

Ella Kannada Abhimaanigala Vedike International - E KAVI

Monday, September 19, 2005

To,

The Hon'ble Governor of Karnataka,

Raj Bhavan,

Bangalore 560001

**Sub: Demand For Removal of Shri.KK Misra, Karnataka State Chief Information
Commissioner under Section 17 (3) (b) & 17 (3) (e) of the Right To Information
Act-2005**

Sir,

We wish to bring following acts of omissions during implementation of the Right To Information Act-2005 by Government Of Karnataka:

1. Section 15 of the Right To Information Act-2005 stipulates a minimum qualification for a candidate who shall be appointed as State Chief Information Commissioner, which are as under:

" The State Chief Information Commissioner and the State Information Commissioners shall be Persons Of **Eminence In Public Life** with wide knowledge and experience in Law, Science And Technology, Social Service, Management, Journalism, Mass Media Or Administration And Governance."

2. We understand that that Mr.KK Misra who has been appointed as State Chief Information Commissioner vide notification number DPAR 77 RTI 2005 Bangalore Dated 30th July 2005, **does not have the required qualifications for appointment** as State Chief Information Commissioner.
3. The basic qualification required is of "**Eminence In Public Life**". **Government of Karnataka has been directed by Hon'ble High Court of Karnataka to File criminal cases against Shri.KK Misra and prosecute him** as under:

- Under Sec. 340 of Cr.PC for "**Knowingly Withholding Important Facts And Documents** from the Hon'ble High Court of Karnataka and **Making False Statements In The Affidavits Filed In This Court**" in the Rs 2,250 Crores Bangalore Mysore Infrastructure Corridor Project Case.
 - On charges of "**Perjury And Withholding** " documents in the Rs 2,250 Crores Bangalore Mysore Infrastructure Corridor Project Case. Hon'ble High Court of Karnataka also directed the Registrar General to **file a complaint** in this regard under **section 388 Cr.PC**.
- 4. A person who **Lies And Cheats** to Hon'ble High Court of Karnataka as above cannot be called as a Person Of **Eminence In Public Life**.
- 5. The fact that Shri.KK Misra retired as Chief Secretary on 30th July 2005 and was appointed as State Chief Information Commissioner on the same day i.e. 30th July 2005 puzzles us.
- 6. The panel headed by the Chief Minister either has not applied its mind or was not told about the background of the high court strictures against the incumbent before recommending his name to Hon'ble Governor for appointment as Chief Information Commissioner.
- 7. A bureaucrat who presided over the state govt administration till recently cannot be considered independent enough to be the final apex appellate authority under the Right To Information Act. There would be disputes regarding requisitioning of information elicited from government functionaries when he was the chief secretary. He cannot legally/morally decide these disputes now as the information commissioner.
- 8. This principle is followed scrupulously by the judiciary. Judges do not hear cases where any person who was their client while their practicing law figures in, or if there is anyone closely related, closely connected etc involved. The matter is passed on to other judges.
- 9. Here we have only one chief information commissioner. Even if we presume that such matters will be passed on to the information commissioners, it must be noted that they are subordinate to the chief info commissioner who continues to be the boss and final arbitrator of the decision being dished out by the

commission. So we cannot have such a person as State Chief Information Commissioner.

10. His continuation in the post will seriously jeopardize / violate people's fundamental right to information which has been upheld as an integral part of article 19 (1) of the constitution of India.

11. From all above submissions it becomes clear that **Shri.KK Misra is prima facie held to be involved in an offence involving moral turptitude, that too by Hon'ble High Court of Karnataka. This as good as conviction, for an institution as important as State Chief Information Commissioner, whose duty is to set up practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.**

12. Now it is very clear that Shri.KK Misra is:

- ⊙ **Not a person having Eminence In Public Life, hence not qualified to the office of the State Chief Information Commissioner.**
- ⊙ **Prima facie held to be involved in an offence involving moral turptitude, by Hon'ble High Court of Karnataka, which as good as conviction.**

13. Hence we request you utilise the powers vested in your office and:

- ⊙ **Make a Reference To The Supreme Court** under Section 17 (1),
- ⊙ **Suspend him from office** Section 17 (2) and
- ⊙ **Prohibit him from attending the office** during inquiry under Section 17 (2). Or
- ⊙ **Remove** KK Misra from the position of state chief information commissioner immeadiatly, by exercising powers under Section 17 (3) (b), as there is prima facie evidence by way of strictures passed by hon'ble High Court of Karnataka on his involvement in an **offen! ce involves moral turptitude.**

14. The following are the extract from the Right To Information Act-2005 essential for saving the Sanctity Of the New Born enactment for your kind ready reference:

Section 17 (1): Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of **proved misbehaviour** or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

Section 17 (2): The Governor may **suspend from office**, and if deem necessary **prohibit also from attending the office during inquiry**, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

Section 17 (3): Notwithstanding anything contained in sub-section (1), the **Governor may by order remove** from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,-

Section 17 (3) (b): Has been convicted of an **offence**, which, in the opinion of the Governor, **involves moral turpitude**.

15. The whole nation is anxiously awaiting your action in this regard. The success or failure of the Right To Information Act-2005 depends upon your quick and rightful action.

Yours Truly,

**Shivaramanna
E KAVI Kaanoonu Samiti
94487-04693**

Copy to:

1. The Hon'ble President of India.
2. The Hon'ble Prime Minister of India.
3. The Hon'ble Chief Minister Of Karnataka.
4. The Hon'ble Dy Chief Minister Of Karnataka.
5. Smt.Sonia Gandhi ji, The Chairperson United Progressive Alliance, The Chairperson National Advisory Council, and President, Indian National Congress, New Delhi.
6. Shri.H.D.Devegowda, Former Prime Minister, National President Janata Dal (Secular) & Member of Parliament.
7. Shri.Prakash Karat, General Secretary, CPI (M).
8. Shri.A.B.Bardhan, General Secretary, CPI (I).
9. Shri.L.K.Advani, Leader of Opposition, Loka Sabha.
10. Shri.Jaswant Singh, Leader of Opposition, Rajya Sabha.
11. The Central Vigilance Commissioner, New Delhi.
12. The Loka Ayukta, Karnataka.