

# In Arun Goel's Appointment, Paperwork Can't Paper Over Surgical Strike on Due Process

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They are caught playing around with the time-tested established principles and procedures of good and fair governance.

In a democracy, public affairs are no one's personal fiefdom, though those in power often get their way in, say, getting someone into a position. But even here, the rules of eligibility must permit or be stretched to cover the executive's will, or be vague enough not to stand in the way.

In the instant case, a perfectly eligible official, Arun Goel, was picked and plonked in a constitutional post, that of the Election Commissioner, in just a few hours by fast-forwarding a whole gamut of procedures. In the usual course, these are/were expected to take quite some time, and mind you, gerontocrats had seeded some delays into the process, as 'breathing space' for thinking, rethinking, claims and objections. The "tearing hurry" in Goel's case that the Supreme Court has pounced upon may or may not reveal that any particular procedure was skipped. But to get it through in such a record time, every hallowed institution must surely have lifted its boom barrier in nanoseconds, which is not what they are there for. A democratic system enjoins a certain dose of fair play and transparency and expects institutions to play their roles.

Processes for the posting of officials are covered by several kilograms of orders, all in copious bureaucratese, right from the appointment of the lowly Assistant to that of the Cabinet Secretary. There are strict rules governing proposals screened by the dreaded Appointments Committee of the Cabinet headed by the PM — which, incidentally, has shrunk nowadays to include just one more member, the Home Minister. Proposals are initiated in writing, quoting the vacancy and the rule (for the record and for later reference); reasons and arguments are set forth (again, for propriety in public affairs); they suggest alternatives and shortlist a panel of names according to precedents, career performance and clear norms (to establish transparency) and then the pros and cons of each are elucidated (which means there's a fair bit of internal debate). Thereafter, the file is submitted to the minister or PM for decision. In the present case, it is amply clear that the PM had decided his candidate first, and then the rest of the system was 'advised' to fall in line — within a few hours. According to the omniscient *whisperati* of Delhi, these 'surgical strikes' represent Modi's style of functioning and has gone unchallenged for eight years.

When, on his first day in office, PM Modi was told that he could not have Nripen Mishra as his Principal Secretary because an Act debarred it, he changed the Act of Parliament on the second day by an Ordinance. He zapped the system like this at regular intervals. S. Jaishankar was appointed as the Foreign Secretary of India most dramatically — on the very last date of his service, as he was being given farewell bouquets. Nothing had prevented Modi from appointing him, more properly, weeks ahead of the date, but the elements of suspense and the theatrical would be missing. Similarly, Satish Verma, an IPS officer of Gujarat,

who had dared to indict top officers in the Ishrat Jahan killing case, was dismissed from service as he was about to retire. He lost his job for the alleged offence of “talking to the press” several years earlier. The duo has been getting away with it all, as the system has either been overawed or terror struck — which is exactly what they want — or the judiciary was/is over indulgent.

To be fair, it is not as if other governments have not had their share of indecent haste, but none employed ‘lightning strikes’ as the normal mode and none relished trampling over every principle of propriety with spiked jackboots. Since the regime has hijacked all institutions or has broken their spines, they have no option but to fall in place at the drop of a hat — for, “it has been decided.” Reverse engineering of proposals has become the rule, but this time, the real decision making process and the cosmetic paperwork which adorns it meet each other face to face — at the Constitution Bench of the Supreme Court. The post concerned is, indeed, a high constitutional one that deserves the weary nation’s attention though, on the face of it, the Supreme Court can hardly do much other than shed light on the moral compass. But even a candle matters in the enveloping darkness and judicial legislation has often been more than just a beacon.

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