

# RGICS



RAJIV GANDHI INSTITUTE FOR CONTEMPORARY STUDIES  
JAWAHAR BHAWAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI-110001

## RGICS ISSUE BRIEF

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### **THE VYAPAM SCAM**

Prepared By: Yesha Paul

Supervisor: Barkha Deva

## THE VYAPAM SCAM

On July 7<sup>th</sup>, 2013, the Indore Crime Branch, Madhya Pradesh arrested 20 impersonators for appearing on behalf of actual candidates for a Pre-Medical Test conducted by the Madhya Pradesh Professional Examination Board in 2009<sup>1</sup>. This seemingly innocuous incident in a country used to far more brazen (and well documented) attempts at cheating by desperate students eventually went on to blow the lid off one of the largest cases of institutional corruption in the country.

Exactly two years to the day, and approximately 50<sup>2</sup> (other figures claim as many as 156<sup>3</sup>) suspicious deaths later, Shivraj Singh Chouhan, the Chief Minister of Madhya Pradesh, finally buckled under immense pressure and on July 7<sup>th</sup>, 2015 called for a probe into the matter by the Central Bureau of Investigation, claiming "a wish to honour public sentiment"<sup>4</sup>. This was seen by some, however, as nothing but the Chief Minister simply yielding to the inevitable, since the Supreme Court had decided to hear petitions asking for the Vyapam probe to be entrusted to the CBI two days later on July 9<sup>th</sup>. As expected, it ordered the investigations to be transferred from the state's Special Task Force (STF) to the CBI on that day itself<sup>5</sup>. Moreover, the bench criticised the Madhya Pradesh High Court for failing to rule on whether to transfer the Vyapam investigation to the CBI on the grounds that the matter was pending before the Supreme Court. "Instead of taking a decision, the Madhya Pradesh High Court washed its hands off (the case) and put the ball in our court," the Court said. Mr. Chouhan said, "There was a burden in my heart. I am relieved that the CBI will probe and get to the truth."<sup>6</sup>

### **What is the Vyapam Scam?**

The Madhya Pradesh Professional Examination Board (MPPEB), or Madhya Pradesh Vyavasayik Pariksha Mandal, more popularly known by its Hindi acronym Vyapam, was set up in 1982 to conduct entrance examinations for professional courses, and recruitments to government jobs in the state of Madhya Pradesh. The scam that unfolded was a multi-layered admissions and recruitment scam involving senior politicians in the Bharatiya Janata Party (BJP) and its ideological parent, the Rashtriya Swayamsewak Sangh (RSS), persons in the Governor's office, bureaucrats, high-level businessmen, doctors, contractors, and countless middlemen in Madhya Pradesh<sup>7</sup>. Candidates bribed politicians and Vyapam officials through middlemen to get high ranks in state entrance tests and secure government jobs. Innumerable fraudulent admissions in state medical colleges

<sup>1</sup> Milind Ghatwai (2015), 'Timeline: Story of the Vyapam scam', The Indian Express, 8<sup>th</sup> July, 2015. Available at <http://indianexpress.com/article/explained/across-the-board-Vyapams-spread/>

<sup>2</sup> Article (2015), 'Scam Country', Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/scam-country/article7447202.ece?homepage=true>

<sup>3</sup> Pradipti Jayaram, Apuurva Sridharan (2015), 'All you need to know about the Vyapam scam', Business Line, 9<sup>th</sup> July, 2015. Available at <http://www.thehindubusinessline.com/news/all-you-need-to-know-about-the-Vyapam-scam/article7402744.ece>

<sup>4</sup> A Vaidyanathan, Suparna Singh (2015), 'CBI to Probe Vyapam Scam and Deaths, Rules Supreme Court', NDTV, 9<sup>th</sup> July, 2014. Available at <http://www.ndtv.com/india-news/supreme-court-transfers-Vyapam-scam-probe-to-cbi-779682>

<sup>5</sup> Utkarsh Anand (2015), 'Vyapam scam: Supreme Court orders CBI probe, issues notice on plea to prosecute Governor', The Indian Express, 10<sup>th</sup> July, 2015. Available at <http://indianexpress.com/article/india/supreme-court-orders-cbi-probe-into-Vyapam-scam/>

<sup>6</sup> A Vaidyanathan, Suparna Singh (2015), 'CBI to Probe Vyapam Scam and Deaths, Rules Supreme Court', NDTV, 9<sup>th</sup> July, 2014. Available at <http://www.ndtv.com/india-news/supreme-court-transfers-Vyapam-scam-probe-to-cbi-779682>

<sup>7</sup> Article (2015), 'Scam Country', Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/scam-country/article7447202.ece?homepage=true>

## THE VYAPAM SCAM

were discovered, as well as recruitments into state government departments. The entrance examination system ceased to be merit-based, and turned into an open marketplace selling seats to anyone willing to pay. The Special Task Force (STF) which was investigating the matter until the Supreme Court handed over the probe to the CBI, submitted in one of its depositions in the Madhya Pradesh High Court that anything between Rs.80 lakh and Rs.1.5 crore was demanded from interested candidates by middlemen for an MBBS seat in a state-run medical college. The figure was higher in the case of a postgraduate seat. Over the years, hundreds of crores exchanged hands.<sup>8</sup>

Over the last few years, more than 2500 people have been named as accused, and more than 1900 have been arrested.<sup>9</sup> Approximately 50 to 156 accused and others related to the scam have died under suspicious circumstances. The figures change every day, as more deaths are re-investigated.

### A Timeline of Events:<sup>10</sup>

While complaints against irregularities came trickling in from the mid-2000s, the Vyapam issue turned murkier from 2007-08 onwards. However, it was only in 2013 that the lid was blown. The Opposition claims that over 77 lakh candidates have paid bribes to secure seats and jobs.

**2007:** This was the year when the scent of a scam was sniffed. The MP Local Fund Audit office found financial and administrative irregularities in Vyapam.

**2009:** Indore activist and doctor Anand Rai filed a Public Interest Litigation (PIL) with the Madhya Pradesh High Court, alleging foul play in Vyapam recruitments and admissions.

**2011:** Chief Minister Shivraj Singh Chouhan set up an inquiry committee to look into the matter.

**2013:** Anand Rai made startling revelations that led to a series of arrests. On the intervening night of July 6 and 7, the police arrested 20 persons who were to impersonate candidates scheduled to appear on July 7 for the MPPEB. On July 12-13, the kingpin of the racket, Jagdish Sagar, was arrested. A list confiscated from him revealed the names of 317 candidates.

MPPEB's exam controller, Pankaj Trivedi, who vouched for students who had fraudulently 'answered' the exam, sending letters to institution heads to accept them, was later arrested and removed from his post.

<sup>8</sup> Article (2015), 'Scam Country', Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/scam-country/article7447202.ece?homepage=true>

<sup>9</sup> Article (2015), 'Scam Country', Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/scam-country/article7447202.ece?homepage=true>

<sup>10</sup> Pradipti Jayaram, Apuurva Sridharan (2015), 'All you need to know about the Vyapam scam', Business Line, 9<sup>th</sup> July, 2015. Available at <http://www.thehindubusinessline.com/news/all-you-need-to-know-about-the-Vyapam-scam/article7402744.ece>

## THE VYAPAM SCAM

A Special Task Force of the Madhya Pradesh Police began handling the investigation. The Congress requested the High Court to conduct a CBI probe.

**2014:** The Madhya Pradesh High Court rejected the demand for a CBI Inquiry by the Congress and other parties. In April, 27 students from MGM Institute of Health Sciences were expelled for fraudulently clearing the medical test in 2012.

**2015:** Accused, witnesses and investigators have been dying one after the other under suspicious circumstances. So far, around 1,900 are in jail. According to latest developments, though the State Government of Madhya Pradesh wanted to hand over investigation to the CBI, the Madhya Pradesh High Court quashed the request, stating it will not take a decision till the Supreme Court weighs in on the matter.

### The Whistleblowers:

- **Dr. Anand Rai:**

Despite being a member of the BJP and an RSS pracharak, he has been raising complaints about fraudulent admissions since 2009, and is considered to have tipped off the police about impersonators staying in an Indore hotel in 2013, which led to the arrest of 20 impersonators that eventually exposed the extent of the scam. He filed a PIL in the Madhya Pradesh High Court about fraudulent admissions. He claims that he has been victimised by the State Government ever since, and has been receiving threatening calls since 2013.<sup>11</sup> He was recently transferred by the State government from Indore to Dhar, and his wife Dr. Gauri Rai, a gynaecologist, has also been transferred to the same district – her second transfer in a month. She was earlier suspended in January for seeking childcare leave, following which she was only reinstated after moving the Madhya Pradesh High Court.<sup>12</sup>

- **Ashish Chaturvedi:**

He initially filed 8 cases alleging fraudulent admissions on the basis of alleged tip offs from students in the regional medical college where his mother works. One of these involved Shakti Singh Kirar, the nephew of Chief Minister Shivraj Singh Chouhan. Since then, he has divulged important information to the STF and has petitioned the CBI to probe 5000 such cases. He has been attacked 14 times, 3 of which left him badly injured, and has received innumerable threatening calls.<sup>13</sup> He claims that the Chief Minister is a key player in the scam.

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<sup>11</sup> Ajoy Ashirwad Mahaprashasta (2015), 'The whistle-blowers', Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/the-whistleblowers/article7447218.ece>

<sup>12</sup> Omar Rashid (2015), 'Vyapam scam whistle-blower's wife transferred again', The Hindu, 4<sup>th</sup> August, 2015. Available at <http://www.thehindu.com/news/national/vyapam-scam-whistleblowers-wife-transferred-again/article7496811.ece?homepage=true>

<sup>13</sup> Ajoy Ashirwad Mahaprashasta (2015), 'The whistle-blowers', Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/the-whistleblowers/article7447218.ece>

## THE VYAPAM SCAM

- **Prashant Pandey:**

He has helped the police as a cyber forensics expert in many cases, and found the most damning evidence against the Chief Minister. He was hired by the Special Task Force to crack the external hard disk of a Vyapam systems analyst, and recovered tables that showed the Chief Minister as having recommended 64 candidates for the PMT. While he initially decided to remain silent, after the State police accused him of stealing confidential state information in 2014, he decided to hand over the documents to Congress leader Digvijay Singh to seek political protection.<sup>14</sup>

### **The Toll:**

An official report submitted before the Madhya Pradesh High Court by the court-appointed Special Investigation Team probing the Vyapam Scam revealed that 32 people, referred to as “racketeers” in the report, and all aged between 25 and 30, have died under mysterious circumstances since the probe began in 2012.<sup>15</sup> Unofficial numbers range from 45 to 156<sup>16</sup>, and counting. However, no progress has been made about who could be behind these deaths, as there seems to be no common thread between them other than the fact that all these parties are linked to the scam. The most common causes of death range from road accidents to alcohol-related illness and suicide.

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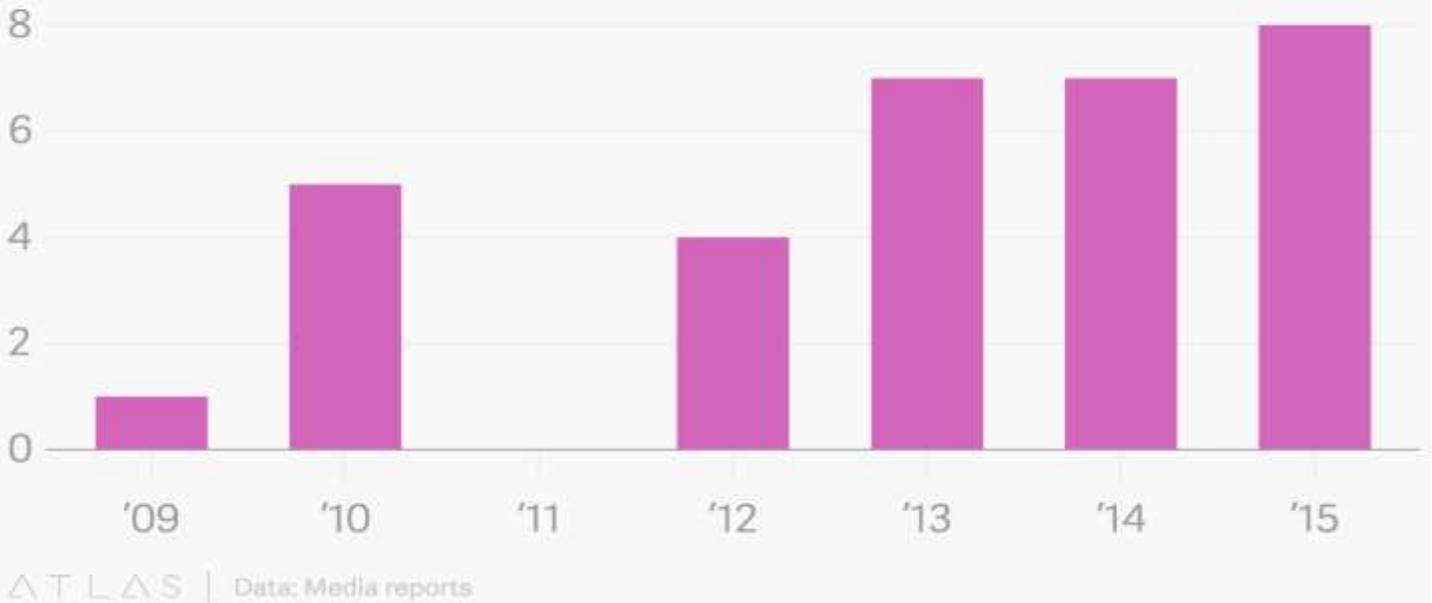
<sup>14</sup> Ajoy Ashirwad Mahaprashasta (2015), ‘The whistle-blowers’, Frontline, 7<sup>th</sup> August, 2015. Available at <http://www.frontline.in/the-nation/the-whistleblowers/article7447218.ece>

<sup>15</sup> P Naveen (2015), ‘Mystery shrouds death of 40 wanted in MP education board scam’, The Times of India, 28<sup>th</sup> May, 2015. Available at <http://timesofindia.indiatimes.com/india/Mystery-shrouds-death-of-40-wanted-in-MP-education-board-scam/articleshow/47450214.cms>

<sup>16</sup> Manu Balachandran, Maria Thomas (2015), ‘The blood-soaked trail of India’s massive Vyapam scam’, Quartz India, 6<sup>th</sup> July, 2015. Available at <http://qz.com/445352/the-blood-soaked-trail-of-indias-massive-vyapam-scam/>

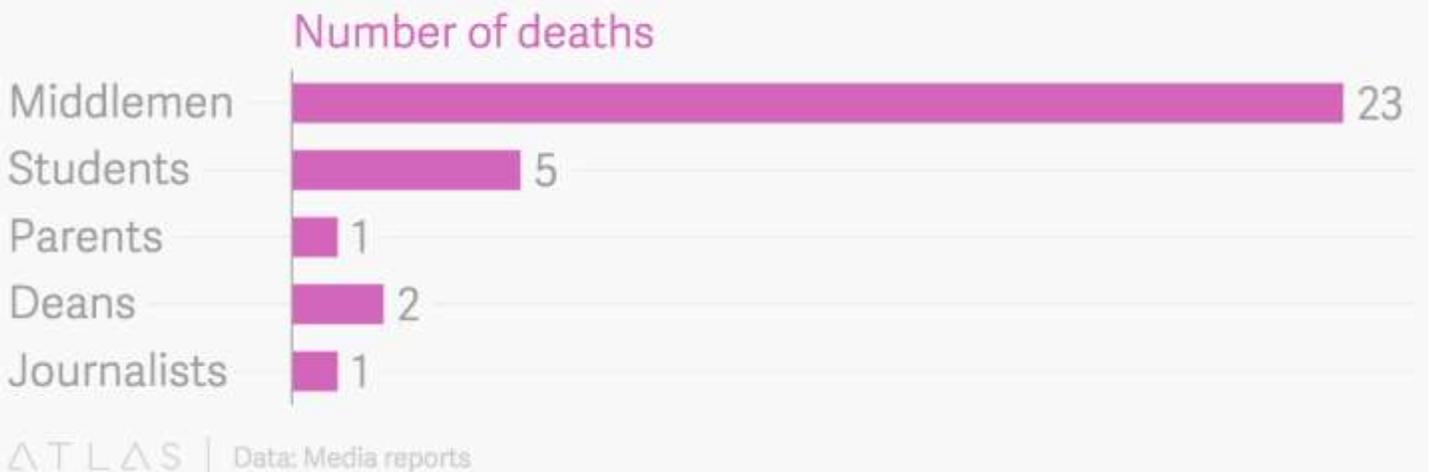
## THE VYAPAM SCAM

### Possible victims of the Vyapam scam



Source: Quartz<sup>17</sup>

### Who are the alleged victims of the Vyapam scam?



Source: Quartz<sup>18</sup>

<sup>17</sup> Manu Balachandran, Maria Thomas (2015), 'The blood-soaked trail of India's massive Vyapam scam', Quartz India, 6<sup>th</sup> July, 2015. Available at <http://qz.com/445352/the-blood-soaked-trail-of-indias-massive-vyapam-scam/>

<sup>18</sup> Manu Balachandran, Maria Thomas (2015), 'The blood-soaked trail of India's massive Vyapam scam', Quartz India, 6<sup>th</sup> July, 2015. Available at <http://qz.com/445352/the-blood-soaked-trail-of-indias-massive-vyapam-scam/>

## THE VYAPAM SCAM

### Key Concerns:

The involvement of political bigwigs from the State and National ruling party, as well as high-level bureaucrats and businessmen, has ensured that investigations into the matter have been met with countless hurdles and cover-ups. “Everybody was making money,” said Vivek Tankha, a lawyer representing the whistleblowers in the Supreme Court. “It is no wonder that we are now witnessing one of the biggest cover-up operations in Indian corruption history.”<sup>19</sup>

#### • **Role of Chief Minister Shivraj Singh Chouhan:**

The Chief Minister has faced harsh criticism, not just from the Opposition, but even from some members of his own party, though for the most part the BJP has maintained a solid front in defence of Mr. Chouhan. Senior BJP leader, Uma Bharati, was in the forefront of those calling for the matter to be investigated by the CBI. She was initially named as an accused before being given a clean chit by the police, but has recently stated that she now fears for her life and that of 17 beneficiaries linked to her in police records.<sup>20</sup>

After veteran BJP leader Shanta Kumar stated in a public letter to BJP President Amit Shah on July 10<sup>th</sup> that the Vyapam scam has “made us all bow our heads in shame”<sup>21</sup>, the party was quick to distance itself from his views, with Union Minister Rajiv Pratap Rudy telling reporters, “We generally consider Shanta Kumar a very mature leader. But it seems that he has been carried away by the propaganda of the Congress. Whatever he has said or written, we completely disassociate with Mr. Shanta Kumar’s version.”<sup>22</sup> Chief Minister Chouhan went on to issue a point-by-point rebuttal to Mr. Kumar’s letter, claiming that the scam was nothing but Congress propaganda.<sup>23</sup>

As the number of deaths associated with the Vyapam scam grew, and Chouhan’s apparent role in the scam became increasingly evident, Opposition parties repeatedly and publicly demanded an impartial CBI probe into the matter along with the Chief Minister’s resignation. The Congress Party stated that the Chief Minister cannot escape responsibility for the scam and the “46 deaths” allegedly linked to it<sup>24</sup>. The Chief Minister rejected calls

<sup>19</sup> Manu Balachandran, Maria Thomas (2015), ‘The blood-soaked trail of India’s massive Vyapam scam’, Quartz India, 6<sup>th</sup> July, 2015. Available at <http://qz.com/445352/the-blood-soaked-trail-of-indias-massive-vyapam-scram/>

<sup>20</sup> Milind Ghatwai (2015), ‘Vyapam scam: Shivraj Singh Chouhan buckles under pressure, seeks CBI probe’, The Indian Express, 7<sup>th</sup> July, 2015. Available at <http://indianexpress.com/article/india/india-others/after-public-outcry-shivraj-singh-chouhan-requests-for-cbi-probe-into-vyapam-scram/>

<sup>21</sup> Article (2015), ‘Senior BJP leader Shanta Kumar writes to Amit Shah, raises concern over scams in party’, Daily News and Analysis, 21<sup>st</sup> July, 2015. Available at <http://www.dnaindia.com/india/report-senior-bjp-leader-shanta-kumar-writes-to-amit-shah-raises-concern-over-scams-in-party-2106583>

<sup>22</sup> Article (2015), ‘BJP distances itself from senior leader Shanta Kumar’s views’, Daily News and Analysis, 21<sup>st</sup> July, 2015. Available at <http://www.dnaindia.com/india/report-bjp-distances-itself-from-senior-leader-shanta-kumar-s-views-2106619>

<sup>23</sup> Article (2015), ‘Vyapam is Congress propaganda: Shivraj Singh Chouhan writes to Shanta Kumar’, Daily News and Analysis, 21<sup>st</sup> July, 2015. Available at <http://www.dnaindia.com/india/report-vyapam-is-congress-propaganda-shivraj-singh-chouhan-writes-to-shanta-kumar-2106892>

<sup>24</sup> Article (2015), ‘46 deaths linked to him, CM Chouhan has to go: Congress’, The Indian Express, 7<sup>th</sup> July, 2015. Available at <http://indianexpress.com/article/india/india-others/congress-demands-sacking-of-cm-chouhan-impartial-probe-into-vyapam-scram/>

## THE VYAPAM SCAM

for a CBI probe, on the basis that the need for one had been rejected by the Madhya Pradesh High Court, and the matter was being monitored by a court-appointed Task Force.<sup>25</sup> He also claimed that the Congress was carrying out a “smear campaign” against him to “malign” his image.<sup>26</sup>

Many fingers are now also pointing at Chouhan’s wife, Sadhna Singh. The Congress has alleged that 17 candidates, all suspected to be from her home district of Gondia in Maharashtra, passed the Transport Constable Recruitment Test in 2012 using forged documents. Moreover, Vyapam recruited 332 candidates despite the original notification capping recruitments at 198. As a result, 39 people were probed and booked in the case with the 17 allegedly from Gondia not being allowed to take up their jobs. Despite this clear indication of possible misconduct, Singh was not questioned. “The Opposition wants to destroy my image. They found nothing substantial against me so they are taking the name of my wife and relatives,” Chouhan claimed in an interview in July 2014.<sup>27</sup> The State Government has filed a defamation suit against KK Mishra, the Congress spokesman in Madhya Pradesh who brought this impropriety to light.<sup>28</sup>

In another blow to Singh, the CBI has now reopened investigations into the death of Premlata Pandey, to whom the Congress alleges Singh was linked. Premlata Pandey and her sister-in-law, Sandhya Pandey, cleared the rigged contract teachers test conducted by Vyapam in 2012. Their appointments were subsequently cancelled as a result of allegations of gross malpractice in the examination. Premlata Pandey allegedly died of liver cancer in 2013, which at the time was not considered suspicious enough to be investigated as a part of the state-level probe. In February 2015, the Congress released details of a text message allegedly forwarded on May 9<sup>th</sup>, 2012 by one Rakesh Pandey (arrested but now out on bail) to Sadhana Singh (whose phone number was registered under her maiden name Kokila Singh and later discontinued), recommending the names of Premlata and Sandhya Pandey. Singh allegedly forwarded these names to Sudhir Sharma, a mining baron (arrested in connection to the scam). The names of Premlata Pandey and Sandhya Pandey have also been found on the list of beneficiaries in a few excel sheets related to the recruitment test recovered from Vyapam kingpin Nitin Mahindra, though the name of their ‘recommender’ has been left blank.<sup>29</sup> However, the state government spokesman and Principal Secretary to the Chief Minister, SK Mishra, denied that Singh forwarded the text

<sup>25</sup> Milind Ghatwai (2015), ‘Vyapam scam: Shivraj Singh Chouhan buckles under pressure, seeks CBI probe’, The Indian Express, 7<sup>th</sup> July, 2015. Available at <http://indianexpress.com/article/india/india-others/after-public-outcry-shivraj-singh-chouhan-requests-for-cbi-probe-into-vyapam-scam/>

<sup>26</sup> Article (2015), ‘MPPEB scam: Chouhan to meet Sonia on Divijay ‘smear’ campaign’, The Hindu, 26<sup>th</sup> April, 2015. Available at <http://www.thehindu.com/news/national/other-states/mppeb-scam-shivraj-singh-chouhan-to-meet-sonia-on-divijay-singhs-smear-campaign/article7143503.ece>

<sup>27</sup> Rakesh Dixit (2015), ‘As CBI investigates Vyapam scam, the spotlight grows on another Chouhan family member’, Scroll.in, 26<sup>th</sup> July, 2015. Available at <http://scroll.in/article/743061/as-cbi-investigates-vyapam-scam-the-spotlight-grows-on-another-chouhan-family-member>

<sup>28</sup> Rakesh Dixit (2015), ‘As CBI investigates Vyapam scam, the spotlight grows on another Chouhan family member’, Scroll.in, 26<sup>th</sup> July, 2015. Available at <http://scroll.in/article/743061/as-cbi-investigates-vyapam-scam-the-spotlight-grows-on-another-chouhan-family-member>

<sup>29</sup> Sravani Sarkar, Yogendra Pratap Singh (2015), ‘Woman ‘linking’ MP CM’s wife to Vyapam among dead’, Hindustan Times, 22<sup>nd</sup> July, 2015. Available at <http://www.pressreader.com/india/hindustan-times-ranchi/20150722/281496454976409/TextView>

## THE VYAPAM SCAM

message to Sudhir Sharma, claiming instead that Rakesh Pandey himself sent the message to both Singh and Sharma.<sup>30</sup>

The trail does not end there, however. Other Chouhan family members are also under the scanner. An FIR has been filed by the CBI against Gulab Singh Kirar, a relative of Chouhan<sup>31</sup>, in the Vyapam scam for allegedly securing admission for his son Shakti Singh Kirar in a medical college. Earlier, the state-level Special Task Force had also registered a case against Kirar and his son.<sup>32</sup> Three Vyapam whistleblowers have prayed for a CBI probe into the Dental and Medical Admission Test (DMAT) Scam, in which they have alleged that Singh's niece gained admission in the Chirayu Medical College in Bhopal in 2012 through rigging. While hearing their petition on July 16<sup>th</sup>, the Supreme Court remarked that the DMAT scam was worse than Vyapam. It will pronounce a verdict on the petition after hearing the replies of the State and Union governments.<sup>33</sup> Chouhan's niece Ritu Chouhan became a Deputy Collector through the Madhya Pradesh Public Service Commission (MPPSC) exam of 2008. When the Congress raised the issue in 2011, Chouhan claimed that family issues were being dragged into a political tussle and refused to order a probe. He claimed that the MPPSC is an autonomous independent body, but allegations have been made that rules were changed to help Ritu. The government has refused to part with the answer sheet and merit list of the examination despite repeated RTI queries.<sup>34</sup>

### • Role of Governor Ram Naresh Yadav:

The Governor of Madhya Pradesh, Ram Naresh Yadav, is also being investigated for his role in the scam. However, under Article 361 of the Constitution, no criminal proceedings can be initiated against him during his term of office, and can only be initiated after he resigns. Raj Bhawan sources say that he has no intention to do so.<sup>35</sup> On March 25<sup>th</sup>, Shailesh Yadav, his son, was found dead at his home in Lucknow. The Congress alleged that he was a facilitator in the scam, and speculation is rife that he may have been poisoned. Yadav's family, however, insists that he died a natural death caused by a brain haemorrhage, and even waived off an autopsy.

<sup>30</sup> Rakesh Dixit (2015), 'As CBI investigates Vyapam scam, the spotlight grows on another Chouhan family member', Scroll.in, 26<sup>th</sup> July, 2015. Available at <http://scroll.in/article/743061/as-cbi-investigates-vyapam-scam-the-spotlight-grows-on-another-chouhan-family-member>

<sup>31</sup> Shashikant Trivedi (2015), 'Cong makes fresh allegations against CM in Vyapam scam', Business Standard, 16<sup>th</sup> July, 2015. Available at [http://www.business-standard.com/article/politics/cong-makes-fresh-allegations-against-cm-in-vyapam-scam-115071601131\\_1.html](http://www.business-standard.com/article/politics/cong-makes-fresh-allegations-against-cm-in-vyapam-scam-115071601131_1.html)

<sup>32</sup> Article (2015), 'BJP suspends leader Gulab Singh Kirar named in Vyapam scam by CBI', Hindustan Times, 17<sup>th</sup> July, 2015. Available at <http://www.hindustantimes.com/bhopal/bjp-suspends-leader-gulab-singh-kirar-named-in-vyapam-scam-by-cbi/article1-1370181.aspx>

<sup>33</sup> Rakesh Dixit (2015), 'As CBI investigates Vyapam scam, the spotlight grows on another Chouhan family member', Scroll.in, 26<sup>th</sup> July, 2015. Available at <http://scroll.in/article/743061/as-cbi-investigates-vyapam-scam-the-spotlight-grows-on-another-chouhan-family-member>

<sup>34</sup> Piyush Babele, Rahul Kanwal (2015), 'Shivraj's blunders', India Today, 20<sup>th</sup> July, 2015. Available at <http://indiatoday.intoday.in/story/vyapam-scam-shivraj-singh-chouhan-madhya-pradesh/1/450413.html>

<sup>35</sup> Mahim Pratap Singh (2015), 'Vyapam: no move by M.P. Governor to resign', The Hindu, 23<sup>rd</sup> February, 2015. Available at <http://www.thehindu.com/news/national/vyapam-no-move-by-mp-governor-to-resign/article6922535.ece>

## THE VYAPAM SCAM

His name, however, still features on the Madhya Pradesh government's list of deaths of accused related to the scam.<sup>36</sup> The CBI started a preliminary inquiry into the death of Shailesh Yadav on 11<sup>th</sup> August.<sup>37</sup>

### • CBI Inquiry:

Two days before the Supreme Court was due to hear petitions praying for the matter to be transferred to the CBI, the Chief Minister on July 7<sup>th</sup> finally agreed to transfer the matter to the CBI for investigation. He now claims credit for the CBI probe into the matter.<sup>38</sup>

Whether a CBI inquiry will truly be as independent as it claims, however, has recently been cast in doubt by a troubling CBI appointment. In June of this year, Senior IPS Officer Y.C. Modi was appointed as Additional Director in the CBI. A 1984 batch IPS Officer of Assam-Meghalaya Cadre<sup>39</sup>, Y.C. Modi is best known for his role in the Special Investigation Team that probed nine cases related to the 2002 Gujarat riots, eventually (and controversially<sup>40</sup>) giving Narendra Modi, then Chief Minister of Gujarat, a clean chit in the Gulbarg Society massacre case.<sup>41</sup>

This was not his first time investigating claims against Narendra Modi, however. He was also a part of the CBI team that at the instance of the State Government investigated the 2003 murder of Haren Pandya, a senior BJP leader who shared a very public and acrimonious relationship with the then-Chief Minister, his political rival. His family has always hinted that Chief Minister Modi played a role in his murder.<sup>42</sup> The CBI, however, alleged that Pandya had been killed to avenge the 2002 Gujarat riots. The Gujarat High Court eventually acquitted 12 accused, censuring the CBI for mishandling the investigation. "It is clear that the CBI had botched up. Their investigations left a lot to be desired," the Court said. "The Investigation Officer should be held responsible for

<sup>36</sup> Prashant Pandey, Hamza Khan (2015), 'Tracking Vyapam Deaths: Took death of Governor's son to add fuel to fire', The Indian Express, 9<sup>th</sup> July, 2015. Available at <http://indianexpress.com/article/india/india-others/took-death-of-governors-son-to-add-fuel-to-fire/>

<sup>37</sup> Article (2015), 'CBI begins probe in death of Madhya Pradesh Governor Ram Naresh Yadav's son', NDTV, 11<sup>th</sup> August, 2015. Available at <http://www.ndtv.com/india-news/cbi-begins-probing-death-of-madhya-pradesh-governor-ram-naresh-yadavs-son-1205924>

<sup>38</sup> Article (2015), 'Vyapam is Congress propaganda: Shivraj Singh Chouhan writes to Shanta Kumar', Daily News and Analysis, 21<sup>st</sup> July, 2015. Available at <http://www.dnaindia.com/india/report-vyapam-is-congress-propaganda-shivraj-singh-chouhan-writes-to-shanta-kumar-2106892>

<sup>39</sup> Article (2015), 'Officer who probed Gujarat riots named additional director of CBI', The Times of India, 1<sup>st</sup> July, 2015. Available at <http://timesofindia.indiatimes.com/india/Officer-who-probed-Gujarat-riots-named-additional-director-of-CBI/articleshow/47889399.cms>

<sup>40</sup> Article (2014), 'Salman Khurshid questions 'clean chit' to Narendra Modi by court in 2002 riots', Daily News and Analysis, 19<sup>th</sup> March, 2014. Available at <http://www.dnaindia.com/india/report-salman-khurshid-questions-clean-chit-to-narendra-modi-by-court-in-2002-riots-1970490>

<sup>41</sup> Mahesh Langa (2015), 'Officer who probed 3 Gujarat riot cases to be CBI additional director', Hindustan Times, 17<sup>th</sup> June, 2015. Available at <http://www.hindustantimes.com/india-news/officer-who-probed-3-gujarat-riot-cases-to-be-cbi-additional-director/article1-1359697.aspx>

<sup>42</sup> Rohit Bhan (2011), 'So who shot Haren Pandya? 12 men acquitted on Monday', NDTV, 30<sup>th</sup> August, 2011. Available at <http://www.ndtv.com/india-news/so-who-shot-haren-pandya-12-men-acquitted-on-monday-465984>

## THE VYAPAM SCAM

lapses which have resulted in enormous wastage of public resource and money."<sup>43</sup> In a damning indictment of the conduct of the Haren Pandya investigation, Mohammed Saleem, an accused acquitted by the Supreme Court in 2014 for the 2002 Akshardham temple attack case, publicly alleged that the Gujarat Police picked him up, and after torturing him, allegedly gave him the “choice” of being implicated in either the Godhra train burning, Akshardham terror attack, or the Haren Pandya murder.<sup>44</sup>

### Recent Developments:

- **Vyapam is now a Buzzword for Scams:**

The name ‘Vyapam’ now comes attached with such stigma that the Chief Minister is planning to promulgate an Ordinance to rechristen it from MP Vyavsayik Pariksha Mandal, to MP Pravesh Evam Bharti Pariksha Mandal.<sup>45</sup> The atmosphere of paranoia felt by officials about the scam reached a head when four men were arrested on 27<sup>th</sup> July for allegedly posting derogatory comments about the Chief Minister and his role in the scam on a private Whatsapp group. They were later granted bail by a local court.<sup>46</sup>

- **Parliament Washed Out:**

The Monsoon Session of Parliament remained at an impasse with the Opposition refusing to allow Parliament to function until the Chief Minister, along with other BJP ministers allegedly involved in other controversies, resigned. Prime Minister Narendra Modi’s stony silence on the matter was also a point of contention. The protests eventually culminated in the Speaker of the Lok Sabha, Sumitra Mahajan, suspending 25 Congress MPs for 5 days for disrupting Parliament, a move that Congress President Sonia Gandhi dubbed a “black day” for democracy.” This in turn prompted nine opposition parties to boycott the proceedings.<sup>47</sup>

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<sup>43</sup> Rohit Bhan (2011), ‘So who shot Haren Pandya? 12 men acquitted on Monday’, NDTV, 30<sup>th</sup> August, 2011. Available at <http://www.ndtv.com/india-news/so-who-shot-haren-pandya-12-men-acquitted-on-monday-465984>

<sup>44</sup> Muzamil Jaleel, Abantika Ghosh (2014), ‘They asked me to choose: Godhra, Pandya or Akshardham’, The Indian Express, 21<sup>st</sup> May, 2014. Available at <http://indianexpress.com/article/india/gujarat/they-asked-me-to-choose-godhra-pandya-or-akshardham/99/>

<sup>45</sup> Deshdeep Saxena (2015), ‘Shivraj Singh Chouhan plans ordinance to rename, revamp Vyapam’, The Times of India, 24<sup>th</sup> July, 2015. Available at <http://timesofindia.indiatimes.com/india/Shivraj-Singh-Chouhan-plans-ordinance-to-rename-revamp-Vyapam/articleshow/48195797.cms>

<sup>46</sup> Siddharth Ranjan Das (2015), ‘4 Arrested for WhatsApp Messages on Shivraj Singh Chouhan Granted Bail’, NDTV, 28<sup>th</sup> July, 2015. Available at <http://www.ndtv.com/india-news/4-arrested-for-whatsapp-messages-on-shivraj-singh-chouhan-granted-bail-1201375>

<sup>47</sup> Article (2015), ‘Parliament logjam: 25 Congress MPs suspended for 5 days from LS’, Hindustan Times, 4<sup>th</sup> August, 2015. Available at <http://www.hindustantimes.com/india-news/25-congress-mps-suspended-for-5-days-for-disrupting-parliament/article1-1375963.aspx>

## THE VYAPAM SCAM

- **DMAT – Bigger than Vyapam:**

Meanwhile, a scam that “in its scope and depth... appears to be many times more than the Vyapam scam” has emerged in Madhya Pradesh. This was part of a submission by the CBI before the Supreme Court in a Petition by Vyapam whistleblowers Anand Rai and Ashish Chaturvedi to hand over investigations in the DMAT (Madhya Pradesh Dental Medical Admission Test) Scam to the CBI, on the grounds that although it is related to Vyapam and bigger in scope, the Special Task Force in Madhya Pradesh had refused to probe it. While admitting that the scam appeared bigger, the CBI requested the Court not to transfer investigations. “It is humbly submitted that the CBI is finding it extremely hard and almost impossible to cope with the extent of cases already being investigated...due to scarcity of resources, particularly human resource”, the CBI stated in its Reply. “Apart from the Vyapam cases, the CBI is already investigating more than 1,000 cases related to the chit fund scam in several states... besides its own normal targeted 846 cases (which results in the probes becoming) unmanageable and almost impossible to handle...with the existing workforce of the CBI.”<sup>48</sup> Sadhana Singh’s niece has been named as a beneficiary in the DMAT scam.<sup>49</sup>

- **Government Planning to Dilute Whistleblower Protection:**

In order to guarantee a fair, independent and impartial investigation, particularly in light of the mounting allegations against the Chief Minister and his wife, the only way ahead is for him to step down. However, the government seems determined to ensure just the opposite.

Just as the evidence piling up in Madhya Pradesh against the BJP reached critical mass, the government intensified its assault on accountability by ensuring that the Whistleblowers Protection (Amendment) Bill, 2015, that severely dilutes<sup>50</sup> the Whistleblowers Protection Act, 2011, was passed by the Lok Sabha (where the government enjoys an absolute majority) in March, 2015.<sup>51</sup> The amendment moved by the government seeks to remove the safeguards available to whistleblowers from prosecution under the Official Secrets Act if they make a disclosure under the Whistleblowers Protection Act. By forbidding disclosure of many categories of information in a complaint unless such information has been obtained under the Right to Information Act, any protection to government servants who may come across incriminating evidence in the course of their work (and which may not necessarily be obtainable via an RTI application), is effectively removed.<sup>52</sup> Since the Bill in

<sup>48</sup> Mahim Pratap Singh (2015), ‘Not enough manpower to probe scam bigger than Vyapam: CBI to SC’, The Indian Express, 13<sup>th</sup> August, 2015. Available at <http://indianexpress.com/article/india/india-others/not-enough-manpower-to-probe-scam-bigger-than-vyapam-cbi-to-sc/>

<sup>49</sup> Rakesh Dixit (2015), ‘As Vyapam Goes to CBI, Hopes Rise that ‘DMAT Scam’ Will Be Probed Too’, The Wire, 14<sup>th</sup> July, 2015. Available at <http://thewire.in/2015/07/14/as-vyapam-goes-to-cbi-hopes-rise-that-dmat-scam-will-be-probed-too-6275/>

<sup>50</sup> Aarefa Johari (2015), ‘If amendments to Whistleblowers Act are passed, there may be no one left to protect’, Scroll.in, 14<sup>th</sup> May, 2015. Available at <http://scroll.in/article/727173/if-amendments-to-whistleblowers-act-are-passed-there-may-be-no-one-left-to-protect>

<sup>51</sup> Article (2015), ‘Amendments to whistleblowers law passed by Lok Sabha, Oppn walks out’, First Post India, 13<sup>th</sup> May, 2015. Available at <http://www.firstpost.com/politics/amendments-whistleblowers-law-passed-lok-sabha-oppn-walks-2242932.html>

<sup>52</sup> Amrita Johri, Anjali Bhardwaj (2015), ‘Whistleblowing in the time of Vyapam’, The Indian Express, 13<sup>th</sup> August, 2015. Available at <http://indianexpress.com/article/opinion/columns/whistleblowing-in-the-time-of-vyapam/>

## THE VYAPAM SCAM

its current form will do anything but protect whistleblowers, the Congress is insisting that the Bill be referred to a Parliamentary Panel, and is garnering support from other Opposition Parties to ensure that the Bill does not get passed in the Rajya Sabha.<sup>53</sup>

A strong Whistleblowers Protection Act is essential now more than ever, because of the repeated and multiple violations of the Act all over the country that ensure that whistleblowers such as those who exposed the large-scale corruption behind Vyapam continue to be harassed, most often by people in power.<sup>54</sup> With the ruling party standing mute while simultaneously stifling voices raised in protest, the promise of transparency with which it came to power may come back to haunt it if it continues to sweep such matters under the carpet, all at the cost of innocent lives.

**Disclaimer:** This document has been prepared by the staff of RGICS and has not been seen by the Trustees of the Rajiv Gandhi Foundation. Further, the views presented in this document in no way reflect the views of the Rajiv Gandhi Foundation.

<sup>53</sup> Nidhi Sharma (2015), 'As Congress rallies support in Rajya Sabha, Whistleblowers Bill faces a tough future', The Economic Times, 10<sup>th</sup> August, 2015. Available at <http://economictimes.indiatimes.com/news/politics-and-nation/as-congress-rallies-support-in-rajya-sabha-whistleblowers-bill-faces-a-tough-future/articleshow/48417381.cms>

<sup>54</sup> Debobrat Ghose (2015), 'Vyapam Scam: Why whistle blower's protection is a joke in Chouhan's MP', First Post India, 14<sup>th</sup> July, 2015. Available at <http://www.firstpost.com/india/vyapam-scam-why-whistle-blowers-protection-is-a-joke-in-chouhans-mp-2341104.html>