

The West Bengal Standoff: Misguided Actions around Modi's Visit

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Summary

The central government and the West Bengal government are caught in a most unfortunate tussle. The imbroglio behooves neither the political functionaries nor the bureaucracy on either side. The state's Chief Minister, Mamata Banerjee, took the ill-advised decision of not attending Prime Minister Narendra Modi's meeting when the latter was on a cyclone damage assessment mission. This was not taken kindly by the central government, which has decided to heap reprisal on the chief secretary. The entire episode has snowballed into a prestige issue. Considering the unlikely possibility of any concrete result emerging from the saga, the best course of action would be to close the chapter with the government reiterating its earlier instructions on how VVIP visits are to be handled.

Introduction

Recruitment of personnel to the All India Services (AIS) is done by the Union Public Service Commission. There are only three services, namely, the Indian Administrative Service (IAS), Indian Police Service and the Indian Forest Service which are categorised as AIS. Services such as the Indian Foreign Service, Indian Revenue and Indian Audit and Accounts Services are categorised as Central Services, as these officers serve under the administrative supervision of the central government. After recruitment, AIS officers are allotted different cadres by the Department of Personnel and Training (DoPT) in the Indian government, in consultation with the state governments. So every officer of the AIS is borne on the cadre strength of a state. The Centre, or the Union government, does not have any AIS officer of its own. AIS officers are 'deputed' from the states to serve in the central government from time to time. To facilitate such deputation, the DoPT has laid down a Central Deputation Reserve (CDR). The CDR of each state cadre determines the extent to which officers can be sent on deputation to the Indian government.

To regulate the AIS, the government notified the AIS Act (1951). Under powers conferred by Section 3 of the Act, the central government, after consultation with the concerned state governments, has promulgated the Indian Administrative Service (Cadre) Rules, 1954 for IAS officers. These Rules determine the IAS cadre of each state, its strength and composition, which is again determined in consultation with the state governments. Rule 6 of these Rules specify the manner in which an IAS officer is deputed to the central government. Rule 6(1) reads, "A cadre officer may, with the concurrence of the State Government concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government...Provided that in case of any disagreement,

the matter shall be decided by the Central Government and, the State Government or State Governments concerned, shall give effect to the decision of the Central Government.”¹

What is of significance in each of these, viz., notification of IAS (Cadre) Rules and Rules for Cadre Allocation, the stipulation, “in consultation with the state government concerned” is specified, and in the rules for deputing officers for central deputation the specification is “concurrence”. Only in case of disagreement in respect of deputation does the state government have to give effect to the decision of the central government. It has to be recognised that these Rules have been formulated in the true spirit of ‘Federalism’.

Not all IAS officers serving in the states opt for central deputation. Central deputation at the level of joint secretary requires an officer to be “empanelled” for appointment to that level. The process of empanelment is rigorous and its parameters keep undergoing change. In the latest instruction issued, the government makes it mandatory to have at least two years experience at deputy secretary or director level under the central staffing scheme for officers to be empanelled at joint secretary level in the central government. This new provision was introduced due to an acute shortage of young officers to serve in the central government at the deputy secretary level. The new proviso also requires IAS officers, moving on central deputation, to seek a no objection certificate from the state government to enable them to join the central government.

The Bengal Fracas

It is with this background that we can analyse the rather piquant situation which has arisen in West Bengal. It appears that the Bengal government felt that the services of the ex-chief secretary, Alapan Bandyopadhyay, was required for a period of three months, post his scheduled date of superannuation, to supervise relief and rehabilitation services after the Yaas cyclone. The extension of the service of an IAS officer post superannuation requires the approval of the central government. This seems to have been sought and granted to the officer four days prior to his scheduled date of demitting office. It needs mention that such approvals are granted by the Appointments Committee of the Cabinet comprising the Prime Minister and Home Minister. Thus, evidently both of them had felt that his services were indispensable to the state for disaster relief and hence accorded approval to the state government’s request.

When Prime Minister Narendra Modi decided to visit Bengal and Odisha to assess the extent of damage due to the cyclone and also acquaint himself of the ongoing relief and rehabilitation measures, his secretariat would have informed the Chief Minister’s office of his programme. It requires no reiteration that such visits are taken with utmost seriousness and, irrespective of any prior engagement of the chief minister, the prime minister’s programme should take priority. There would hardly have been an incident in any state when the prime minister was visiting to acquaint himself of cyclone damage that a chief minister would choose not to be present. It would be improper from any aspect, protocol or administrative propriety. It would be very demeaning for any prime minister to convene a meeting to assess cyclone damage in a state *without any official* of the state government

¹ Indian Administrative Service (Cadre) Rules, 1954.

being present. It would also be very disingenuous for the state since it is based only on such review meetings that the central government provides discretionary grants from the Union budget towards relief operations. It appears that Chief Minister Mamata Banerjee met Modi at the airport on his arrival, presented him a relief and rehabilitation memorandum, and sought his permission to leave as she had scheduled a visit to some cyclone affected area. Normal courtesy dictated that the chief minister attends the prime minister's meeting. In the highly unlikely event of her presence at the other place be totally unavoidable at that very time, it was incumbent on her to have deputed one of her ministerial colleagues to attend the meeting. And, in case the chief secretary's presence with the chief minister was also so very indispensable, some other senior secretary should have been deputed to attend the meeting and brief the prime minister. So, the state being unrepresented in the prime minister's meeting was definitely an inappropriate gesture.

Let us presume that personal relations between that chief minister and the prime minister had become so frosty that the former was not inclined to attend the latter's meeting. (In this particular case, what seems to have irked her is the presence of the leader of opposition who happens to be her *bête noire*). These are the exigencies when experienced civil servants are required to advise their political bosses. The chief secretary should have stepped in and explained Banerjee's impropriety to her. By skipping the meeting, she would be faulted on grounds of protocol and administrative considerations beneficial to the state. It is not known whether the chief secretary actually attempted to do so. Herein emerges a rather awkward situation. While serving the state government, the administrative head for IAS officers is the chief minister. It is just about impossible for the chief secretary to ignore the instructions of the chief minister and present himself for a meeting of the prime minister. Experienced bureaucrats would resort to civil service networking through cadre and batch connections. The situation could have been tactfully explained to the prime minister's office where equally experienced officials could have deftly devised a face-saving solution for both the political functionaries. This course of action does not appear to have been resorted to by the chief secretary. It indicates to his tactless handling of a piquant situation.

In a federal set up, the Union government certainly is the big brother. It is expected to act and behave in a 'big brotherly' manner without being supercilious in handling state officers. The frostiness between Modi and Banerjee due to the rather bitter election campaign is well-known. The sparring and bickering over the campaign trail had left political scars on both sides. Banerjee was definitely upset over having lost her own seat to a person who till recently was her own camp follower. She was definitely smarting under that defeat at the hustings. On the other hand, the Bharatiya Janata Party (BJP) leadership and Modi in particular, had invested a disproportionately large amount of time and effort on the campaign trail. The party was deeply disappointed at the poll outcome though it had gained tremendously from its electoral performance in 2016. It was a political defeat which the BJP does not appear to have accepted gracefully and seemed to be seeking opportunities to needle Banerjee and the state government. Now, once it became obvious to the Union government that the chief minister and the state government were ill-advisedly going to miss the meeting, it could have resorted to more tactful means to bring the state out in poor light – and the state government did deserve to be brought out in poor light as its approach was indeed inappropriate. However, the central government appears to have

been equally ill-advised on a situation which it could have easily manipulated to its advantage. It resorted to misguided and injudicious action which was inadequately thought out. For any action that an authority seeks to undertake, it is incumbent on it to reason out the end game and ensure that its actions will indeed enable it to meet the desired objectives. On this score, the officials advising the political executive in the central government appear to have miserably failed.

The Delhi Reaction

An intelligent breakdown of the events that rapidly unfolded after Modi's meeting went unattended by Banerjee indicates that some senior political functionary was very upset and in a fit of rage, as also to display loyalty to his leader, demanded immediate retribution on state representatives. They could do little to chastise the chief minister, so the soft target was chief secretary, Bandyopadhyay. It must be in that fit of anger that it may have been ordered that the chief secretary be summoned to the DoPT to be duly castigated. The concerned officials in the DoPT failed to point out that 31 May 2021 was the last working day of the chief secretary's normal tenure and that summoning him to the Indian government was bound to be ignored. A three-month extension, granted with the prior approval of the Indian government, in this situation of an extreme ego battle, was bound to be thrown to the winds. Any seasoned bureaucrat would realise that considering the mental makeup of the chief minister, she would make the bureaucrat forgo the extension, resign from service and re-employ him on contract service. There was nothing that the central government could do if the state were to deploy this course of action. And, this is exactly what happened. Bandyopadhyay did forgo the three month extension and in the bargain got a three-year contract as chief advisor to the chief minister. This put paid to the orders of the DoPT. The effect was an ignominious retreat for the Indian government.

It is most unfortunate that that this reckless course of action, blinded by rage, did not end there. The scene of action shifted to the Ministry of Home Affairs (MHA) which administers the National Disaster Management Act (NDMA). The MHA issued a show-cause notice to Bandyopadhyay under a stringent provision of the NDMA that entails imprisonment up to two years. According to Section 51 (b) of the Act, whosoever refuses to comply with any direction given by or on behalf of the central government...under this Act, shall on conviction be punishable with imprisonment for a term which may extend to one year. The chief secretary was ordered to reply to this notice in three days. He has replied, taking the usual plea that he was ordered by Banerjee to accompany her on flood relief work. The Indian government is known to be examining the reply. It may take legal opinion. Punishment under the NDMA will require that directions under the Act were indeed issued and such valid instructions were then disobeyed by the chief secretary. In all probability, even the meeting notice sent by the central government inviting the chief minister to join the prime minister in the meeting may not even have been addressed to the chief secretary, making it all the more difficult to prove that there was wilful disobedience attracting punishment under Section 51 of the Act. Even if the Indian government were to contrive a reasoning to act against the officer, the chief minister will take legal recourse. This is bound to be long drawn and in no way guaranteeing vindication of the central government's stand. This is another misguided course involving the waste of official man hours on an issue where

the official has been jeopardised in a clash of political egos. It certainly does not appear that the course of action adopted by Indian government will indeed produce results that it seeks.

Conclusion

The entire saga has been most unfortunate. Undoubtedly, the state government is at fault. A prime minister represents the country and the august office should not be belittled regardless of political differences. Politics must also be grounded in statesmanship. That being so, even the Indian government has not covered itself with glory in the course of subsequent actions it took. Knowing that the political executive wanted to settle political scores, it was incumbent upon officials in the DoPT/MHA to explain to the political functionaries that adopting that course of action may indeed even backfire. Be that as it may, even at this stage, despite all the hot air that has been blown, it would be advisable for the Indian government not to pursue any stringent course of action. It should possibly caution the officer and the state government and let issues subside. The Indian government may further reiterate its directions on how visits by a prime minister need to be handled by state governments. That will not only be the most judicious, but also the most prudent course of action to adopt.

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