

## Jammu and Kashmir right to Information (Amendment) Bill, 2007

### Urgent Action Appeal

Dear madam/sir,

The Government of Jammu and Kashmir is most likely to table a set of amendments to the *Jammu and Kashmir Right to Information Act, 2005* in the Assembly today. The links to the text of the amendments and CHRI's submission are given below. We have learnt that the State Government is likely to push it through the Assembly today and the Legislative Council tomorrow. It is worth mentioning here that both days happen to be the last working days of the Houses before they are adjourned. Apologies for the short notice as we got to know about the political developments around these amendments only last night.

### **Text of the J&K RTI Amendment Bill**

(Please click on

[http://www.humanrightsinitiative.org/programs/ai/rti/india/states/jk/jk\\_rti\\_amendment\\_bill\\_2007.pdf](http://www.humanrightsinitiative.org/programs/ai/rti/india/states/jk/jk_rti_amendment_bill_2007.pdf))

### **The proposed amendments are weak because -**

- 1) The J&K RTI Act is closely modeled on the *Freedom of Information Act, 2002* which was repealed by Parliament when it passed the *Right to Information Act, 2005*. Except for setting up the State Information Commission (SIC) which will give decisions within a deadline of 60 days there is little to be appreciated in the proposed Amendment Bill.
- 2) The J&K SIC will be toothless as it does not have the power to penalize erring officers. It can only recommend disciplinary action to the department concerned. It does not have a monitoring and reporting role [comparable to the powers of the Information Commissions given in Sections 19(8) and 25 of the Central RTI Act].
- 3) Neither the existing version of the J&K RTI Act nor the proposed amendments make it clear that applicants need not give reasons for seeking information. This loophole will be used by many bureaucrats to deny access to information on the grounds that reasons were not given.
- 4) The public bodies are required under the existing version of the J&K RTI Act to disclose only six categories of information proactively as against sixteen categories required by the Central RTI Act. There is no requirement to proactively disclose financial information such as budgets, allocations, disbursement reports and subsidy schemes. The Amendment Bill is silent on this issue.
- 5) Neither the existing version of the J&K RTI Act nor the Central RTI Act seems to cover the High Court of Jammu and Kashmir. The Amendment Bill is also silent on this issue. If it passes muster in the legislature the J&K High Court will have no obligation to give access to information under any RTI Act in the country.
- 6) The Amendment Bill proposes to delete an existing exemption and add more exemptions to an already long list contained in the J&K RTI Act. There is no public interest disclosure clause [comparable to Section 8(2) of the Central RTI Act] or a sunset clause [comparable to Section 8(3) of the Central RTI Act] in the existing version of the J&K RTI Act. The Amendment Bill is also silent on both issues. This means that access to all exempt information will be denied in perpetuity even if there is a strong public interest ground in favour of disclosure.
- 7) There is no provision either in the J&K RTI Act or in the Amendment Bill for awarding compensation to citizens who suffer loss or detriment because of the unreasonable denial of access to information [comparable to section 19(8)(b) of the Central RTI Act].

- 8) There is no obligation on the State Government to conduct public education programmes on RTI for citizens or training programmes for officers either in the J&K RTI Act or the proposed amendments.

## **What is CHRI's stand?**

CHRI believes that the proposed amendments are too weak and will not bring the J&K RTI Act at par with the Central RTI Act. Many retrogressive features in the existing version are not being changed.

CHRI believes that the Government of Jammu and Kashmir has rushed through this exercise of amending the J&K RTI Act hastily without any visible public consultation on the issue.

CHRI strongly urges the Government of Jammu and Kashmir to refer the proposed amendments to a Joint Select Committee of both Houses of the J&K Legislature for detailed discussion. Views of citizens and civil society and media representatives on the J&K RTI Act and the proposed amendments should be invited after giving sufficient advance notice through the mass media. When these views are taken into consideration there is a strong possibility that this Committee will recommend more measures for strengthening the J&K RTI Act and bringing it up to par with the Central RTI Act at least.

CHRI has already faxed a legislative brief on the implication of the proposed amendments to Shri Yusuf Tarigami, MLA to aid him when he speaks on the Amendment Bill today.

## **CHRI's submission on the J&K RTI (Amendment) Bill, 2007**

(Please click on

[http://www.humanrightsinitiative.org/programs/ai/rti/india/states/jk/jk\\_rti\\_bill\\_2007\\_chri\\_submission.pdf](http://www.humanrightsinitiative.org/programs/ai/rti/india/states/jk/jk_rti_bill_2007_chri_submission.pdf))

## **What can you do?**

***You can do your bit to put pressure on the State Government and the Members of the Assembly and the Council to defer passage of the amendments and refer them to a Joint Select Committee of both houses of the State Legislature. This will ensure more time for detailed discussion on the existing version of the J&K RTI Act and the Amendment Bill.***

## **Whom do you contact?**

You may like to convey the following message:

***“We strongly urge you to use your influence to defer passage of the Jammu and Kashmir Right to Information (Amendment) Bill 2007 through the J&K Legislature. The proposal to amend the J&K RTI Act is indeed commendable and long overdue. However the proposed amendments fall short of the standards of guarantee and protection to the citizens’ right to information contained in the Right to Information Act, 2005 operational in other parts of the country. There has been no visible public consultation on the proposed amendments. We urge you to take immediate action to ensure that the Amendment Bill is referred for detailed deliberation to a Joint Select Committee, consisting of members of the Legislative Assembly and the Legislative Council. This Committee must invite the views of citizens and civil society representatives on how best to strengthen the J&K RTI Act, beyond the proposed amendments, in light of the two-year experience of implementing the Central RTI Act. These views should form the basis of any amendment to the J&K RTI Act.”***

## **By Email**

to the Chief Minister Shri Ghulam Nabi Azad and the Chief Secretary Shri. C. Phunsog - on the Government website. Please click on to access the email page of the J&K Website:

<http://jammukashmir.nic.in/contact/feedbk.htm>

## **By Fax, Telephone or Surface Mail (speed post / courier / inland letter / post card)**

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**Please circulate this as widely as possible amongst your networks.**

Apologies for cross posting.

Sincerely,

Venkatesh Nayak

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