

The Catalyst Trust

3, Shanthi Avenue Dr. Radhakrishnan Nagar, Thiruvanmiyur, Chennai 600 041, Ph: 24461597

The Human Rights Advocacy and Research Foundation (HRF)

No.10. Thomas Nagar, Little Mount, Saidapet, Chennai 600015 Ph: 22353503

Civic and Consumer Action Group (CAG)

7, Venkateswara Nagar, 4th Street, Adyar, Chennai 600 020 Ph:24914358

15 July 2004

The Chief Secretary
Government of Tamilnadu
Fort St. George
Chennai 600 009

Sub: Tamilnadu Right to Information Act 2004- Draft

Madam,

As you are aware The Tamilnadu Right to Information Act 1997 was introduced in the Tamilnadu Legislature on 17 April 1997. At that time it was stated in the Statement of Objects and Reasons

“In order to provide the Public the Right of Access to Information about the administration and to enable them to get details about the Schemes of the Government, implemented by the various departments, the works executed by various departments, the quantity of rice and other essential commodities supplied to each of the shops under the Public Distribution System and their stocks and to **pave the way for the people to question irregularities in the system** the Government have decided to bring a legislation”.

It was further stated in the preamble to the Act;

“Whereas it is necessary that **every governmental action should be transparent** to the public

AND whereas to achieve this object **every citizen should be able to get information from the Government** the Right to Information Act be enacted.

However, the working of the Act during the last seven years has shown that the laudable objectives stated above have not been substantially achieved. Several Voluntary Organisations, which tried to invoke the act to obtain information, were not able to obtain

that. Very often no reply was given by the concerned authorities either conceding or rejecting the request for information.

Perhaps the Government also realised the failure to achieve the objectives of the Act. In the Governor's Address to the legislature on 23rd January 2003 it was stated **“A new Right to Information Bill is under consideration so as to institutionalise open and participatory administration”**. One year later in the Governor's address on 4 Feb 2004 it was stated **“The government was holding detailed discussions on the features of a new legislation on the Right to Information and this will be introduced in the Legislative Assembly shortly”**.

To help the Government in bringing out a new legislation The Catalyst Trust, Civic and Consumer Action Group and the Human Rights Advocacy and Research Foundation have drafted a new Right to Information Act. While drafting this Act, the several features of similar Acts passed by different states and the Union Government have been taken into account. In particular, the latest Act of the Maharashtra Government and the Freedom of Information Act 2002 passed by the previous Lok Sabha have been taken into account.

The Salient features of the new Act proposed by us are furnished in the **Annexure**.

Our intention in bringing out the draft Act is to ensure that the laudable objectives outlined in the previous Act are actually realised in practice. We would like the Government to amend the present Act taking into account the modifications made in our draft Act. We request you to kindly use your good offices towards this end.

With regards,

Yours sincerely,

A.K. Venkat Subramanian
Trustee, The Catalyst Trust

Ossie Fernandes
Director, HRF

N.L. Rajah
Trustee, CAG

Annexure

Salient features of the new Tamilnadu Right to Information Act 2004

1. The scope of Information has been widened to include any matter in respect of the affairs of the Government and of any public authority and includes a copy of any record in the form of a document, diskettes floppy or any other electronic digital or other more of recording information.
2. The authorities who have to furnish information under the Act have also been extended to include any authority or body established or constituted by any State law and includes any other body owned or controlled by the State or which receives any aid directly or indirectly from the Government and shall include the bodies whose composition and administration are predominantly controlled by the Government or on which office bearers are appointed by the Government.
3. Under the existing Tamilnadu Right to Information Act the competent authority who is to give the information should be of a rank not less than that of a Deputy Collector. We felt that this was too high a level and that most people need information at Village, Taluk, or Block level. Accordingly, we have sought to designate one or more officers as Public Information Officer in all administrative units and offices from the lowest to the highest including the Village Administrative Officer and elected President of the local government.
4. Under Sec.3 (2) of the existing Tamilnadu Right to information Act, there are too many exemptions for giving information. Section 3(2) lists 33 items relating to which information shall not be given under act. We have reduced the exceptional cases to the barest minimum confining it to the requirement of the Constitution.
5. We have reduced the time for giving information from 30 days to 15 days. Further, we have also provided a penalty for not providing the information in time and also for providing misleading information. We have also insisted on giving acknowledgement of receipt when a request is made for information.
6. One new feature of the proposed Act is the creation of the Right to Information Tribunal whose Chairman will be a sitting or retired judge of the High Court with two members who shall be persons of ability, integrity and standing with adequate knowledge and experience in dealing with problems relating to Law, Public Affairs and Administration. This Tribunal will act as second appellate authority whose decision shall be final.
7. The proposed Act also cast an obligation on Public Authorities to maintain properly all its records and also to publish annually a Citizen Charter containing particulars of its organisations, functions, duties, norms procedure for redressal of grievances etc and make the Charter available in all their administrative units. Even though the existing government order on Citizens Charters envisages departments placing the charter annually, on the table of the house, during the budget session, it has not been done so. Hence we propose to give statutory backing to publish Citizens Charters.
8. The Act also makes it obligatory for the Public Authorities to publish or communicate to the public generally, and in particular to the persons affected or likely to be affected, before initiating or giving clearance for any project which is likely to have an impact on Life, Livelihood and Environment.
9. Under the present Act there is no mechanism to review the working of the Act. The proposed new Act constitute Councils for monitoring the working of the Act at the District under the Chairman ship of Collector and at the State level under the Chairmanship of Chief Secretary. It has also been provided that the State Council should

place an annual report on the Table of the Legislative Assembly on the working of the Act during the budget session.