



Study of Whistleblower Protection Act, Penalty and offences under this act and latest amendments made to the Act

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Abstract : A whistleblower is someone who reveals sensitive information about misconduct of a public official or an organization. Eg- Using low grade materials while constructing roads in order to pocket public money. India has seen many Whistleblowers who have risked their lives to let the public know of illegal or corrupt activities.

ISSN : 2348-5612 © URR



In order to safeguard and protect such people, the government introduced the Whistleblower act in 2014 which guaranteed protection of a person's identity and information revealed by the person. Under this Act, anybody could reveal information related to corruption or misuse of power by government officials and public offices with or without the RTI (Right To Information).

Whistleblowers protection under private sector

There can be situations which may force any person to act as a whistleblower which could be mainly in violation of company's policy such as sexual harassment at work places, assaults as well as corruption and other discriminatory practices. There are laws to protect whistleblowers but many of them do not raise their voice either due to threat directly or indirectly from their employers or due to fear of job loss and as a result many whistleblowers either wait to inform someone in a position of power or just drop the idea to act as a whistleblower.

Whistleblowers protection under public sector

As stated above public sector whistleblowers are less likely to be protected as compared to private sector ones as protection laws in private sector were enacted much earlier but still every sector has its own consequences and hence public employees or servants also fear before exposing anyone else's misconduct, illegal or dishonest activity as they would consider it as going against their government and country. There are laws made to protect whistleblowers in



public sector also such as federal whistleblower legislation is a statute which protects all government employees and hence the government is prohibited from threatening any employee just because the employee disclosed information about any unreasonable thing happening in the surroundings.

Penalty and offences under this act

As stated under section 15(a) where any competent authority finds that the official concerned is not furnishing the report within the specified time or malafidely refuses to submit, then a penalty of two fifty rupees for each day is provided in the provision till the report is furnished but the penalty shall not exceed fifty thousand rupees.

As stated under section 16: Any person who negligently or malafidely reveals the identity of the complainant will be punishable with imprisonment for a term of 3 yrs. or less and also to fine of rupees fifty thousand or less.

As stated under section 17, any person who makes any disclosure which is false or misleading shall be punished with an imprisonment of two yrs. or less and shall be charged with a fine of rupees thirty thousand or less.

Amendments made to the Act

- On May, 2015 the Act was was amended so that protection would be guaranteed to a Whistleblower only if the information revealed met certain parameters.
- Individuals enjoyed protection by the government if they revealed sensitive information about activities that could harm the country and it's public. According to the amendments, the Act will not protect a whistleblower if the information revealed falls under certain criteria.

Here are the kinds of information that will not allow protection to a whistleblower:

1. Any information that harms the integrity or sovereignty of the country or if the information is a threat to the country's security, economic, strategic and scientific interests with foreign states.



2. Any information from discussions and cabinet papers of Council of Ministers, secretaries and other government officials.

3. Any information that has been restricted by the court and will go against it's given orders.

4. Parliamentarians and MP's enjoy certain privileges, given their position as India's decision makers. Revealing any information that would harm this privilege will not allow protection under the Act.

5. A company or an individual's trade secrets, commercials, inventions, artistic or literary work cannot be revealed if it harms its business.

6. If the information is shared between two people and they agree to not disclose it, then both parties cannot reveal it, unless it is covered under the RTI.

7. Information revealed by a foreign government in trust cannot be revealed.

8. If revelation of details and information could endanger the life and safety of a person, it cannot be revealed. The source of information given in confidence for law or security enforcement also cannot be made known.

9. If the disclosure of information will setback the process of investigation, apprehension and prosecution of offenders.

10. No information that might fall under public interest, but is an invasion of privacy cannot be revealed unless it has been made available under the RTI.

If information revealed falls under any of the points given above, then the accused person or organization will not be required to give an explanation or answer any questions pertaining to the accusations. A written document will also be issued by the government which will further protect the accused from any inquiries.

References :

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