

A Study on Financial Frauds Committed by Perpetrators under the Privileges to NGO's in India

CA. Anaadi Mishra¹, Dr. Deepti Maheshwari²

¹Research Scholar, Rabindranath Tagore University, Bhopal (M.P.) India.

²Dean, Faculty of Commerce, Rabindranath Tagore University, Bhopal (M.P.) India.

ABSTRACT

The purpose of this study is to identify and analyse the privileges available to the various types of Non-Government Organisation in India and the flaws present in the statutory regulations that are exploited by fraudsters. This study aims at evaluating the Internal Control Policy in organisations that prevent a possibility of fraud and the success of the Fraud Response Team. The study thereafter reflects the effects of training of staff members in controlling the occurrences of frauds. The methodical approach used in this study is conducted by observation and document review. The findings of this study majorly reported the following anomalies in the working of the organisations. Sourcing of NGO's money for personal use. Collusion with suppliers to inflate prices for procurements. Payments to ghost employees or beneficiaries that exist only in books. Kickbacks received by NGO Staff by suppliers or beneficiaries. Money received in personal account by issuing false receipts. Single project being funded by multiple donors (Double Dipping). Personal use of NGO's assets.

Keywords :- NGO, Frauds, beneficiaries etc

I INTRODUCTION

A Fraud is a compulsive and illicit action by a perpetrator to fabricate a transaction that appears legal when it actually is not, causing loss to a person or organisation while a financial gain to oneself. A fraud in Non Govt Organisations have primarily found to have been carried out by the owners or staff who were siphoning funds for a long time, undetected. As per the study by the Asian Centre for Human Research (ACHR), the Central and State Governments have together provided grants of over Rs 6500 Crore to NGO's during 2002-2009. The alarming part of this study is that 97 % NGO's had never furnished any "Utilisation Certificates" hence there were no proof of whether this sum of money had reached its intended purpose.

Several NGO's which were blacklisted were able to resort to an easy process of name change to continue receiving further grants while no follow-ups were done by any government officials for irregularities detected. There has been next to no accountability of where the money had been spent or whether the grant met its intended beneficiary. It was further observed that although the guidelines laid down for the functioning of NGO's were carefully drafted to avoid any fund misappropriations, the implementation process at the grass root level was corrupted.

- (a) Approximately 20 % of the funds of the grant were to be bribed by beneficiary in order to get funds processed by officials.
- (b) No Accountability on the part of any officials for the non-availability of UC's.
- (c) No transparency in selection of NGOs for grants.

II LEGAL FRAMEWORK

The Civil Society Organisations better known as a Non-Government Organisation in India can be registered under the Indian Statute, primarily in 3 ways.

(a) **Registered Society,**

(b) **A Trust, or**

(c) **A Section 8 Company**

- **Registered Society** - Under the Societies Registration Act 1860, a central level enactment, allows the State Level authorities for registering the non-profit organisation. 7 persons subscribing to a memorandum can constitute and register a society. The MoA should mention the name, addresses and occupations of the members who have aggregated to form the entity.
- **Trust** - The trust, whether public or private, can be formed for charitable purposes. An NGO may be formed by registering under the Public Charitable Trust Act. Many states in India have state level acts also. The major difference between a Private and Public Trust is that the former is not eligible for myriad of privileges and tax benefits as latter.
- **Section 8 Company** - The Companies Act 2013 grants a legal set up to associations that promote cultural and charitable objectives such as science, religion, art and commerce etc. The Central Government licenses its operations as a company. The companies on which the provisions of section 135 of the Companies Act 2013 are applicable must contribute 2% of their average profits into "Corporate Social Responsibility Activities". While all companies draft their own policies for making the expenditures, there is always an inherent risk that the contribution made to

NGO/Trust could be a scheme to siphon the funds of the concern.

III METHOD

Without understanding the stimulus for fraudsters, it may be impossible to prevent it. Psychology being a complex form of science, suggests the following as stand alone or combination of motivators for a possible reason for fraud.

- (a) **Existence of Opportunity** - The absence of an effective internal control is the primary trigger for a perpetrator to sense an opportunity. These include:
 - (i) The continuous flow of money in the NGO's
 - (ii) Low risk of getting caught
 - (iii) Confidence of nil consequences even after being caught,
 - (iv) Being protected by powerful persons inside or outside of NGO.
- (b) **Needs of the Fraudster**-The stress of having a comfortable lifestyle and a standard of living can put pressure on a perpetrator to resort to crimes. They are often convinced that they must also receive money as much as the NGO's beneficiaries do.
- (c) **Habitual Perpetrator** - The scams that generally begin with a small amount may culminate into habitual stealing to maintain a given lifestyle. Since mostly, the sham NGO's have the entire staff tied in, everyone tends to receive a major reward in return for their silence.
- (d) **The De-motivated Employee** - A disgruntled employee who doesn't share the organisation's vision or doesn't feel appreciated or valued is also likely to commit fraud. The NGO's are custodian for sourcing money to the needy and the poor. This often is without an oversight or clear goals. The temptation of the available funds by owners or staff may lead to the misuse of funds.

IV OBSERVATIONS

Based on the acts and omissions that have been observed under this study, the following is a non-exhaustive list of prominent frauds in India.

- (a) **Laundering of Scam money (2013)** - Fraudulent transactions were shown as foreign donations. The NGO in its legal connotation worked for the upliftment of the orphans and underprivileged children. The Dark Net (restricted internet access) is an easy medium to purchase the hacked credit card details. The details were used to transfer money from foreign banks to the NGO's account. The scam was observed by the Cyber Cell when one of the payments was put on hold at the payment gateway. The foreign funding was found to be a means of money laundering. It was later

observed that the network of the NGO was widespread. The accomplices were found to make transactions on the go so that their location becomes difficult to trace. It was also observed that the NGO made fake hotel bookings in the card owner's names in other countries and shared the money with such hotels.

- (b) **NGO's collecting money based on doctored medical reports (2015)** - Since the connect of the masses with an affordable internet, NGO's in India have been funded heavily in the past decade for child welfare, hospitalisation, treatments and wellness by many foreign corporations and individuals. It was observed in 2015 that in majority cases, a fake (photo shopped) medical report along with emotionally appealing photos from the internet were sufficient to draw funding from unsuspecting foreign individuals. The racket had been running so professionally that even medical professionals couldn't differentiate the original reports from the morphed. Donations were being collected as appeals based on pictures of cancer patients. It was found by the GRP Police team that the members were found carrying official identity cards, 13 receipt payment books and a seal of the NGO to prove the ingenuity of the organisation.
- (c) **Non-Accounting of expenditures against grants from the Government (2010)**- The C&AG detected and pointed out that the ministry had been giving grants to several NGO's for tree plantations valuing about Rs 600 Crores, some for more than 20 years but no accounts were maintained. On a span of 10 years, an estimated 5000 Utilisation Certificates grossing over Rs 400 Crores were pending for adjustments. The lack of internal control by the ministry and its financial advisors led to such huge accumulations of pending certificates of expenditure. Also, it was observed that some officials of the department had opened NGO's in the name of their family members and relatives to enjoy the benefits of the grants. Hence, the involvement of the department officials couldn't be ruled out.
- (d) **CSR Activity Scams (2019)** - Accused was found to have forged the documents of a company and approached several NGO's and charitable trusts across the country to provide CSR funding of over Rs 100 Crore claiming to be an employee of the company. The scam came to light when the organisation's CS received a call from a charitable trust claiming the CSR funds. Upon scrutiny it was found that the fake email received by the trust was bearing the signature of the CS while on the official letterhead. The scamster convinced the NGO's and trusts to transfer the processing fees of Rs 7.5 Lakhs to his account in lieu of transferring the funds. They were also contacted by other accomplice claiming to be from the company

assuring timely payment of CSR funding. All accused were booked under several sections of IT Act and IPC.

- (e) **Top Officials spending NGO Funds for personal expenses (2014)** - Based on a whistleblower's letter regarding potential fraudulent activity in the NGO, a forensic accountant was appointed to verify the allegations. Based on the review of documents and records provided by the organisation, it was found that the President of the organisation had been spending the funds of the NGO on his personal meals, vacations and entertainment. On a closer scrutiny of his personal accounts, it was further observed that the said person was also receiving salary from another NGO for an unexplained service. The approved contracts in his tenure were further observed to have been awarded to friends and associates at inflated prices.
- (f) **NGOs using credit card details for Fraud (2017)** - A registered NGO was found to be involved in the purchase of stolen credit card data used the same for the making donation to their own trust. The credit card holders were based in different countries. The trustees were arrested for theft of credit card data where cops say that the accused used data to transfer funds to trust account through e-commerce gateway while the scam came to light when bank contacted the donors for service charges.
- (g) **Embezzlement of money between multiple NGO's (2016)** - It was observed by forensic accountants that a group of multiple NGO's run by members of the same family had passed on funds between their NGO's to show an active status in books while the money was actually employed in their business venture in rotation.
- (h) **Siphoning of Govt Funds for Development Project (2017)** - The Government Funds approximating Rs 300 Crores were earmarked for the Urban Development Project. The NGO fraudulently withdrew government funds that remained unnoticed at the administrative level but were detected when a cheque of Rs 10.26 Crore was dishonoured. It was revealed that both board members of the NGO and Bank officials were involved in the scam. On probing the matter, it was found that the scam had been continuing for over 3 years. The NGO primarily ensured with the help of bank officials that the said government bank account had the minimum required balance to avoid alerting the officials if a cheque gets dishonoured. Then, the cheque leaves were procured fraudulently and the signature of the District Magistrate was forged for withdrawal.

- (i) **The Scam of Bank Interests (2017)** - The fraud is about alleged transfer of government funds to the NGO's account where the latter earned high interest rates while keeping the principal amount intact. It was revealed that the fraud had been continuing from 2007. Upon the death of the NGO Founder, the scam came to light. The organisation had close allegiance with bank officials and treasury officials to secretly divert money to their bank accounts. Account numbers were written on the reverse side of the cheque. The fraudsters also generated fake E-statements and sent it regularly to government officials for their record keeping. The officials never noticed that all statements lacked a Bank seal. Further, the NGO also offered loans to people at very high interest rates. Fake passbooks were seized and it was observed that the organisation escaped Government audits during 2007-14.

V ANALYSIS

A deeper understanding exposes the perception of multiple stakeholders and confirms that there is "accountability gap" in the following areas:

- Overlapping of roles between the board and the executive staff
- Lack of beneficiary participation in decision making
- Non-involvement of beneficiary in performance appraisal of board members and chief functionaries
- Lack of participation of beneficiaries in the project planning process
- No complaints management system in the NGOs
- Lack of proper human resource management processes and systems (such as proper induction, staff performance appraisal, formal supervisory structure and staff welfare)
- Weak financial control systems.

VI CONCLUSION

The recent findings by RTI revelations suggest multiple irregularities in the Government's funding to NGO's and other charitable institutions to the tune of hundreds of crores while hinting at the opaque selection process and the grantees lacking transparency. In the recent past, crores of rupees of the taxpayer's money was being siphoned off in the name of donations to NGO's by several government bodies and ministries. It is claimed that the selection was based on merits while the process could not be verified.

The NGO's have claimed that they had to shell out between 15-20% of their fundings as bribes to get their applications approved. At a conservative estimate of 15% between 2002-2009, atleast a 1000 Crore had been spent on bribes to different layers of officials for project approvals. Over 7000 Utilisation

Certificates equalling Rs 600 Crores were pending from grantees under the scheme of grants-in-aid covering over 15 years. Further, several ministries had granted over Rs 100 Crores to organisations without any audits. Additionally, grants given to NGO's are not subjected to C&AG Audits and it took 20 years to recognise this short coming.

Hence, it is imperative in any organisation to create a culture of mutual trust where a possibility of fraud is least likely to occur. Reducing the risk of any misappropriation of assets for the personal use of owner or staff is of high importance.

(a) **The process of data collection and the protocol followed are explained** - One of the senior trustees or board members or the chief functionary of the NGO was interviewed. Interviews were conducted with the senior managerial staff, who volunteered to participate in the study. Simultaneously, documents such as annual reports and internal communication materials were reviewed to understand the history and nature of the organization. The transcripts were sent to the research participants who sought for review and correction. After confirmation from the participants, qualitative data analysis was done through thematic analysis technique. Stakeholders who fulfilled the criteria were selected using purposive sampling. Only willing participants were selected for the study.

(i) In-depth interviews conducted with ten stakeholders

(ii) Based on the qualitative data from the in-depth interviews with the stakeholders, analysis was done.

(b) **Inclusion of integrity in the Company's Value Statement in Letter and Spirit**- Inclusion of 'honesty' and 'integrity' in your organisational values, and the importance it holds for the futuristic vision. Build a strong anti-fraud culture where corruption cannot thrive.

(c) **Training of staff** - The Employees background check should be one of the key bases of selection. Staff should be trained frequently through case studies and examples to avoid any misappropriations of fund. Deter fraud by giving clear guidance about what behaviour is expected from employees and enforcing form consequences for misconduct.

(d) **Whistle Blower Mechanism** - The culture of the NGO should promote absolute anonymity of whistle blowers and they should be able to reach out to the senior management in urgent

situations. Ensure that the management is effectively accessible and that the complaints are dealt with in time framed manner.

(e) **Maker-Checker System** - The NGO should aim at frequent rotation of staff and check any possible duplication of roles for the same employee that may lead to a possible chance of fraud.

(f) **Implement Zero Tolerance Policy** - The NGO should lay out policies that a proven misconduct on the part of any employee will lead to immediate termination.

(g) **Prevent, Detect and Respond to Fraud Immediately** - Prevent fraud before it happens. Gain insight from research with convicted fraudsters as well as assessing the fraud risk in NGO's programmes, and developing strict control measures. A fraud response team should be set up which can take firm and fair actions.

REFERENCES

- [1] Subaida, SitiMusyarofah, Prasetyono (Oct 2017) "Fraud Patterns On Ngo Funds Accountability Reports"
- [2] Dr.Megha Shah (Sept' 2016) "An Empirical Study on forensic accounting and audit expectation gap in India"
- [3] Dr Dhiraj Sharma (July 2015) "Accounting and Fraud Auditing in Indian Context"
- [4] Dr.(CA.) Harish Jagdish Sharma, (June 2017) "Analytical Study of Forensic Accounting and its application in selected Industries in Mumbai"
- [5] Mr. BhujungaManku Rai (Dec 2017) "Importance of integrating modern accounting with regular financial accounting"
- [6] Brown, L. David and Mark H. Moore (2001) "Accountability, Strategy, and International Non Governmental Organization"
- [7] ACHR, (Aug 2018) "India's fund to NGO's squandered"
- [8] Mayur Joshi (Feb 2020) "Whistleblowing allegations against the President of the NGO"