ON INTERNET LAW

Mamata Banerjee, West Bengal chief minister @MamataOfficial

We are extremely concerned and worried about the central government's sudden interest in controlling the Internet.

Quick View

Talks on ways

to boost export tomorrow

IN THE WAKE of growing protectionism globally, Centre, state governments and industry representatives will meet on January 10 to discuss ways to boost the country's exports, an official said Tuesday. The issues would be deliberated upon in the fourth meeting of the Council for Trade Development and Promotion, which will be chaired by the commerce and industry minister Suresh Prabhu.

Nod to NMDC's ₹1,000-cr buyback

THE FINANCE MINISTRY has approved state-owned iron ore producer NMDC's share buyback plan worth ₹1,000 crore, an official said. The timeline for the launch of the offer will be decided by NMDC's board. "NMDC's ₹1,000 crore share buyback offer has been approved by the finance ministry," the official said.

Tax evasion of ₹48,555 cr found

GST, CENTRAL EXCISE and service tax evasion detected during the April-December period of the current financial year stood at ₹48,555 crore, the highest in two years.

More women staff in CRPF, CISF

WOMEN representation in the CRPF and CISF will be made 15% while it will be 5% in BSF, ITBP and SSB, Union minister Kiren Rijiju said Tuesday. Rijiju said in Lok Sabha that the central government has been working for enhancement of women representation in the constabulary of paramilitary forces.

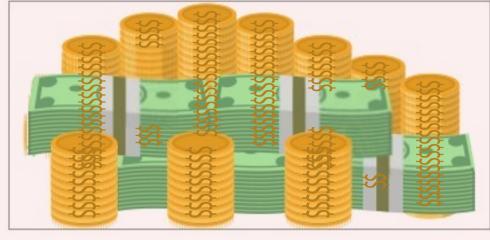
STRENGTHENING BALANCE SHEET

Govt mulls ₹4,000-crore infusion into 3 insurers

Move is aimed at improving the solvency of three firms, two of which are already struggling to meet the solvency ratio requirement

BANIKINKAR PATTANAYAK New Delhi, January 8

AFTER PUBLIC SECTOR banks (PSBs), the government is considering infusing around ₹4,000 crore next fiscal into three state-run general insurance firms — National Insurance Company, Oriental Insurance Company and United India Insurance Company —that it has proposed to merge. The capital infusion is aimed at improving the solvency of these companies, two of which (barring Oriental Insurance) are already struggling to meet the solvency mates, the larger entity formed in the next fiscal instead of the ₹88,139 crore in FY18.



by the merger of the three insur-

ers will be the largest non-life

insurance company in India,

with a value of ₹1.2-1.5 lakh

crore. While Oriental Insurance

already complies with the sol-

vency requirement, as stipu-

lated by the regulator IRDAI,

United India has a solvency

margin of 1.21 and National

The process of the merger

— announced in the Budget for

2018-19 — has started, with

the shortlisting of manage-

ment consultancy firm EY to

advise on the proposed move.

However, the merger is

Insurance is just around 1.5.

ratio requirement of 1.5.

Sources told *FE* that the proposal by the department of financial services may be included in the upcoming interim Budget. "The infusion will strengthen the balance sheets of these insurers, which is essential before they are merged and listed," said one of the sources. Rising underwriting losses

and higher claims have eroded the profitability of many general insurance companies, including the state-run ones, in recent years, causing their solvency ratio to slip.

According to initial esti- expected to be completed only

the rationalisation of branches and workforce to integration of software — are yet to be chalked out. The government intends to list the broader entity after the merger. The three insurance companies together accounted for 200 insurance products and a

market share of around 35% as of March 2017. Their combined net worth was to the tune of ₹9,243 crore and employee strength of around 44,000 across 6,000 offices. The government had, in

budgeted target of FY19, as

various issues — ranging from

2017, raised more than ₹17,500 crore by listing staterun New India Assurance Company and General Insurance Corporation of India.

The government has been infusing capital into PSBs in recent years to help them meet regulatory requirement and grow out of the bad loan mess. It has planned to infuse ₹1.06 lakh crore into PSBs in the current fiscal, compared with subsidy bills/arrears of FCI and

Electricity generation rises 6.7% in April-Dec

FE BUREAU

POWER PLANTS ACROSS the country generated 1,047.3 billion units (BU) of electricity in April-December, 2018, registering a 6.7% year-on-year (yo-y) growth. While production from conventional energy sources grew at 4.7% y-o-y, supplying 949.6 BU, renewable energy-based power generation was 97.7 BU, clocking a 29.6% rise. The share of renewables in power production has grown to 9.3%, compared with 7.7% recorded in the first nine months of FY18. The rise in overall generation rate is significantly higher than compound annual growth rate of 5.6%

New Delhi, January 8 **REPORT CARD EXPRESSING CONCERN OVER** the Centre's increasing

reliance on off-Budget financing, the Comptroller and Auditor General of India (CAG) on Tuesday said off-budget capex and revenue expenditures

In the FRBM (Fiscal Responsibility and Budget Management) Act compliance report for FY17 tabled in Parliament, the CAG pulled up the Centre for underestimating of the total liability of the Centre by 5 percentage point and revenue deficit by ₹50,999 crore.

understate fiscal indicators.

FE BUREAU

"Government may consider putting in place a policy framework for off-budget financing, which, amongst others, should include disclosure to Parliament," the national auditor said.

In terms of revenue spending, off-budget financing was used for covering deferring fertiliser arrears/bills, food for implementation of irrigation scheme. In terms of capital expenditure, off-budget financing of railway projects through borrowings of the IRFC and financing of power projects through the PFC were also outside the budgetary control.

The Centre reported actual revenue deficit and fiscal deficit achievement at 2.1% and 3.5%, respectively, in FY17 as against the FRBM targets of 2.1% and 3.3%, respectively.

50.5%

Total liability of the Centre as against **45.5%** reported

FRBM: Off-Budget capex,

fiscal indicators, says CAG

revenue expenses understate

₹50,999 cr Revenue deficit

understated

Off-Budget financing undermining transparency, put in place a policy framework for it

The achievements are questionable though. The accumulated carryover liabilities on account of food subsidies had increased from ₹23,427 crore in FY12 to ₹81,303 in FY17, the CAG report said. To cover financial requirements, FCI resorted to borrowings via bonds, unsecured short term loans and National Small Saving Funds (NSSF) loans. FE recently reported that FCI has borrowed ₹1.21 lakh crore from NSSF till Mach 31, 2018 as against subsidy arrears of ₹1.35 lakh crore. Due to lack of funds, the Centre has again arranged another ₹27,000 crore for FCI from NSSF to repay principal installments in FY19 for the earlier loans, creating a debt trap for the gov-

Similarly, the government has arranged off-budget financing of fertiliser subsidy arrears of ₹39,057 crore in FY17 while ₹9,086 crore was arranged via NABARD for implementation of irrigation schemes. Such arrangements mean

normal government expenditure was being substituted with loans in the accounts of PSUs instead of cash on fears of fiscal slippage. In FY19, the Centre has lined up plans to raise a massive ₹1.7 lakh crore extra-budgetary resources (EBR) via FCI, NABARD, REC, PFC, NHB, HUDCO and HEFA, up 110% from FY18. These loans will have to be serviced out of the Budget later.

On total liability of the Centre, the CAG noted that taking into account the understatement of Public Account liability of ₹7,63,280 crore, total liability at the end of the financial year 2016-17 would be ₹76,69,545 crore which is 50.5% of GDP rather than 45.5%. Similarly due to misclassification of expenditure, short/non-transfer of levy/cess to earmarked funds in the Public Account from the Consolidated Fund of India, resulted in understatement of revenue expenditure at least by ₹50,999 crore and hence revenue deficit was understated by the same amount, it added.

sums borrowed by PSUs — ₹1.02 lakh crore by IRFC for rail projects and ₹2 lakh crore by PFC for power projects — are

CAG also noted that huge

Stray incidents of violence mark Day 1 of workers strike

STRAY INCIDENTS OF violence in West Bengal, public bus services going off the road in Mumbai and partial impact on banking operations marred the first day of a two-day strike called by trade unions to protest against alleged antipeople policies of the central government. Normal life was largely

unaffected in most parts of the country barring Left-ruled Kerala where the stir turned into a 'hartal' with schools and colleges being shut and banking services being affected.

In Mumbai, over 32,000 employees of Mumbai's civic transport undertaking went on an indefinite strike to demand higher wages. The



Bengaluru on Tuesday

protest, which coincided with the two-day strike called by 10 trade unions, affected nearly 25 lakh daily commuters.

Meanwhile, the central government warned its employees of disciplinary action if they go

on strike and do not join work. Two leading bank unions joined the strike, partially affecting banking operations. However, SBI and private sector banks reported no impact on their operations.

New Delhi, January 8

recorded between FY15-18.

'Shortcomings in spectrum management, losses to exchequer' PRESS TRUST OF INDIA the first-cum-first-service categories of spectrum users

ernment.

New Delhi, January 8

THE COMPTROLLER AND Auditor General (CAG) has found various shortcomings in spectrum management by the telecom ministry that have led to losses to the government exchequer.

The auditor found that a set of spectrum was allocated to a telecom operator in 2015 on

(FCFS) basis in contravention to the recommendations of a committee, while 101 applications for microwave (MW) spectrum were pending with the government.

The CAG in its report said the Department of Telecommunications (DoT) constituted a committee in December 2012 to look into the allotment of spectrum in various

and proposed that the spectrum allotment in microwave band to all the operators should be done through market-related process — auction. "However, in contravention

of the committee's recommendations, allocation of MW access spectrum has been done on FCFS basis till date as was being done for 2G licence and access spectrum till 2009," the report said.

From the Front Page

BT cotton: SC restores Monsanto patent, for now

SUCH A BROAD-BRUSH approach, if it had found favour with the apex court as well, would have hit the India business of global biotech firms hard. While restoring Justice RK Gauba's March 2017's order, the SC bench comprising justice RF Nariman and Navin Sinha said the division bench should have "confined itself to examination of the validity of the order of injunction granted by the single judge only" and should not have decided about the validity of Monsanto's patent. It remanded the suit to the single judge for disposal in accordance with law and asked parties to cooperate and facilitate the single judge in early dis-

posal of the suit. Both Monsanto (via its Indian arm Mahyco-Monsanto Biotech)and the Hyderabad-based Nuziveedu had filed cross-appeals against the division bench judgement in

According to the December 2015 seed price control order issued by the agriculture ministry, the maximum sale price of the widely-used Bollgard II variety of Bt cotton seeds for the 2018-19 kharif season is Rs 740 (inclusive of trait value of Rs 39) for a 450-gm packet. Before the Centre capped retail price of the Bt cotton seed, its price was in the range of Rs 830-1,000/450-gram packet, as existed in 2015-16 kharif

While the price controls exist (these are now crippling even the local seed companies), costlier illegal copies of Monsanto's latest seeds are flooding the market. The seeds, being sold by traders without even proper labelling, retail at anywhere between Rs 1,200 and Rs 1,500 per packet. Unnerved by the HC divi-

sion bench ruling that made it impossible for it to stop sale of seeds bearing its technology by the sub-licencees and the price controls, Monsanto has been going slow on its plans for the India market. It withdrew the herbicide tolerant cotton seeds from the approval process in India in August 2016. Also, it reportedly put in abeyance plans to submit newer seeds for approval in India.

The country's cotton production has risen manifold since the introduction of Bt seeds · from 13.6 million bales in 2002-03 to a projected 33.92 million bales in 2017-18 crop year (July-June). Each bale weights 170 kg.

IL&FS classification: RBI rejects banker's plea for six-month moratorium

During this period, they wanted their exposure to be treated as standard. The exposure of banks is

about 60% of the total debt of the IL&FS group — ₹50,000 crore out of ₹91,000 crore.

According to RBI norms, banks have to make a provision (or in some cases as a penalty accelerated provisioning) of anywhere between 15% and 40% on sub-standard nonperforming assets from six months to a up to a year, based on whether it is secured or not. Second year onwards, the NPA attracts a provisioning of 100% on the unsecured portion and between 25%-40% between second and fourth year on the secured portion. On October 15, 2018, the

NCLAT in an interim order stayed all proceedings against IL&FS group and its 348 firms till further orders, hearing an urgent petition moved by the government. This was after the ministry

of corporate affairs had approached the appellate tribunal after the Mumbai bench of National Company Law Tribunal (NCLT) had turned down its plea to grant 90-day moratorium over loans taken by IL&FS and its subsidiaries.

The NCLT on October 1 suspended the board of IL&FS on the government's plea and authorised reconstitution of the board by appointing seven directors two days later.

Copper smelter: SC allows Vedanta to reopen plant Vedanta had filed a cross-

appeal against this order.

There are two parallel proceedings going on in the apex court on the issue. While the Tamil Nadu government has appealed against the NGT order which allows the company to open the plant, Vedanta's appeal is against the high court order restraining it from opening the plant. The Tamil Nadu govern-

ment has said that the tribunal had no jurisdiction to hear the issues related to policy decisions and has sought a stay on the green tribunal's December 15 order that set aside its decision to shut down the plant and described the government's order as "non-sustainable and unjustifiable".

The NGT has directed the Tamil Nadu Pollution Control

Board to issue a fresh order of renewal of consent for the smelter within three weeks. The tribunal had also asked the company to take a series of steps for "safeguarding environment". The factory was directed to spend ₹2.5 crore for its faulty handling of 3.5 lakh tonnes of copper slag near the factory. The NGT said the company should spend within three years ₹100 crore on welfare of inhabitants of the area as it had offered to do. It also suggested that the company take steps for safeguarding environment, like creating a dedicated website where the stakeholders can lodge their environment related grievances.

Seeking setting aside of the impugned judgement, the TN government in its appeal before the apex court said that the tribunal failed to consider the data, document and evidence furnished by state pollution control board to prove that the company had irreversibly polluted the ground water in and around Tuticorin district.

"This is an important development for both the smelter and the surrounding communities which will allow those affected by the closure to regain their livelihood and Vedanta to help meet India's copper needs. We are approaching the state government for necessary approvals for restarting the smelter as per the Supreme Court's directions," Sterlite Copper said in an official statement.

"We are looking forward for the restart of one of the best copper smelters of the world as we remain committed towards world class environmental standards," it further stated while thanking the people of Tuticorin for "their support, which will go a long way in promoting socio-economic development in the region".

As many as 13 people were

killed and several injured on May 22 last year when police opened fire on a crowd protesting against the plant they blamed for environmental pollution. Several people were also arrested for rioting, burning vehicles in the premises of the collectorate, pelting stones and damaging public property. This had prompted the Tamil Nadu government on May 28 to order the state pollution control board to seal and "permanently" close the mining group's copper plant.

The plant had made headlines in March 2013 when a gas leak had led to the death of one person and injuries to several others, after which then chief minister J Jayalalithaa had ordered its closure.

The company had then appealed to the NGT which had overturned the government order. The state had then moved the top court, which in April 2013 had allowed the Sterlite copper smelter plant to function in Tuticorin in public interest, but asked the company to pay ₹100 crore as compensation for polluting land and water by running it with-

out approvals. **CBI** director: Verma back for now, with curbs on powers

The verdict came on petitions by Verma and NGO Common Cause challenging the divestment. The petitioners had contended that the action amounted to transfer, which requires prior consent of the committee, but the government took the stand that it did not amount to transfer as understood in service jurisprudence.

Disagreeing with the government stand, the Supreme Court, in a 44-page judgement, said that "if the word 'transferred'has to be understood in its ordinary parlance and limited to a change from one post to another... such an interpretation would be self-defeating and would clearly negate the

"In such an event," the order

legislative intent".

noted, "it will be free for the State Authority to effectively disengage the director, CBI, from functioning by adopting various modes, known and unknown, which may not amount to transfer but would still have the same effect as a transfer from one post to another, namely, cessation of exercise of powers and functions of the earlier post". The bench added that this was clearly not what the legislature could have intended".

However, it said, "As the issue of divestment of power and authority of the director, CBI, is still open for consideration by the committee and our interference with the impugned orders has been on the ground indicated above, we deem it proper to direct that the petitioner Shri Alok Kumar Verma, director, CBI, upon reinstatement, will cease and desist from taking any major policy decisions till the decision of the committee permitting such actions and decisions becomes available within the time frame indicated."

Writing for the bench, the CJI added that Verma's role in the interregnum "will be confined only to the exercise of the ongoing routine functions without any fresh initiative, having no major policy or institutional implications". The bench said the history

of agency's evolution had shown that it "has been perceived to be necessarily kept away from all kinds of extraneous influences so that it can perform its role as the premier investigating and prosecuting

agency without any fear and favour and in the best public interest". "The head of the institution, namely, the director, naturally, therefore, has to be the role model of independence and integrity which can only be ensured by freedom from all kinds of control and interference except to the extent that Parliament may have intended... (This) would require all authorities to keep away from intermingling or interfering in the functioning of the director."

The court made it clear that where any such interference on the functioning of the director may be called for, "public interest must be writ large against the backdrop of the necessity", and that the "relevance and adequacy of the reasons giving rise to such a compelling necessity can only be tested by the opinion of the committee" that appoints the CBI director.

In a 1997 judgement, the Supreme Court had entrusted the task of selecting the CBI director to the committee, given the CVC superintendence over the agency's functioning, and fixed a minimum two-year tenure for the director. The Centre had contended

that the committee was only tasked with selecting the CBI director and appointment was made by the government. But the court did not find merit in this and said "no provision with regard to interim suspension or removal is to be found in the DSPE (Delhi Special Police Establishment) Act, 1046 (under which the agency was established)".

The court also noted that enactments in some states, while providing for a tenure of two years for the director general of police, expressly contemplate removal of the incumbent before expiry of tenure on certain specified

grounds, but not the DSPE Act. The court said, "if the legislative intent would have been to confer in any authority of the State power to take interim measures against the director, CBI... surely, the legislation would have contained enabling provi-

sions to that effect". The court was also seized of some interlocutory applications regarding transfers etc effected by the interim CBI director in the matter of investigations against the agency's special director Rakesh Asthana. The court termed these as "consequential orders" and added that the parties were free to challenge them before an appropriate forum if required.

Upper-caste quota: LS passes 'historic' Bill; most parties support

"YOUR DOUBTS ARE unfounded. Put them to rest," he told opposition members, many of whom dubbed the bill as "jumla" and "gimmick", questioned its legal standing and accused the government of bringing it in haste with an eye on the Lok Sabha polls. Gehlot claimed that the bill is in line with Prime Minister Narendra Modi's assertion

when he assumed power in

2014 that his government

would be devoted to the cause

of the poor and work for "sabka

saath sabka vikas" (With all,

development for all). "This is a historic decision and in the interest of the country," he said.

Modi and Congress president Rahul Gandhi were present in the House when the bill was passed. The government will table the bill in the Rajya Sabha on Wednesday.

HYDERABAD