

NOTE

More on the Judgement

A Correspondent writes :

It is not that the CBI can always stand for the oppressed. There are also disquieting reports that the Central Bureau of Investigation (CBI) officers can try to shed the guilty, and are in league with perpetrators of heinous crimes. Such reports are not altogether baseless. But when some state governments try to prevent a CBI investigation for its own murky reasons in case of a brutal genocide committed by the party men in power, or when police officers themselves working under the state government are party to a criminal offence, there are reasons for anxiety. If the CBI personnel can act conscientiously, judiciously and independently, it is not improbable that the truth may come out in some of such cases at least.

Given that the CBI acts with reason, there remains the question of the High Court. A rational person with some experience of Indian judicial system does not possibly have any illusion that the High Courts are in all cases dispensers of justice. But if those who sincerely work for the protection of human rights and for fighting deprivation can argue their cases before their respective High Courts with sufficient evidence, judgments may be in their favour at least on a limited scale. The scale, though limited, is not altogether without importance.

The principal issue that has emerged on the occasion of the Supreme Court ruling empowering High Courts to order CBI probes without the consent of the concerned state governments is that of the judiciary versus the state. It must be remembered that the official brand of industrialization that goes by the name of 'development' deprives the most deprived sections of the society of their means of livelihood. State governments which are competing with one another for attracting corporate capital to their respective states are at the same time not weary of forcibly seizing the land of dalits and adivasis. Resistance is met with brutality, and it is quite possible that in the coming days, many more Kalinganagars and Nandigrams will take place, and state governments will try to suppress the truth. It may be foolish to imagine that the High Courts will firmly side with the victims and the CBI investigations will always reveal the truth in all instances. But it is nevertheless true that impartial CBI probes may turn out beneficial to the victims in so far as they help in bringing truth to daylight.

It is noteworthy that the Supreme Court's ruling has a rider saying that "this extraordinary power must be exercised sparingly, cautiously and in exceptional circumstances where it becomes necessary to provide credibility and instil confidence in investigations or... where the incident may have national and international ramifications or where...necessary for doing complete justice and enforcing fundamental rights." Surely enough, these points are ambiguous and subject to varying interpretations and hence, the outlook of the judiciary is very much important. Inside the judiciary too there are wide divergences of outlook. Hence much depends on how the public opinion is mobilized in favour of the victims of oppression. But this does not imply the ruling has no worth, and human rights organizations of various sorts should ignore it lock, stock and

barrel. Some length of time will probably be required to understand the significance and worth, if any, of the ruling. □