

Its Official Again - RTI Act will be amended says the Minister for Personnel and Training – July 08, 2009

Dear riends,

The Minister of Personnel, Government of India has stated clearly that the Right to Information Act (RTI Act) will be amended. The Minister was replying to questions raised by 2 Lok Sabha MPs on 8th July, 2009.

The purpose of the amendments will be to:

- a) review the list of organisations in the Second Schedule of the Act (read with section 24)
- b) make rules for public authorities to disclose more information in non-strategic areas.

The Minister has stated that NGOs have sent representations to the Government of India expressing doubts about the proposed amendments. He has also said that NGOs and social activists will be consulted on the proposed amendments. However he said that no time-frame could be fixed for the completion of the amendments process. The complete text of the question and answer has been uploaded on our website at the following link:
http://www.humanrightsinitiative.org/programs/ai/rti/india/national/2009/amendment_of_rti_act.jpg

Disclosure of information in non-strategic areas:

This idea is a repetition of what has already been stated in the President's address to the joint session of Parliament in June this year. More proactive disclosure is a welcome idea. However when compliance with section 4(1)(b) on voluntary disclosure of 17 categories of information is so poor at different levels of the administration at the Centre and in the States it remains to be seen how adding more categories to this list will improve transparency. We hope an effective mechanism will be put in place to ensure better proactive disclosure first and foremost. It must be remembered that clause 17 of this section is a catch all provision ("such other information as may be prescribed"), so there is no need to amend the RTI Act for this purpose.

Additional categories may be incorporated in the RTI Rules. But no Rules have been notified by the Government of India till date regards the implementation of section 4(1)(b). So all PIOs who charge applicants money for giving copies of information that is required to proactively disclosed are doing so without legal authority. Unless specific Rules are made for charging fees for providing copies of proactively disclosed information they must be given free of cost. This is the language and intention of section 4(4) to which even Information Commissions have not paid serious attention.

Reviewing the list of partially excluded organisations:

This is a new development although readers will remember that several organisations have been requesting that they be excluded under section 24. There is no clear indication in the Minister's reply as to whether more intelligence and security organisations will be added to the existing list of 22 entities or this number will reduced at the end of the review exercise. Readers will recollect that section 24 has been misused by State Governments to exclude categories of information rather than specified organisations from the RTI Act. For example, in 2005 the Government of West Bengal listed topics such as "sanction for prosecution", "verification of antecedents", preparation of bills and rules" under the Political Branch of the Home Department and "all police reports (except under orders of the Court of Law)" under the Police Branch of the Home Department as being excluded under section 24.

In 2008 the Government of Tamil Nadu excluded the Directorate of Vigilance and Anti-Corruption and the Tamil Nadu State Vigilance Commission stating, "Of late there has been a tendency on the part of some citizens to ask for a lot of information under the Right to Information Act, 2005. The Government feel [sic] that in vigilance cases giving information at the initial stages, investigation stages and even prosecution stages lead to unnecessary embarrassment and will hamper due process on investigation."

More recently the Government of Uttar Pradesh excluded 14 areas completely unrelated to security and intelligence organisations under section 24. Later 9 areas were withdrawn but 5 continue to remain operational, namely, appointment of Governors; appointment of Ministers of various ranks; letters written by the Governor to the President; code of conduct of the ministers and appointment of Judges of High Court. It looks like adequate intelligence about the RTI Act was not available while drafting these notifications. All these attempts are clearly in violation of the RTI Act.

However, it must be pointed out that any addition to or removal from this list of partially excluded organisations will not require any amendment of the RTI Act. This can be done with a simple gazette notification.

Having said that it is still not clear why such measures are being talked about in terms of amending the RTI Act.

Consultation with NGOs and activists:

The clear statement that NGOs and social activists will be consulted is to be welcomed. This qualifies to be treated as an assurance from the Government, so it is likely to be monitored by the Committee on Assurances of the Rajya Sabha. However it is not clear as to when such consultations may happen.

What do we need to do?

There is no clear case made out by the Minister for amending the RTI Act in this reply. The stated position that most of us have taken- "no amendments" continues to hold good. So it is important for all of us to write to the Ministry of Personnel and ask for:

- 1) Detailed amendment proposals being considered in the context of the RTI Act
- 2) Details of the consultation process with NGOs and social activists being planned by the Ministry.

Please send your communication to:

1) Mr. Prithviraj Chavan, Minister of State, Personnel, Public Grievances and Pensions, Government of India.

Email: mмос-pp@nic.in or mchavanprithviraj@sansad.nic.in

2) Mr. Rahul Sarin, Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India.

Email: msecy_mop@nic.in

Please copy your communications to us at this email address. If you receive any response from the above functionaries, please forward the reply to the RTI fraternity.

Our Slogan: NO AMENDMENTS - LEAVE OUR RTI ACT ALONE.

Thanks,

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