचालनालयाचे संचालक असतांना संचालक पदाची बर्तव्ये व नवाबदारी पार पाडण्यात कसूर करणे व पदाचा गैर वापर करणे, या दोषारोपार्थीत बाबींच्या पृष्ठमध्ये असलेल्या गैरशिक्रातीच्या किंवा गैरवर्तमानाच्या आरोपांचे विवरणपत्र.

बाब एक : ने. ट्रायसकॉन्ट एनर्जी सिस्टीम प्रा. लि., पणे ३७ यांच्या दिनांक ११.१.२००६ रोजीच्या तक्रारी आल्याने श्री.हाजींगळी, हे सधर कंपनीवर दबाव तंत्राचा वापर करून हेतुपुरस्सर प्रास घेत असल्याची तक्रार केली होती. बायकेचे विविध भाग (पार्ट्स् ऑफ बोवल्स) जवळ बायके निवांम

करण्याच्या विकाशी निर्माण होत नसतील तर न्याय आणि कारखान्यात असो भाग लवच होत असतील तेथे तपासणी करण्याचा आग्रह श्री.हाळीगळी यांनी बांधकें संचालनालयामध्ये संचालक या पदाचा कार्यभार घेतल्यानंतर धरण्यास सुरुवात केली होती. बांधकेंच्या भागांची तपासणी करण्यापूर्वीच्या प्रक्रियेमध्ये चालू करताना त्यासंबंधीची तत्तुद श्री.हाळीगळी यांनी कार्यालयीन अभिलेखांमध्ये लेखी स्वरूपात नमूद करणे आवश्यक होते. तसे न करणे हा कार्यालयीन शिस्तोचा भंग आहे. शिवाय, बांधकें निर्मितीच्या परवान्याचे नूतनीकरण करण्याबाबत बांधकें कायदा, १९२३ मध्ये कोणत्याही प्रकारची तत्तुद नसल्याचे श्री.हाळीगळी यांनी निर्मिती परवान्याचे निदान करण्यासाठी मे. ट्युनफॉट एलर्नो सिस्टीम ना. लि., पुणे ३७ यांना प्राप्त देण्याचा प्रयत्न केल्यामुळे श्री.हाळीगळी यांची वर्तणूक नियमबाह्य असल्याचे स्पष्ट होते.

बाब दोन : श्री. हाळीगळी हे सह संचालक (बांधकें) अहमदनगर येथे कार्यरत असताना त्यांचा मुलगा श्री.विद्यासागर हाळीगळी यांची पुणे विद्यापित्राच्या सॅन्डविच कॉर्सेसाठी त्यांच्या महविद्यालयातून निवड झालेले होते आणि त्याद्वारे मे. धर्मेक्स लि.पुणे येथे प्रशिक्षणासाठी पाठविल्यात आलेले होते. ही बाब श्री.हाळीगळी यांनी त्यांच्या दिनांक २६-६-१९९२ च्या एकात्म्ये संचालक, बांधकें, मुंबई यांचे निदर्शनास आणून दिलेले होते. मे. धर्मेक्स लि. पुणे येथील प्रशिक्षण पूर्ण केल्यानंतर त्यांचे कॉन्ट्राक्ट त्यांनी इंग्लिश ट्रेनी म्हणून दिनांक ७-८-१९९५ पर्यंत नोकरी केली. त्यानंतर श्री.विद्यासागर यांनी दोन वर्षे मुदतीचा MBA कोर्स पुणे विद्यापित्रातून पूर्ण करून दिनांक २-६-९७ ते दिनांक १८-१२-९७ पर्यंत मे.प्र.इंडस्ट्रीज, पुणे येथे मॅनेजमेंट ट्रेनी म्हणून नोकरी केली. त्यानंतर पुन्हा दिनांक १९-१२-९७ रोजी श्री.विद्यासागर मे. धर्मेक्स लि.पुणे चांदेफळे विनिमय एजिडवट्टिक म्हणून नोकरीस लागले. ही बाब श्री.हाळीगळी यांना शासनस कळवून शासनाची परवानगी घेतली नसल्याचे महाराष्ट्र नागरी सेवा (वर्तणूक) नियम, १९७९ मधील नियम ४ मधील तरतुदीचा भंग केलेला आहे

४. श्री. हाळीगळी यांचा जर उल्लेख केल्याप्रमाणे जे दोषारोप कळविण्यात आले होते त्यांचे सक्षित माहिती, त्या अनुषंगाने जनपारी अधिकारी यांनी केलेले प्रतिपादन आणि सादरकर्ता अधिकारी यांचे अधिप्राय पुढे नमूद केल्याप्रमाणे आहेत :-

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दोषारोप एक

बोधरोपाच्या शापनातील नोंदपत्र दोन पाहिल्यास असे दिसून येईल की, या बोधरोपाच्या बाबीमध्ये खालील मुद्द्यांचा समावेश आहे :-

(एक) बांधकामाचे विविध भाग जव बांधक उपायान करण्याच्या ठिकाणी निर्माण करण्यात येत नसतोल तर असे भाग व्हा अन्य कालखान्यात बनविण्यात येतात तसे तपासणी करण्याचा आदेश श्री. हाजीगळी यांनी संचालक, बांधकामे संचालनालय वा पदाचा कार्यभार स्वीकारल्यानंतर भरण्यास सुरुवात केली.

(दोन) बांधकामाच्या भागांची तपासणी करणानेबंधीच्या पूर्वीच्या प्रक्रियेमध्ये चरल करताना त्याची नोंद श्री. हाजीगळी यांनी आणलेल्यामध्ये केले नाही.

(तीन) बांधकामे कायदा, १९२३ मध्ये बांधकामे निवितीच्या परवान्याचे नुसतीकरण करण्याची कोणतीही तरतूद नसताना श्री. हाजीगळी यांनी मिसर्स ट्रान्स्परन्ट एन्जीनियरिंग प्रा. लि. पुणे यांना त्यांच्या बांधकामे निविती परवान्याचे निदान करण्यासाठी क्रम देण्याचा प्रवान केला.

५.२ अपचारी अधिकार्यांचे प्रतिपादन :-

अपचारी अधिकार्यांनी आपली बाजू मांडण्यासाठी या प्रकरणात प्रथमतः बोधरोपांच्या शापनास अनुलभून आपले लेखी निवेदन दिनांक ६.४.२००१ रोजी सादर केले होते. त्यानंतर लिनगोण चौकरांचे प्रक्रिया सुरु झाल्यानंतर व सरकारी प्रसाहारे कर्मचारी व मौलिक साक्षीपुढचे नोंदविकाचे काम पूर्ण झाल्यावर अपचारी अधिकारी यांनी दिनांक १२.२.२००७ रोजी आपले वचनावे प्रथमिक लेखी निवेदन सादर केले आहे. त्यानंतर त्यांनी खलाचे साक्षीदार म्हणून आपली सहा देखील त्याच दिवशी नोंदविकेलेली आहे व खला नुसतं भगिनेखान सहाभित्त झालेला आहे. या सर्व लेखी निकोरावरून असे दिसून येईल की, अपचारी अधिकारी यांनी मुख्यतः पुढील प्रमाणे पुरे पाहिलेले आहेत :-

(एक) भ्राराष्ट्रातील बांधकामाच्या अपचालिकांनी सजात मोठ स्फोट मे. शिक गैर मिल्ल, शिरभड, वि. सातारा येथे दिनांक १.५.१९९८ रोजी झाला होता. त्यावेळी श्री. हाजीगळी, सहा संचालक, बांधकामे, पुणे या प्रारंभिक प्रमुखाच्या पदावर कार्यरत होते. सातारा निलंबकाशी

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संबंधित असलेले उपसंचालक बांधके त्यावेळी उल्लेख नसल्याने त्यावेळेच्या संचालकांच्या आदेशानुसार त्यांनी या अपघाताचे प्राथमिक अन्वेषण केले होते. मात्र त्यानंतर संबंधित उपसंचालकसंघीय या अपघाताचे सखोल अन्वेषण करून आगला अहवाल संचालकांना सादर केला होता. संचालनालयाच्या वार्षिक अहवालात अशा अपघातांची माहिती अंतर्भूत केली जात असते. मात्र सन १९९८-९९ या वार्षिक अहवाल त्यांना मिळू शकला नव्हता. अशा अपघातासंबंधीच्या माहितीवरून गतिव्यात ते दाखव्यासाठी उपाययोजना करणे शक्य होत असते. त्यामुळे दिनांक १.११.१९९९ रोजी संचालक पदाचा कार्यभार स्वीकारल्यानंतर त्यांनी यथावकाची माहिती / अन्वेषण अहवालाची प्रत प्राप्त करून घेतली होती. त्या अहवालाचे परीक्षण केल्यावर त्यांना असे आढळून आले होते की, अपघाताचे कारण चुकीचे दखिण्यात आलेले होते. त्यामुळे त्या अहवालाबाबत तत्कालिन वॉरिंट उपसंचालक, मुंबई आणि श्री. उतुरवार, ताच्यांतून सह संचालक यांपेबरोबर विस्ताराने चर्चा केली होती आणि आगले निष्कर्ष नोंदविले होते. त्यानुसार सादर बांधकामाच्या निर्मातीसंबंधेच सही दोष राहून गेले होते असे त्यांना दिसून आले होते.)

(रोन) राज्य शासनाच्या अधिपत्याखालील बांधके संचालनालयाची मुख्य जबाबदारी बांधकांच्या अपघातांचे अन्वेषण करून अपघात दाखव्यासाठी उपाययोजना करणे ही असाव्याने परीत अपघाताच्या पार्श्वभूमीवर त्यांनी बांधक निर्माण करणाऱ्या कंपन्यांकडील कर्मचारी वर्ग व अच साधन सामग्रीमध्ये गेल्या १०-१५ वर्षात झालेल्या पेरवारांची तपासणी करण्याचे ठरविले. अशा पेरवारांचेही माहिती संचालनालयास कळविण्याची जबाबदारी निर्मात्यांची असते. परंतु गेल्या १०-१५ वर्षांत एकही निर्मात्याने अशी माहिती कळविलेले नाही असेही दिसून आले होते. त्यामुळे दिनांक १०/११/१९९९ रोजी एका परिपत्रकाद्वारे सर्व अधिकाऱ्यांना सूचना दिल्या व निर्मात्यांकडील सेवेकर्म व गंगसामग्रीत झालेले बदल पडताळून अहवाल सादर करण्यास सांगितले. मात्र २ महिन्यांनंतर देखील प्रयोगाकडूनही प्रोत्साहन मिळाला नाही. त्यामुळे त्यांनी पुढा दिनांक १०/१/२००० रोजी सर्व बांधक निर्मात्यांना नव्हतुसित परे पाठवून त्यांच्याकडील सहा-स्थिती कळविण्याची विनंती केली.

(रोन) या पत्रास अनुषंगाने ये. दूनपरंत एनव्ही सावळेया यांनी दिनांक ३५/१/२००० च्या पत्राद्वारे सादर केलेल्या माहितीवरून असे दिसून आले होते की, त्यांचेकडील श्रेल फ्लेट बॅटिंग मशिनची क्षमता फक्त ६ मि.मी. जाडीच्या फ्लेट्स बॅट करू शकतील एवढीच आहे. भारतीय

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बांधके विनियम १९५० नमूनल तरतुदीनुसार कोणात्याही बांधकाच्या शेल प्लॅटची कमीत कमी जाडी ८ मि.मी. असणे आवश्यक असल्याने त्यावेळचे कितान तेवढी क्षमते असणारे मशीन उपलब्ध असणे आवश्यक आहे असे त्यांचे त्यांचे दिनांक १२/६/२००० च्या पत्राद्वारे कळविण्यात आले.

(पत्र) मेसर्स ट्रान्स्परंट एनर्जी सिस्टीम्स प्रा. लि. ने त्यांचे दिनांक १५/६/२००० च्या पत्राद्वारे असे कळविले की, अशा प्लॅटसाठी काम ते अन्य मान्यताप्राप्त कंपनीकडून करून घेतात आणि यापुढेही ते हीच पध्दत राबवू इच्छितात.

(पत्र) त्यांचे संचालनालयाद्वारे दिनांक १५/६/२००० च्या पत्राने त्यांचे असे कळविण्यात आले की, भारतीय बांधके विनियम, १९५० नमूनल तरतुदीनुसार विहित केलेल्या प्रमाणपत्र नमुना क्र. तीन मधील अनुक्रमांक ३ प्रमाणे बांधक निर्मिल्याने एखादा पूर्ण भाग किंवा काही पूर्ण भाग दुसऱ्या कार्यशाळेकडून बनवून घेतल्यास त्या निष्पत्तीची पूर्ण माहिती सधे विविध टप्प्यांवर निरीक्षण केल्याबाबतची व इतर माहिती, निरीक्षण प्राक्षिप्तान्याच्या प्रमाणपत्रासह सादर करणे आवश्यक असते. त्यामुळे अशा प्रकारे शेलसारखा भाग फक्त रोल करत (बॅंडिंग करत) घेणे (बॅंडिंग प्रक्रिया) विनियमातील तरतुदीनुसार अनुक्रमे नाही. त्यामुळे एक तर शेलसारखा पूर्ण भाग त्यांनी दुसऱ्या कार्यशाळेकडून बनवून घ्यायला किंवा शेल निर्मितीची सर्व प्रक्रिया आपल्या स्वतःच्याच कार्यशाळेत करण्याची व्यवस्था करून घ्यावी. वाढविता संयोजना ३०/६/२००० पर्यंतची मुदत देण्यात आली होती व तोपर्यंत व्यवस्था न केल्यास निर्देशाव्या भेटी बंद करण्याचा इशारा देण्यात आला होता. कारण पुनर्विलोकनाचे काम ६ महिने बंद राहिले होते.

(सस) तथापि, त्यांनाच ३०/६/२००० रोजी मेसर्स ट्रान्स्परंट एनर्जी सिस्टीम्स प्रा.लि. चे ३ प्रतिनिधी सांभर (बागाचूर) यांना भेटले व त्यांचे बरोबर चर्चा केली. चर्चेत उरल्याप्रमाणे कंपनीस शेल सारखा "दुसरा भाग" बॅंडिंगसह बांधकून बनवून घेण्यासाठी जाणवी २ महिन्यांचा अवधी देण्यात आला व तोपर्यंत पूर्वीच्या प्रचाराप्रमाणे फक्त बॅंडिंगचे काम बांधकून करत घेण्यास अनुमती देण्यात आली होती.

(सात) त्यांनाच शेल प्लॅट बॅंडिंग प्रक्रीया बाहेरील कार्यशाळेकडून करत घेऊन तेवढ्याच संपूर्ण भाग त्या कार्यशाळेकडून प्राप्त करत घेण्यास परवानगी मिळाली अशी तरतूद

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केंद्रीय बाण्यक विनियमात करून देण्यासाठीचा प्रस्ताव केंद्र शासनाकडे सादर करण्यात आला आणि त्यावर उचित कार्यावाही होऊन अंतिम निर्णय होईपर्यंत मेसर्स ट्रान्स्पारंट एनर्जी सिस्टीम्स प्रा. लि. चा कंपनीस त्यांच्या पुर्वीच्या पध्दतीनुसारच सेल्युलर वॉइंग एन्डी प्रॉक्सी वाहंरून करून घेण्याची परवानगी देण्यात आली होती.

(आठ) दरम्यानच्या काळात मेसर्स ट्रान्स्पारंट एनर्जी सिस्टीम्स प्रा. लि. यांनी केंद्र शासनात तांत्रिक सल्लागार (बाण्यके) आणि सचिव केंद्रीय बाण्यक मंडळ ही दोन पदे धारण करण्याचा श्री. श्री. के. गोयल यांना याच विषयासंबंधात दिनांक २७/११/२००० रोजी पत्र पाठवून त्यांचे अधिप्राय प्राप्त करून घेतले होते. तांत्रिक सल्लागार म्हणून श्री. गोयल यांनी त्यांना त्याच दिवशी सल्ला दिलेला होता आणि मेसर्स ट्रान्स्पारंट एनर्जी सिस्टीम्स प्रा. लि. द्वारे अवलंबिली जावारी पध्दत सुरू ठेवण्यास इच्छत असल्याचे मत व्यक्त केले. परंतु त्यांनी सदर पत्रावर सही करताना त्याखाली तांत्रिक सल्लागार अशीच फक्त नोंद केलेली आहे. वास्तविकतः असे निर्वाह घेण्यास केंद्रीय बाण्यक मंडळाला राक्ष्य असते. त्यानंतर संचालकांनी वरील (सात) प्रमाणे सादर केलेल्या प्रस्तावासंबंधात केंद्रीय बाण्यक मंडळाच्या दिनांक १५/१६ फेब्रुवारी २००१ च्या बैठकीत चर्चा झाली होती आणि त्याचा वृत्तांत नंतर श्री. गोयल यांनी सचिव, केंद्रीय बाण्यक मंडळ अशी सही करून त्यांच्या दिनांक १५/३/२००१ च्या पत्राद्वारे पाठविला होता.

(नऊ) श्री. गोयल यांनी त्यांच्या दिनांक २७/११/२००० च्या पत्रामध्ये असे नमूद केले होते की, वाहंरून फक्त सेल फ्लेट वॉइंगचे (अपूर्ण भाग) घात करून घ्यावे किंवा कसे यासंबंधात कोणतीही विनिश्चि तसतूद भारतीय बाण्यक विनियमांमध्ये नाही. परंतु त्यामुळे तशी कार्यवाही करण्यास प्रतिकबंध असल्याचा अर्थ काढून आक्षेप घेण्याचे कारण नाही. (याउलट केंद्रीय बाण्यक मंडळाच्या बैठकीच्या इतिवृत्तात असे नमूद करण्यात आले आहे की, अधिनियम / विनियमात अशी तसतूद करण्यात आलेली नव्हती. मंडळाने बरीलप्रमाणे जो निर्णय दिला आहे त्यामुळे सुध्दा नमुना क्र. दोन अनुसार निरीक्षण प्रमाणपत्र देण्यासंबंधीची तसतूद तसेच विनियम ५३६-अ च्या फोर्टविनियम (ब) मधील तरतुदीचे पालन करणे शक्य होणार नाही. म्हणजेच मंडळाचा निर्णय या तरतुदीशी विरुध्द ठरतो.) (न्यायमुळेय पुढे मुख्य निरीक्षक, बाण्यके, राजधानी प्रदेश, दिल्ली शासन यांनी त्यांच्या दिनांक २३/२/२००१ च्या पत्राद्वारे मंडळाच्या निर्णयात दुरुस्ती सुचविली.) मंडळाने दोन्ही फक्त सेल फ्लेट वॉइंगची प्रक्रीया केलेल्या

भागाल अपूर्ण भाग असेच मानले आहे आणि तेवढीच प्रक्रीया बाहेरून करून देता येईल असा निर्णयही दिलेला नाही. मंडळाने क्वॉट हायवेय करलेले आहे जी, फक्त शेल प्लेट वॉर्डिंगचीच प्रक्रीया करण्याचा या सोप्याच मान्यता रावी. यावरून अर्थातच असा निष्कर्ष निकाली जाई, फक्त शेल प्लेट वॉर्डिंग हो प्रक्रीया केलेला अपूर्ण भाग बाहेरून प्राप्त करून देता येतील.)

(बस) मंडळाने बरील प्रमाणे निर्णय घेतल्यानंतर मुख्य निरीक्षक, रायगडची प्रदेश, दिल्ली शासन ये रायगडची व खाणी समितिके सदस्य असतात त्यांनी दिनांक २३.६.२००९ रोजी मंडळाला पत्र पाठवून मंडळाला बरील निर्णयातील त्रुटी दुरुस्त करण्याची सूचना केली आहे. त्यानुसार मंडळाने नंतर ती कार्यवाही करण्यानंतर मंडळाला या निर्णय केंद्र शासनाच्या राज्यात माहितीसाठी करण्यात येईल व जन्मेकडून हरकती / अविज्ञाप्य / सूचना मागविण्यात येतील आणि त्यांचा विचार होऊन मंडळाला निर्णयाने विनियमात त्यांचा लेख राखिल आणि त्यानंतरच त्यानुसार सुधारित कार्यपध्ती अंमलात येईल.

(अकरवी) मेसर्स ट्रान्स्परंट एनर्जी सिस्टीम्स प्रा. लि. यांनी बरील प्रमाणे श्री. गोपाल, तांत्रिक सल्लागार यांचेकडून जो सल्ला त्यांचेकडील दिनांक २७.११.२००० च्या पत्राप्रमाणे प्राप्त करून घेता होता. त्याची प्रत संचालक, बांधके यांचेकडे दिनांक ५.१२.२००० रोजी प्राप्त झाली होती. त्यामधील सल्ला हा भारतीय बांधके विनियमातील तरतुदीची विवेचना असल्याचे दिसून आले. त्याचप्रमाणे या विनियमात सुधारणा करण्याचा अधिकार केंद्रीय बांधक मंडळालाच असल्यामुळे संचालकाला याने दिनांक १३.१२.२००० रोजी मेसर्स ट्रान्स्परंट एनर्जी सिस्टीम्स प्रा. लि. यांना असे कळविले वही, त्यांना अर्पणित असलेल्या सुधारणेचा प्रस्ताव तयार करून त्यांनी तो केंद्रीय बांधक मंडळालाच पाठवावा. याच त्यापूर्वीच दिनांक २.१२.२००० रोजी संचालक या नात्याने विनियमात सुधारणा सुधारणेचा प्रस्ताव श्री. शंभोजी यांनी केंद्रीय बांधक मंडळाला सादर केलेला होता.

(बारा) भारतीय बांधके विनियम, १९५० मध्ये शेल प्लेट वॉर्डिंगचीच प्रक्रीया करून घेऊन तो वॉर्डिंग न केलेला अपूर्ण भाग बाहेरून जन्मून देण्याची तरतूद नाही. मेसर्स ट्रान्स्परंट एनर्जी सिस्टीम्स प्रा. लि. यांनी बांधक विनियमातील पलवाना भिडण्यासाठी प्रथमतः जो अर्थ दिनांक २०.६.०९ रोजी सादर केला होता, त्यामध्ये त्यांनी स्वतःच हे नमूद केलेले होते जी, ६/२ बांधके विनियमानंतर ते स्वतःच्या कार्यसाधनेत आवश्यक ते प्लेट वॉर्डिंग मशीन जन्मून

केली व त्यांनी ते लष्करात लष्कर बसवून घ्यायचे अशी उद्द घालूनच परवानगी देण्यात आलेली होती.

(टीप) त्यानंतरच्या वर्षभराच्या अवधीत मेरस ट्रान्स्परंट एन्जी सिस्टीम्स प्रा. लि. यांनी प्रत्यक्षात एकही बांधक निर्माण केला नाही. मात्र असे असूनही तात्काळीन स्वयंचालित बांधक (श्री. म. वि. जोशी) यांनी संचालकांच्या निदर्शनास ही बाब आणलीच नाही की, सपर कंपनीने यशोलाप्रमाणे १ वर्षांची तात्पुरती परवानगी देताना घातकतेच्या अटीची पूर्तता केलेली नाही. उलट कंपनीने वर्षभरात केलेल्या बागाचा आढावा घेतला असता ते समाधानकारक आढळले अशी रिपोर्टस केली आणि कंपनीस पूर्वी दिलेली परवानगी थिक्काट फुडे चालू ठेवण्याची परवानगी दिली. (बाब श्री. जोशी यांना संचालित्वानंतर मेरस ट्रान्स्परंट एन्जी सिस्टीम्स प्रा. लि या कंपनीत नोकरी देण्यात आली होती.)

(टीप) मात्र त्यानंतर या अटीची पूर्तता केली गेली आहे वा नाही याबद्दल संचालनालयाचे डूबल झाले. आधी उल्लेखिल्याप्रमाणे (सर्व्हे सर्व संस्थांच्या पुनर्विलोकनाचा कार्यक्रम हाती घेतला तेव्हा ही बाब पुन्हा लक्षात आली आणि कॅम्पलेकटून अर्पण भाग वाढवून घेवून घेतला जात असल्याची अस्वीकृत पत्रत असलेली जात राहिली असल्याचे विस्तृत जाते.) ही पत्रत निमित्तमातील तरतुदीशी विसंगत असल्याने त्याकरिता आवश्यक ती कार्यवाही करणे गरजेचे झाले. त्यामुळे मे. ट्रान्स्परंट एन्जी सिस्टीम्स प्रा. लि. ने प्रतिपारन केरुपाप्रमाणे संचालनालयाने कंपनीस हेतुत: जस देण्यासाठी कायवाई सुट केली जा आरंभत तय्य नाही आहे स्पष्ट होईल. कंपनीने मुळातच परवानगी घ्याताना दिलेला शब्द पाळलेला नाही. इतकेच नव्हे तर १ वर्षानंतरही तौय पत्रत फुडे चालू ठेवण्यासाठी परवानगी मिळविण्याची तसवी देखील घेतली नव्हती असे दिसून आल्यामुळेच कार्यवाही करण्यात आली होती. कंपनीला या दरब्यान नी मान्यता दिली जात होती ती भारतीय बांधक विनियम, १९५० मधील तरतुदीनुसार बांधक निर्मिती करण्याकरिताच दिली गेलेली होती आणि प्रथमतः सुट मिळविण्याचे वेळी कंपनीस या तरतुदीची पूर्ण कल्पना असल्यानेच तशी सुट मिळविण्याची विनंती त्यांनी केली होती हे स्पष्टच आहे.

(टीप) भारतीय बांधक अधिनियम, १९२० च्या बांधक निर्मितीच्या परवान्याचे नूतनीकरण (रिव्यूअल) करण्याची तरतूद नाही. असे असताना श्री. डाव्हीगळी यांनी निर्मित केलेल्या बांधक

निराकरणसाठी ये. टुक्वॉरंट एलनो सिस्टीमस प्रा. लि.चा नाव त्रास दिला वसा दोघातोप त्यांच्याविरुद्ध देखभाल आला आहे. त्यासंबंधात श्री. हज्जीगळी यांनी असे निदर्शनात आणले आहे की, प्रस्तुत घोषारोपाचा मसुदा तयार करताना केवळ भारतीय बांधके अधिनियम, १९२३ चा कलम २९ च्या अनुसार राज्य शासनाने तयार केलेल्या महाराष्ट्र बांधके नियम, १९६२ मध्ये पुनर्विलोकनाची तरतूद नाही हे विचाराने घेण्यात आलेले दिसते. परंतु त्याचवेळी केंद्रीय बांधके यंत्रणेने उच्च अधिनियमाच्या कलम २८ अनुसार बांधके निर्मात्यांसाठी ख्यागारे साहित्य, अभिकल्प (डिझाइन) आणि संरचना (कन्स्ट्रक्शन) यंत्रांसाठी ज्या प्रमाणभूत अटी विहित केल्या आहेत त्याचवे लक्षा दिलेले नाही.

(सोड्या) बांधके दुरुस्ती करणाऱ्या संस्थांसाठी महाराष्ट्र बांधके नियम, १९६२ मधील नियम १५१ (३) मध्ये मान्यतेचे नूतनीकरण करण्याची तरतूद करण्यात आलेली आहे. त्याच व्यवहाराची तरतूद बांधके निर्माण करणाऱ्या संस्थांचे बाबतीत करण्याचा प्रस्ताव १९९५ पासून शासनाच्या विचाराधीन होता. दिनांक १०/८/२००१ व २०/३/२००३ च्या अधिसूचना राज्यात प्रसिद्ध करून महाराष्ट्र बांधके नियम, १९६२ मध्ये सुधारणा करण्यात आली आणि नियम ३८(अ) मधील पोटनिबन्ध (क) मध्ये खंड (२) चा अंतर्भाव करण्यात आला. त्याचप्रमाणे नियम १५२(२) मध्ये खंड मजकूर समाविष्ट करण्यात आला आणि पोटनिबन्ध (३) मध्ये नवीन मजकूर समाविष्ट करून बांधके निर्मात्यांना मान्यतेचे देखील नूतनीकरण करण्याची तरतूद करण्यात आलेली आहे.

(सतरा) संचालनलगताने सर्व संस्थांना जी यंत्रणांविषयी पत्रे दिसेंबर, १९८९ मध्ये व फेब्रुवारी, २००० मध्ये पाठविली होती, त्यामध्ये नूतनीकरण (रिन्यूअल) असा शब्दप्रयोग करण्यात आला आहे व त्यावेळी बांधके निर्मात्यांच्या परवान्यांच्या नूतनीकरणाची (रिन्यूअल) ची तरतूद लक्षात घेऊन आहे. मात्र त्यामधील रिन्यूअल हा शब्दप्रयोग रिन्यू (पुनर्विलोकन) या अर्थानेच वापरला आला होता. हे त्या पत्रातील मजकुराच्या आधारावरून स्पष्ट दिसून येईल. त्यावेळी बांधके दुरुस्ती संस्था व नविल्ले परिक्षेकरान करणाऱ्या संस्थांच्या परवान्यांच्या नूतनीकरणाची तरतूद अधिनियमात होती आणि तशी अनेक प्रकारचे त्यावेळी संचालनालयाकडून हाताळली जात होती. त्यामध्ये रिन्यूअल हा शब्दप्रयोग बाराव्या बाबतीत आल्याने त्यावेळी याही प्रकारचा रिन्यूअल एवजी रिन्यू हा शब्दप्रयोग करण्यात आला

आहे. परंतु धारंभवातील कार्यक्रमांचे अवलोकन केल्यास त्यांचा हेतू 'रिज्यूअल' नसून 'रिज्यू' हाच होता असे स्पष्ट होते.

५.२.१ अपचारी अधिकारी यांनी सर्वसाधारणपणे वरील मुद्दे उपस्थित केलेले जाळतात. त्यांनी या अनुषंगाने सर्व सरकारी खात्यांशी निव्वळ उलट तपासणी केलेली आहे. त्यावेळी, सर्वश्री संदरी आणि उमरखर बांधकाम त्यांनी वरील सर्व मुद्दांबद्दलचे प्रश्न निवारण त्यावेळीच गुप्ती प्राप्त करून घेतलेली असल्याचे स्पष्ट केलेले आहे. उर्वरित सरकारी खात्यांसारखेच, ज्यांनी त्यांच्याविरुद्ध उप लोकआयुक्त बांधकामे तक्रार करून श्री विभागीय चौकशीची कारवाई सुरू करण्याची विनंती निघात होती ती श्री. टुलसरेट एनर्जी सिस्टीम्स प्रा. लि. या कंपनीचे प्रवर्तक व कार्यकारी संचालक श्री. अने हे आहेत. श्री. अने यांची उलट तपासणी करण्यासाठी अपचारी अधिकार्यांनी ने प्रश्न तपास करून आणले होते ते संपुष्टात आणून सक्तीवरूनही क्लिष्ट असल्याचे दिसून आले होते आणि त्या प्रश्नांना उत्तरे देण्यासाठी लागणारी बरीच माहिती श्री. अने यांच्या उक्त कंपनीतील कार्यालयात (पुणे येथे) असल्याचे व ती सर्व सुवातगतीच्या वेळी मुंबईला घेऊन येणे आवश्यक असल्यामुळे तसेच या उलट तपासणीसाठी किती वेळ लागेल हे ठरविणे देखील शक्य होत असल्याचे पाहून तसेच श्री. अने हे एक तर्काने असल्याने त्यांच्या व्यवसायावर प्रतिकूल परिणाम होऊ नये यादृष्टीने त्यांना खर्चाने सुनावणीसाठी हजर राहाण्यास ताकमे गैरसोयीचे होत असल्याचे पाहून अपचारी अधिकार्यांनी तपास करून आणलेल्या सर्व प्रश्नांची एक प्रत श्री. अने यांना पुरविल्याच आणि त्यांची उत्तरे श्री. अने यांनी टंकलिखित करून घेऊनच तक्रार करावीत अशी व्यवस्था सर्व संपत्तीने स्वीकारण्याची निर्णय चौकशी अधिकार्यांनी घेतला होता.

५.२.२. श्री. हळीगळी यांनी आता या संदर्भात असे नमूद केले आहे की, श्री. अने यांनी उलट तपासणी सुरू केल्यावर प्रथमतः चौकशी प्राधिकारी यांच्यासमोर काही प्रश्नांचे उत्तरे दिली होती. मात्र मुद्दे अपूर्ण ठरिलेले प्रश्न त्यांचे वास्तविकता आणखी व वरीलप्रमाणे त्यांना उत्तरे लेखी स्वरूपात तक्रार करून आणण्याची संधी देण्यात आल्यानंतर त्यांनी सुखावासाठी दिलेल्या दंतरीनभेरी वस्तुता करून ती सादर केली आहेत. श्री. हळीगळी यांनी काही नमूद केलेले आहे की, श्री. अने यांनी केलेले पुर्वप्रमाणे प्रश्नांची सख्ख उत्तरे न देता निष्कारण गुलागुत निघात करणारी उत्तरे दिलेली

अज्ञेय व रीं हेतुतः धौकशी प्रविष्यन्त्यांषी दिशाभूल करण्वासादी दिनी असत्याचा दावा करून श्री. हाजींगळी (अपनारी अधिकारी) यांनी या उत्तरावर विस्तृत भाष्य केलेले आहे व त्यामुळे त्यांनी दिनांक १२/२/२००७ रोजी सादर केलेले प्राथमिक लेखी नियेदन खूपच मोठे झालेले आहे.

५.२.३ श्री. हाजींगळी यांनी असे निदर्शनास आणले आहे की, श्री. अग्ने यांच्या तक्रारीचा रोख असा दिसतो की, श्री. हाजींगळी यांनी मे. ट्रान्स्पॉर्ट एवनी सिस्टीम्स प्रा. लि. या कंपनीकडून जी भूमिका घेतली होती ती केवळ त्या एखाद्या कंपनीला असा देऊन त्यांच्या बांधक निर्मित्या उद्योगास प्रतिबुल परिदिकती निर्माण करतावी आणि त्यांच्या उत्पादन क्षमतेवर अविष्ट परिणाम होऊन त्याच क्षेत्रात प्रस्थापित झालेल्या मोठ्या उद्योगाना (मे.वर्निस) त्यांचेकडून होणारी स्पर्धा थांबावी याकरिता होती. नसरण श्री. हाजींगळी यांच्या मुलास मे. वर्निस या कंपनीने नोकरी दिलेली होती. इतकेच नव्हे तर उत्पादीतत्व पदोन्नतीही दिलेली होती. श्री. हाजींगळी यांनी याबाबत असे प्रतिबन्धन केले आहे की, सोल प्लेट बॅंकिंग एवहीच अद्वय प्रक्रिया बाहेरून करून घेवारी मे. ट्रान्स्पॉर्ट एवनी सिस्टीम्स प्रा. लि. ही एकाच कंपनी होती. त्यामुळे दाखविलेले अशी कार्यवाही करण्याचा प्रश्न उत्पन्न नव्हता. मात्र पुनर्विलोकनाची प्रक्रिया त्यांनी सर्व्हे केल्याचे साबळीत सुरु केलेली होती. त्यांच्या मुलाने जे विशेष शैक्षणिक प्राविष्य प्राप्त करून घेतले होते त्याकरिताच मे. वर्निस या कंपनीद्वारे त्याची निवड केवळ इंटरव्ह्यूमध्येच केली गेली होती. पुढे त्यांच्या मुलाने त्या क्षेत्रातील आपली उच्च प्रशिक्षणही प्राप्त करून घेतले आणि याही खळ अन्व कंपनीत नोकरीचा अनुभव मिळविल्यानंतर मे. वर्निस कंपनीमध्ये वरिष्ठ पदावरील नोकरी स्वीकारली होती. त्यांनी अशीही नमूद केले आहे की, मे. वर्निस ही कंपनी बांधक निर्मित्या क्षेत्रातील खूपच मोठी आणि प्रस्थापित कंपनी होती आणि देशात निर्माण होणाऱ्या बांधकामांच्या क्षेत्रातील त्या कंपनीचा जादा खूपच मोठा होता. त्यामुळे मे. ट्रान्स्पॉर्ट एवनी सिस्टीम्स प्रा. लि. या मुलाने फारच लहान असलेल्या कंपनीकडून मे. वर्निस साठव्या कंपनीला होणारी स्पर्धा ही नगण्य स्वरूपाचीच होती. तेव्हा सरकारी साक्षीदार श्री. अग्ने यांनी केलेला हा दाखलेखील विनवृत्ताचा आहे. या उलट रचता दिलेला शब्द न पाऊन भारतीय बांधक विनियम, १९२३ आणि महाराष्ट्र बांधक नियमावलीत तरतुदीचा भंग करण्याची व अनिश्चितपणे विधेकळ शासनाची दिशाभूल करून प्रस्थापित केलेली कार्यपधतीच पुढे सुरु ठेवण्याची हटवारी भूमिका घेतून श्री. अग्ने यांनी श्री. हाजींगळी यांनी नियमांचे पालन व्हावे आणि जनतेच्या / देशाच्या हितस बाधा पोहोचेल

अशी घटना थडू नवे घासाडी कातव्य बाबतने स्वीकारलेल्या धूमिकेला विरोध करण्याचाच आग्रह धरून श्री. झळींगळी यांनाच त्रास दिल्या आहे असे प्रतिपादन केले आहे.

५.२.४ श्री. अजे खोनी साहू नोंदविताना तक्रार करून दिलेल्या मा.उप लोकआयुक्त यांच्या अहवालानुसार श्री. झळींगळी यांनी आपल्या निवेदनात तुलना केलेला आयून त्या अहवालातील निष्कर्ष हे केवळ तक्रार अर्जादारांनी सादर केलेल्या पुराव्याच्या आधारे आणि श्री. हाडेंगळी यांना आगली बाजू मांडण्यास पुरेसा अवधी न देता घाईघाईने करलेले आहेत असा दावा केला आहे. त्यांनी असेही नमूद केले आहे की, मा. उप लोकआयुक्तानी श्री. अजे यांच्या तक्रारीत तथ्य असले असे तक्रारदारांनी केलेले असल्याचे नमूद करून या प्रकरणाची अधिक तपशीलवार क्वान्ती केली जास्तोप श्री. हाडेंगळी यांच्याविषय विषयगत चौकशी करण्याची शिफारस केलेली आहे. त्यामुळे विद्यार्थी यौवनाची कार्यवाही करताना मा. उप लोकआयुक्तानी करलेले निष्कर्ष वास्तविकता: विषयगत ऐष्याची आवश्यकता नाही.

५.२ सावरकरांच्या अधिकाऱ्यांचे अभिप्राय :-

अभ्याची अधिकारी श्री. झळींगळी यांनी आपल्या निवेदनात ने मुद्दे उपस्थित केले आहेत त्यांचे सावरकरांच्या अधिकाऱ्यांनी आपल्या टाचण्याच्या परिच्छेद ५.१ च्या अन्वये संक्षेपाने २०१२ च्या बरेलगा आहे व त्यामुळे अभ्याची अधिकाऱ्यांचे प्रतिपादन पुढील समजून घेण्यासाठी त्यांचे मूळ लेखी निवेदन विषयात प्रेणे आवश्यक आहे याकडे सावरकरांच्या अधिकारी यांनी लक्ष वेधले आहे. त्यांनी या अनुषंगाने दिलेले अभिप्राय खालीलप्रमाणे :-

५.२.१ श्री. हाडेंगळी यांचे भारतीय नाथके अधिनियम १९२२, भारतीय नाथके विनियम १९५० आणि महाराष्ट्र नाथके विनियम, १९६२ यांनी तत्कालीने ने संदर्भ दिले आहेत त्या सर्व मुळाव्यात उलट लक्षणात प्ररून उन्वित करून त्यांनी सरकारचे साक्षात्कार तत्कालीन सह संधिय उद्योग, ठगनी य कामकार विभाग, मंडालय श्री. जे. टी. बंदरी आणि तत्कालीन, उप संचालक, नाथके संचालनालय श्री. उदुववार यांचेकडून त्यास पुढीकरक उलट मिळविली आहेत. इतकेच नव्हे तर तक्रारदार य सरस्वती साक्षात्कार श्री. अजे यांच्या उलट तक्रारणीतील उलटोपधने असलेल्या विसंगती आणि श्री. अजे

पॉली केंद्र शासनातील तांत्रिक सल्लागार यांचेकडून प्राप्त करून घेतलेल्या सल्ल्याबाबतची विस्ताराने अधिपत्रात वाक्य घालून त्या सल्ल्यानुसार प्रत्यक्ष कार्यवाही करणे कसे शक्य नव्हते हे स्पष्ट केलेले आहे असे दिसून येते.

५.२.२ तालेव श्री. हाडगीवडी पॉली संबंधित जागदपत्रांच्या प्रती आणि सरकारी साक्षीदारांनी तोंडे माधीत दिलेली उतरां यांच्या आधार हेही स्पष्ट केले आहे की, संचालक पदाचा कार्यभार स्वीकारल्यानंतर त्यांना मे. शिके पेपर मिळत येणे बाध्यकराचा स्कोट होऊन घडलेल्या दुर्घटनेचा चौकशी आल्यानंतर पुराव्यास मिळाला होता आणि त्या अपघाताची प्राथमिक पाहणी त्यांनी सह संचालक असताना स्वतः केलेली आढळल्याने त्यांना त्या चौकशी आढळतातील निष्कर्ष जाणून घेण्याची उत्सुकता होती. त्यामुळे त्यातील निष्कर्ष त्यांनी घडतातून पाहिले होते आणि अपघातानंतर प्रथमदर्शनी केलेल्या घापांच्या संदर्भात ते विकल्प घोग्य नसल्याचे आढळल्यामुळे त्याबाबत इतरांबरोबर विचार विनिमय करून त्यांनी आपले निष्कर्ष नोंदविले होते. अशा प्रकारे त्यांनी स्वतः ने निष्कर्ष पडले होते त्यामुळे राज्यातील बाह्यक नियंत्रणाच्या कार्यशाळांच्या सहाय्येने त्यांच्या पुढील आढावा घेण्याची आवश्यकता त्यांना जाणवली होती. तसेच गेल्या १०-१५ वर्षांत एवढी बाह्यक निर्माण करणाऱ्या कंपनीने आपल्या कंपनीतील फेरफार / सुधारणांची पाहिली, संचालनालयाला कळविणे आवश्यक असून सुध्दा कळविले नसल्याने त्याबाबताची पाहिली निष्पत्तीबाबतही त्यांनी सर्व कंपनी आणि संचालनालयाने अधिकाऱ्यांना नोंद घेणे / अधिकाऱ्यांक पाहिली होती. त्यावेळी मे. ड्राफ्ट एनजी सिस्टीम प्रा. लि., पुणे या कंपनीकडून प्राप्त झालेल्या माहितीवरून त्या कंपनीकडून नियमांचे फटकेफोरणे घालून घेतल्याचे दिसून आले होते व त्यामुळे त्यांनी कंपनीने सुधारित कार्यपध्दती स्वीकारावी किंवा आपल्या कंपनीतच आवश्यक ती सामग्री बसवून घ्यावी असे कंपनीस कळविले होते. त्यानंतर सदर कंपनीचे व्यवस्थापकीय संचालक, श्री. अने यांनी प्रयत्नित कार्यपध्दतीक कडी नियमानुसार / अंतरराष्ट्रीय मानकानुसार घोग्य आहे हे सिद्ध करण्याचा आग्रह धरला आणि त्या उलट ती कसा नियमबद्ध आहे हे दाखवून घेण्याचा आग्रह संचालकांनी (श्री. हाडगीवडी) यांनी कायम ठेवल्यामुळे हा वाद उद्भवला असल्याचे दिसून येते.

५.२.६ श्री. अने पानी अशी भूमिका मांडलेली आढळते की, कंपनीचे बाष्पक निर्मितीस आरंभ केवळपासून (१९८९-९०) अजलापाच शेल प्लेट वॉटिंग हीच प्रक्रिया ते अजब मान्यताप्राप्त कंपनीकडून करून घेतात व त्या भाषांचे येवढीगणे काम जे बाष्पक निर्मितीबधील अर्थात महावाचे मानले जाते ते आपल्या स्वतःच्या कंपनीत तज्ञांकडून करून घेतात. अशा प्रकारे त्यांनी बनविलेले बाष्पक अतिरिक्तपूर्ण स्तरावर मजबूत आणि दृग्गम्यतेकरिता नवानले जातात आणि ते पूर्णतः सुरक्षित मानले गेलेले आहेत. त्यामुळे इतके वर्षानंतर संचालनालयाचे शेल प्लेट वॉटिंग या प्रक्रियेसाठी स्वतःच्या कंपनीत आवश्यक ती यंत्रणा बसविण्याचा आग्रह परंपरायुक्त राहून राहतो. त्यांच्या मते गेल्या १०-११ वर्षांपासून सुरक्षात्मक आणि जोपात्याही प्रकारे तक्रारीविना सुरू असलेल्या कार्यप्रणालीलाच संचालनालयाने मान्यता देणे योग्य / शक्य होते आणि त्यांच्या मतात केंद्रीय बाष्पक मंडळाचे सदस्य आणि तांत्रिक सल्लागार (श्री. वॉयल) पानी देणारे पुढी दिलेले अडवल्याने त्यांनी श्री. इन्वॉल्व्ही पॉपिथरिथ्थ ते जाणून घ्यावून प्राप्त देण्यासाठी कोरिन्तामणे आग्रह करून असल्याचा खम निष्कर्ष फडल्याचा दिसतो. त्यांच्या मते याचे कारण त्यांच्याच बाष्पक निर्मितीच्या व्यवसायातील ये. वर्षास कंपनीने श्री. इन्वॉल्व्ही यांच्या मुलाचा दिलेली तोकरी / तोकरीतील जलद पत्रावृत्ती आणि त्यामुळे त्या कंपनीला श्री. अने यांच्या दर्जेदार बाष्पक निर्मितीमुळे शोषारी मार्था वगैरे करण्याचा श्री. इन्वॉल्व्ही यांचा प्रयत्न हे आहे असाही निष्कर्ष त्यांनी सादलेला दिसतो.

५.३.४ या उलट श्री. इन्वॉल्व्ही यांच्याकडून ये. ट्रायब्युट एमपी सिस्टीम प्रा. लि. या कंपनीच्या बाबतीत येवढ्या केलेल्या कार्यवाही मर्यादा नकारणे स्पष्ट केलेले आहेत. श्री. अने पानी प्रथमतः बाष्पक निर्मितीसाठी १९८९ मध्ये जो अर्ज केला होता त्यामध्येच त्यांचे कंपनीकडे आवश्यक त्या प्रकारची शेल प्लेट वॉटिंगची प्रक्रिया करण्याची यंत्रणा नसल्याचे नमूद केले होते आणि वर्षभरात अशी यंत्रणासुद्धी बसवून घेण्याचा वेईल आवेडी नमूद केले होते हे श्री. इन्वॉल्व्ही यांनी निदर्शनास आणले आहे. त्यांनी असेही स्पष्ट केले आहे की, आवश्यक ती यंत्रणासुद्धी लवकरात लवकर बसवून घेण्याच्या अटीवरच कंपनीला सुरक्षात्मक फलत एक वर्षाकरिता परवानगी देण्यात आली होती. मात्र त्यानंतर कंपनीने वर्षभरात प्राथम्यात इतकी बाष्पकाची निर्मिती केलेली नसताना तेव्हाच्या संबंधित संचालकांनी यंत्रणेचे सांगण्यात सांगण्यानंतरच असल्याचे धोटेपत्राने प्रमाणित करून, कंपनीने घेतलेली अटीची-पूर्विले केलेली नसताना वेईल संकलना बाष्पक निर्मितीसाठी परवानगी दिली व तोच

परवानगी पुढे चालू राहू दिली असे निदर्शनास आणले आहे. त्यानंतर कंपनीकडून शेअर प्लेट वॉटिंगचीच प्रकृत प्रक्रिया बाहेरून करून घेऊन ती आपूणे भाग स्वतःचा कंपनीत वोटिंग करून पूर्ण करण्याची कार्यपध्दती सुरू राहिली आणि पुढे कोणीच त्याला आक्षेप न घेतल्याने ती राशीच चालू राहिली. त्यांनी असेही नमूद केले आहे की, कंपनीने स्वतःच शेअर प्लेट वॉटिंगसाठी लष्करी मासुमी चक्रेधरता यंत्रियव्यवस्था येईल असे नमूद केले होते. तथा अटीवरच कंपनीस याचक निर्मितीची परवानगी देण्यात आली होती हे पाहता शेअर प्लेट वॉटिंगची प्रक्रिया स्वतःच्याच कंपनीत व्यवहारस इवी यांनी पूर्ण करण्यात आसूनही १०-१५ वर्षांपर्यंत त्यासाठी पुन्हा परवानगी देखील न घ्याता ती कार्यपध्दती तशीच सुरू ठेवली हे नियमबद्ध तर आहेच, परंतु कंपनीकरिता नैतिकदृष्ट्याही अंधित उरत नाही.

५.३.५ त्यांनी पुढे असेही निदर्शनास आणले आहे की, नियमानुसार स्वतःच्या कंपनीत शेअर प्लेट वॉटिंग करून घेण्यासाठीची धोरणसमुची यंत्रयुक्त पणे जव्हा शेअर प्लेट वॉटिंग बरोबरच वॉटिंगपेक्षाील बाहेरून करून घेऊन ती संपूर्ण भागच बाहेरून बनवून घेण्याचा पध्दती कंपनीला देण्यात आला होता. अशा प्रकारे पूर्ण भाग बनवून देण्याची क्षमता अनेक कंपन्याकडे आहे आणि त्याप्रमाणे पूर्ण भागच जेव्हा एखाद्या कंपनीकडून तयार केला जातो तेव्हाच विविध टप्प्यावर त्याचे निरीक्षण करणे व त्यानंतर आवश्यक ती प्रमाणपत्रे / नमुन्यानुसार त्या भागासाठीचे मॉडेल तयार करणे राज्य असते व त्या भागापुरती संपूर्ण जबाबदारीदेखील त्याची निर्मिती करणाऱ्या कंपनीवर निश्चित करणे प्रकृत असते. मात्र ये. ट्युन्सपंट एन्वी सिस्टीम्स प्रा. लि. ने या पध्दतीचा उल्लंघन न करता अन्विकूलपणे प्रस्थापित करून दीर्घकाल पुरत सुरू ठेवलेली कार्यपध्दतीच सुरू ठेवण्याचा आग्रह कायम ठेवता आणि तो प्रतिषेध विषय करून केंद्र शासनकडील संबंधित मंडलाऐवजी तांत्रिक सल्लागारांकडून अधिकृत मिडविंग, मा. उप लोकायुक्तांकडे तक्रारी करणे यासारख्या मार्गांचा अवलंब केला.

५.३.६ त्यांनी असेही नमूद केले आहे की, कंपनीद्वारे जी नियमबद्ध कार्यपध्दती ठरविलेली पाता होती ती अंविगने हे संचालक म्हणून त्यांचे कर्तव्यच होते व तसे बतव्यासाठी त्यांनी जरी कार्यवाही केली असली तरी कंपनीद्वारे वॉटिंगबरोबर चर्चा होऊन कायद्यात आलेल्या त्रुटीसंबंधीचे वॉटिंग मंडलाकडे प्रस्ताव पाठविले व त्यावर निर्णय होऊन विनिश्चयत वृत्तस्ती होईपर्यंत कंपनीकडून

अपलीकडिले गात असलेली कार्यपध्दतीच सूट ठेवण्यास परवानगी देण्यात आलेलीच होती. त्यामुळे त्यांच्याविरुद्ध जोडपारोप ठेवून ही चौकशीची प्रारंभार्थ करणे अन्यायकारक ठरते.

५.३.७ श्री. इज्जीगळी यांनी त्यांच्या मुलास मे. धर्मवस कंपनीत असलेली नोकरी आणि मे. ट्रान्स्पोर्ट एनर्जी सिस्टीम्स प्रा. लि. कडून मे. धर्मवस यांना होणारी स्पर्धा वाचवण्यासाठी चुलतसा केला आहे. त्यावरून मे. ट्रान्स्पोर्ट एनर्जी सिस्टीम्स प्रा. लि. ची उत्पादन क्षमता आणि मे. धर्मवस लि. यांचे उत्पादन क्षमता यांची तुलना करणे संयुक्तिक नाही असे त्यांनी स्पष्ट केले आहे. त्यामुळे श्री. इज्जीगळी यांच्या मुलाला मे. धर्मवस कंपनीत नोकरी असण्याचे या प्रकरणातील वादाचा संबंध जोडणे देखील योग्य नाही असे श्री. इज्जीगळी यांनी प्रतिबन्धन केलेले दिसते.

५.३.८ एकंदरीत श्री. इज्जीगळी यांनी आरंभे नुद्दे संप्रमाणे व उचितरूपे त्या कार्यपध्दतीचा व सक्षे पुराव्यांच्या आधारे वादलेले दिसतात. त्यामुळे त्यांनी मे. ट्रान्स्पोर्ट एनर्जी सिस्टीम्स प्रा. लि. या एकाच कंपनी विरुद्ध कार्यवाही का सुरू केली होती याबाबची खुलासा होणे असे दिसून येते. त्यांच्याविरुद्ध जोडपारोप घेणे बाब एक अनुसार जो जोडपारोप ठेवण्यात आलेला आहे, त्यामध्ये नमूद केल्याप्रमाणे श्री. इज्जीगळी यांनी प्रत्यक्षात वाचवण्याचे विविध भाग जोडून बांधक निर्माण करण्याच्या शिक्षाची निर्माण होत नसताना तर ज्या अन्य कारखान्यात असे भाग तयार होत असतील तेथे तपासणी करण्याचा आग्रह धरलेला नव्हता असे दिसून येते, तर प्रत्यक्षात मे. ट्रान्स्पोर्ट एनर्जी सिस्टीम्स प्रा. लि. या कंपनीने बांधकामासाठी लागणारा अपूर्ण भाग बाहेरून बनवून घेण्याची कार्यपध्दती बदलून ती पूर्ण करून बाहेरून बनवून घ्यावा असे त्या कंपनीला फाटविले असल्याचे दिसून येते. तसेच जोडपारोपात नमूद केल्याप्रमाणे ही प्रक्रिया नियमातील तरतुदीनुसारच करण्यात येत होती असेही दिसून येते. धोल प्लेट वॉलिंग हीच प्रक्रिया केलेला अपूर्ण भाग बाहेरून बनवून घेण्यासंदर्भात अधिनियम / विनियम / नियम यांमध्ये स्पष्ट तरतूद नसली तरी श्री. इज्जीगळी यांनी स्पष्ट केल्याप्रमाणे विहित नमुन्यातील प्रमाणाचे देण्यासाठी सादर शोल प्लेट हा भाग वॉलिंग व वॉलिंगवत पूर्ण रूपात बाहेरून बनवून घेणेच अधिक संयुक्तिक होते असे दिसून येते. त्याचवेळी स्पष्ट तरतूद नसल्याने कार्यपध्दती सुरळीतपणे चालणारी कार्यपध्दती / नोकरी धर्मवस सोबत बदलवण्यास लागणे अन्यायकारक घाटून त्याविरुद्ध रकमे तयार प्रत्यक्ष करणाऱ्याची नु. ट्रान्स्पोर्ट एनर्जी सिस्टीम्स प्रा. लि. यांचे कृतीदृष्टीत चुकीची मानल जाणार नाही. मात्र

एकदा ही बाब निवडानुसार योग्य नाही असे मला झाल्यानंतर ती पुढेही तशीच सुरु ठेवण्यात परवानगी देणे संचालनालयास शक्य नव्हते. कारण दुर्दैवाने एखादी जमिण घटना घडली असती तर त्याची जबाबदारी / उत्तरदायित्व संचालनालयावरच आले असते हेही विचारात घेणे आवश्यक दिसते. मे. ट्रान्स्मिटेट एनर्जी सिस्टीम्स प्रा. लि. कडून अवलंबिली जाणारी कार्यपध्दतीच नियमातील तरतुदीशी पूर्णतः सुसंगत नव्हती असे दिसून येते. त्यामुळे श्री. हार्डीगळी यांनी कोणताही वेगळी, निवडणूक बदल करणारी, कामेचढी सुरु केलेली नव्हती दावे दिसून येते. त्याचबरोबर असेही दिसून येते की, श्री. हार्डीगळी यांच्या निर्देशविषयक कंपनीने घेतलेली उद्योग विभागाकडे व राज्यमंत्री महोदयाकडे संपर्क साधून त्यांचेकडून ते अवलंबित असलेले कामेपध्दती सुरु ठेवण्यात परवानगीही मिळविली होती. त्यामुळे श्री. हार्डीगळी यांनी बरिष्ठपना संभाराने ठेवून अथवा कोणतेही अधिभोजन न देवता कार्यवाही केली होती असे मानणेही योग्य होईल असे जाटत नाही.

५.३.९ सोपारोप बाब एकदा मसुदा तयार करताना देखील त्यामध्ये संदिग्धता म्हणून नेली असावी असे दिसते. यापेक्षा निधिलीच्या परवानग्याचे नूतनीकरण करण्याची कार्ये मार्च १९९३ मध्ये तरतूद नसताना श्री. हार्डीगळी यांनी निर्मित परवानग्याचे निराकरण करण्यासाठी मे. ट्रान्स्मिटेट एनर्जी सिस्टीम्स प्रा. लि. यांना आज्ञा दिली असे या सोपारोपच्या बाबीत नमूद केले असल्याचे दिसते. या बाबत "निदान" हा शब्द चुकून घेतला असल्याचे मला सरकारी साक्षीदार म्हणून राज नोंदरिताना त्यावेळी उद्योग विभागात सह सचिव पदावर कार्यरत असणाऱ्या श्री. बंदरी यांनी व्यक्त केले आहे. श्री. हार्डीगळी यांनी याबाबत चुल्लूसा करताना असे स्पष्ट केले आहे की, प्रत्यक्ष त्यांना नूतनीकरण अधिप्रेत नव्हते तर पुनर्विलोकन अधिप्रेत होते. संबंधित नोंदीमध्ये अनावधानाने व सबबीने Review ऐवजी Renew असा शब्दप्रयोग केला गेला होता. श्री. हार्डीगळी यांना हा चुल्लूसा देखील प्राप्त जाटतो. अशा पुनर्विलोकनाची आवश्यकता कशी धारताची याबाबत त्यांनी दिलेले स्पष्टीकरणादेखील राखत बाटले.

५.३.१० बरील मुद्याव्यतिरिक्त या उप लोकायुक्तीचीच आकल्या महावतात नमूद केल्याप्रमाणे त्यांनी अनुष्ठा केल्याबद्दल केवळ प्रत्येकरीती पुराव्यांच्या आधारे कळलेले निष्कर्ष, तक्रार अर्गद्वार श्री. अरे यांनी अधिलीय प्राधिकरण स्थापन करण्यासंबंधाने केलेल्या मागणीबाबत संचालकांनी हेतूत: केलेली चालदखल बाबत मांडलेला मुद्दा यासारखे जाही मुद्देही उपस्थित झालेले दिसतात.

चौकसीच्या ओघात ही माहिती उघडवलीस झालेली आहे, हे बरी बरोबर असले तरी दोषारोपच्या बाबींमध्ये या मुद्द्यांचा उल्लेख आढळत नाही. त्यामुळे बाबतबाबत जरी अपचारी अधिकारी यांनी झुलासा केलेला असला तरी त्यावर सादरकर्ता अधिकाऱ्यांचे अभिप्राय देण्याची गरज दिसत नाही.

५.३.११ असा प्रकार दोषारोपच्या या बाब क्रमांक एक बाबत अपचारी अधिकारी यांनी केलेला विलूत झुलासा व चौकसी दरम्यान पुढे आलेल्या वरीलप्रमाणे वस्तुस्थितीवरून ही दोषारोपची बाब निव्विनाशपूर्वक रथाव्यापिरुद्ध स्थिर होऊ शकलेली नाही असा निष्कर्ष काढण्या लागेल असे दिसते.

५.४ निष्कर्ष :- दोषारोपच्या बाबताळील नोंदपत्र दोन पाहिल्यात असे दिसून येईल की, या दोषारोपच्या बाबींमध्ये खालील मुद्द्यांचा समावेश आहे :-

- (१) बांधकामांच्या बागांची तपासणी करण्याबाबतीच्या पूर्वीच्या प्रक्रियेमध्ये बरत करताना त्याबाबती नोंद श्री.इश्लींगळी यांनी अधिकलेखामध्ये केली नाही. त्याच बरोबर बासाळी बरिष्चरणी शासनाची परवानगी घेतली नाही.
- (२) बांधकामे कायदा, १९६३ मध्ये बांधकामे निर्मितोपचा परवान्याचे मुतनीकरण करण्याची कोणतीही तरतूद नसताना श्री.इश्लींगळी यांनी बांधकामे निर्मितो करणा-या कारखानदाराना परवान्याचे निदान (पूर्वावलोकन-Review) करण्यासाठी सतत आग्रह धरला.
- (३) बांधकामांचे विविध भाग नव बांधकाम उघडवून करण्याच्या निकामी निर्माण करण्यात येत नसताना तर असे भाग ज्या अन्य कारखान्यात बनविण्यात येतात , तेथे तपासणी करण्याचा आग्रह श्री.इश्लींगळी यांनी संचालक, बांधकामे संचालनालय या पदाचा कार्यभार स्विकारल्यानंतर करण्यास सुरुवात केली व त्यायोगे गॅरर्स ट्रान्स्फरंट एनबी सिस्टिम्स प्रा.लि., पुणे यांना असा देण्याचा प्रयत्न केला.

दोषारोपच्या या पाहिल्या बाबींमध्ये वरीलप्रमाणे जे ३ मुद्दे समाविष्ट आहेत त्यापैकी (१) संदर्भात व चौकसी दरम्यान पाहण्याबाबत आलेली पुरावे, अपचारी अधिकारी यांनी सादर केलेले विलूत निवेदन आणि सादरकर्ता अधिकाऱ्यांचे प्रतिपादन पाहिल्यात असे दिसून येते की, अपचारी अधिकारी, श्री.इश्लींगळी यांनी सिक्रे पेपर मिलच्या बांधकामात खोटे आख्यानांतर बांधकामांच्या

परिक्षणाच्या बाबतीत अधिक दस्तऐवज्यास सुरुवात केल्याचे प्रतिपादन केले आहे. या दृष्टीने बाष्पक निमित्ती करताना वेगवेगळ्या टप्प्यांवर जी परिशोधे केली जाऊत त्या संदर्भात त्यांना असे आग्रहून आले होते की, ये.ट्रान्स्परंट एनर्जी सिस्टिम्स प्रा.लि. यांचेकडून बाष्पक निमित्ती करताना ती कंपनी बाष्पकाची फक्त फ्लेट वॉशिंगचीच प्रक्रिया बाहेरील कंपनीकडून करून घेत होती. ती प्रक्रिया अपूर्ण स्वरूपाची होती कारण अशा रीतीने बेटिंग केलेल्या भागाच्या वॉल्विंगची प्रक्रिया मात्र कंपनी स्वतःच करित होती. अपचारी अधिकारी यांचे असे प्रतिपादन केले आहे की, अशा प्रकारे अपूर्ण भाग बाहेरून बनवून घेण्याची तरतूद बाष्पक अधिनियमात नव्हती व त्यामुळे त्यांनी ये. ट्रान्स्परंट एनर्जी सिस्टिम्स प्रा.लि. यांचा प्लेट वॉशिंगची प्रक्रियादेखील स्वतःच्याच कंपनीत करून घेण्याची तजवीज कराली. अन्वया अपूर्ण भाग (प्लेट वॉशिंग आणि वॉल्विंगसह) बाहेरून बनवून घेणे संघनकारक असल्याचे कळविले होते. त्याच प्रमाणे अशी व्यवस्था कंपनीने तय्यारता लावून घेतून घेतल्यात कंपनीच्या बाष्पक निमित्तीच्या वेगवेगळ्या टप्प्यांवरील परिशोधाचे काम बांधविण्यात येईल अशी धूमस फोडली होती.

सादरकर्त्या अधिकाऱ्यांनी अपचारी अधिकाऱ्यांक यांनी केलेले तपशिलवार स्पष्टीकरण प्राप्त दिसा असल्याने दोघारोधाच्या बाबतीत हा मुद्दा त्यांचेविरुद्ध निविवादपणे सिध्द होवू शकत नाही असे अधिप्राव दिलेले आहेत.

माझ्यासमोर चौकशी दरम्यान आलेले पुरावे पाहिले असता असे स्पष्ट दिसून येते की, बाष्पक निमित्तीच्या प्रक्रियेतील विविध टप्प्यांवरील परिशोधाच्या फदतीत अपचारी अधिकारी, डी.हाजीगल्ली यांनी वर नमूद केल्याप्रमाणे बाष्पकाचा सूट भाग अपूर्णवस्थेत बाहेरून बनवून घेता येणार नाही अशी भूमिका नव्याने घेवून अशा अपूर्णवस्थेतील सूट्या भागाचे परिष्करण करणाऱ्या पूर्वीच्या फदतीत बदल करून नवीन फदत सुरू केली होती. त्यांच्या पूर्वीच्या कोणत्याही संघालाही बाष्पकाचा सूट भाग अपूर्णवस्थेत बाहेरून बनवून घेण्यास आक्षेप केलेला नव्हता. त्याच प्रमाणे विविध अधिनियम यातील तरतुदी पाहिल्यास असे दिसून येते की, जरी अशा प्रकारे अपूर्णवस्थेतील सूट्या भाग बाहेरून बनवून घेण्याची स्पष्ट तरतूद त्यामध्ये नसली तरी त्यास मनाई करणारी देखील कोणतीही तरतूद त्यामध्ये आढळून येत नाही. अशा परिस्थितीत अपचारी अधिकारी यांनी तशी नवीन फदत सुरू करणाऱ्यांच्या अर्जांमध्ये तशी नोंद करून त्यास परिष्काराची किंवा आसनाची मान्यता प्राप्त करून घेणे योग्य झाले

असते. तरी ती त्यांनी घेतलेली नव्हती ही बाब सिध्द होते. मात्र अशा प्रकारे बदल करण्याबाबील कारणे विचारात घेणे देखील तितकेच महत्त्वाचे आहे. शिके गेपर विल एथील बांधकामाच्या अपघाताच्या पाश्चंद्मीनर एक खरिद गबाबदार शासकीय अधिकारी या नात्याने बहिष्वात असे अपघात घडू नयेता या खेराते त्यांनी ही भूमिका घेतली होती असे दितुत घेते. त्याकाळे त्यांचा खेपताही अप्रामाणिक हेतू होता असे सिध्द झालेले नाही.

२. दोषारोप बाब क्रमांक १ मधील दुसरा मुद्दा बांधक निर्मितीच्या नुननीकरणची निवड्यात तरतुद नसाताने अवघारी अधिकारी यांनी अशी प्रक्रिया सुरू करण्याबाबताचा आहे. रिस्तभंग विषयक प्राधियवरी (उद्योग, उर्जा व कामगार विभाग) यांनी प्रस्तुत विभागीय चौकशीमध्ये सादर केलेले कामधोबती पुरावे आणि डी. अत्रे, मेसर्स ट्रांसरस्ट एनर्जी सिस्टिम्स प्रा.लि., पुणे यांची सरकारी साधीदार म्हणून नोंदधिलेली साक्ष तसेच इनर सरकारी साधीदार यांच्या साक्षी यावरून असे दिसून येते की, मझारुद् दौयलर अक्ट, १९२३ मध्ये बांधके निर्मितीच्या परवान्याचे नुननीकरण करण्याची तरतुद नव्हती. त्यावेळे बांधकांच्या दुरुस्तीचे काम करणा-याच्या परवान्यांचे नुननीकरण करण्याचीच परत तरतुद होती. त्यामुळे श्री.हाडॉंगडौ यांनी बांधक निर्मितीच्या परवान्याचे निदान करणासाठी मे.ट्रान्सरस्ट एनर्जी सिस्टिम्स प्रा.लि. यांना हेतू पुरस्सर बाब वेण्याचा प्रयत्न केला अशा आरोप देखान्यत आल्याचे दिसते.

* याबद्दल श्री.हाडॉंगडौ, अवघारी अधिकारी यांनी असे प्रतिपादन केले आहे की, जरी त्यांनी या संदर्भात सर्थ बांधक निर्मिती करणा-या कंपन्यांना पाठविलेल्या नोटीसमध्ये (Renew) हा शब्द वापरला आहे तरी प्रायशत त्यांना (Review) हा शब्द अभिप्रेत होता. त्यावेळे पर्यंत अशा बांधक निर्मितीच्या परवान्यांचे पुनर्विलोकन (Review) करण्याची कार्यवाही त्यांच्या कार्यालयाचे कधीच हातू घेतलेली नव्हती. याउलट बांधकांची दुरुस्ती करणा-यांच्या परवान्यांचे नुननीकरण (Renew) करण्याची कार्यवाही मात्र त्यांच्या कार्यालयाकडून वेळोवेळी केली जात होती. त्यामुळे प्रायशत बांधक निर्मितीच्या परवान्यांचे पुनर्विलोकन करण्याच्या दृष्टीने नोटीसा पाठविताना अनवधानाने Review या शब्दाऐवजी Renew हा शब्द वापरला गेला होता. त्यांनी पुढे असेही नमूद केले आहे की, नियम/अभिनियम यातील तरतुदीनुसार बांधक निर्मिती करणा-या प्रत्येक कंपनीने वेळोवेळी त्या

कंपनीच्या तज्ञ /तंत्रज्ञ आणि इतर साधनसामुग्री यामध्ये होणा-या प्रत्येक बदलाची भांडीती बाष्पक संचालनालयाला फळविकीने आवश्यक असते. मात्र असे भांडीती प्रदीर्घ कालावधीमध्ये कोणत्याही बाष्पक निर्मिती कंपनीने फळविकीवेली नसल्याचे त्यांना संचालक पदाचा कार्यभार स्वीकारल्यानंतर आढळून आले होते. सिर्के पेपर मिलच्या बाष्पकचा अपघात झाल्यानंतर अशा प्रवृत्त्या बदलांनी संचालनालयाकडे पाहिली असणे आवश्यक,घाटल्यामुळे त्यांनी ही कार्यवाही सुरु केली होती. पावरुन त्यांचा मुख्य हेतू सर्व बाष्पक निर्मिती करणा-या कंपन्यांमधील कर्मचारी आणि साधनसामुग्री यांची सुरक्षितता जाणून घेण्याचा होता हे स्पष्ट होते. त्यामुळे बरी त्यांनी पाठविलेल्या नोंदींतांगध्ये Renew हा शब्द वापरला गेला असला तरी प्रत्यक्षत त्यांना पुढीलकोवनाचीच कार्यवाही अपेक्षित होती असे दिसून येईल.

सादरकर्त्या अधिका-यांनी या संदर्भात सुष्वा असा दृष्टीकोन स्वीकारलेला दिसतो बरे, अपचारी अधिकारी यांनी बरीलप्रमाणे केलेला खुलासा स्वीकाराई घाटतो.

दोषारोप बाब क्रमांक १ मधील ह्या मुद्दा क्रमांक २ मध्ये नमूद केल्याप्रमाणे अपचारी अधिकारी श्री.इन्द्रांगडी यांनी बाष्पक निर्मिती करणा-या कंपन्यांना पाठविलेल्या नोटींसांमध्ये रिक्त्यात असा शब्द वापरलेला आहे ही वस्तुस्थिती आहे. मात्र असा नोटींसा पाठविल्यानातील त्यांचा हेतू नशात घेणे आवश्यक वाटते. त्यांनी या संदर्भात केलेले स्पष्टीकरण प्राल्ल घाटते. शिवाय चौबारी दरम्यान माझ्यासमोर आलेला पुरावा असे दर्शवतो आहे, त्यांनी असा नोटींसा बाष्पक निर्मिती करणा-या सर्वच कंपन्यांना पाठविल्या होत्या. त्यामुळे मेसर्स ट्रान्स्परॉंट एनर्जी सिस्टिम प्रा.लि., या एकाच कंपनीला हेतू पुरस्तर त्रास देण्यासाठी त्यांनी अशी नोटींसा पाठविली होती या मुद्द्यात तथ्य आढळत नाही. अशा परिस्थितीत बरी या मुद्द्यात नमूद केल्याप्रमाणे अपचारी अधिकारी यांनी लिपिमात बाष्पक निर्मिती परवान्यांच्या नुतनीकरणानी संसृद्ध नसतांना नुतनीकरणवाली नोटींसा पाठविली असल्याचे सिद्ध होत असले तरी त्यांमध्ये त्यांचा कोणताही गैरहेतू नव्हता असे माझे मत आहे.

३. दोषारोपाच्या या बाब क्रमांक १ मधील २ रा मुद्दा अपचारी अधिकारी,श्री.इन्द्रांगडी यांनी मेसर्स ट्रान्स्परॉंट एनर्जी सिस्टिम प्रा.लि. ही कंपनी बाणकाचे सर्व सुट्टे गण स्वतः तयार करत नसल्यामुळे असे सुट्टे भाग ती कंपनी ज्या बाहेरच्या कंपनीकडून बनवून घेते त्या ठिकाणी जाणून त्यांचे परीक्षण

Handwritten signature

करण्याचा परलोका आग्रह याबाबतचा अर्थ. वाचावत अपचार अधिकारी यांनी मुळात: खालीलप्रमाणे मुद्दे मांडलेले दिसतात. :-

अ) १९८८-१९८९ या कालावधीच्या दरम्यान बॉम्बे उल्पादनासाठी बॉम्बे उल्पादनासाठी ठरविक कालावधीसाठी बॉम्बे उल्पादनासाठी परधानी देण्याची पध्दत कायदा होती. त्यास अनुसरून मे.ट्रान्सपरन्ट एनर्जी सिस्टीम प्रा. लिमिटेड या कंपनीस सन १९८९ मध्ये बॉम्बे उल्पादनासाठी एक वर्षांच्या कालावधीसाठी कदा अटी व शर्तीच्या अधिनस्त राहून परधानी देण्यात आली होती.

ब) एक वर्षांच्या कालावधी संपल्यानंतर मे.ट्रान्सपरन्ट एनर्जी सिस्टीम प्रा. लिमिटेड या कंपनीस त्यांना सुरुवातीस एक वर्षांची परधानी देण्यात आली होती. अटी व शर्ती यांचे आडवा घेवून पुन्हा सन १९९० मध्ये पुन्हा एक वर्षांच्या कालावधीसाठी बॉम्बे उल्पादनास मुदतवाढ देण्यात आली होती.

क) मे.ट्रान्सपरन्ट एनर्जी सिस्टीम प्रा. लिमिटेड या बॉम्बे उल्पादन करणा-या कंपनीस सन १९९४ मध्ये बॉम्बे उल्पादन करण्यासाठी कायमस्वरूपी परधानी देण्यात आली.

ड) मे.ट्रान्सपरन्ट एनर्जी सिस्टीम प्रा.लि. या बॉम्बे उल्पादन करणा-या कंपनीने केंद्र शासनाच्या तांत्रिक सल्लागार (सामर्क) आणि सचिव केंद्रीय बाणक मंडळ या दोन पदावर कार्यरत असणा-या डी.भि.के.गोपाल यांच्याशी परस्परकार्य करून विनिवृत्तता दुरुस्ती सोडण्यात कंपनीकडून अपयशेची कात असलेली कार्यपध्दती सुरू ठेवण्यात परधानी मिळविण्यात आली.

इ) या दरम्यानच्या कालावधीत महाराष्ट्र बॉम्बे अॅक्ट १९९३ मध्ये बॉम्बे उल्पादनाच्या आधारे बॉम्बे उल्पादनाच्या परधानी मंजूर करण्यात येणा-या अडचणी लक्षात घेवून सधर अॅक्ट मध्ये परधानी नुसती करणा-या तरतूद करण्याबाबतची कार्यपध्दती राखत स्थावर चालू होती. ती पूर्ण करून सन २००१ मध्ये महाराष्ट्र बॉम्बे अॅक्ट १९९३ मध्ये बॉम्बे उल्पादन परधान्याच्या नुतनीकरण्याबाबतची (Renewal) तरतूद कायद्यामध्ये करण्यात आली.

थरील मुद्दे विचारात घेतल्यास बाणक निर्मित करणा-या कंपन्यांनी मुद्दे भाग अपूर्ण स्वरूपात बाहेरून बनवून देण्याची स्पष्ट तरतूद नियम/गोपनीयपत्र यामध्ये नसल्यामुळे आणि शिके पेपर

मिलमध्ये वाय्मकच्या झालेल्या गंधीर अणुघटकाच्या पार्श्वभूमीवर वाय्मक निर्मित्या प्रायिक टक्क्यावर संजालनालयाकडून व्हरेंकोरपणे परीक्षण करण्याची निर्णय झालेली अवस्थेकाल लक्षात घेता त्यांनी मेसर्स ट्वांसव्हॅन्ट एनर्जी सिस्टिम प्रा.लि. या कंपनीने अपूर्ण सुटे भाग बाहेरील कंपनीकडून बनवून घेण्याऐवजी तो स्वतः बनवता किंवा बाहेरील कंपनीकडून पूर्ण स्वरूपात (बॅरींग व बॅरिंगासह) बनवून घ्यावा असा जो आग्रह धरला होता तो गैर नव्हता असे प्रतिपादन अपचारी अधिकारी यांनी केलेले अहवालाने दिसून येते.

(सावरकतां अधिकारी यांनी देखील अपचारी अधिकारी यांना या मुद्द्याबाबत केलेले तपशिलवार स्पष्टीकरण ग्राह्य ठरवून रीषारोगाची ही बाब त्यांचेविरुद्ध रिफर होत नाही असे अधिष्ठाय दिलेले आहेत.)

या मुद्द्यातंत्राची माझ्याकडून चौकशी दरम्यान अजालेच्या पुराजावरून असे दिसून येते की, वाय्मक निर्मिते संशोधनाच्या नियम /अधिनियमांमध्ये वाय्मक निर्मिते कंपनीने अपूर्ण अवस्थेतील सुटे भाग बाहेरील कंपनीकडून तयार करून घेण्याची स्पष्ट तरतूद त्यामध्ये नव्हती. परंतु असे अपूर्ण सुटे भाग बाहेरील कंपनीकडून तयार करून घेण्यास मनाई करणारी देखील स्पष्ट तरतूद नियम/अधिनियम यामध्ये नव्हती. अपचारी अधिकारी,श्री.हाळीगळी यांनी संचालक पदाचा कार्यभार स्विकारण्यापूर्वी कोणत्याही संचालकांनी असा प्रकार अपूर्ण अवस्थेतील सुटे भाग बाहेरील कंपनीकडून बनवून घेण्यास आदेश घेतलेला नव्हता. त्याच प्रमाणे, मेसर्स ट्वांसव्हॅन्ट एनर्जी सिस्टिम प्रा.लि. या कंपनीने या संपर्कात बॅरि शासनाकडील विशेषज्ञ श्री.गोपल यांचेकडून प्राप्त करून घेतलेले अधिप्राय देखील अपचारी अधिकारी,श्री.हाळीगळी यांनी याबाबत धरलेला आग्रह अनावश्यक होता असेच दर्शवितात. त्यामुळे रीषारोगाच्या बाब क्रमांक १ मार्चला डा ३ रा मुद्दा देखील सफलदर्शनी अपचारी अधिकारी यांच्याविरुद्ध रिफर होतो असे दिसून येते. परंतु बाही बाबतीत त्यांनी असा आग्रह धरण्याबाबतिल कारणे विचारता घेणे तंबवट्टेच आवश्यक वाटते. या अनुषंगाने श्री.हाळीगळी यांनी शासनाचे वरिष्ठ आणि जबाबदार अधिकारी या तात्त्वाने आणि विशेषतः दिल्ली येथे मिलमध्ये झालेल्या दुर्घटनेच्या पार्श्वभूमीवर स्वीकारलेली आग्रही भूमिका धोष्यच होती असे मानावे लागेल. त्यांचा यामागे कोणताही अप्रामाणिक किंवा गैरहोणु होता असे सिद्ध होत नाही.

६.२

बोधारोप होन

बोधारोपाच्या या बाब क्रमांक दोनमध्ये असे नमूद करण्यात आल्याचे दिसून येईल की, अगचारी अधिकारी (श्री. हाळीगळी) हे सह-संचालक, बांधके, झुंजपूरनगर या पदावर कार्यरत असताना त्यांचा मुलगा श्री. विद्यासागर यांची पुणे विद्यापीठाच्या सैद्धांतिक कोर्समध्ये त्यांच्या महाविद्यालयानून निवड झाली होती व त्याद्वारे त्यांना पुणे येथे मे. धर्मस प्रा. लि., पुणे या कंपनीत प्रशिक्षणासाठी पाठवण्यात आले होते. श्री. हाळीगळी यांनी ही बाब त्यांच्या दिनांक २६.६.१९९२ च्या पत्राद्वारे संचालक, बांधके, मुंबई यांच्या निदर्शनास आणून दिली होती.

त्यानंतर प्रशिक्षण पूर्ण झाल्यावर श्री. विद्यासागर यांनी त्याच कंपनीत ट्रेनी इंजिनियर म्हणून दिनांक ७.८.१९९५ रोजी नोकरी केली होती. पुढे श्री. विद्यासागर यांनी पुणे विद्यापीठातून दोन वर्षांचा एम.फो.ए. कोर्स पूर्ण केला आणि दिनांक २.४.१९९७ ते दिनांक १८.१२.१९९७ या अवधीत मे. प्राज. इंडस्ट्रीज या कंपनीत मॅनेजमेंट ट्रेनी म्हणून काम केले. त्यानंतर श्री. विद्यासागर यांनी दिनांक १९.१२.१९९७ पासून पुन्हा मे. धर्मस प्रा. लि. याच कंपनीत सिलीअर एक्झिक्युटिव्ह म्हणून नोकरी स्वीकारली. मात्र त्यावेळी श्री. हाळीगळी यांनी शासनास कळवून शासनाची परवानगी घेतली नाही आणि अशा प्रकारे म.ना.से. (वर्तमान) नियम, १९७९ मधील नियम ४ मधील तरतुदींचा भंग केला.

६.२

अगचारी अधिकाऱ्यांचे प्रतिपादन

अगचारी अधिकारी श्री. हाळीगळी यांनी यासंदर्भात असे नमूद केले आहे की, त्यांच्या मुलाने बी. ई. मॅनेज्मेंट ही पुणे विद्यापीठाची पदवी प्रथम श्रेणीत मिळविली होती आणि कॅम्पस इन्टरव्ह्यू मध्ये त्याची निवड मे. धर्मस लि., पुणे या कंपनीत झाली होती. त्यावेळी श्री. हाळीगळी यांनी तत्कालीन संचालक बांधके यांना दिनांक १९.४.१९९४ च्या पत्राद्वारे कळविले होते व शासनाच्या मान्यते आधीच त्याने ही नोकरी स्वीकारली अस्तित्वाचे निरदर्शन आणले होते. मात्र तत्कालीन संचालक, श्री. म. वि. जोशी यांनी त्यांचे पत्र शासनाकडे न वाढविता संचालनालयातच दफ्तरी दाखल करून टाकले होते.

६.२.१ पुढे त्यांच्या मुलाने दिनांक ७.८.१९९५ रोजी मे. बर्मॅक्स कंपनीच्या नोकरीचा राजीनामा दिला. परंतु ही बाब श्री. हाट्टिंग्जी यांनी शासनास कळविली नव्हती. (प्रधाननेत्र शासनाच्या दृष्टीने त्याची बर्मॅक्स कंपनीतील नोकरी सुरुच राहिली होती.)

६.२.२ त्यानंतर त्यांच्या मुलाने रोज वषांचा मॅनेजमेंटचा बरेसे पूर्ण वेला आणि मे. प्राज इंस्टिट्यूट, पुणे येथे नोकरी स्वीकारली. मे. प्राज इंस्टिट्यूट, पुणे यांचा बाबके संवातनालयाशी संबंध नसल्याने उपरोल्लेखित वर्तणूक नियमानुसार त्यांनी शासनास कळविणे / परवानगी घेणे आवश्यक नव्हते व त्यामुळे त्यांनी शासनाशी परस्परकार्य केला नाही.

६.२.३ त्यानंतर त्यांच्या मुलाने दिनांक १९.१२.१९९७ पासून पुन्हा मे. बर्मॅक्स कंपनीत नोकरी स्वीकारली. मात्र याबाबतची माहिती त्यांनी पूर्वी शासनास कळविलेली होती व त्यामध्ये झालेल्या फेरबदलांची माहिती शासनास दिली गेलेली नसल्याने पुढीलच निवृत्ती पुढे सुरु राहिली असल्याचे घटनेने जाईल असा समज झाल्याने त्यांनी पुन्हा शासनास कळविले नाही. अपचारी अधिकारी यांनी असेही नमूद केले असल्याचे दिसून येते की, ग.जा.से (वर्गगृह) नियम, १९७९ मधील नियम ४ चोटिनियम (२)(अ) च्या परंतुका प्रमाणे फक्त परवानगी मिळविण्यासाठी कळविण्याची तरतूद दिसते. मात्र असा अर्थ प्राप्त झाल्यानंतर संबंधित कार्यालयाने त्यावर कोणती कार्यवाही करावी व ती कितती कालावधीत करावी या विषयीच्या तरतुदी आढळत नाहीत. त्यामुळे आपल्या मुलाला मे. बर्मॅक्स लि., पुणे या कंपनीत नोकरी लागल्याने कळविल्यानंतर त्याच्या पुढे आणखी कधी कार्यवाही गरज नसल्याचा समज होवून त्यांनी कोणतीही कार्यवाही केली नाही.

६.३ सादरकर्ता अधिकाऱ्याचे अधिप्राय

अपचारी अधिकारी (श्री. हाट्टिंग्जी) यांनी नमूद केलेले दिनांक २९.४.१९९४ चे पत्र (पी-२०) पाहिल्यास त्यांच्या मुलास मे. बर्मॅक्स कंपनीत प्रथमतः प्रशिक्षणासाठी व नंतर नोकरीसाठी जाणे लागू असल्याचे त्यांनी निदर्शनास आणले होते असे दिसून येते.

६.३.१ मात्र त्यानंतर त्याने मॅनेजमेंटचा बोर्ड करून बाही फाउंडेशनचा दुसऱ्या कंपनीत नोकरी केली होती व १९९७ मध्ये पुन्हा मॅ. बॉयका लि., पुणे या कंपनीतील नोकरी स्वीकारली होती हे त्यांनी शासनास कळविले नव्हते असे नमूद केल्याचे दिसते.

६.३.२ अगबारी अधिष्ठात्यांनी यासंबंधात ने स्पष्टीकरण दिले आहे ते व्यवहारिकदृष्ट्या बरी गाळ वाटत असले तरी तथित्वादृष्ट्या १९९७ मध्ये त्यांच्या पुताते मॅ. बॉयका कंपनीत नोकरी स्वीकारल्याचे त्यांनी शासनास कळविले नव्हते ही वस्तुस्थिती बदलत नाही. त्यामुळे त्यांच्याविरुद्धचा हा दोषारोप किंवा होतो असे मानावे लागेल.

६.३.३ या दोषारोपाच्या सांगड दोषारोपाच्या बाब क्रमांक एक बरोबर असल्याचे दिसते. मात्र दोषारोपाच्या या बाबोत तसा उल्लेख आढळत नाही. तथापि, दोषारोपाच्या बाब क्रमांक एक संबंधीच्या मिरलेपणात या मुद्द्याबाबी विचार करण्यात आलेला आहे. त्यामुळे येथे त्याबाबत पुन्हा चर्चा करण्याची आवश्यकता दिसत नाही.

६.४ निष्कर्ष :-

महाराष्ट्र नागरी सेवा वर्तगुक नियम १९७९ मधील नियम २ मधील (क) (दोन) मध्ये खालीलप्रमाणे कुटुंबाची व्याख्या देण्यात आलेली आहे :-

“ शासकीय कर्मचा-यावर संपुर्णतया अवलंबून असणारा मुलगा किंवा मुलगी किंवा सावज मुलगा किंवा सावज मुलगी यांचा समावेश होतो, परंतु शासकीय कर्मचा-यावर कोणत्याही प्रकारे अवलंबून नसणा-या किंवा ज्याची अभिरक्षा कोणत्याही कायद्याद्वारे किंवा कायद्यान्वये त्या कर्मचा-याकडून काढून घेण्यात आलेली आहे अशा मुलाचा किंवा मुलांचा किंवा सावज मुलाचा किंवा सावज मुलांच्या समावेश होत नाही. ”

तसेच महाराष्ट्र नागरी सेवा वर्तगुक नियम १९७९ मधील नियम प्रमांक (४) मध्ये पुढीलप्रमाणे तरतुद आहे :-

“ ४. नवव्याच्या जातसंबंधीकर्मचारी कोणत्यामध्ये किंवा भागीदारी संस्थांमध्ये नियुक्ती करणे (१) कोणत्याही शासकीय कर्मचा-याच्या कुटुंबियाला कोणत्याही कंपनीत किंवा भागीदारी

संचालक, श्री.म.वि.गोरी यांचे निदर्शनास आणले होते. श्री.विद्यासागर यांनी तद्द्वारा पुणे विद्यापीठाला दोन वर्षांच्या एम.बी.ए. कोर्स पूर्ण केला. आणि त्या आधारे दिनांक २-६-१९९७ ते दिनांक १८-१२-१९९७ या अवधीत मे. प्राय इंडस्ट्रिय या कंपनीत मॅनेजमेंट ट्रेनी म्हणून काम केले.

६.४.१ श्री.विद्यासागर यांनी मे. प्राय इंडस्ट्रिय या कंपनीत मॅनेजमेंट ट्रेनी म्हणून ट्रेनिंग पूर्ण केल्यानंतर पुन्हा मे. धर्मेक्स लि., पुणे या कंपनीत दिनांक १९-१२-१९९७ पासून स्वबळावर नोकरी स्वीकारली. म.ना.से. (वर्तमान) नियम, १९७९ मधील नियम ४ पोटनियम (२) (अ) मध्ये शासन सेवेत वर्ग- १ व वर्ग- २ मधील अधिकारी यांचा मुलाने, मुलीने अथवा त्यांच्यावर अवलंबून असलेल्यांनी शासनाशी कार्यालयीन शासकीय व्यवहार उत्पन्न-या कोणत्याही कंपनीत किंवा भागीदारी संस्थेत शासनाच्या पूर्व परवानगी शिवाय नोकरी स्वीकारण्यास परवानगी देवू राकणार नाही. परंतु, नेहा अशी नोकरी स्वीकारताना, शासनाच्या मंजूरीकरिता वाट पाहणे राक्य नसेल किंवा ती नोकरी स्वीकारणे तातडीचे मानले जाईल तेव्हा प्रस्तुत बाब शासनाला कळविण्यात येईल, आणि शासनाच्या मंजूरीस अधीन राहून ती नोकरी जातपुरतो स्वीकारता येईल अशी तरतूद आहे .

६.४.२ प्रस्तुत प्रकरणी श्री.हाब्दीगळी, अपचारी अधिकारी यांचा मुलगा, श्री.विद्यासागर यांनी बी.ई.मॅकेनिकल पदवी प्राप्त केल्यानंतर सुरुवातीस प्रशिक्षणार्थी म्हणून मेसर्स वॅनेक्स लि., पुणे या कंपनीत काम केले. तदनंतर दोन वर्षांचा एम.बी.ए. चा कोर्स पूर्ण करून सुरुवातीस मेसर्स प्राय इंडस्ट्रिय या कंपनीत मॅनेजमेंट ट्रेनी म्हणून काम केले व नंतर पुन्हा मेसर्स धर्मेक्स लि.पुणे या कंपनीत स्वबळावर नोकरी मिळविली. मेसर्स प्राय इंडस्ट्रिय लि. आणि मे.धर्मेक्स लि.,पुणे या दोन्ही कंपन्यांचे शासनाशी कोणतेही कार्यालयीन व्यवहार नव्हते. ही बाब या प्रकरणी विचारात घेणे आवश्यक ठरते. श्री.विद्यासागर हे नेहा धर्मेक्स कंपनीत नोकरीस लागले तेव्हा ते उच्च पदवीधर होते व त्यांचे वय २१ वर्षांपेक्षा जास्त होते. त्याशिवाय त्यांनी प्राय इंडस्ट्रिय कंपनीमध्ये स्वबळावर नोकरी मिळविली होती. त्यामुळे श्री.विद्यासागर पुन्हा मे. धर्मेक्स लि.पुणे या कंपनीत कामावर लागले तेव्हा ते अपचारी अधिकारी-बाबत अवलंबून नव्हते ही बाब स्पष्ट होते. त्यामुळे म.ना.से. (वर्तमान) नियम, १९७९ मधील नियम ४ पोटनियम (२) (अ) नियम २ (क)(दोन) नुसार कुटुंबांच्या व्याख्येच्या अनुषंगाने तरतुदीचा भंग झाला असे मला वाटत नाही.

६.४.२ वरील सर्व परिस्थितीत अपचारी अधिकारी यांचेवरील दोषारोप क्रमांक २ सिध्द होत नाही असे गट्टे मत आहे.

६.५ या चौकशीच्या दरम्यान खालील बाबी माझ्या निदर्शनास आल्या :-

१) श्री.हाळीगळी तत्कालीन संचालक,शासके संचालनालय यांचेवरील दोषारोपच केवळ मा.लोकआयुक्त, महाराष्ट्र राज्य यांच्या शिफारशीनुसार अत्यंत घाईने तयार केलेले दिसतात.

२) सदरहू दोषारोप तयार करणारे तत्कालीन उा सचिव, श्री.कंदोरे यांनी देखील सरकारी सक्षोदार या नात्याने त्यांचे साक्षीत पुढीलप्रमाणे पाष्य केले आहे. "हो सक्ष वस्तु असताना कसमसार विभागाची संधिधा मत्त प्राप्त करून देण्यात आलेली आहे. मवर संचिकेमध्ये नोंदविलेच्या रिषयच्या मी अकालांत केवळानंतर असें दिसून पोत आहे की, श्री.हाळीगळी यांचेविरुद्ध दोषारोप सिध्द होत नसल्यामुळे त्यांच्याविरुद्ध कोणत्याही कर्पवशीची गरज नाही असे अविश्रय अप्पटी नोंदविलेले असताना व मा. उप लोकआयुक्तानी दिलेल्या निर्णयानुसार समाप्त प्रशासन विभागाची विचार-विश्लेषण करून विभागाचे चौकशी करावयाचा निर्णय घ्याव्याचे दिसून येते."

यावरून असे स्पष्ट होते की, अपचारी अधिकारी यांचे विरुद्ध दोषारोप पत्र तयार करताना विभागाकडे पुरेसा कागदोपत्री पुरावा उपलब्ध नव्हता. सरकारी साक्षोदारांनी अपचारी अधिकारी यांच्या उलट तपासणीमध्ये प्रशर्नात उतर देताना संपूर्ण होकयाची उतर दिली व कोठेशी त्यांची घूक होती हे सिध्द करण्याचा प्रयत्न केला नाही. या चौकशीच्या दरम्यान सरकारी पक्षाकडे पुरावे नव्हते व त्यांनी वास्तु कर्मी पडत होते हे स्पष्ट होते.

या चौकशीसाठी करणीभूत झालेले मूळ तत्रवरदार आणि तद्दंतरचे सरकारी साक्षोदार श्री.अने, संचालक, मे. ट्रान्स्परेट एनजी सिस्टीम्स प्रा. लि., पुणे यांची भूमिका आक्रमक होती व त्यांनी अपचारी अधिकारी यांच्या महत्त अक्षोभनीय उद्गार काढले आहेत. या उलट अपचारी अधिकारी,श्री.हाळीगळी यांनी चौकशीच्या दरम्यान संपूर्ण काळावधीत अतिशय सभ्य आणि सौम्य वर्तणूक केली.

श्री.अने, मूळ तत्रवरदार व सरकारी साक्षोदार यांनी दो चौकशी नालू असताना वेळोवेळी दबाकान वापरण्याचाही प्रयत्न केला. त्यांचे प्रातिनिधी पळवून अपचारी अधिकारी, श्री.हाळीगळी यांचे

थी कशा प्रकारे कसूरवार ठरवून जास्तीत जास्त शिक्षा देण्याची शिफारस करावी याबाबलचा आग्रह धरला. श्री.मुगुम्बर यांनी लिहिलेले पत्र या रोनाम्यातील उतारे संलग्न आहेत.


श्री चौपरी यांचा असतांना श्री.अत्रे,तंचालक, मेट्रोन्सपस्ट एनबी सिस्टिम प्रा.लि., यांनी थारंबार पणे पाठवून चौकशीच्या अधिलेखानील सर्व गोपनीय कागदपत्रांचे (अपघारी अधिकारी यांनी सादर केलेले बचावाचे अंतिम निवेदन, सादरकर्ता अधिकारी यांनी सादर केलेले लेखी टाचण,चौकशी अधिकारी यांनी शासनास सादर केलेला चौकशी अहवाल) मागणी केली. परंतु ती कागदपत्रे देण्याचे नाकारण्यात आल्यानंतर सुरुवातीस त्यांचा जरीमिथी बळवून हेतुपुरस्कार मानसिक त्रास देण्याचा प्रयत्न केला. एवढेच नाही तर दिनांक २ जून, २००७ रोजी सायंसेखी ५.०० ते ५.३५ च्या दरम्यान डॉ.अष्टेकर, प्रशासकीय अधिकारी, मेट्रोन्सपस्ट एनबी सिस्टिम प्रा.लि.पुणे यांना खाई दाननात पाठवून रु.२०,०००/- चा युनिसेफच्या नावाने काढलेला चेक ताडण्या हतात देण्याचा प्रयत्न केला. या घटनेची नोंद त्याच दिवशी गौरव जार्जला पोलीस ठाणे येथे नोंदविण्याबाबतची निर्गते करण्यात आलेली आहे. त्याघटनेचीच कागदपत्रे या अहवालासोबत पाठविण्यात येत आहेत.

६.६ सारांश

बाब क्रमांक १	: अंशतः सिध्द झाले.
बाब क्रमांक २	: सिध्द होत नाही.

सादर निभाणारे चौकशीसंबंधात शासनाचे पुढिलेले कागदपत्रे, सादरकर्ता अधिका-यांनी चौकशी दरम्यान सादर केलेली कागदपत्रे तसेच अपघारी अधिकारी यांनी सादर केलेली कागदपत्रे या अहवालासोबत जोडपत्र-अ मध्ये नमूद केल्याप्रमाणे परत करण्यात येत आहेत.

दिनांक : ०५ जून, २००७


(सोतीश दिवारी)
चौकशी अधिकारी

जोडपत्र - अ

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क्रमांक	पदाईल क्रमांक	विषय
१	विभागी-१/बीएलएच/२००१/विचौअ (१)	संनवना
२	विभागी-२/बीएलएच/२००१/विचौअ (१)	दोपारोपपय व जोडपत्र १ ते ४ जोडपत्र ४ प्रसारो लागूपणे
३	विभागी-२/बीएलएच/२००१/विचौअ (१)	अपचारी अधिकार-पाती सादर फेलोली लागूपणे
४	विभागी-२/बीएलएच/२००१/विचौअ (१)	सर्वकारी सशरीतर
५	विभागी-२/बीएलएच/२००१/विचौअ (१)	सादरकारी अधिकारी बांचे प्रतिपदन
६	विभागी-२/बीएलएच/२००१/विचौअ (१)	अपचारी अधिकार-बांचे वचनाने अतिम निकाल
७	विभागी-२/बीएलएच/२००१/विचौअ (१)	पत्रव्यवहार

GOVERNMENT OF MAHARASHTRA

No. 158-1641/28-0467 (Contd. of)
Industrial, Energy & Labour Department,
Mahalaxmi, Mumbai - 400 032.
Date: February 6, 2011

Director,
State of Power Boiler,
Mumbai.

Dear Sir,

The company George Sanyal Private Ltd. Pune, has filed complaints for last one year against the contractors of the Director, Industrial, Maharashtra State, initially, in the month of October, discussions were held in Mumbai, at the time of meeting of inspectors of factories unit, it was decided that the Director should take binding of plants (to be submitted). The problem is that in the

The proposed George Sanyal Private Ltd. Pune, is manufacturing the boilers, as per design drawings and also selling within the country. The drawings inspected by the Inspector, Boiler in pune, he stamp and then they are outside the factory for binding. The drawings come back and then the welding is done inside the workshop of the factory. At the time of welding, it is always by inspection by an Inspector. The location of the Director is that the drawings can be made through a sub-contractor, but in the final part (The Department has taken up the issue in the Secretary, Government of India, Ministry of Commerce and Industry, dated 21st December, 2010) Similarly, the Director has also given up the matter to the Secretary, State of Maharashtra, Government of India, Ministry of Commerce, in which he has received Form No. 11, Form (11)

In the second the things better, I put a link to the factory on 27 February, 2011 and discussed with the officials of the factory in the presence of Mr. Director, Mr. Srivastava and the Deputy Director. The company showed me the copy of Mr. V.K. Dixit, Deputy Technical Adviser and Secretary, Central Boiler Board, Government of India, dated 27th November, 2010, in which it is said that the file. The Technical Adviser and the Secretary has already explained and gave of the "four original copies, including Form No. 11, and demand" (The factory has submitted a copy of Form No. 11, also also, and demand the feasibility of the firm, written, dated, etc.). The only exception is the welding process. Directors of the manufacturing is doing welding in his own plant, with own certified welders (certification is per ISIRI, 1994), they should be done up. The Inspector, it is really strange about the location where processes of boiler than welding plant of the firm, which is in the same process in the main factory of the firm is done up.

Thus, it is clear that the opinion of the Director of Boiler, Maharashtra State, is not fully correct. The factory has made a statement that we have got full part the binding, in which the part of the boiler for this purpose, we are following the Form No. 11. The Form No. 11 has been handed over to me at the time of inspection and that is correct. In view of the circumstances given by the Government of India, the Director of Boiler should be asked to give the Form No. 11, so far as the job of binding of plants is done from a boiler.

Accordingly, the Director, Boiler is hereby instructed to issue the order to the Director, Director of the factory, writing the contractor, it is not held responsible for in this regard of the firm's. It is found which may mean that in the factory circumstances, in the use of boiler of the firm, it is not the case.

Yours faithfully,
[Signature]
[Name]
[Designation]

Yours faithfully,
[Signature]
[Name]
[Designation]

A case study of "the level playing field".

This case study relates to a small-scale manufacturer of Steam Boilers. It is an example of timely justice meted out to the small but courageous, even in the present status of democratic governance. It is an exemplary case of confidence of a relatively small company arising from thorough knowledge of technology and fundamentals of Law & Rules. The case could be carried to its logical conclusion because of the intervention of the Public Grievance Commissioner of the concerned State.

2. In India the generation of steam under pressures in a closed vessel exceeding a specified capacity (22.75 ltrs. at present) is regulated by the Indian Boilers Act, 1923, the Boiler Rules enacted thereunder by the respective State Governments and the technical standards in respect of matters relating to such pressure vessels are laid down at length in the Indian Boiler Regulations, 1950 which are notified by the Government of India under the powers conferred on them under Section 28 of the aforesaid Act. The Central Boilers Board constituted by the Government of India and functioning in the Ministry of Industrial Development (Department of Industrial Policy and Promotion) is the final technical authority in respect of all matters relating to the Indian Boilers Act and the Rules thereunder, and the regulations referred to above are approved and notified by this Board. The Secretary of the Department is the ex-officio Chairman of the Board which has a high representation of technical

persons and also provides some (though inadequate) representation to the boiler manufacturing industry as also to the State Governments since the Act and Rules are implemented through the agency of the Boilers Directorates in the State Governments which are headed by technically qualified persons usually designated as the "Chief Inspector of Boilers". In the 36 member board, there are 24 State Chief Inspectors and 5 representatives of Boiler Manufacture and related industries. Other pressure vessels containing liquids and other gases are regulated through a different framework, the details of which need not be gone into for the purposes of the present discussion. The Act and Rules generally relate to procedural provisions and to the duties of designated officers who are competent to license the manufacture of such boilers and inspect them and to the penal provisions for violations and the Rules which are enacted by the State Governments which are by way of an extension of the provisions of the Act and also relate to other procedural matters such as periodicity of inspections, the fees to be paid for licensing the various categories and fees for renewal etc. wherever necessary.

3. The Indian Boiler Regulations contain exhaustive technical details in regard to the standards laid down for inspection of steam boilers at the various stages of manufacture and can usually be comprehended only by individuals/officers who have had at least some understanding even if elementary of the subjects of physics and mathematics. This is not to say that everything in the manual is outside the comprehension of the "generalist

administrator" although it is the usual practice in State Governments to leave all these technical issues to be interpreted and decided finally by the Chief Inspectors of Steam Boilers. The Secretary of the administrative department concerned, who also has control over several other Departments, usually leaves this Inspectorate to function by itself and barring a few issues such as that relating to postings and transfers of its personnel tends to leave this Department severely alone. This is not to say that the Department is not important or that it needs to be ignored. Since however, safety considerations are considered paramount and the law and the Rules thereunder and the regulations have been framed primarily with the safety in mind, one would not normally question the technical soundness of a specification or a "technical" decision given by an inspector. At the same time some of the specifications laid down are not technical and are a mere interpretation of the language of the regulation and here it is possible that at times, the general administrator could also play a role. Amidst all our talk of deregulation, since safety is the name of the game and boiler manufacturers are completely under the control of this Directorate, they would not normally dare to raise any question once an interpretation of a specification or a procedure laid down in the Act, Rules and Regulations has been made by an Inspector appointed under the system.

4. The process of boiler manufacture involves several stages, among which can be included the stage of cutting of flat metal sheets into appropriate size, rolling them into cylindrical or hemispherical or other form,

cutting/drilling metal plates which are used within the boiler, and finally welding the various parts to form the entire unit. The welding process is considered the most important ingredient of the entire manufacturing process since failure of the welded portion under pressure due to defective welding is always a much higher possibility than the failure of a metal sheet. Of course all specifications including thickness of sheets to be used, technical specification and procedure of welding etc. are laid down unambiguously under the I.B.R.. All activities are done under varying degrees of supervision and can be undertaken only by individual organisation licensed under the Act/Rules and welding is done under the complete supervision by of the Inspectors appointed under the Act/Rules. The procedures also require that whenever a flat metal plate is rolled into cylindrical or any other form (it needs to be tested for the shape, quality of the rolling and also the "set-up" before welding is finally approved and permitted by the Inspectors. The Inspectors are required to be given an advance notice by the manufacturers regarding the job which is offered for inspection.

5. 'X', a manufacturer of steam boilers of various types had been in this line of business for more than 10 years and their organisation had been registered as a small scale unit and also approved as a boiler manufacturer under the I.B.R. Act. They were located in city P, about 200 KMs from the State capital, in an area which had a large concentration of small industries. Small Scale Units were expected to get certain preferences according to the laid

down policy of the State Government. In a period of 10 years they had manufactured more than 100 boilers with a total tonnage of more than 4000 tonnes (tonnage refers to the fabricated weight of the boilers), and they had not had a single accident or any occasion where their boilers had been rejected by the inspecting agency and they also had been working to the entire satisfaction of their customers and had also been exporting boilers. The company was promoted by I.I.T. post graduate engineers.

6. When Mr. 'A' was working as Joint Director of Steam Boilers, in the P region sometime in 1996-97, 'Y' the sister organisation of company 'X' had applied for boiler manufacturing license but the application was rejected by the Joint Director on the ground that the company did not have Plate Bending Machine and Tubesheet Drilling Machine. On the ground that there are several licensed plate benders in this region and drillers in the P region, manufacturers contracted out this work (under supervision), and the then Chief Inspector of Boilers found the objection of the Joint Director, P region untenable, overruled him, and granted approval to the company for manufacture of boilers. A licence was issued accordingly to the complainant's sister concern and matter rested at that stage accordingly. In the meanwhile Mr. A was transferred from Joint Director P region to elsewhere and subsequently again in October, 1999 came on promotion as Additional Director, Headquarters and given additional charge of the vacant post of the Director although he was formally promoted to the post and confirmed that appointment only in April, 2000.

7. Some time around February, 2000 when Mr. A was already holding additional charge of Director (new designation for Chief Inspector) and it was more or less certain that he would succeed to the post on a regular basis, the Department started a "suo-motu" exercise of evaluating the facilities available with all boiler manufacturers, for purposes of "renewal" even though the use of the phrase "renewal" in respect of boiler manufacturers who have been licensed is not supported by the relevant provisions of the Rules of the (State) Boiler Rules, which provided for approval of firms for manufacturers of boilers or economizers as also for withdrawal for approval. It is significant to note that there was annual approval under Rules for Boiler repairers only. Therefore, even without going into the reasons (none had been recorded by the Chief Inspector at the time of undertaking the so called renewal exercise), the use of the phrase "renewal" in all the letters issued was unjustified being unsubstantiated by the rules in existence, and suggested an attempt at bringing undue pressure on all concerned, and more particularly on some manufacturers. If objective of renewal exercise was to identify incompetent licensees then field Boiler Inspectors who regularly visit for Inspection would easily be in a position to identify & report such manufacturers and this should normally have been a routine periodic practice. On the contrary the renewal exercise was being undertaken first time in the history of the State Boiler Office.

8. The requirement of plate bending machine and shell drilling

machine which appeared in the letters issued by the Director in his letters of June, 2000 and of August 2000 addressed to X, after the complainant took a clear position in this respect, was again not supported by any line of reasoning on the files relating to these two companies in the office of the Director of Steam Boilers. In the normal course, when a departure from the previous condition of license is intended to be made and a departure from views taken by the predecessors in this respect was intended one would have expected a recorded note giving a clear line of reasoning on the file. During enquiry it transpired that no such note was recorded in either of these two cases, leave alone the fact that no note was recorded for undertaking a suo-motu "renewal" exercise in general. This was especially needed because the manufacturer was following this methodology now challenged, consistently for nine years. It was approved by three past Chief Inspectors and was routinely inspected and certified during the course by twelve Boiler Inspectors. No rejections were found and boilers thus produced were functioning safely in the field. These were admittedly followed in respect of X by letters signed by the Director which have objected to getting the work (of bending shell into circular shape) done outside without prior permission or alternatively suggesting installing shell rolling machine and the radial drilling machine within the shop. A copy of this letter was endorsed to the Jt. Director, Steam Boilers P region, asking for a report. Even without awaiting the report called for on the (so called) technical issue relating to the question whether it was

permissible to perform the bending operation of the sheet prior to its welding at an outside work and bring it back to the manufacturer's shop for welding purpose without having inspection at the outside shop where the plate bending takes place, a stop manufacture notice was issued to X.

9. When the Chief Inspector was made answerless by the manufacturer X on each of all his initial arguments, he finally placed forward an argument claiming that IBR does not have 'provision' for such partial processing of shells and tube sheets. Contrary to his claims it was found that Regulation 3 of Amended IBR clearly refers to similar standards of advanced countries e.g. ASME (American Standard), BS(British Standard). These standards clearly say that what is not provided for is not to be considered as prohibited and sound engineering judgement should be the basis of decision. Therefore it was considered that the Chief Inspector of Boilers possibly had ulterior motives in selectively harassing the manufacturer 'X' and had no desire to logically analyse the matter. The manufacturers sought the opinion of the Technical Advisor, Central Boiler Board who clarified without any ambiguity that neither the I.B.R. nor the International Codes demanded traceability of the machine on which a component of the boiler was made, or the time, the workman or the place etc.either. The only exception was the welding process and also manufacturers doing any welding in their own premises were to be encouraged. The Board further clarified that the location where rolling etc. which is an

intermediate process takes place is irrelevant and if the manufacturer offers inspection of the rolled plate in his own premises prior to the welding this should be encouraged since the manufacturers have obtained the boiler drawing approved in their own name and are considered responsible for the proper quality of the final product.(the important point to be noted is intermediate stages of manufacture are also done at approved shops.) If a manufacturer did not have his own plate bending machine, and has therefore sub-contracted the plate bending, the consequence was that if he sent the plate for rolling etc. and inspection had to be made at the outside work (before transportation back to manufacturers site for welding), a time delay would be involved and this time delay could add to costs. Moreover it is possible that a job can get damaged / deformed during transportation. Therefore IBR recommends inspection of the same after transportation just before start of welding and the nine year old practice followed by manufacturer and approved by past Chief Inspectors therefore was found to be through. There was complete traceability, of materials and their specifications because, plates and their manufacturers certificates were being identified, inspected and stamped by boiler inspectors before being sent for processing. The delivery challans, Central Excise forms were additional documents readily available. Central Excise officers regularly were auditing these documents. It was evident from the way correspondence took place between Chief Inspector 'A' and manufacture 'X' that Chief Inspector knew the powers and authority of Technical Advisor Central Boilers Board

(CBB) as well as Central Boilers Board itself. (He himself was member of CBB). But he chose not to refer the dispute early enough to CBB because that action would have made the matter 'subjudice' & arrested his authority / power to oppress the manufacturer, whereas 'X' approached Central Boilers Board early enough to have their expert opinion. It was also evident that the Chief Inspector went on changing his stand as the manufacturer argued on the irrational expectations of Chief Inspector. The demands were so selected by Chief Inspector that the manufacturer would be compelled to do business with reduced competitiveness in terms of either uneconomical investments in machinery or longer manufacturing periods and associated organizing and inventory cost. A very close reading of the relevant provisions of the Indian Boiler Regulations was necessary to understand the point of view finally taken by the Central Boilers Board, not on a reference from the Chief Inspector, but from the manufacturers.

10. As earlier stated, the State Government's representatives on Central Boilers Board in all cases are the Chief Inspectors themselves. An attempt was indeed made by the Chief Inspector, alongwith few colleagues of other States to insist on and support his point of view. The Chief Technical Advisor (Boilers) of the Boilers Board who had issued the clarification on behalf of the Board was not the final authority and therefore an attempt was made to insist on this point of view to secure an "appropriate interpretation" at the Board level which fortunately did not meet with success. Further

investigations at the instance of the complainant, reveal the following :-

i) that Chief Inspector's son even though technically qualified and having seen several other small jobs, had been taken up on a regular basis in 1999 by a large and reputed manufacturers of boilers in P city who had all the facilities that including facilities for plate rolling etc. within the shop. Earlier such as in 1995-1996 he had done short term assignments on training with this Company.

ii) while there are many small manufacturers in P region, the complainant was one of the few of small manufacturers who was offering serious competition in the product range with this large manufacturer, and quite significantly, was one of the few who insisted on welding being done in his own shop even if bending was done outside the shop. Other small manufacturers got both rolling and welding done outside no doubt under supervision. In such cases both inspections of rolling and welding took place at the same point outside. Therefore the insistence on two separate inspections at the rolling stage etc. and at the welding stage instead of a simultaneous inspection of rolling and welding at the manufacturers shop itself in this case would have caused time delays in the manufacturing schedule only for this manufacturer, affecting his competitiveness.

iii) Interestingly the Chief Inspector had not given intimation of his son having secured regular employment with the large manufacturer as required under the conduct rules when he had secured a regular job although he

had given intimation of the training assignments earlier "by way of abundant caution".

iv) Finally the complainants' view prevailed and on the basis of further enquiry departmental action was initiated against the Chief Inspector, although it could be finalised and charge sheet could be issued just before he retired. The charge could however only be limited to violation of Conduct Rules in regard to non intimation / permission for his son's employment in a company with which he had official dealings and the "interpretation" of the IBR could not be held against him to be a mala fide exercise of power. (In many cases where there is mala fide it is often only a simple technical failure that is actually established during enquiry. There is the famous case of a very competent ICS Officer, who was a Secretary of a Central Government Department, who was notoriously corrupt. Because of high regard for his ability even Jawaharlal Nehru had reportedly first called him and asked him to be careful but he did not heed the advice. He was finally prosecuted and sentenced on a charge of his wife having accepted a free pair of spectacles from a reputed firm of opticians in Mumbai. When he went in appeal against the sentence, the charge was enhanced !)

(v) For his ability to take up cudgels on an issue involving interpretation of the Boiler Regulations the complainant company's Managing Director was even elevated to an important position in the Indian Boiler Manufacturers Association. (A happy ending indeed !)

Observations :-

In an attempt to secure a "level playing field", the ending is not always so happy. It is for all to analyse this case from the following points of view. a

Deregulation

- b. Privatisation of Government Functions using professionals and professional organizations.
- c. Absolute power in insecure hands.
- d. Tendency of the general administrator to maintain aloofness from simple technical matters. (More often than not interpretation issues involving discretion are not technical, since technical parameters are measurable and leave little scope for doubt. In engineering matters and even contracts interpretations usually relate to a non-technical issue)
- e. Is it always advisable for a small company to show courage and confidence? Do we have adequate machinery to grant timely justice to prevent mortal damage?
- f. Why is it required for an honest, confident company to run the risk of life only to prove a point which is already correct?
- g. Absence of free inhouse discussions in Government Departments when it becomes known that the "boss" is predisposed to a particular point of view (read - favourably inclined towards a

particular party)

h. Will there be happy endings in every case ?

i. Can the administrators advise any thing at all except to bear the pain with clenched teeth ? What we can, the administrators, do to ensure a level playing field for all Indians ?

(The relevant clauses of the Indian Boiler Regulations are available and can be made available to any participant wishing to understand the issue relating to interpretations involved in this case study more fully, and should advisably form part of this presentation)

Need for India to adopt Clean Coal Technology in the interest of the health of Indian citizens

Right since Montreal Protocol and Kyoto protocol till this date, the issues and needs about arresting climate changes and restoring ecological balance are under constant discussion and negotiations among all nations as well as stakeholders.

Common understanding arrived at UNCCC conference in Paris held in December 2015 is now again open for negotiation due to withdrawal of the commitment announced by US president.

US President is most likely to renegotiate their position sooner than later and whole understanding might get thrown open for renegotiations for all nations. Role and responsibilities for India towards climate change have already received critical attention from US President and his expectations have already been made public.

While it is not totally unfair in ideal circumstances to expect India to reduce its CO₂ emissions, it is impossible to imagine growing energy needs of India without its reliance on coal fuels.

Much ahead of taking the task of rapid reduction in CO₂ emissions, India needs to take up on top priority drastic reduction in huge particulate emissions, SO_x emissions and NO_x emissions that India currently emits and which are of great concern to citizens of India as well as world community. The damage potential of high particulate emissions, and SO_x + NO_x emissions to health of the citizens is enormous and India is way behind the developed nations in taking effective steps to control such emissions.

Reduction in such emissions was a task that developed nations and USA in particular accomplished thoroughly almost 30 years before.

Comparing CO₂ emission reduction targets of USA with that of India for reduction in the particulate and the Acid gas emissions (which USA achieved 30 years before) is being unfair to USA. US expectations on this account are fully justified.

Nobody will experience anywhere in USA the kind of smog and dirty skies that are so common all over India & China particularly North India including New Delhi the capital of India.

The pollution caused by burning of coal and pet coke in India is so rampant, that one really wonders how faithful and effective is the implementation of even the most relaxed and outdated pollution norms currently prevalent for various categories of coal fired boilers.

Thousands of industrial boilers using coal, pet coke and biomass are widely in use so as to keep the heat energy costs low and they are rampantly polluting the Indian skies.

The pollution abatement mandated and enforced for similar size of boilers in USA are far too advanced and therefore the expectations of US President need to be taken seriously and in positive spirit.

Also it must be appreciated that US and other developed nations voluntarily initiated effective in early 70's & 80's measures to eliminate particulate as well as SO_x / NO_x emissions. There were no international pressures on them. They did it in the interest of their own citizens.

Gross negligence, indifference and manipulative corrupt practices widely followed by the cartel of Pollution Control Board officials, policy makers and industrialists is a matter that is all the more worst and most damaging for India's images before the world community. Credibility of India is really worst when it comes to true pollution abatement right from making rules to its effective implementation. Thanks, really to the crony capitalists, Industry associations, corrupt Govt. officials and "populist" politicians who all are hand in glove when it comes to practicing double standards for blatant abuse of environment as well as indifference towards health of Indian citizens. Traditional norms about returns on

investment are used in most pervert matter when it comes to investments in best available technologies for pollution abatement.

It is high time that the Govt. of India and its negotiators to pledge & immediately undertake on priority clean technologies for all sizes and capacities of coal, petcoke & biomass fired boilers used from small scale industry to Ultra Mega super critical power plants. The policy of promoting competitiveness of industry and practicing populist policies at the cost of health of the citizens arising out of ugly criminally high pollution must be abandoned at once. This is one area where comparison with China should be avoided most.

All stakeholders need to rise to the situation and demonstrate their true commitment towards introduction and by urgent thorough implementation of norms equal to or better than US EPA norms related to particulate, SO_x & NO_x emissions.

This will help regain and rebuild at least partially the totally lost credibility of India. USA & Developed Nations many years ago may have damaged health of their citizens on these counts, but let that not be negotiated today so as to bargain liberty today to damage health of Indian citizens. Anything else can be negotiated but not the health of Indian citizens.

Technologies indigenously developed by Indian entrepreneurs as well as those acquired through overseas collaborations & joint ventures for such pollution abatement measures are very much available within India. Issue is of giving them a fair opportunity and encouragement. Let this business not be reserved for crony capitalists.

Indian citizens too must be willing to pay a fair price for better environment which otherwise they end up in paying for medical treatment as well as in the form of lost wages!! Industry also pays equally or more for loss of productivity and nation pays for its loss in GDP.

If all above is really implemented quickly and effectively there is every chance US President will have to acknowledge the same through renewed and stronger commitments towards climate change. Even if we leave aside our success or failure in

climate change negotiations with other nations, improved health of our citizens is the best reward for all of us.

It is with such intent that the attached tabulated note titled “How the presently “Dirty” coal fired Power Plants can be converted into “Clean Coal Technology Plant” has been prepared.

We all at Transparent sincerely hope it will be well received and implemented by Government and all stakeholders.

Date – 10th July 2018

How the presently “Dirty” Coal fired Power Plants can be converted into Clean Coal Technology based steam plants

<i>S.No.</i>	<i>“Dirty” Coal Technology</i>	<i>S.No.</i>	<i>Clean Coal Technology</i>
1	<u>Dusty open Air Coal Loading & Unloading stations</u> that spread coal dust in surrounding atmosphere	1	<u>Totally enclosed Coal Loading & Unloading Stations with Induced draft Dust Extraction System</u> that will eliminate Coal dust dispersion into surrounding atmosphere.
2	<u>Open Air Coal storage</u> that spreads coal dust into atmosphere	2	<u>Coal storage in enclosed Silos</u> that prevents coal dust from spreading into atmosphere.
3	<u>Open Coal Conveyors</u> that spread coal dust into atmosphere and also have coal spillage related problems.	3	<u>Totally enclosed Coal Conveyors</u> that prevent spread of coal dust into atmosphere and also eliminate spillage and associated problems.
4	<u>Open to surroundings, coal crushing plants & grinding mills,</u> which generate spread of coal dust into atmosphere.	4	<u>Totally enclosed coal crushing & grinding plants with Induced draft dust extraction System</u> that will eliminate Coal dust dispersion into surrounding atmosphere.

5	<u>Most ugly part of Dirty coal fired power plant is the highly unreliable, inefficient, inconsistent performance of ESPs (Electrostatic Precipitators) that release high particulate emissions into atmosphere.</u>	5	<u>High efficiency modern Bag Filters of Co-flow design having conservative filtering area and low Power consumption. Each module to have isolation valves for easy maintenance / repair without stoppage of the plant. Minimum 10 to 20% stand by modules to be provided mandatorily.</u>
6	<u>Another most ugly part of Dirty coal fired power plant is total absence of facility for eliminating SO_x & No_x emissions that cause Acid Rain.</u>	6	Reliable FGD system to absorb SO ₂ based on Limestone or Ammonia that produces Usable by product viz. Gypsum & to provide Urea / NH ₃ based No _x reduction system.
7	<u>Another ugly part of Dirty power plant is absence of reliable Continuous Emissions Monitoring System (CEMS) that will expose gross negligence towards pollution abatement obligations. Equipment designers, its suppliers and operators easily escape out of their obligations. Compromises in engineering do get encouraged.</u>	7	<u>Reliable CEMS having public access and public display will fix the accountability and help the public at large to easily monitor the same. Negligent indifferent operators of Power Plant can be easily brought to books. Engineering of the power plant, its facility planning and execution will be taken seriously</u>
8	<u>Another ugly aspect of Dirty coal fired Power plants is - Negligence and indifference towards Fly Ash & Wet ash utilization.</u>	8	<u>Cement grinding units should be installed near the power plants to blend and utilize the dry & wet Fly ash. Fly Ash Dryers to be installed in the power plants premises itself. This should be made obligatory</u>

			<u>& mandatory for power plants.</u> Use of cement thus produced should be consumed in neighbouring infrastructure projects like Road, pavements, dam, channels, bridges, affordable housing, Government buildings etc. etc.
9	<u>Another huge ugly aspect of Dirty Coal fired Power plants is the Water Cooled Steam Condensers which consume enormous amount of water so much so that they dry out rivers & dams depriving citizens, farmers of precious water resources.</u>	9	<u>Air Cooled Condensers (ACC) to be made mandatory for all power plants.All existing Power Plants to be converted into ACC based system.</u>
10	<u>Boiler Blow down & Cooling tower blow down water is not recycled. It is drained causing huge salinity related problems in ground water, rivers and lakes.</u>	10	<u>The blow down water to be recycled and reused back into the system.Necessary Zero Liquid Discharge System typically based on Reverse Osmosis (RO) plus Multistage evaporators (MSES) to be made mandatory.RO & MSES must have non fouling features and technologies to ensure use on 24X7 basis</u>
11	<u>Perpetual manipulation of tendering process has also helped in earning “Dirty status” for coal fired power plants.Crony capitalists, crony politicians & crony bureaucrats are at the base of all above. This has resulted in complete lack of credibility and trust about the key stakeholders.</u>	11	<u>Awareness building should be promoted aggressively by Government bodies, MoEF Officials, CPCB, MPCB, NGOs so that creditability is restored earliest. Citizens should be made aware about the reasonable increase in tariff that they will have to bear to support increase in costs to be incurred for clean</u>

	<p><u>Public at large is kept in dark and ignorant</u> by such crony stakeholders. <u>Many NGOs only work to add to this situation instead of providing practical solutions.</u> <u>Reasonable costs that are needed to be borne by consumers</u> have to be wholeheartedly accepted by NGOs and public at large.</p>		<p>coal technology. <u>Tendering Process should be “liberal” so as to promote competition to bring down costs.</u> Manipulation, tenders that restricts bidder qualifications so as to favour crony equipment manufacturers of outdated ‘proven’ technology should be eliminated. This will ensure that tariff increases are reasonable. <u>Misuse of EPC method of contracting should be eliminated.</u> Contracts could be split into -A) Conceptualization, Engineering, Co-ordination, Inspection and commissioning (CECIC)B) Engagement of contractors for construction & site work C) Direct procurement of shop manufactured bought outs such as pumps, valves, instruments etc. D) Financers to the project.</p>
12	<p><u>Complete absence of transparency about the entire process of setting up the power plant</u> from its initial planning till the O&M of the plant spread over the technical life of the project allows crony stakeholders to impart “dirty” status to coal fired power plant.</p>	12	<p><u>A dedicated interactive website that will transparently inform citizens about all aspects of such projects</u> from initial planning to pre-bidding, technical execution progress and O&M of the plant should be established for each Coal fired Power Plant.</p>
13	<p><u>Currently entire “Business” of coal fired power plants is manipulated</u> by Crony stakeholders.</p>	13	<p><u>Model guidelines, codes & standards should be immediately published</u> by BIS, CEA, CERC, MoEF that will help to restrict</p>

			manipulative self styled practices of crony stakeholders.” <u>Arrogance” & “We know it all” attitude of Government bureaucracy should be at once set aside.</u>
14	Absence of priority in allocating finance is another major hurdle. <u>RBI is not made & held truly responsible for judicious, effective use of public money for critical priorities of the nation.</u> (OR else RBI would have owned such huge NPAs which nation is struggling to bring under control!!!)	14	<u>Funds available with Government & public sector banks should be allocated on top priority for such projects.</u> Misuse of funds available with public sector banks for financing private automobiles, luxury homes, “educational” loans should be stopped at once and such funds should be redirected for clean energy plants. <u>RBI should be held responsible for ensuring this</u> -Currently RBI is not made responsible for performance of Banks. (OR else huge NPAs in many sectors would not have been the reality!!!)-Holy cow status of RBI needs urgent change.-Importing of “foreign expert” for post of RBI Governor must be stopped.- Home grown talent (foreign degree accepted) for position of RBI Governor is an absolute MUST.- RBI administration is not only completely outdated but is intentionally maintained incompetent & ineffective so that vested interests & crony capitalists can manipulate tacitly and effectively rob / steal public money.

Priority Sector Lending to SMEs – A Double Edged Sword

When Priority Sector Lending was Given Momentum?

Era of Priority Sector Lending to SMEs (PSLSME) started post Bank nationalization in 1969.

Liberal financing policies to SMEs were implemented through nationalized banks, State Financial Corporations, Regional Development Corporations, IDBI, SIDBI, NSIC and so on. These SMEs were further benefited through certain reservations and concessions to these sectors for a range of products & markets that were introduced immediately or almost the same time while PSLSME program was introduced.

During the period between 1969 till 1995 Indian Economy was highly protected from competitively priced imports through various import restrictions and by levying prohibitive custom tariffs. Additionally License permit raj offered protection to existing Indian businesses against desirous local entrants, meritorious competitors!!

The policies devised with the so called noble objective to help Indian Industries by providing protective shelter to them, so that they earn muscle power both technologically and financially, merely resulted in offering undue over protection that simply killed any spirit of cost & quality competitiveness which should have otherwise been at the center stage of every industry and Indian economy. Almost all the first generation entrepreneurs were copy cats having below average or out dated technology, poor entrepreneurial skills, very low aims & ambitions with no true vision or passion to develop business into a world class enterprise.

The Intellectual Property Laws and its implementation was too loose and primitive and its implementation was almost nonexistent.

Organized Sector Attitudes During Days of Protected Economy:

Organized Sector Industries were all the more over protected and had no compulsion or need or incentive whatsoever to innovate so as to improve competitiveness – both in local markets as well as export markets. In fact so crony were their attitudes that whatever competitiveness they did possessed initially also progressively reduced over a period of time and they were displaced from several markets. Profits earned in one business were diverted in other unrelated businesses. R&D incentives offered by Government were grossly misused only to exploit tax benefits. No true R&D ever happened.

Organized sector therefore never looked for entrepreneurial talent or top class technologists nor did they make any effort to nurture such talent. Engineers from top notch institutes were never needed by even the organized sector among Indian Industries. Such a pathetic scenario in organized sector encouraged top class educated youth from middle class background to migrate to developed countries like USA, Canada or else they were left with no choice but to set up own enterprise drawing benefits from Priority Sector lending policies introduced by the Central Government. This was in a way a kind of compulsive entrepreneurship. In real sense, Industriousness and entrepreneurship among Indian middle class and white collared society was very poor and in microscopic minority.

How Progressive Entrepreneurs Exploited Opportunities Offered by PSL:

At the same time the true entrepreneurs exploited the opportunities available through PSLSME who were highly educated. These top class technologists proved to a boon for Indian Industry, economy and society. They did introduce world class products that surely compete with globally competitive players & have further potential to grow the business in a healthy manner.

Impact of Crony Capitalization on Industry & SMEs:

However, having established themselves in terms of product

& processes, was not enough to further grow their industry into a global player.

In local market ease of doing business never existed. Poor availability of Capital, complete lack of proper business environment that will support quality, technology, merits etc. (and on the contrary the discouraging business environment that benefits only those who are corrupt, or those who align with organized corrupt cartels formed by crony capitalists; politicians + bureaucrats) Government policies, regulations were always made to support corrupt cartels and crony capitalists.

Most of the borrowers under PSLSME particularly the first generation entrepreneurs also preferred to align themselves with such crony capitalists & their corrupt cartels. Furthermore poorly functioning or almost non-functioning corrupt Judiciary & police, the Inspector Raj, lumpen tax collectors greatly contributed to vicious Industrial environment.

Priority Sector Lending therefore is a double edged sword.

How should be Priority Sector Lending in future (PSL)?

PSL should be made available easily only to those who may not have adequate capital available with themselves, but hold promise in terms of high technology, product quality, managerial excellence that can meet or exceed global competition. Their technology & innovation should be Patent worthy & such that it can be protected by Intellectual Property Laws.

Further the promoters should be holding high qualifications, top quality education from institutes of high standing. They must have undergone through exposure to related Industries & their entrepreneurial skills are proven – Their industry record must be unblemished.

In no case PSLSME should be viewed as a subsidy or free gift offered indiscriminately.

This should be the case even for those who wish to float ancillary units for large Organized Sector Industries, Additionally in case of ancillary industries, their customers must give an undertaking with assurance to provide steady business. These

customers of ancillary units must have accountability responsibility for ensuring business viability of the ancillary units. It is all the more preferable, if the customers of Ancillary units take equity in the Ancillary Units or provide some kind of guarantee to the financiers, investors or lenders to the Ancillary Units. The guarantee could be in the form of Bank Guarantee, or a deposit or a recurring advance payment or a recurring Letter of Credit or similar instruments.

All debts under PLSME should be necessarily be convertible into equity. The lenders should have adequate representation on Board of such companies and should have option / right to appoint internal as well as statutory auditors of their own confidence including the right to appoint independent professionals having competency & experience to run the business.

Lending merely based on security should not be encouraged as it allows the lenders to be casual and ignorant about many other more critical factors mentioned above.

Date : 25-06-2018

Major Reforms needed in lending policies of Commercial Banks

1) References :

a) RBI Master Circulars on Commercial Banking (2015-16)

- Loans & Advances – Statutory & other restrictions
- Guarantees & Co-acceptances
- Exposure Norms
- Interest rate on Advances
- Lending to Micro, Small & Medium (MSME) Sector
- Priority Sector Lending – Targets & Classification

b) RBI Master Circulars on Co-operative Banking (2015-16)

- Management of Advances
- Priority Sector Lending
- Exposure Norms & Statutory / other restrictions
- Guarantees, Co-acceptances & Letters of credit.

c) RBI Affidavit Dtd. 28/03/2016 filed in Supreme Court of India

d) Interview by Dy. Governor of RBI, Shri. S. S. Mundra published in Economic Times Dated June22, 2016.

e) TESPL Note titled- “Priority Sector Lending to SMEs – A Double Edged Sword

2) The background & History :

- 2.1 Rapidly rising NPAs of Public Sector Banks & Private Banks.
- 2.2 Public perception about borrowers, lenders, regulators (RBI, DRT, NCLT), Politicians, Government Bureaucracy.
- 2.3 Current provisions of RBI circulars, guidelines and functioning of RBI.

- 2.4 Impact of Globalization on Trade & on Development Banking policies of India
- 2.5 Rise of entrepreneurship in India in last 10 – 15 years.
- 2.6 Excessively security reliant Banking & its excesses - its impact on industrial development
- 2.7 Easy availability of credit resulting in overcapacity of below average quality of industries
- 2.8 Unfair competition & its impact on Industry

3) *The Needs :*

- 3.1 Job retention & new job creation
- 3.2 Survival, stability and growth of existing Industry and Commerce.
- 3.3 Tax collection
- 3.4 Technological advancement
- 3.5 Fair Competition

4) *The Solution :*

- 4.1 ***Reduce excessive reliance on security based banking and go for participative Banking.***
- 4.2 Lenders must necessarily provide & invest in the form of equity plus debt (& not mere debt). Equity could be pure equity or quasi equity in different options.
- 4.3 ***Conditions like, Collateral security, personal guarantees should be disbanded. Feudal money lender policies should be completely disbanded.***
- 4.4 Lenders should have of their choice
 - Nominee Directors on Board of borrower company
 - Auditors (Internal & statutory)
 - Company Secretary
- 4.5 Viability of Borrower Company should be assessed with respect to –
 - IPR, Patents, Technological edge at global & national level.
 - Technological competitiveness – global & local
 - Costing & budgeting competencies, experience, expertise, its monitoring & control.
 - Experience & Business competencies of top management & key personnel.

- Market demand – global & local (immediate, medium term, long term)
 - Market demand – supply gap – immediate, medium term & long term
 - Market demand creation
 - R&D capabilities, R&D Budgets
 - Manufacturing Competitiveness
 - Inspection, testing, Quality Control
 - Procurement efficiencies
 - Market reach
 - Sales organization
 - Quality of manpower & its training
 - Cyclicity of business
 - Risks related to Unfair Competition (from local & global players)
- 4.6 Lenders, through their Nominee Directors and auditors should participate in conduct of business of the borrower.
- 4.7 ***Development Banking should be extended into participative & involved Banking.***
- 4.8 There should appropriate clauses in lending & investment agreement with regard to –
- Share valuation methods
 - Dividend payment
 - Exit clauses
 - Call & put options
 - M & A options
 - For converting debt into equity
- 4.9 ***Dispute resolution should be through Arbitration process and Commercial Courts AND NOT through DRTs & NCLTs.***
- 4.10 No industry will be allowed to die or to be liquidated but M&A options will be exercised and will be binding on all investors.
- 4.11 Liquidation will be exercised as last option to be exercised in truly exceptional situations such as technological obsolescence etc.

FINAL REMARKS :

- 1) Investing in equity as a planned effort is better than last minute write offs normally chosen as compelling option.
- 2) Participation & involvement of lender in borrower company is much better than indifference and /or maintaining distance with borrower company.
- 3) Recovery through liquidation is bad for all stakeholders. Keeping business alive is much better option for all stakeholders.
- 4) Lenders through equity participation can share the upside Promoters & other shareholders.
- 5) Loss of share value is much better than write offs.
- 6) Above solution can be readily & quickly implemented to resolve current NPA problems. This will immediately help to accelerate growth and investment climate.
- 7) Use of threat & scare cannot be the tool to motivate entrepreneurs, but participation & involvement surely can be used to support, help & encourage entrepreneurs to perform.
Use of threat & scare is an outdated feudal practice.
Entrepreneurship should be an enjoyable experience.
- 8) Development banking is still very much needed in India that can be extended through participative banking. Forces of globalization need to be taken into consideration.
- 9) All above will greatly promote & increase entrepreneurship, industrial development, job creation etc.
- 10) Above scheme should be made applicable to all sizes of industry particularly SMEs and higher scale.
- 11) It should be made mandatory for all Commercial Banks, Private Sector Banks & Co-operative Banks, NBFCs etc. without exceptions
- 12) All industries that create jobs should be covered in the scheme.

Date : 25-06-2018

Basis of thinking & assumptions behind Excessively Security Reliant Lending and its ill effects on borrowers & lenders

Basis & Assumptions behind the policy :

- 1) One day or other business of borrower may (or will) run into bad financial condition & robust security is the best option to recover dues by liquidation of the security.
- 2) Security can be quickly & easily liquidated in a time bound manner at its market value (or at fair discount)
- 3) All the critical aspects of business viability and sustainability of the borrower organization are in the domain of promoter & shareholders of the borrower company. Lender has nothing to do with it.
- 4) Lender should not interfere in the affairs of the borrower.
- 5) Based upon point 1, 2, 3 & 4 above robust security is the safest solution
- 6) Land & gold based security always appreciates. Therefore that is best security.
- 7) Lending is therefore very simple activity i.e. to have safe robust security and lend quickly as well as freely.
- 8) Easy fast lending and quick availability of credit, earns popularity for lenders among borrowers!
- 9) Rapid growth in lending means rapid business expansion!!!

The current reality :

- 1) Security cannot be liquidated easily at fair market value.
- 2) Substantial haircuts are needed even after long wait.
- 3) Job losses are heavy
- 4) Stakeholders suffer heavily

- 5) Those promoters who want to keep all the upside of business i.e. profits, dividends, appreciation of share value AND want lenders to take the downside in the form of haircuts will never encourage debt plus equity based lending
- 6) Such promoters also do not encourage going for timely M&A options.
- 7) Especially during economic slowdown, global volatility, equity plus debt based lending can save industry, its value and save all stakeholders (employees, suppliers, Government, shareholders and lenders alike)

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Date:- 02/09/2014

Cancer of Cut practice that is ruining Medical profession NOW grips industrial boilers user industry

The cancer of cut practice that is ruining Medical profession has already assumed alarming propositions. What is really amazing is the well organized manner in which it operates. Medical Representatives, Medical shops, Medicine manufacturers and Doctors operate this corrupt system very “harmoniously” and methodically. The process is run with excellent database and recordkeeping.

The Industrial Boiler manufacturers, their regional offices and well developed network of Sales and Service franchises have nicely adopted this cut practice method to win over business and create an army of sycophants / propagandists who will go out of way to hide truth, spread rumors or falsehood and enjoy fruits of corruption. The Franchises thoroughly spoil habits of boiler operators and maintenance executives by making them “partners” in the cut practice. ***These corrupt operators and managers are widely publicized and projected to market as authentic “opinion leaders” and “experts” in boiler technology who in reality serve the vested interests of those who pay them through cut practice.***

Corrupt Boiler Inspectors and their partners viz. boiler repair service providers are also part of the cut practice cartel, who also present themselves as “opinion leaders and experts”.

The concept of service franchise is profitable only when product is so engineered that sale of lot of spare parts and services

can be easily thrust upon the customer who has no choice but to seek such services and buy spare parts from the OEM.

To make this business appear fair and justifiable, the service franchise works hand in glove with the plant operators, maintenance technicians and even the lower level managers.

The inflated annual budgets for spares and maintenance proposed by service franchise are promptly forwarded by maintenance managers for sanction.

The inflated budget for maintenance and spare parts generates enough revenue for the service franchisee and OEM so as to grease the palms of plant operators and maintenance staff.

Such service franchise and their OEM is always in the “good books” of plant operators and maintenance managers.

Vital factors like fuel efficiency, spares consumption, running cost etc. are seldom brought to the attention of the top management. The plant operators and Maintenance team in collusion with the service franchisee and OEM makes all efforts to justify to their top management how good these ordinary products are.

Such “happy” and “satisfied customers”, i.e. plant operators and maintenance managers leave no opportunity to reciprocate their obligation towards service franchise by recommending procurement of the same equipment not only to their management but also for the prospective buyers. They are paid to create confusions about truly meritorious products and to falsely blow up below average ordinary products of the franchisee.

These “happy” maintenance managers would go out of way to reject an efficient and maintenance free equipment. Obviously they do not want to lose their revenues earned out of cut practice.

The vicious cycle keeps expanding with growing population of such inefficient equipments and “happy” maintenance managers.

A cancer detected at last stage would invariably cause death! as cures are implemented too late.