

Business Standard

Harbingers of reform

The roots of the cancellation of 2G telecom spectrum licences and coal blocks lie in two non-profit organisations - Common Cause and CPIL

Sahil Makkar | New Delhi January 05, 2015

In the late 1970s, phrases such as consumer protection rights and public interest litigation (PIL) were largely confined to the drawing rooms of India's elite. But inflated electricity bills and countless trips to state electricity board offices saw a few bureaucrats coming out of retirement to bring about change in society. And, in 1980, non-profit organisation Common Cause was born. H D Shourie, the first president, would sit along with a typewriter, surrounded by heaps of newspapers at his house in Westend here, and write letters to the government about apathy towards citizens. In most of cases, his pleas would be turned down. But Shourie, familiar with the functioning of the government, as he had spent 35 years as a civil servant, did not give up.

Within two years of the launch of Common Cause, Shourie's efforts paid dividends. Through a lawyer and on behalf of about 15,000 retired pensioners, he filed his first writ petition in the Supreme Court, highlighting the problems and hardships faced by about four million retired government civil servants. ([FIGHTING A COMMON CAUSE](#))

One problem, for instance, was that the central government had liberalised the formula to compute pension and made it applicable only to employees retiring on or after March 31, 1979. The petitioner argued the decision was arbitrary and would deny additional benefits to civil servants who had retired before the cut-off date. The court accepted the argument and ruled in favour of the petitioner. Shourie's sustained efforts resulted in the setting up of district consumer forums, following the Consumer Protection Act being passed in 1986. "Why am I sticking my neck out? Because that is what a neck is for! Is it not?" Shourie would tell his peers.

Through the next few years, Common Cause took up matters pertaining to property tax, malfunctioning blood banks, the rent law, complaints on electricity and telephone bills, the inefficiency of airlines, reduction of pending criminal cases and the financial accountability of political parties during elections. While Shourie was busy arguing cases in the Supreme Court, former Bombay High Court judge Vithal Mahadeo Tarkunde, whom some term "the father of civil liberties" in India, established a similar organisation, the Centre for Public Interest Litigation (CPIL), in 1987.

By then, PILs had become popular, following one by advocate Kapila Hingorani in December 1979 on behalf of the prisoners lodged in jails in Bihar. Hingorani's petition led to about 40,000 undertrials being freed; these people had spent more time in jail than they would have if convicted. Judges P N Bhagwati and V R Krishna Iyer were among the first to admit PILs in court. A PIL can only be filed on behalf of an organisation.

The others who joined Tarkunde and are still on the CPIL governing council include legal luminaries such as Fali Sam Nariman, Shanti Bhushan, Anil Divan, Rajinder Sachar and Colin Gonsalves. In the following years, CPIL and Common Cause rose to prominence, but lost their visionaries. CPIL lost Tarkunde in 2004, while Common Cause lost Shourie, to illness in 2005. The cancellation of 2G telecom spectrum licences and coal block allocations, which the Comptroller and Auditor General (CAG) said resulted in notional losses of Rs 1.76 lakh-crore and Rs 1.86 lakh-crore, respectively, can be attributed to these organisations. Now, they have upped the ante against Ranjit Sinha, who retired as head of the Central Bureau of Investigation (CBI) on December 2, 2014, for allegedly meeting the accused in several high-profile cases. Kamal Kant Jaswal, a retired secretary to the government, and advocate Prashant Bhushan are members on boards of both organisations.

"The nature of work for CPIL and Common Cause is the same. But both organisations individually decide on their respective cases to be taken up in court. In some cases, one becomes the lead petitioner and in other cases, vice versa," says Jaswal, director of Common Cause. The non-governmental organisation decides how and when to file a PIL on a case-to-case basis. When the Andhra Pradesh government decided to export rare red sanders wood, Common Cause moved court immediately. For the past two years, it has been readying a PIL on multi-marketing schemes. Jaswal says to meet expenses, Common Cause has leased the ground floor of its building in Vasant Kunj here to IndusInd Bank. Other sources of funding are left behind by the founders, as well as occasional donations. "Neither do we seek donations from people, nor have we taken money from the government. Our lawyers fight PILs for almost no fees," Jaswal says. Common Cause has a small team of three researchers, two office secretaries, a person in the administration department and some interns. The organisation has 2,800 members and each member is selected by the governing council. It has denied memberships on occasions.

"Our efforts are to correct the picture of governance, rather than fighting corruption alone," says Vikram Lal, former chairman of Eicher group and president of Common Cause. Bhushan says CPIL doesn't have a proper office or a website. Its governing council meets once or twice a year and most of the work is carried out from Bhushan's chamber in the Supreme Court. "I don't charge anything for a PIL. The research work and drafting is done by my team," he says. Other members of CPIL contribute to the organisation in their individual capacities. As is the case with Common Cause, CPIL is reluctant to raise funds from other organisations. "It is a time-consuming process and we don't want to risk a person with ulterior motives donating for our cause. The time we spend in collecting money can be spent in fighting cases," Bhushan says. Currently, the organisations are fighting 20-30 cases each.