



GENERAL ELECTIONS – 2019

The results of the General Elections are announced. NDA/BJP has received impressive support and has won majority of seats. Hence they will continue in power for another 5 years.

During their 1st term they have pursued policies like privatisation, merger of banks, adverse labour reforms, etc. We hope that the Government will reconsider these measures and adopt more pro-people, more pro-public sector policies and also take pro-worker policies in consultation with the trade unions unlike in the past.

**We convey our good wishes to the
new Government.**

Modi Sarkar-2.0: What Should We Look Forward to?

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Prime minister (PM) Narendra Modi has been voted back to power with a resounding mandate, a clear majority and unfettered freedom to shape the destiny of this country. *ModiSarkar-1.0* was voted in on the promise of economic, administrative and civic reform as well as elimination of black money and corruption. The 2019 campaign has been bitter, divisive and vastly different; but, once again, the overwhelming mandate is for one man—Narendra Modi, backed by the phenomenal organisational skills, tactics and strategising ability of Amit Shah. It spoke little about the promise of 2014, and yet, a large enough segment of the population seems to believe that Mr Modi deserved another chance to deliver.

The question is: Deliver what? For a chunk of Mr Modi's supporters, it is probably a misguided notion of *Hindutva* in peril, the Ram Temple in Ayodhya or cow protection. For others, it may be about unquestioning nationalism and unbridled machismo directed at Pakistan. Some influential pro-BJP (Bharatiya Janata Party) voices are arguing that the voter was unconcerned about economic issues. The angry and abusive rhetoric of ardent party supporters, even in victory, seems to support the

belief that people voted for partisan and divisive politics. But believing this to be the mandate could turn out to be a huge mistake.

Those who took the Sensex to new benchmark of 40,000 on Thursday haven't really forgotten about demonetisation, job losses, economic slowdown, increased red-tape and compliances. They expect *Modi Sarkar-2.0* to be about reform and development. In fact, most BJP supporters are still waiting for *achche din* and believe that the Mr Modi is sincere about his promises and only needs more time to deliver on growth and development.

That the Opposition parties had no credible economic agenda or alternative vision also helped the BJP. In its second term, the government's priority should be on alleviating farmer distress, especially with a looming drought in many states, job creation and boosting consumption. But here are a few larger issues that also need urgent attention.

Goods and Service Tax (GST): Mr Modi has beaten a worldwide jinx by becoming the first government that introduced GST—dubbed the *Gabbar Singh Tax*—to return to power. But the Indian GST is far from a simple, single tax. The collection system continues to be a work-in-progress; evasion is rampant; while law-abiding businesses pay extra by outsourcing GST filing since they are unable to deal with frequent tinkering, complex systems and draconian penalties. CA (chartered accountant) Nikhil Vadia, a big BJP supporter, has listed down the quick summary of issues on GST and on GSTR9 that need clarification.

Bankruptcy Code: The insolvency and bankruptcy code (IBC) got off to a good start but needs to be brought back on track urgently. Lenders taking a haircut of 99% (they will recover only Rs150 crore of their Rs20,000 crore lending) in the controversial Aircel has to be the lowest point, along with the dubious move by bankers to allow fugitive promoters of the Sterling Biotech group to get back their companies paying up less than

half their dues to public sector banks (PSBs) obtained from unknown sources.

The biggest issue with bankruptcy resolution is the corrupt nexus between lenders, resolution professionals and wilful defaulters. A 'surgical strike' on a dozen dirty deals, which are already in the public domain, would send the right signal to hundreds of other cases queuing up before bankruptcy courts.

We also need a better quality of appointments at the NCLTs (National Company Law Tribunals) and a signal from the government to corporate India that gaming the legal system to delay decisions will not be taken kindly to. To my mind, three cases will signal the government's intent – the sale of Essar Steel, how it deals with the Sterling group, and Jet Airways. The last case is important because banks, with support from the government (politicians and bureaucrats), seem determined to keep the founder Naresh Goyal in the picture even while they seek to bring in the Hinduja group as white knight, while the losses will be dumped on banks and, indirectly, the exchequer.

Public Sector Banks: We need a solution to bleeding PSBs. Business and industry, celebrating the Sensex at 40,000, is already demanding a 'massive recapitalisation' of PSBs. Remember, when banks are recapitalised through the exchequer and go on to lose that money again, even the poorest Indian, who has no access to two square meals a day, is helping payback the bad loans our industrialists have siphoned off. Nearly two lakh crore rupees have been written off by PSBs in the past two years alone.

Indians continue to trust PSBs because the implied sovereign guarantee provides a sense of security to our deposits; but these directed bailouts to help big defaulters, cannot keep draining valuable national resources. PSBs have to be made accountable, possibly through privatisation, while bank unions argue for better autonomy and accountability for top

management and a protection of unionised jobs. It is unclear how this will work.

The messy solution of merging PSBs, as has been done with State Bank of India's affiliates or Bank of Baroda and two others, is also not an answer. India needs large banks which people can trust. That requires new licences, faster growth and pragmatic policies on ownership and shareholding.

We have seen that unsupervised and powerful private institutions like the National Stock Exchange or Infrastructure Leasing & Financial Services or National Dairy Development Board (NDDB) actively work to ensure regulatory capture and avoid public scrutiny and disclosures. Listed PSBs are slightly more transparent, but ensuring accountability of top management seems like a utopian idea today and privatisation may be the only long-term option.

Regulatory Accountability: With five full years ahead of it, *Modi Sarkar 2.0* will do the country a big favour by making regulators accountable. If bankers can be jailed for bad loans long after retirement, why can't regulators be held accountable for turning a blind eye to massive systemic blow-ups like the shadow banking crisis triggered by the collapse of Infrastructure Leasing & Financial Services? We have plenty of evidence that star governors of Reserve Bank of India (RBI) had ignored whistleblowers' warnings. The problem is not limited to RBI. There is a need to restructure the insurance regulator and move its head office to Mumbai or Delhi, where it will stop being a post-retirement sinecure for bureaucrats and insurance officials.

The same applies to the Securities & Exchange Board of India (SEBI) which has turned into a giant bureaucracy with no focus on effective enforcement or investor protection. Senior SEBI officials openly admit that they prefer policy prescriptions to enforcement and investigation. At the same time, we have plenty of evidence of inordinate time and money being spent on litigation in what appears to be vindictive action in cases,

involving small sums of money, while large cases of misdemeanour are quietly settled with minimal disclosures.

There is no evaluation of SEBI's enforcement action or litigation in terms time and money spent *versus* their outcomes. Naturally, there is no accountability either. In fact, for nearly two decades, the head of the legal department had been on three-year contracts, extended at the will of successive SEBI chairmen, allowing concentration of power at the top.

A similar clean at the electricity and telecom regulatory bodies is imperative for any privatisation or disinvestment initiatives to work. Otherwise, we will continue to transfer ownership from one public sector undertaking to another and call it disinvestment, while crony capitalists take advantage of all privatisation initiatives.

Finally, there is a slew of issues that need to be addressed afresh. The Land Acquisition and Rehabilitation Act (LARA) needs to be revived and the draconian laws that empowered tax officials as a cover-up for the botched up demonetisation process, need to be rolled back. The work on smart cities needs to be stepped up to help job creation and disperse urbanisation. The Real Estate Regulation Act (RERA) needs to be strengthened across states if the promise of 'Housing for All By 2022' has to be fulfilled. A powerful regulator is imperative for this sector that remains saddled with unkept promises, large-scale cheating and far too much red-tape and consequent corruption.

Indians have been awed, once again, by the formidable vote-winning machine of Mr Modi. Doesn't he wish that the Indians are even more awed by his transformation of India into a prosperous, economically powerful and peaceful country? If so, there's no time to waste.

Unsatisfied with answers, ED may summon Kochhars again

Mumbai: ECONOMIC TIMES 23 5 2019



The Enforcement Directorate is likely to summon former ICICI Bank managing director and CEO Chanda Kochhar and her husband again, as the agency isn't satisfied with their answers during previous questioning over its probe in a money laundering case, people in the know said. Chanda and Deepak Kochhar are likely to be asked to appear before the central agency next week along with certain documents, the people said. The ED and CBI are probing possible quid pro quo in loan transactions between the Videocon Group and ICICI Bank when Chanda Kochhar was the bank's CEO. This ED had already summoned the former banker and her husband twice in the case. Meanwhile, the adjudicating authority under the Prevention of Money Laundering Act (PMLA) has sent show-cause notices to Chanda Kochhar, Videocon chairman VN Dhoot and eight others as to why it should not confirm the provisional attachments of certain articles that the ED had seized. "During the searches, the agency had seized Chanda Kochhar's laptop and other documents. She has been sent a show-cause notice by the adjudicating authority ... She has the legal recourse to file an appeal before the PMLA appellate tribunal," said one of the people in the know. Kochhars' counsel, Vijay Aggarwal, refused to comment on the developments.

AIBEA BEMUSED AT FM STATEMENT ON LOAN RECOVERY

May 20, 2019 | CL Jose | NEWS AROUND



Neyyattinkara incident raises vital questions on politicising issues

KOCHI: The All India Bank Employees Association (AIBEA) has appealed to the Kerala chief minister Pinarayi Vijayan to look into the whole episode of the suicide of a mother and her daughter in her teens, and the uncalled-for statement made by certain politicians including the finance minister Dr Thomas Isaac precipitating a bad scene in Neyyattinkara recently.

A chaos was triggered in Neyyattinkara on May 14 by the death of the mother-daughter duo by setting themselves ablaze, and their sad ending was initially blamed on the Canara Bank branch there allegedly for pressuring the deceased's family for settling a delinquent house loan.

But the incident took a dramatic turn after a suicide note found from the venue reportedly revealing that the death had nothing to do with the bank loan, and this turned the needle of suspicion to the deceased's (mother) husband and her in-laws.

But what took the banking circles in the state and outside by surprise was the statement made by Dr Thomas Isaac, the state finance minister, where he emphatically said that the house property cannot be attached by banks for recovery of overdue loans.

"This is neither lawful nor helpful to the banks that have given such loans only on the strength of the value of the house property mortgaged to the banks. This statement needs to be retracted, as otherwise, banks will find it difficult to sanction loans against house property," said CH Venkitachalam, general secretary, All India Bank Employees Association (AIBEA) in Kochi on Saturday.

The incident has raised vital questions about the propriety of ill-advised public announcements made by political leaders including ministers on such occasions.

A long-drawn family issue involving the departed mother and her husband's family has pushed the duo to the bizarre ending. But the politicians gathered there didn't waste time to point their accusing finger at Canara Bank and the (lady) branch manager for the deaths that shook Neyyattinkara.

Addressing a press conference in Kochi on Saturday, CD Josson, AIBEA state general secretary, decried such political statements that only help stoke a volatile situation rather than work towards easing the tension.

"Don't think that we as a responsible employees' union is against the thousands of hapless people in the country. Whatever said, the loans are to be recovered as the deposits are to be returned and that is how the bank functions," he added.

He acknowledged that there are various issues that need urgent attention and rectification in the banking industry as a whole. "We are also there with the people to fight against the anti-people issues facing the banking," Josson added.

Venkitachalam resented the attack trained against the bank employees without knowing or verifying the facts.

"Already there are attempts by the Government to privatise and hand over the public sector banks to corporates. Such unwarranted attacks on public sector banks will only help add strength to the moves of the government towards privatisation of banks," Venkitachalam reminded.

Black money law: Govt moves SC against stay on proceedings against Khaitan

Khaitan argued that the amendment to Section 1(3) to state that the Act would come into force from July 1, 2015, instead of April 1, 2016, was done in exercise of power under Section 86 of the Act

Khaitan is one of the accused in the Rs 3,600-crore AgustaWestland chopper scam case and is currently on bail

In a case related to retrospective applicability of the [Black Money](#) Act (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, the government on Monday moved the Supreme Court against the [Delhi High Court](#)'s order that stayed the proceedings against advocate Gautam Khaitan under the Act.

Khaitan is one of the accused in the Rs 3,600-crore AgustaWestland chopper scam case and is currently on bail.

A vacation bench led by Justice Indira Banerjee agreed to hear the case on Tuesday after solicitor general Tushar Mehta mentioned the matter for urgent hearing, saying that the HC ruling would "affect all ongoing cases under the Black Money Act."

The HC had restrained the Centre and the income tax department from taking any further action against Khaitan, who had challenged various sections of the Act on the ground that the government's notification that declared the date of enforcement of the Black Money Act as July 1, 2015 was ultra vires the Act itself.

The HC on May 16 stayed the proceedings against Khaitan under the Act, stating that he had made out a good prima facie case for grant of interim stay.

Khaitan argued that the amendment to Section 1(3) to state that the Act would come into force from July 1, 2015, instead of April 1, 2016, was done in exercise of power under Section 86 of the Act. Since Section 86 was yet to be in operation, the Centre could not have exercised power under it.

The HC had agreed with his contention, saying the Centre could not, prior to the Act coming into force, alter the date on which the enactment came into force by exercising the powers under the Act.

Khaitan had also challenged the I-T department's January 22 order granting sanction to lodge a criminal complaint against him under Section 51 of the Act which provides for jail term between 3 to 10 years if found guilty of wilfully attempting to evade tax.

He argued that the the assessing officer was "not entitled to charge tax on a foreign undisclosed asset, which ceased to exist prior to the Act coming into force, only on the ground that such asset came to the notice of the assessing officer after the Act came into force."

However, the tax department had opposed the contention saying that when there was an undisclosed foreign asset, there was no need to wait for completion of the assessment.

IBC has passed many litmus tests, will continue to weather storms

[Sumant Batra](#) | May 21, 2019
 THE FINANCIAL EXPRESS

Established out of a vacuum, the NCLT had no institutional experience. A dozen NPAs, comprising 25% of total NPAs, were pushed into IBC by RBI at the nascent stage (July 2017) of the law

The NCLT started functioning with scant infrastructure. Established out of a vacuum, the NCLT had no institutional experience

Lack of closure in many insolvency cases in the mandatory 270 days is being interpreted by some as a sign of the looming dark storm over the Insolvency and Bankruptcy Code (IBC). The scepticism, to say the least, is unfair.

There are many causes behind missed timelines. A sound legislation, IBC was hastily drafted. Gaps were spotted following operationalisation in December 2016, prompting stakeholders to frequently approach the National Company Law Tribunal (NCLT) to seek clarifications. The NCLT started functioning with scant infrastructure. Established out of a vacuum, the NCLT had no institutional experience. A dozen NPAs, comprising 25% of total NPAs, were pushed into IBC by [RBI](#) at the nascent stage (July 2017) of the law. Another three dozen big cases followed. The stakes were high in these cases and they captured the mindscape of the nation. But the success of IBC was not to be measured only from the outcome of these 12 cases. This, surely, was not the intent.

The government amended IBC twice and the Insolvency and Bankruptcy Board of India tweaked the regulations over a dozen times. On top of that, section 29A was introduced in November 2017 when many cases had made significant progress. Disqualification of promoters caused disruptions, requiring recommencement of process in many cases. India does not have a developed market for distressed assets. With promoters disqualified, the pool of bidders shrunk further. This, too, caused slowdown of closure. The cadre of insolvency professionals was built from scratch. It is only normal they take a reasonable time to gain a grip on the insolvency process. Promoters struggled to reconcile with the reality of losing control of their companies, leading to litigation in many cases. Bankers, too, took time to comprehend their new role in the creditor-in-control avatar of IBC. It was well known that IBC will have to sail through some rough currents in initial days. Why be so terribly disappointed?

Notwithstanding the odds, IBC has progressed leaps and bounds. In a little over two years, 14,000 cases have been filed, of which the NCLT ordered commencement of resolution process in 1,858 cases, 152 were closed on appeal, review or settlement, 91 were withdrawn on account of settlement under section 12A, 94 yielded resolutions and 378 resulted in liquidation. As on March 31, 2019, 1,143 cases were undergoing resolution process. The resolution process yielded resolution of 94 cases, resulting in the settlement of claims of financial creditors of Rs 1,73,359

crore. These cases include six out of the 12 large accounts. The overall recovery is 43% (Rs 74,497 crore) to financial creditors, while the corresponding liquidation value is Rs 38,443 crore. This is, by no means, a small feat to achieve in a little over two years.

Comparing it with the painfully slow speed of cases in the pre-IBC regime, the progress made by IBC in 27 months appears to be a sprint. Earlier, the average life of cases recommended for restructuring was 4-8 years and those recommended for winding up even longer. The recovery rate (cents on the dollar) in India was 25.7, as opposed to 71.9 in high-income countries. In 2014, India ranked at number 134 on the list of 189 countries in 'closing a business index', which jumped many notches up to 108 after IBC.

Judging IBC from the prism of failed timelines in a few initial cases is taking a narrow view of the law. A good insolvency law enables market participants to accurately price, manage and control default risks and corporate failure, and encourage sound credit practice. It enhances access to credit while reducing its cost. An effective exit law promotes responsible corporate behaviour by encouraging higher standards of corporate governance and financial discipline to avoid consequences of insolvency. With the introduction of IBC, the defaulter's paradise is lost. A behavioural change can be seen amongst borrowers. Default is now taken seriously and debtors are cuffing out money to clear their dues.

IBC has weathered initial storms. There is no reason to be alarmed because timelines have been missed in some cases. Setting a 180-day timeline was, in any case, an immensely aspirational (though commendable) goal, as such short timelines do not exist even in the UK, where it takes 1-2 years for cases to close. This is not to say we should wait and watch. As Joyce Meyer said, "Patience is not the ability to wait, it's how we behave while we're waiting." Some calm, composed and objective measures are required, without indulging in finger pointing. The infrastructure of the NCLT has improved significantly, and with the appointment of 32 new members, proceedings are expected to only speed up.

IBC has passed many litmus tests. There is no reason why it will not continue to weather rough storms and march with greater strides. The view from the high road is only sweet.

RBI to hold 'structured meetings' with bank auditors to deal with divergences

[K Ram Kumar](#) Mumbai | May 20, 2019

BusinessLine THE HINDU

To deal with the issue of banks diverging from the prescribed asset classification norm and consequent under-provisioning, the Reserve Bank of India (RBI) has kickstarted the process of holding structured meetings with their statutory central auditors (SCAs) at the end of every quarter.

The move comes in the backdrop of the central bank flagging divergence in asset classification and loan-loss provisioning in respect of certain accounts as reported by banks, and its own assessment in the last couple of years.

Downward revision

Whenever the RBI's assessment of non-performing assets (NPAs), which is based on risk-based supervision for the previous financial year, is higher than what a bank has reported, the latter has to revise the NPA figures and make additional provisions. This results in downward revision in profit numbers. So, by organising the quarterly meetings with SCAs, the RBI seems to be wanting to minimise such divergences.

"There was the question of interpretation of income recognition and asset classification norms. But now the RBI has structured meeting with the SCAs of all banks.

“So, before banks’ quarterly audit begins, the regulator briefs their SCAs as to which accounts they have to look at closely. This is now part of the supervisory programme,” said a senior banker. S Ravi, a practising Chartered Accountant, explained that the central bank wants a closer interaction with the auditors as it came across significant divergences in the views of statutory auditors, and RBI’s inspection pertaining to income recognition and NPA classification.

The banker quoted above said the regulator has told the auditors that if they find some deficiencies in both the conduct of an account as well as provisions, they have to take a closer look at it. If auditors are not satisfied, a bank has to downgrade the account and make provisions.

“The auditors have become very cautious. So, should a borrower miss a loan repayment for a day or two due to genuine reasons, they will brook no delay.

“The account will be downgraded and provisions will have to be made. There should be a serious re-think on this as it impacts banks ,” elaborated the banker.



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