

“The Idea Was to Break Us...”

○ Shankar Sharma

S ometime in mid-August, 2001, about five months after the *Tehelka* expose of March 13, 2001, Anirudhha Bahal, one of the architects of the spy-cam story on corruption in the defence establishment, called me up in Bombay and said to me “Shankar, the government is planning to file affidavits against you and us (*Tehelka*) in the Commission”.

My first reaction was, “You’ve got be joking! How can the government take an official stand against an exposure of corruption? Besides, we’ve got nothing to do with you and your story...” Well, we should have known better.

The government did file an affidavit in the Justice K.Venkatswami Commission of Inquiry (also known as *Tehelka* Commission) in late August. We got a couriered copy of the affidavit, filed on behalf of the Union of India, under the hand of a Ministry of Finance official called Devinder Gupta. It was a big, fat document full of print outs and diary pages.

We read the first few pages of the affidavit, and suddenly, almost like Sidhartha gaining new and deep knowledge of the meaning of life under the banyan tree, we saw things in a new light!



For months preceding this affidavit, we had sat and wondered why the government had unleashed its dogs on us – Income Tax, SEBI, Department of Company Affairs, Enforcement Directorate. Sure, after the expose came out in March, we had expected a few enquiries, even a few raids. We had reasoned that there would be some knee-jerk, vindictive action by the BJP, given what *Tehelka* had exposed. In any case, a raid or two is hardly something worth losing sleep over, and every business house of some consequence faces this at one point or another. Income Tax officials raided us on March 23, ten days after the expose, and for the first time in our history, a SEBI official visited us, on March 27.

In both cases, the primary focus never seemed to be on what their respective departmental charters

specify: for Income Tax, the focus has to be solely on unearthing undisclosed income, and for SEBI, a brokerage house’s operations in the listed, publicly traded equity markets. But Income Tax (IT) ended up seizing just about any and every scrap of paper that had the word *Tehelka* written on it. All correspondence with

Tehelka was seized, no other document relating to any other company with whom we have business relationship was touched.

The interrogation by IT officials subsequent to the raids focused substantively on our investment in *Tehelka*. They wanted all details, even though given the IQ and awareness levels of the interrogators, even rudimentary, B.Com. level finance was akin to rocket science. They gaped at terms like “eyeballs”, “discounted cash-flow”, “dot-com boom”, “internet bubble”, “page-views per month”, “media play”, etc.

At each such revelation, they would whisper conspiratorially, as if they had stumbled upon some grave “conspiracy”! They were almost child-like in their wonder and amazement. This is how Neil Armstrong must have felt upon

landing on the moon! What their ham-handed questions on *Tehelka* had to do with detecting undisclosed income is another matter altogether.

Ditto with SEBI. *Tehelka* was a private equity investment by First Global, our flagship company, and SEBI has *absolutely no* jurisdiction over anybody's private investments. But over half their questions related to *Tehelka*! They wanted it all, all the minute details...

Of course, we co-operated. We gave them everything, naively believing that this would ensure a more considerate treatment. Well, we got to know soon enough – SEBI banned us on April 19, “pending investigation”. But what blew us away was the event of the afternoon of the 19th : cops landed up at our office and arrested Shankar on “charges” of threatening an Income Tax officer with “dire consequences”! The idea was clearly to break us in mind and in spirit – in the morning, you take our livelihood away, and in the evening, our freedom. Talk about coordinated action.

Life since then has been, well, nothing short of a Kafkaesque nightmare. Agency after agency, summons after summons, raids after raids...Each day we would tell ourselves – they've got to tire of this some time. Each day we were wrong. They still kept coming, through May, June, July, August...And then came September.

We were boarding a flight to London (via Brussels) on Sabena, from Chennai (where we had gone to meet with some of our key executives there), on the night of September 24. We checked in, made our way to the immigration counter, and presented our passports. In a minute, we were



Shankar-Devina in happy days

surrounded by officers, and taken to the Immigration Officer's room. There, the Chief Officer asked us our names, and other such details, picked up the phone and spoke in Tamil. Putting the phone down, he asked us “Are you connected with *Tehelka.com*?”

All this started around 10.30 pm. At around 3 pm, guys from the Income Tax departments landed up and raided our baggage. Finding nothing of any substance, they gave it up at around 10 am. Exhausted, we trooped back to our hotel. We had barely reached our room when 10-12 guys from the IT department appeared again. “We have a warrant to search your hotel room”, they said. This lasted till 12 a.m. that night. Bottomline: we were illegally detained and prevented from flying.

It got worse. From early October, the Enforcement Directorate, the government's most feared dogs, were let loose on us. It was clear to us that they wanted to put us behind bars. They did so – on the night of December 17, 2001.

Two and a half months of custody later, Shankar got bail – after facing four bail rejections at the hands of a compromised judiciary in Delhi, going right up to the High Court.

Exactly 12 months later, we now sit, alone and quiet, surveying the wreckage. All but one of 17 offices nation-wide closed down, all but 25-30 of 300 odd people laid-off; all our properties attached; all our bank accounts frozen; all our businesses shut. We have been unable to pay our phone bills, electricity bills, our employee's salaries, for over three months now.

For 12 months now, we have jumped at the sound of the doorbell ringing. We have feared the midnight knock. We have walked into office, expecting a raiding party, a pack of summons, a slew of show-cause notices...

Even as we write these words, every fear we have felt over the past 12 months, remains, new and fresh...

The most traumatic part of it all is the utter and total lack of accountability of government agencies. Even if we are successful in proving our innocence and their culpability, there is no real mechanism of redress available to us as citizens of this country – for business losses, for assaults on our dignity and credibility, the humiliation of being treated like criminals on cooked up and frivolous charges. We can't predict how much more is in store for us. “Will a “democratically” elected government be allowed to get away with it?” Much like India's most nettlesome questions and problems, there is no answer to this one as well.

Tales from Jail

The story about the arrest of three minors has been all over the papers recently, and focused attention on the issue of arrests and remand of people on frivolous and often downright fabricated cases. Inside jail, stories of this kind are a dime a dozen. I am going to give you a vicarious view of what jail life really is, without any of the attendant irritants like lock-ups, police vans, and watery *daal!*

I spent roughly two and a half months behind bars, most of it at Tihar, Delhi, and about a fortnight at Arthur Road Prison, Bombay. Remanded to judicial custody by the Patiala House Court, I arrived at Tihar on January 1, 2002, at around 7 pm. I will save talking about the ride from the court to the jail for a little later, since that is an experience worth detailing separately.

Once the “check-in” formalities are over in the main jail complex, a convict accompanied me to my accommodation – Ward No.6, Jail No.1, Tihar Central Jail. Nothing prepares you for the two faces of Tihar you see when you enter the main jail area. I was taken in those gates at about 8 p.m. on a cold winter night. As I walked through superbly kept gardens, cross a fountain, a greenhouse, en route to the barracks. I remember saying to myself ‘hey, this looks like Rajvilas.’ Well, that’s where the similarity ends.

I was kept in the general barracks meant for first-time offenders. What is a barrack? Pretty simple, actually. It is a huge rectangular hall, with windows that have bars on them. Even before you enter the hall, you can hear the babel of noise coming from inside the barrack – 400 people, crammed in a hall meant for 150 or so, making conversation at dinner-time! The guard opens the gate to the hall, you walk in, and all at once, you want

to turn back and run out. Eight hundred eyes turn to you. You try to avoid eye contact, much like on the streets of New York, and you walk dazedly, towards nowhere in particular. What strikes you is the thought: where am I going to sleep? There’s just no room in this hostelry. Obviously, you can’t lay claim on a nice, warm corner, since the best areas have been long gone. At best, next to the loo, is where new comers are supposed to camp out. I spread my jail blankets in about 2 ft. by 5 ft. of space, pulled another blanket overhead, and attempted to get some sleep. Not so fast, buddy, a guy prodded me and said, “You’ve got get interviewed by the barrack boss, first”.



Amnesty International

The barrack boss is an old hand, a small guy with loads of attitude. The interview goes well. What case are you in for? Nobody in Tihar has heard of FERA (Foreign Exchange Regulation Act), so I cooked up a tale of customs, duty drawbacks, etc. What amount? Now, this is the tricky part. You just can’t mention an amount running into lakhs, or else, you will give the jail micro-economy of extortion, its new client. I mumbled some figure that sounded like

“25,000 rupees”. Of course, the boss didn’t believe me. I asked him what was he in for, and he told me rather superciliously, “Robbing diamonds worth a crore.” All this done, I slept. Dinner? Well, as Gordon Gecko said in Wall Street, “Lunch (dinner) is for wimps.”

You are woken up at 5.30 am sharp and made to assemble in a courtyard outside the barracks. A prayer comes on over the loudspeaker, you are supposed to look pious or else, the guards will force you to look pious. This over at 6 a.m., the boss will come and signal to a few of the under trials whose job it is to wash and clean the barracks and the toilets. The rest can loiter around in the open areas, where a guy hands out tea and two pieces of bread, which is breakfast. You then stand around for the next few hours, till 12 noon, when you are herded back into the barracks and locked up, only to be let out again at 3 pm up to 6 p.m. One of the biggest problems one encounters in the initial days in jail is what does one eat in? There are no plates or spoons or cups. Well, that’s a real problem. If you ask the guards, all you will get is a look that says, “too bad”.

I was luckier. I found some really kind souls who used to take extra food for me, and pretty soon, the barrack stopped resembling a congregation of all sections of the Indian Penal Code, and started appearing more like a wild, unruly hostel. The decibel levels inside made it impossible to get sleep, and the solitary television going off full blast doesn’t help.

In any case, inside jail, sleep is the last thing on your mind. For the first few days, anyway. To my utter surprise, I found some real camaraderie, some real help being offered by fellow inmates. Toothbrush, clean towel, soap, comb, breakfast, all came, offered cheerfully.

Pretty soon, I had about five dinner invitations from five different parts of the barrack, every evening!

What also comes free inside jail is counseling – psychological and legal. All from your fellow barrackeers. A few good souls came up to me the second night and offered helpfully: Sharmaji, if you feel like committing suicide, don't worry. It's absolutely normal. That's the way all of us felt when we first came in. You'll be OK in a few days.

Miraculously, in a few days, you do become OK. And then some will come and tell you: if you feel like crying, cover yourself up with a blanket and cry. That's the tragedy in jail: you can't even cry in private, because jail isn't about privacy rights.

By day two or three, you are well set in the easy rhythm of jail. It soon becomes a life without pressure, deadlines, targets, phone calls. You start luxuriating at the prospect of spending all your waking hours playing cards or exploring the nuances of criminal justice system in our great land. But before I go into this, a quick word on the ecosystem of jail.

Jails are run by the convicts. They do the rounds, lock up people, beat up people and in general, keep everybody straight and honest. The price for breaking rules is stiff. Say you are caught with a *bidi* or tobacco. You are handed a good beating with a stout *lathi*, and then, you may be locked away in a tiny cell with a dozen other guys, for weeks on end. Your only out-time is about half an hour everyday.

The jail also has a thriving micro-economy. A single *bidi* costs Rs.30 inside Tihar. The guards are rapacious, and no amount is large enough for them. The guards who take you to court on your court

dates are even worse, but then, you also have a crowd of lumpen elements with you all day, right from the overcrowded police bus to the hyper-crowded court lock-up, which doesn't have fans, water or fresh air. Little room to sit, as well, so you end up standing about 6-8 hours in a dark cell, awaiting your turn at getting produced in front of a bored magistrate, enacting a farce. As all undertrials unanimously agree, a day spent on going to court and coming back (7.30 am to 6.30 pm) is equal to 10 days in jail. By the time you are done with the court lock-up, you actually start praying for a quick return to jail. Happiness, you see, is a relative term in jail.

Jail is also a hotbed of innovation. Salad is cut using shards of plastic from containers. Hot water? Well, I will let the ingenious technology that gives you nice, hot water everyday, and yet, never leaves a trail, be under the wraps. It's just too precious to part with for free. At Arthur Road Jail in Bombay, the technology to heat cold *daal* is amazing. You see, the *rotis* that you get there are, plainly put, inedible. Well, so is the *daal*, but then, you have to eat something. So what you do is this: pool all the *rotis* given inside your cell. Dry them out by putting them out in the sun. By evening, they are bone dry. Spread a bit of oil over them and...set them afire. Yes, the fuel used inside jail to make a small fire is *rotis*. They smoke a lot, your eyes burn, but in the bargain, you can drink hot *daal*. It's a worthwhile sacrifice. So what if it's like living in the Stone Age. Jail forces you to innovate, jail forces you to get real. Jail forces you to settle for small pleasures, that somehow reach the exalted status of luxuries.

But jail is also about sharing. Jail is also about making a new entrant's life easy, by explaining him the ropes: which guard is good; when do inspections happen, so that he can hide away his hashish; how to get ten extra minutes at *mulaqat* (meeting) time with your family. The one memory I'll take away from jail is the warmth of my cellmates, my barrackeers. Jail isn't about morality, but the morality I saw inside, you will be hard put to find outside.

But what really creates fissures in your mind and destroys all that you believed in (or were brainwashed into believing): rule of law, justice, civil liberties...all get blown away. The travesties of justice you see inside are stuff that our moviemakers aren't imaginative enough to show.

I met a deaf and dumb young boy inside who had been charged with extortion. How on earth can that boy carry out an act of extortion? I met a guy inside who was serving a seven-year sentence for robbing Rs.70! I met an under-trial charged with the murder of a person, who is currently alive and doing time in Naini Jail.

Stories of this kind are legion inside jail. The evil of the State is never so clearly visible as it is inside jail. That law can be an ass, there is no other place like a jail to understand. The individual fights a long and lonely battle against the State – and jail is the deserted battlefield of that battle.

I want to go in deeper into this—the vastly unequal battle of the individual vs. the State— with examples that are guaranteed to chill your blood. In part II of this piece, I promise you another free ringside view of our judicial processes and “rule of law”, Indian-style. □