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Committee Reports

(2016-Main Exam)



SHANKAR IAS ACADEMY

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COMMITTEE REPORTS

1. B B Tandon Committee

- The Union Information and Broadcasting (I&B) Ministry has constituted a three-member Committee to **monitor that guidelines set for government advertisements by the Supreme Court are followed.**
- The committee will be headed by the former Chief Election Commissioner (CEC) B B Tandon.
- Senior TV journalist Rajat Sharma and ad-man Piyush Pandey will be the other two members of the committee.

Background

- The committee was constituted by I&B Ministry based on the recommendation of the three-member selection committee comprising Press Council Chairman Justice (retd) C K Prasad, I&B Secretary Sunil Arora and advertising professional Prasoon Joshi.
- In May 2015, **Supreme Court** in its order had issued **Guidelines on Regulating Government Advertisements based on recommendations of Prof NR Madhava Menon Committee.**
- In its order, SC had barred publication of photos of leaders in government advertisements except those of the President, Prime Minister and the Chief Justice of India.
- SC had also directed the Union Government to constitute a three-member committee **to regulate the issue of public advertisements.**
- However, in March 2016 SC modified its earlier May 2015 order and allowed photographs of Chief Ministers, Governors and ministers to be carried in public advertisements.
- The Supreme Court appointed high-powered committee headed by Professor NR Madhava Menon submitted its report to the court on 6 October 2014.

NR Madhava Menon committee

- The committee in its report has **framed guidelines to regulate expenditure and contents of advertisements paid out of tax payers' money.**
- The three-member committee has recommended that names and pictures of political parties and their office bearers like presidents should not be mentioned in government advertisements.

- It supported its recommendation by stating that there had been **misuse and abuse of public money on such advertisements.**
- However to keep politics away from such ads, it emphasized that only the pictures and names of the President, the Prime Minister, Governor and Chief Ministers should be published.
- The committee also endorsed the suggestions of the Election Commission that **there must be severe restrictions on such advertisements six months prior to election.**
- Apart from this, the committee also recommended that a deadline should be fixed to prohibit their publication and the poll panel should be authorised for the purpose.
- The committee also recommended that there should only be a single advertisement, preferably by Information and Broadcasting Ministry, in respect of commemorative advertisements, which are given on birth and death anniversary of an important personality.

B B Tandon Committee's tasks

- Under the terms of reference, the committee will address complaints from the general public of violation on the implementation of the guidelines set out by the Supreme Court.
- The committee will also take **suo motu cognizance** of any violation/deviation of the guidelines of the Supreme Court and recommend corrective action to the ministry/department.
- The committee **may recommend suitable changes to the Supreme Court guidelines to deal with new circumstances and situations** that may arise from time to time, without making major policy changes within the policy direction of Supreme Court.
- The tenure of the members will be initially for a period of **two years, which shall be extendable by one year at a time, but overall extension should not be more than two times.**
- The committee will be operational from Delhi and the Directorate of Advertising and Visual Publicity would facilitate day to day functioning of the committee.

2. Deepak Mohanty Committee on Medium-term Path on Financial Inclusion

Background

- The committee was mandated
- to review the existing policy of financial inclusion including supportive payment system and customer protection;
- study cross-country experiences of financial inclusion to identify key learnings, particularly in the area of technology-based delivery models;
- articulate the underlying policy and institutional framework and finally, suggest a monitorable medium-term action plan for financial inclusion in terms of its various components such as payments, deposit, credit, social security transfers, and other financial products and services.
- Though the committee recognizes progress in terms of access of financial products and services after the launch of the Jan Dhan Yojana it emphasises inadequate 'last mile' service delivery, and exclusion of women as well as small and marginal farmers and very low formal link for micro and small enterprises.
- There were also systemic issues of stability of the credit system, over-indebtedness and agrarian distress.

Vision

- Against this background, the Committee set a much wider vision of financial inclusion as "convenient" access to a basket of basic formal financial products and services that should include savings, remittance, credit, government-supported insurance and pension products to small and marginal farmers and low-income households at reasonable cost with adequate protection progressively supplemented by social cash transfers.
- It is also aimed at increasing the access of small and marginal enterprises to formal finance with a greater reliance on technology to cut costs and improve service delivery, such that by 2021, over 90 per cent of the hitherto underserved sections of society become active stakeholders in economic progress empowered by formal finance.
- The Committee was of the view that a meaningful financial inclusion is not feasible without government-to-person (G2P) cash transfer.

Salient recommendations

- Banks have to make special efforts to **step up account opening for females**, and the Government may consider a deposit scheme for the girl child – SukanyaShiksha - as a welfare measure.
- Given the predominance of individual account holdings (94 per cent of total credit accounts), a unique **biometric identifier such as Aadhaar should be linked** to each individual credit account and the information shared with credit information companies to enhance the stability of the credit system and improve access.
- To improve 'last mile' service delivery and to translate financial access into enhanced convenience and usage, **a low-cost solution** should be developed by utilisation of the mobile banking facility for maximum possible G2P payments.
- In order to increase formal credit supply to all agrarian segments, **digitisation of land records** is the way forward. This should be backed by an Aadhaar-linked mechanism for Credit Eligibility Certificates to facilitate credit flow to actual cultivators.
- To phase out the agricultural interest subvention scheme which has distorted the agricultural credit system and ploughing the subsidy amount into an **affordable technology aided universal crop insurance scheme** for marginal and small farmers for all crops with a monetary ceiling of Rs.200,000 at a nominal premium to end agrarian distress.
- A scheme of '**Gold KCC**' (**kisan credit card**) with higher flexibility for borrowers with prompt repayment records, which could be dovetailed with a government-sponsored personal insurance, and digitisation of KCC to track expenditure pattern.
- Encourage multiple guarantee agencies to provide **credit guarantees in niche areas** for micro and small enterprises (MSEs), and explore possibilities for counter guarantee and re-insurance.
- Commercial banks may be enabled **to open specialised interest-free windows** with simple products like demand deposits, agency and participation certificates on the liability side and cost-plus financing and deferred payment, deferred delivery contracts on the asset side.
- An eco-system comprising multiple models should be encouraged with will **foster partnerships amongst national full-service banks**, regional

banks of various types, NBFCs, semi-formal financial institutions, as well as the newly-licensed payments banks and small finance banks.

- Banks' business model to integrate Business Correspondents (BCs) with appropriate monitoring by designated link branches and greater mix of **fixed location BC outlets to win the confidence of the common person.**
- A **geographical information system** (GIS) to map all banking access points.
- To step up the self help group **(SHG)-bank linkage programme** (SBLP) initiated by NABARD with the help of concerned stakeholders including government agencies as a livelihood model.
- Corporates should be encouraged to nurture SHGs as part of their **Corporate Social Responsibility** (CSR) initiatives.
- Provision of credit history of all SHG members by linking with individual Aadhaar numbers to check over-indebtedness
- To restore tax-exempt status for securitisation vehicles for efficient risk transfer.
- **More ATMs in rural and semi-urban centres**, interoperability of micro ATMs and use of application-based mobiles as point- of- sale (PoS) for creating more touch points for customers.
- National Payments Corporation of India (NPCI) to develop a **multi-lingual mobile application** for customers who use non-smart phones, especially for users of national unified USSD platform (NUUP).
- **Permit a small-value cash-out** with adequate KYC along for non-bank prepaid payment instruments (PPIs) to incentivise usage.
- To allow PPI interoperability for non-banks.
- Levying a surcharge on credit card transactions by merchant establishments should not be allowed.
- Financial Literacy Centre (FLC) network to be strengthened to **deliver basic financial literacy at the ground level.**
- The Reserve Bank to commission periodic dipstick surveys across states to ascertain the extent of financial literacy.
- All regulated entities should be required to put in place a technology-based platform for **SMS acknowledgement and disposal of customer complaints.**

- To strengthen the Information Monitoring System for District Consultative Committees (DCC) and State Level Bankers Committee (SLBC) deliberations.
- The responsibility of the **SLBC/lead bank scheme** to be rotated among to instil a spirit of competition.
- SLBCs to focus more on inter-institutional issues, livelihood models, social cash transfer, gender inclusion, Aadhaar seeding, universal account opening, and less on credit deposit ratio which is a by-product.
- As a part of second generation reforms, the government can replace the current agricultural input subsidies on fertilisers, power and irrigation by a **direct income transfer scheme**.

3. MADHUKAR COMMITTEE REPORT

Committee:

A high powered committee of the National Security Council, headed by former home secretary Madhukar Gupta presented its report on India-Pakistan border to Union Home Minister Rajnath Singh in New Delhi.

The Ministry of Home Affairs had constituted a committee under the chairmanship of former home secretary Madhukar Gupta in April 2016, for strengthening border protection and addressing the issue of gaps and vulnerability in border fencing along the India-Pakistan border.

Mandate:

The mandate of the committee was to study all types of gaps in fencing and all other vulnerabilities in the International Border and to suggest comprehensive approach to fix these gaps in fencing and other vulnerabilities on interim and permanent basis.

Members of the Committee:

Minister of State for Home Affairs Kiren Rijiju, Home Secretary Shri Rajiv Mehrishi, and Secretary of Border Management Susheel Kumar and other senior officers of the ministry were present.

Key Facts

- The committee has examined security mechanisms of all four Indian states sharing border with Pakistan keeping in mind challenges of different climate and topography.
- It has given separate recommendations for four states as each of them has different topography and problems.

- It has flagged gaps and vulnerabilities in border fencing and suggested use of technology and heightened vigil on riverine frontiers.
- It has expressed displeasure over not installing laser walls in many infiltration-prone areas due to treacherous and marshy terrain.

Background:

- The MHA had constituted this committee in April 2016 to suggest ways to address the issue of gaps and vulnerability in border fencing.
- It was constituted three months after the terror attack on Pathankot IAF base in January 2016 by Jaish-e-Mohammed terrorists from Pakistan.
- These terrorist had infiltrated into India by beaching the India-Pakistan border through porous border in Punjab especially from the riverine stretch.

4. Report of the Expert Committee on Prior Permissions and Regulatory Mechanism

Background

- The Expert Committee with **Mr. Ajay Shankar** as its chairman has been constituted for examining the possibility of replacing multiple prior permissions with pre-existing regulatory mechanism and preparing a draft legislation for this purpose.
- The Committee was set up in April 2015 to
- study the requirement of multiple prior permissions,
- examine the possibility of replacing these permissions,
- propose a regulatory mechanism, and
- draft a proposed legislation.
- It submitted its report to the **Department of Industrial Policy Promotion**, on February, 2016.

Highlights of recommendations

- **Advisory function on reforms:** The Committee recommended that a Standing Committee on Regulatory Affairs should be set up to
- advise the government on issues with regulators, and
- carry out independent regulatory impact assessments. A similar mechanism may also be created in the states.
- **Inventory of Clearances** - Currently, several clearances are required from the central and state governments before the commencement of a

business. The Committee observed that an inventory of clearances required at these levels is being prepared. An open-source platform should be created for the inventory, to ensure that all stakeholders can participate in the process.

- **Standards** - Standards help in ensuring reliability and uniformity of products. The ministries should participate and consult stakeholders and take decisions on:
 - setting new standards,
 - adopting existing standards, and
 - deciding if compliance with a standard is voluntary or mandatory.
- Standards from **international markets** such as the USA, Europe and Japan should be adopted.
- **Third party certification** - Third party certifications involve an independent person or authority, such as a chartered accountant, certifying that the specified requirements for the product or service have been satisfied. A credible third party certification, in areas that are regulated such as the petroleum and natural gas sector should be setup. This would help in reducing the burden of certification and quality control on regulators.
- **Environment certificates** - An Environment Certificate Trading Scheme, similar to the existing Renewable Energy Certificates Trading Scheme should be started. The scheme will allow industrial plants, which have emissions above the prescribed norms, to buy environment certificates from the industries, which have emissions under the prescribed limit.
- **Geographical planning** - The process of getting environmental clearances is time consuming. The ministries looking at industries where international environmental standards exist (such as power and steel) should identify locations to set up projects. These locations should be categorised based on their environmental impact, which would **help speed up the process of clearances** and minimise risk to the environment.
- **Compensatory afforestation** - A digital map inventory of forests has been created using satellite imagery. This should be used for approving projects that require forest clearances. When forest clearances are granted

for diversion of forest land for a project, **compensatory afforestation** needs to be carried out to compensate for the loss of forest cover. Ministry of Environment, Forests and Climate Change, along with the state governments **should create land banks** for compensatory afforestation.

- Currently, the project developer is required to identify the site where compensatory afforestation will be carried out. The Committee suggested that the developer should not be required to identify this land, and should only be expected to pay for compensatory afforestation. This would expedite the process of obtaining forest clearances.
- **Start-ups** - An objective definition of a start-up is needed, to avoid a case by case determination for eligibility for benefits. An enterprise should be treated as a startup for three years from the commencement of business, or till it crosses either
 - A workforce of 100 workers,
 - Investment of Rs.20 Crore,
 - A turnover of Rs.30 Crore, or
 - A profit of Rs.10 Crore.

5. REVIVING AND REVITALISING PPP ON INFRASTRUCTURE – KELKAR COMMITTEE

Public Private Partnerships (PPPs) in infrastructure refer to the provision of a public asset and service by a private partner who has been conceded the right (the “Concession”) for the purpose, for a specified period of time, on the basis of market determined revenue streams, that allow for commercial return on investment.

The availability of high-quality infrastructure and the overcoming of India’s infrastructure deficit is crucial to attaining and sustaining rapid growth that generates the right kinds of jobs. PPPs in infrastructure represent a valuable instrument to speed up infrastructure development in India. This speeding up is urgently required for India to grow rapidly and generate a demographic dividend for itself and also to tap into the large pool of pension and institutional funds from aging populations in the developed countries.

CHALLENGES:

The recent slowdown of PPP projects could be attributed to a combination of events, namely global economic slowdown, weak regulatory and institutional

frameworks, delay in issue of clearances by authorities, financing issues (over-leveraged debt and paucity of equity), aggressive bidding by developers, contractual issues, including long drawn out dispute resolution arising in a maturing PPP landscape, inadequate diligence and appraisal by lenders, and lack of flexibility in contractual arrangements. Coupled with parallel developments of increasing stress in non-PPP projects in major sectors such as power, the lending appetite to private sector and capacity for fresh infusion of funds became constrained, in both ongoing and new projects.

Further, though 'transparency' in PPP projects is recognized as a crucial element for successful implementation of projects, there were increasing demands from the private sector for a review of the **"rigidity" in model concession documents** and rebalancing of risks.

Stakeholders have pointed towards the possibility of **opportunistic gaming by developers** in the bidding process, facilitated by inadequate appraisal by lenders. By **inflating the Total Project Cost(TPC)**, developers achieve financial closure at an amount substantially greater than reasonable TPC and thereby source higher debt than the actual requirement. If the project is then jeopardized, the funds at risk are those of the lenders as there is virtually no "skin in the game" by the developer.

External factors:

- The **economic slowdown across the world and the credit crisis** slowed the demand for goods and services across the spectrum, affecting the infrastructure sector significantly. The PPP projects were also impacted by this demand slowdown.
- **A series of judicial and statutory authority orders** (e.g., banning of mining activity) that delayed the progress of development and implementation of PPP projects and revenue flows.
- New projects are **finding it increasingly difficult to attract sponsors and financing** (equity and debt) has become strained.
- **Increased perceived risk of projects** has further led to pension and insurance funds limiting their exposure to such projects.

Legal and regulatory framework:

- Sectors such as roads, airports and ports have **either no independent regulator or multiple regulators** (as in the case of airports). Overlap in the functions of such regulatory agencies has led to problems in certain cases, giving rise to calls for decisions taken at arm's length.

- **Dispute resolution mechanisms are slow and not very well developed**, often derailing project timelines and freezing funds, thus derailing project timelines.
- PPP projects have also been affected by factors such as delays in land acquisition and clearances, shifting of utilities, and right of way issues, leading to time and cost overruns.
- Delays have often been due to a **silos approach to jurisdiction** instead of macro assessment of economic, social, and financial risk-reward of a particular project.
- There is a **lack of capacity within statutory authorities** in understanding how PPPs work, and the attempt to bring corporate functioning under the ambit of standard government oversight, in addition to already applicable Companies Act requirements, has led to uncertainty on regulatory risk.

Financing issues:

- Bank appraisal of projects has in many cases suffered from lack of adequate diligence, sometimes due to **inadequate appraisal skills**. This has affected the quality of lending.
- There is a **shortfall in equity capital with local sponsors**. Delays in execution of projects further leads to equity getting trapped in ongoing projects, thus not being available for newer projects.
- **Balance sheets of most prominent developers in the country are stressed and over leveraged**. In the absence of a vibrant takeout market, refinancing of projects has not been taking place at the desired scale and pace.
- **Underdeveloped debt markets** have been a cause for concern for a while.

Multiplicity of institutions and overlap in roles:

- Governments at all levels, including urban local bodies (ULBs), line departments, state agencies, are by and large unable to create a steady pipeline of projects due to institutional capacity constraints
- The network of multiple agencies involved in project implementation and an overlap in the functions of these agencies is leading to inordinate project delays.

- Inadequate capacity in authorities, consultants, financiers, developers, statutory audit and vigilance in the PPP context has given rise to misinformation.
- Lack of urban planning, and clear laws, regulations and procedures has resulted in a slowdown of urban infrastructure projects.

Private sector problems:

- **Over-aggressive bidding** with inadequate due diligence by bidders has sometimes led to unviable offers. Since determining whether a bidder's capital structuring permits such optimistic bidding is difficult for the Authority, despite its own conservatism in its project report, bids were accepted and later failed.
- **The private sector did not develop its skills in pricing of risk**, despite engaging the best consultants in the field. Coupled with the mistaken belief that the economy was growing at rapid pace in the second half of the 2000s, this led to myopic assessment of possible risk factors and a failure to build in mitigation measures.
- Private sector developers, who were mainly construction experts, found they had **no appetite for long-term operations and maintenance (O&M) of infrastructure assets**.
- The quality of consultancy services in PPPs has not kept pace with the growing need for such services in the country. This is reflected in inconsistent quality of some advisory services.

Contractual frameworks

- Inadequate provisions to address legal and contractual issues such as exit clauses provisions, default by parties, change of scope related events, and connectivity infrastructure, due to inadequate project preparation by authorities and appraisal by lenders have caused delays and projects not taking off as anticipated.
- Implementing agencies often adopt model bidding and contract templates as is, with **little or none of the project-specific customization** that is key to successful project design and implementation.
- Difficulties have been experienced with long-term PPP projects when parties are in dispute or unanticipated events lead to recourse to traditional long drawn out legal systems for resolution.

- While there have been demands from developers for restructuring of existing contracts to sustain private sector interest, and bank asset quality would also benefit from such restructuring exercise, there is lack of appreciation of the sanctity of contracts and the need to restructure contracts that should be based on the project's revenues and long-term factors rather than temporary illiquidity and insolvency issues.

Support and other issues:

- PPPs can bring in the required efficiency and investments in infrastructure projects. For undertaking PPP projects successfully, several factors continue to remain valid and intact - need for the project, appropriate project development, adequate project preparation, equitable risk allocation, transparent competitive procurement and an administrative, legal and regulatory ecosystem that promotes better value and services to the citizens and the public authorities, which result in better and cheaper long-term services.
- Fundamental design flaws in PPP projects need to be tackled. For instance, contracts need to focus more on service delivery instead of fiscal benefits, better identification and allocation of risks between stakeholders, prudent utilization of VGF where user charges cannot guarantee a robust revenue stream, improved fiscal reporting practices and careful monitoring of performance.
- **Rigidity in concession documents** has triggered renegotiation of long-term contracts. Developers of a few road PPP projects that are currently in dispute, have approached the government to consider rescheduling of premium payments, which is currently under the scanner. Since the PPP landscape is in its maturing phase, the government needs to carefully consider the moral hazards and risks in allowing post-award changes.
- It has been observed in many delayed and stalled projects, that **the framework to assess project risks and allocate them between stakeholders suitable to best manage the risks, has not been effectively developed.** This has resulted in projects ending up in disputes, stretched project timelines and increased costs. Commercial and operational risks need to be passed on to the private sector under appropriate frameworks.
- Most contracts in the PPP arena are under the construction and operations framework, while the need for model contracts for O&M and services is

increasingly being perceived. There is a need to develop a new breed of O&M operators to take on projects that have been completed.

- The move to enable complete exit of promoters from the projects after a defined period, provides this flexibility.
- It is difficult to sometimes foresee upfront the likely demand for the project, especially in new and greenfield developments. Contracts should build in these uncertainties.

RECOMMENDATIONS:

- **Periodic reviews:** Such reviews should ideally therefore be done frequently, perhaps once every three years.
- **Change in attitude and in the mind-set of all authorities dealing with PPPs:** This change in attitude requires (1) moving away from a narrow focus on transactions to focussing on the relationship and on service delivery for citizens, (2) building in an approach of “give and take” between private and public sector partners, and (3) developing a mechanism for dealing with uncertainties inherent in long-time contracts. It must be kept in mind that given market and technological uncertainties, both public and private managers of long-term PPP stake decisions based on incomplete information. A decision that looks problematic ex post cannot automatically be deemed to be mala fide. The Committee urges all parties concerned to foster trust between private and public sector partners when they implement PPPs.
- The Government may take early action to **amend the Prevention of Corruption Act, 1988** which does not distinguish between genuine errors in decision-making and acts of corruption.
- **Structured capacity building programmes** for different stakeholders including implementing agencies and customized programmes for banks and financial institutions and private sector need to be evolved. The need for a **national level institution to support institutional capacity building activities** must be explored. Every stakeholder without exception has strongly emphasised the urgent need for a dedicated institute for PPPs as was announced in the previous Budget. The Committee strongly **endorses the “3PI”** which can, in addition to functioning as a centre of excellence in PPPs, enable research, review, roll out activities to build capacity, and support more nuanced and sophisticated models of contracting and dispute redressal mechanisms. A

dynamic 3PI can support a dynamic process of infrastructure design, build, and operate in India and thereby help deliver on the promise of reliable infrastructure services for all citizens.

- **Optimal allocation of risks across PPP stakeholders:** Inefficient and inequitable allocation of risk in PPPs can be a major factor in PPP failures, ultimately hurting the citizens of India. The Committee notes that the adoption of the Model Concession Agreement (MCA) has meant that project specific risks are rarely addressed by project implementation authorities in this “One-size-fits-all” approach. **A rational allocation of risks can only be undertaken in sector and project-specific contexts.** This arrangement has to only be developed by the project proponents concerned in collaboration with other stakeholders. While risk allocation can be specific to the sector and project, the **Committee also emphasizes that a generic risk monitoring and evaluation framework should be developed** encompassing all aspects across project development and implementation lifecycle. The Committee urges all stakeholders to then use this framework and allocate risk optimally in accordance with the basic principle that **“the entity that is best suited to manage the risk is allotted that risk.”**
- The Committee recognizes the need for a quick, equitable, efficient and enforceable dispute resolution mechanism for PPP projects. It is suggested that PPP contracts have clearly articulated dispute resolution structures that demonstrate commitment of all stakeholders and provide flexibility to restructure within the commercial and financial boundaries of the project.
- The authorities may **o** since the benefits of delivering small PPP projects may not be commensurate with the resulting costs and the complexity of managing such partnerships over a long period.
- **Unsolicited Proposals (“Swiss Challenge”) may be actively discouraged** as they bring information asymmetries into the procurement process and result in lack of transparency and fair and equal treatment of potential bidders in the procurement process.
- Inherent in the concept of PPP is the role of a “Private Sector Partner” that will implement the project, based on the need to leverage private sector financing and also the managerial and operational efficiencies of the private sector party. It is in this context that the Committee is of the view that since **state owned entities SoEs/PSUs are essentially**

government entities and work within the government framework, they should not be allowed to bid for PPP projects.

- The authorities should not treat PPPs as an off-balance sheet funding method for the government's responsibility of providing reliable infrastructure services to its citizens. **PPP should not be used as the first delivery mechanism without checking its suitability for a particular project.** States and other agencies should also not treat Central PPP VGF as a source of additional grants that can be accessed by adopting a PPP delivery mode for projects that are not suitable for such a long-term financing structure.
- There have been concerns raised by all stakeholders (Government and Private Sector alike) on the demand for developer books of account being subjected to government audit and for access under RTI and Article 12 of Constitution. Conventional audit by authority of private partner's books as per standard procurement process risks delivery of poor quality of service/public asset provision if there is no certainty of processes in the medium term. To address this, the Committee recommends that the government notify comprehensive guidelines on the applicability and scope of such activities. The laid down process would enable review only of government internal systems, and not that of SPVs, but SPVs would need to follow best practices incorporate governance systems including those related to related party transactions, financial disclosures etc as in the Companies Act, 2013.
- **Monetisation of viable projects that have stable revenue flows after EPC delivery maybe considered.** This should be seen as a monetisation opportunity that can attract risk averse long-term funding like pension and institutional investors. By providing O&MPPP opportunities, the authority will be able to free up budgetary funds for fresh EPC and start a virtuous cycle of fresh investment fed by additional revenues.
- Equity in completed, successful infrastructure projects may be divested by offering to long-term investors, including overseas institutional investors as domestic and foreign institutional investors with long-term liabilities are best suited for providing such long-term financing, but have a limited appetite for risk. Cash generated out of divestment of equity would be available for the creation of new infrastructure projects in the country.

- Improving a PPP project's risk profile so that it is more suitable for overseas and domestic long-term investors can be accomplished through partial recourse to credible third-party institutions. This could be implemented through a **partial credit guarantee or cash flow support mechanisms**.
- It is necessary to explore options for sourcing long term capital at low cost. Towards this, the Committee recommends, encouraging the banks and financial institution to issue **Deep Discount Bonds or Zero Coupon Bonds (ZCB)**. These will not only lower debt servicing costs in an initial phase of project but also enable the authorities to charge lower user charges in initial years.
- MoF may develop and publish a national PPP Policy document. Ideally, such a policy document should be endorsed by the Parliament as a policy resolution to impart an authoritative framework to implementing executive agencies as well as to legislative and regulatory agencies charged with oversight responsibilities.

Renegotiating Model Concession agreements:

- PPP projects can become distressed when risks emerge that may not have been contemplated at the time of signing. This could give rise to a call for amending the terms of the Concession Agreement to reflect new project realities better.

Typically infrastructure PPP projects span over 20-30 years and a developer often loses bargaining power related to tariffs and other matters in case there are abrupt changes in the economic or policy environment which are beyond his control. **The benchmarks to be applied to each proposed renegotiation trigger may include:**

- Evidence that the project distress is material and likely to result in default under the concession agreement at some future point should it continue;
- Not caused by the private party and likely to cause adverse outcomes for the government and/or users of the concession assets;
- Evidence that a renegotiated concession agreement is likely to have direct cost implications for the government that are less than the financial outcomes of doing nothing;
- Likely to have social benefits or avoided costs that provides better long-term outcomes; and

- Not materially different in terms of risk allocation to the Government of India.

The final decision for a renegotiated concession agreement must thus be based on:

- Full disclosure of long-term costs, risks and potential benefits;
- Comparison with the financial position for the government at the time of signing the concession agreement; and
- Comparison with the financial position of the government prior to renegotiation.

This will permit the concessioning authority to make a decision based on awareness of likely outcomes over the foreseeable future of the concession.

OTHER RECOMMENDATIONS:

Revisiting PPPs: Achievements and Challenges

- Contracts need to focus more on service delivery instead of fiscal benefits
- Better identification and allocation of risks between stakeholders.
- Prudent utilization of viability gap funds where user charges cannot guarantee a robust revenue stream.
- Improved fiscal reporting practices and careful monitoring of performance.

Resolving Legacy Issues

- Only a statutorily established credible empowered multi-disciplinary expert institutional mechanism can deal with the complex issues involved:
 - An Infrastructure PPP Project Review Committee (“IPRC”) may be constituted to evaluate and send its recommendations in a time-bound manner upon a reference being made of “Actionable Stress” in any Infrastructure Project developed in PPP mode beyond a notified threshold value.
 - An Infrastructure PPP Adjudication Tribunal (“IPAT”) chaired by a Judicial Member (former Judge SC/Chief Justice HC) with a Technical and/or a Financial member, where benches will be constituted by the Chairperson as per needs of the matter in question.
- In case procurement of land or clearance is pending from government authorities for more than prescribed number of days, the outstanding work should be de scoped (under the provisions of Change in Law of Concession Agreement), and allow rest of activities for completed work. Balance work

could be completed on a cash-contract basis, provided land and required clearances are in place.

- Cancel projects that have not achieved a prescribed percentage of progress on the ground. Rebid them once issues have been resolved or complete them through public funds and if viable, bid out for Operations and Maintenance.

Generic, Including Legacy Projects:

- Sector specific institutional frameworks may be developed to address issues for PPP infrastructure projects. An entity should bear the risk that is in its normal course of its business (for instance, acquisition of land is a normal course of business for public entities). Overriding considerations/stipulations of each entity to be factored in prior to implementation of risk management structure.
- Learnings from the Highways sector to be utilized for other sectors to customize and adopt such frameworks.
- Umbrella guidelines may be developed for stressed projects that provide an overall framework for development and functioning of the sector specific frameworks.
- DEA to finalize a national PPP Policy document.
- Unsolicited Proposals (“Swiss Challenge”) to be discouraged to avoid information asymmetries and lack of transparency.
- PPP structures not to be adopted for very small projects in view of the transaction costs involved. DEA to issue a threshold guidance.

Strengthening Policy, Governance and Institutional Capacity:

- Amend the Prevention of Corruption Act, 1988 to distinguish between genuine errors in decision-making and acts of corruption.
- Build up capacity in all stakeholders, including regulators, authority, consultants, financing agencies, developers.
- Set up an institution for invigorating private investments in infrastructure, providing guidance for a national PPP policy and developments in PPP, developing a mechanism to capture and collate data for decision making, undertaking capacity building activities. The 3P-I institute for PPPs announced in 2014 may be set-up without delay.
- Pre-qualified PPP consultancies could be empanelled by DEA as earlier which could be tapped at short notice.

- Revive the PPP Cells supported by the DEA over the last decade in Infrastructure Ministries and State Governments.
- An institutionalized mechanism like the National Facilitation Committee (NFC) to ensure time bound resolution of issues including getting timely clearances/approvals during implementation of projects for smooth running of such projects.
- Ministry of Finance to coordinate with other implementing ministries may develop a policy to promote secondary market for operational assets.
- Disallow statutory audit to books of SPVs governed by the provisions of the Companies Act. Ensure adoption of principles of good governance by the SPVs.
- Standard public authority requirements of audit till point of award (public books) and post-construction discharge by Authority of monitoring and oversight of project operations as per the concession agreement (public books) to be in the purview of statutory/government audit agencies.
- Essential to set up independent Regulators in sectors going in for PPP.
- Discourage government participation in SPVs that implement PPP projects unless strategically essential. DEA to issue guidance on Government participation in such JV-SPVs.

Reinvigorating the Sectors

- Independent sector regulators essential.
- Build upon maturing landscape in Roads and Ports PPP and move into the next phase: Roads: avoiding delays, institutionalized dispute resolution, improved project development activity, monetization of operational assets, efficiency and transparency by electronic tolling, etc.
- **Ports:** review of role and need of Tariff Authority for Major Ports (TAMP), review of MCA, quicker clearances, rationalized leases and stamp duties.
- **Airport:** PPPs to be encouraged where viable in Greenfield and brownfield projects, have policy that addresses potential demand for airport services in the country, notify a unified regulatory structure, clarity in delineation of Till policy,

6. Sailesh Nayak committee on Coastal Regulation Zone (CRZ)

Background

- The Sailesh Nayak committee report was commissioned in June 2014 after states expressed dissatisfaction regarding the limitations set by the CRZ notification of 2011.
- The report was submitted in January 2015 after rounds of stakeholder meetings with representatives from coastal states but was only released after demand under Right to Information (RTI) Act in June 2016.

Recommendations

The Committee after examining in detail the issues of coastal environment, the hardship faced by the communities, the need for economic development of the country, recommended the following:-

- It recommended several relaxations in the terms set by the 2011 notification.
- It also endorsed dilution of regulatory powers held by the central government in coastal areas.
- The recommendations have been put forth with the objective of giving a boost to tourism, port construction and real estate.
- The coastal areas have fragile ecosystems which are sensitive to various parameters such as salinity, temperature, turbidity, pollution and disturbance to the substrata. Even small changes in these parameters lead to partial or total destruction of these ecosystems, which in most cases are irreversible; hence, they should be **preserved and conserved**.
- The ecosystems such as mangroves, coral reefs, sea grass beds and coastal forests act as barriers to cyclones, flooding and erosion and also act as major carbon sinks. In view of the immense importance of the **Ecologically Sensitive Areas** (ESAs), the MoEF&CC may formulate concrete proposals and initiate activities for the conservation and protection of these ecosystems.
- The ecosystems while rendering immensely useful goods and services to the environment and coastal communities **can also attract tourism if properly managed**. Hence, it is important that the Government takes major initiatives in identifying, conserving and drawing up concrete framework based on certain successful models worldwide including that of IUCN for the **conservation, protection and promotion of eco-tourism in such areas**. These would provide alternative livelihood to local communities, thereby, reducing pressure on the fish and fisheries.

- The coastal areas also are places where **several historical, archaeological and heritage value structures** and areas are present. These features need to be protected and conserved from the historical point of view. The MoEF&CC in cooperation with the Ministry of Culture should undertake identification, mapping and conservation programmes of such areas.
- The sea bed and the bed of the tidally influenced water bodies are the **breeding, spawning and rearing grounds of several coastal/marine species** on which the local communities depend upon. Several activities such as indiscriminate mining and dredging have destroyed the benthic flora and fauna. Such activities have affected the coastal processes leading to accretion, deposition and change in hydrodynamics and morphodynamics. Hence, there is a need to **protect and regulate the activities that are detrimental to the integrity of the water bodies and their bed.**
- The marine waters and the coastal areas have been sites for **disposal of sewage, effluents and solid waste.** It is a fact that the coastal cities are growing but there is inadequate solid waste management or sewage treatment facilities to address the pollution-related problems. If left unattended, the implications would be serious and could be irreversible. Hence, the Government, at local, State and Central level, should take serious note of this issue and address the problem at the earliest. The State Pollution Control Boards should be entrusted to take up the Government's initiative of "**Swachhh Bharat Abhiyaan**" in the coastal and marine waters as well.
- Providing decent housing to all communities is of prime importance and is a fundamental requirement of the people. Although the Committee agrees that the construction of housing infrastructure would lead to congestion in the coastal areas, there is no alternative with the Governments as there are **no mechanisms in place to prevent migration of population to coastal areas or to decongest the existing populated areas.** In the absence of such mechanisms, it is imperative that housing with basic infrastructure facilities is provided to these communities in the national interest.
- Lot of ambiguity exists even today and several court cases and disputes have arisen due to **complexities in CRZ Notifications.** The High Tide

Line (HTL), Low Tide Line (LTL) demarcation, boundaries of CRZ-1, CRZ-11 and CRZ- 111 and so on, are complicated. It is recommended that the Ministry addresses each of the issues in detail and brings out guidelines, criteria and so on.

- Most of the **traditional coastal communities**, who live on the resources from the coastal areas, especially fishing, need to be provided with adequate opportunity for economic development. The local communities should be provided with an opportunity to take up **tourism, artisanal fisheries such as traditional aquaculture and ornamental fish culture**, in such ecosystem areas for their economic improvement. The Governments should work in this area which will address both conservation and economic development of the communities thereby, reducing pressure on the already depleting fisheries.
- **The shoreline change** is accelerated by anthropogenic activities. In this context, certain initiatives have been taken by the MoEF&CC through the National Centre for Sustainable Coastal Management (NCSCM) wherein the shoreline changes are being mapped and studied. The above-mentioned studies need to be taken into consideration while undertaking foreshore developmental activities.
- The Committee also proposed a draft CRZ Notification, which, if approved by the MoEF&CC, shall supersede the CRZ Notification, 2011.

List of prohibited activities in the CRZ area

- Setting up of **new industries and expansion** of existing industries except,
 - those directly related to waterfront or directly needing foreshore facilities;
 - projects of Department of Atomic Energy;
 - facilities for generating power by non-conventional energy sources and setting up of desalination plants
 - reconstruction, repair works of dwelling units of local communities
- Manufacture or handling of **oil storage or disposal** of hazardous substances.
- Setting up and expansion of fish processing units including warehousing.
- Reclamation, bunding or **disturbing the natural course of seawater**.
- **Discharge of untreated waste and effluents** from industries, cities or towns and other human settlements.

- **Dumping of city or town wastes** including construction debris, industrial solid wastes, fly ash for the purpose of land filling and the like.
- **Port and harbour projects** in high eroding stretches of the coast, except those projects classified as strategic and defense related in terms of EIA notification, 2006
- **Drawl of groundwater** and construction related thereto within 200m of HTL along the sea coast and in the CRZ of tidal influenced water bodies.
- **Construction activities in CRZ-1** except those specified in this draft notification.

Classification of the CRZ

For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows:

- **CRZ-1** are those coastal zones which are ESAs, geo-morphologically important zones and archaeological and heritage areas.

a. Ecologically Sensitive Areas (ESA)

- Mangroves
- Corals and coral reefs and associated biodiversity
- Salt marshes
- Sea grasses
- Horse shoe crab habitats
- Turtle nesting grounds
- Bird nesting grounds
- The national parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas

b. Geo-morphologically Important Zones

- Intertidal areas
- Sand dunes
- Mudflats
- Sandy beaches

c. Areas or structures of archaeological importance and heritage value sites.

Detailed instructions have been recommended by the committee for no/limited developmental activities in these areas.

- **CRZ-11** - The areas that have been developed up to or close to the shoreline along the mainland. Buildings, including slum rehabilitation,

reconstruction of dilapidated structures and unsafe buildings, shall be permitted only on the landward side of the existing road or road proposed in the Development Plan

- **CRZ-111**-These are areas which are relatively undeveloped including mainland islands and can be divided for the purpose of this regulation into (a) Densely Populated Rural areas and (b) Rural areas. In such areas, construction and other permissible activities shall be taken up beyond 50 m of High Tide Line (HTL) on the landward side in accordance with only the local prevailing norms of the State/UT.

7. Shri Shyam Benegal Committee

CBFC became the subject of controversy when it demanded visual cuts and muting of words in many movies in the past. Ironically, none of these actions are actually sanctioned either by The Cinematograph Act or by the various interpretations that courts have held on free speech and on film certification. Yet, individuals appointed to the CBFC continue to act in their discretion in the issues of public morality, free speech and permissiveness in society.

Therefore the committee was setup

- To lay down norms for film certification that take note of best practices in various parts of the world
- Give sufficient and adequate space for artistic and creative expression,
- Lay down procedures and guidelines for the benefit of the cbfc board to follow and examine staffing patterns
- To recommending a framework that would provide efficient and transparent user friendly services.

Central Board of Film Certification (CBFC)

- CBFC is a statutory body under **Ministry of Information and Broadcasting**, regulating the public exhibition of films under the provisions of the Cinematograph Act 1952.
- Films can be publicly exhibited in India only after they have been certified by the Central Board of Film Certification.
- The Board consists of non-official members and a Chairman (all of whom are appointed by Central Government) and functions with headquarters at Mumbai. It has **nine Regional offices**, one each at Mumbai, Kolkata,

Chennai, Bangalore, Thiruvananthapuram, Hyderabad, New Delhi, Cuttack and Guwahati.

- The Regional Offices are assisted in the examination of films by Advisory Panels. The members of the panels are nominated by Central Government by drawing people from different walks of life for a period of 2 years.
- The Certification process is in accordance with The Cinematograph Act, 1952, The Cinematograph (certification) Rules, 1983, and the guidelines issued by the Central government u/s 5 (B)

Highlights of recommendations

- CBFC **should only be a film certification body** whose scope should be restricted to categorizing the suitability of the film to audience groups on the basis of age and maturity except in the following instances to refuse certification
- When a film contains anything that contravenes the provisions of Section 5B (1) of the Cinematograph Act, 1952.
- When content in a film crosses the ceiling laid down in the highest category of certification.
- The applicant must specify the category of certification being sought and the target audience.
- The objective of these guidelines would be to ensure that –
 - Children and adults are protected from potentially harmful or unsuitable content
 - Audiences, particularly parents are empowered to make informed viewing decisions
 - Artistic expression and creative freedom are not unduly curbed in the process of classification of films
 - The process of certification by CBFC is responsive, at all times, to social change
 - The certification by CBFC keeps within the rights and obligations as laid down in the Indian Constitution.
- Regarding the categorisation of films, the committee recommends that it should be more specific and apart from U category, the UA Category can be broken up into further sub-categories – UA12+ & UA15+. The A category should also be sub-divided into A and AC (Adult with Caution) categories.

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- The Certification of films shall be carried out in accordance with the Guidelines proposed for certification that have been split into three sections, with each section required to be read with the other two – **General Guidelines, Issue Related Guidelines and Category Specific Guidelines.**
- The committee has also made certain recommendations regarding the functioning of the board and has stated that the Board, including Chairman, should only play the role of a guiding mechanism for the CBFC, **and not be involved in the day-to-day affairs of certification of films.**
- The functions of the Board shall be confined to the duties defined in the existing CBFC rules, which inter alia include an annual review of CBFC work, submission of annual report to the government, review of public reactions to films, and periodic recommendations for revision of guidelines.
- Given these limited functions, the size of the Board should be compact with one member representing each Regional Office. Therefore, the **total composition of the Board should not be more than nine members and one Chairman.**
- Regarding **the Regional Advisory Panel** the committee has laid down the criteria for appointment. All nine regions will have advisory panels comprising persons who are acquainted with the languages being certified by that regional office.
- Members from all walks of life, recommended by the National Film Development Corporation to the Central Government – 25%
- Members of the general public recommended by the FFSI (Federation of Film Societies of India) - 25%
- Members recommended by the National Council for Protection of Child Rights (NCPCR) and National Commission of Women (NCW)- 25%
- Representatives of the local film industry, as recommended by FFI (Film Federation of India) – 25%
- Women to have 50% representation on each Panel.
- **Online submission of applications** as well as simplification of forms and accompanying documentation.

- **Recertification of a film** for purposes of telecast on television or for any other purpose should be permitted.
- In order to preserve Indian Cinema, the committee recommends that every applicant be **asked to deposit the Director's Cut** in the NFAI for preservation of Indian Cinema, instead of the certified version, in order to truly reflect the cinematic history of Indian cinema.
- **Out-of-turn certification** may be permitted for which the applicant would have to pay five times the fee that would have to be paid if the certification were done in the normal course.
- In the event that complaints are received by the Central Government, the same shall be referred to the CBFC. The Chairperson may, if he considers it necessary to do so, refer the film to a **Revising Committee** for examination once again, on account of alleged violation of Section 5B(1) of the Cinematograph Act, 1952.

The Committee sought some more time to give recommendations on the certification of films regarding:

- Issues relating to clearances to be obtained from the Animal Welfare Board under the Prevention of Cruelty to Animals Act.
- Issues relating to depiction of smoking in films wherein films are required to show a disclaimer in every scene that involves smoking, as per a directive from the Ministry of Health and Family Welfare.

8. Lodha Committee

- In May 2013, the Delhi Police arrested three players, S Sreesanth, Ankeet Chavan and Ajit Chandila of the Rajasthan Royals on charges of spot-fixing.
- Gurunath Meiyappan, Team Principal of the Chennai Super Kings and son-in-law of BCCI Chief N Srinivasan was subsequently arrested after being questioned by police.
- The case unraveled a nexus between players, bookies, team owners and administrators involved in financial misappropriation.

Mudgal Committee

- The Supreme Court appointed a special committee under Mukul Mudgal to investigate irregularities in the IPL and BCCI following the spot-fixing scandal.

- In November 2014, the Committee found IPL COO, Sundar Raman, CSK Team Principal Gurunath Meiyappan and Rajasthan Royals owner Raj Kundra guilty of betting.
- The report found BCCI Chief N Srinivasan guilty of not acting against the accused despite knowing their violations.

Lodha Committee

- In January 2015, the SC appointed a committee headed by Justice (Retd) RM Lodha. Its members are Justice (Retd) Ashok Bhan and Justice (Retd) RV Raveendran
- To determine punishments for those named in the Mudgal Committee report and to recommend reforms for cricket in India particularly suggesting amendments to the processes followed by BCCI with a view to prevent sporting frauds.

Lodha Panel's Report

- The Lodha Committee report banned the owners of CSK and RR for life, from taking part in any BCCI related cricket activities in India.
- The Chennai Super Kings and the Rajasthan Royals franchises have been barred from competing in the IPL for two years.
- However, players from both teams are free to be auctioned to any other franchises.
- It proposed sweeping reforms in the governance structure of the Board of Control for Cricket in India.
- The reforms seek to streamline the functioning of the board and provide more accountability on the part of its members.
- These recommendations will only be binding if the Supreme Court approves their implementation. They are as follows

Recommendations

- As regards the office bearers of BCCI – president, VP, secretary, joint secretary and treasurer – certain eligibility criteria has been fixed.
- **Eligibility criteria:** He must be an Indian, he must not be above age of 70, he must not be insolvent, he must not be a minister or government servant, and who has not held office in the BCCI for a cumulative period for nine years.
- **Tenure:** Each office bearer will have a tenure of three years and no office bearer can hold the office for more than three terms with the rider that

there will be a cooling off after each term – in other words no office bearer can hold two terms consecutively to account for a ‘cooling period.’

- Bringing BCCI under of the purview of Right to Information (RTI) Act.
- It legalized betting. The panel felt that the move would help curb corruption in the game and recommended that except for players and officials, people should be allowed to place bets on registered sites.
- Further, each state is to have only one official cricket association registered with the BCCI.
- IPL and BCCI are to have separate governing bodies.
- Three authorities, an ombudsman for internal disputes, an ethics officer and an electoral officer are to be appointed to oversee BCCI activities.
- The Lodha committee stated that politicians and government officials may not hold posts in the BCCI.

BCCI's response

- The BCCI, in a Special General Meeting, unanimously decided to file an affidavit in the Supreme Court opposing the Lodha Committee's restructure recommendations due to “anomalies and difficulties”.
- Further it uses all its tricks to impede the implementation of the reforms.
- BCCI makes the process difficult to infuse transparency and accountability in its administration.

Supreme Court's Directives

- As the Supreme Court finds that the BCCI impedes and delays the progress of implementing the Lodha Panel recommendations, it has ordered to stop funding from BCCI to State Associations.
- In an interim order a fortnight ago, it directed the board, and the banks, to not allocate funds to those state units which hadn't accepted the Lodha committee recommendations in totality.
- This step is to make the BCCI fall in line.
- Without money, the states will not be able to function in the manner that they do and will have to give up their unprecedented defiance of the last few months.
- For example, for the recent Twenty20 series in the US between India and the West Indies, the BCCI paid for business class travel for members of each of its associations to go and watch in five-star comfort.

- The apex court also said that contracts above a certain sum will require the Lodha panel's approval and that an independent auditor will scrutinise the BCCI's accounts and fix this ceiling.
- Just as importantly, it directed the Lodha panel to "fix a limit on the value of contracts the board can enter."
- An independent auditor will be appointed, whose clearance is required for all the high-profile contracts, besides fixing the financial upper limit for every contract.
- Recent ruling comes at a time when media rights for the multi-crore money spinner, IPL, are to be awarded for the decade beginning 2018.
- The court's basic contention behind appointing the Lodha Committee in January 2015 to revamp the administration cannot be faulted: that the BCCI may be registered under the Tamil Nadu Societies Registration Act, but given the enormous following of the game and the public money it manages, it cannot be run like any other club or trust.

BCCI

- The Board of Control for Cricket in India (BCCI) is the national governing body for cricket in India.
- The board was formed in December 1928 as a society, registered under the Tamil Nadu Societies Registration Act.
- It is a consortium of state cricket associations and the state associations select their representatives who in turn elect the BCCI officials.

BCCI's income

- BCCI covertly manages its annual revenue of ₹2,000 crore, about half of which is earned by way of broadcast fees of ₹43 crore per match, with the rest accruing from the International Cricket Council's fund, gate fees and miscellaneous sponsorships.
- It don't receive funds from the Government of India.

BCCI's role in development of Indian Cricket

- The most influential way in which sports administrators can help promote and grow the game under their watch is to put in place infrastructure that allows the undeniable talent in the country to flourish.
- In this regard, the BCCI has done its job tremendously well — from world-class cricket grounds to smaller, but just as important, facilities in virtually every district of every state.

- Compare the condition of cricket venues — and it's worth noting that the BCCI successfully stages close to more than 1,000 domestic games of all forms a year — to the facilities sportspeople from other disciplines have access to, and there is a lesson there.
- The BCCI certainly had a major role to play in this journey.
- But the mistake it made was to think it owned Indian cricket. The courts, clearly, disagree with this stance.

Thorny Issues

- Technically, the BCCI is a private body accredited with the Registrar of Societies in Tamil Nadu.
- But when the organisation picks the Indian team, represents the country, can it claim to be a private body?
- Certainly, it is desirable that the cricket board is an independent body. But when it so obviously serves a public function, to describe it as 'private' is deceitful.
- It is worth asking the question why some of the most powerful men in the country, many of whom are charged with running the nation, are so keen to be cricket administrators when they barely have the time to do their main jobs?

9. RV Easwar committee on simplification of provisions of IT act.

Background:

- The committee was set up to **make recommendations for simplification of direct tax laws.**
- The committee has suggested several taxpayer-friendly measures to improve the ease of doing business, reduce litigation and accelerate the resolution of tax disputes.

Recommendations:

- It proposed **deferring the contentious Income Computation and Disclosure Standards (ICDS)** provisions and making the process of refunds faster. The report made following observation pertaining to ICDS - "Taxpayers are already grappling with regulatory changes of the Companies Act, 2013, Ind-AS (Indian accounting standards) and the proposed GST (goods and services tax). Industry should be allowed more time to deal with another change of this nature. The committee understands that the taxpayers feel that many of the provisions of the ICDS

are capable of generating a legal debate about which at present there is no clarity,”

- **NOTE:** ICDS standards, 10 in all, which will affect the way income is calculated, were expected to come into force from financial year 2015-16.
- The committee has asked the income-tax department to desist from the practice of adjusting tax demand of a taxpayer whose tax return is under assessment against legitimate refunds due.
- It has also proposed **deletion of a clause that allows the tax department to delay the refund due to a taxpayer beyond six months** and suggested a higher interest levy for all delays in refunds.
- The panel also **proposed that stock trading gains of up to Rs.5 lakh will be treated as capital gains and not business income**, a move that could encourage more retail investments in the stock market.
- The committee has recommended that **Tax Deduction at Source (TDS) rates for individuals be reduced to 5% from 10%**.
- It also sought to provide an exemption to non-residents not having a Permanent Account Number (PAN), but who furnish their Tax Identification Number (TIN), from the applicability of TDS at a higher rate.
- The committee also recommended that **most of the processes of the income-tax department should be conducted electronically to minimize human interface**. To this effect, it suggested that processes such as filing of tax returns, rectification of mistakes, appeal, refunds and any communication regarding scrutiny including notices, questions and documents sought should be done electronically.
- To make it easy for small businesses, the committee recommended that **the eligibility criteria under the presumptive scheme be increased to Rs.2 crore from Rs.1 crore**. It also recommended launching a similar scheme for professionals.
- **NOTE:** Under the presumptive income scheme, such professionals or businesses will not need to maintain a book of accounts but just pay tax based on presumptive income calculations. For instance, for professionals it is proposed that 33.3% of their previous year's receipts will be taken as income on which they will have to pay tax. If their profits are much lower, they will have to maintain a book of accounts clearly categorizing expenditure and pay tax accordingly.

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The Government had accepted to implement the recommendations of the committee. Some of these recommendations that required amendments to the income-tax act, were introduced as a part of the Union budget 2016-17, while some other changes in administrative procedure will be implemented through official notifications by the income tax department.