

THE REPORT OF INTERLOCUTORS SHOULD BE IN PUBLIC DOMAIN – VENKATESH NAYAK

In October 2010, the Government of India had appointed a group of three interlocutors to hold sustained dialogue with all sections of the people in Jammu and Kashmir in order to find solutions to the several problems faced by them. Well known journalist Dileep Padgaonkar, Dr. Radha Kumar, Trustee Delhi Policy Group and Mr. M M Ansari, former Information Commissioner, Central Information Commission formed this group. A press release issued through the Government controlled Press Information Bureau (PIB) explained the purpose of this group as follows:

" Keeping in view the immediate objectives to maintain peace and order and defuse the situation in J&K through confidence building measures, Government of India had taken certain decisions and one of the decisions was to appoint a Group of Interlocutors under the chairmanship of an Eminent person to hold a sustained dialogue with all sections of the people in Jammu and Kashmir."

After holding several rounds of consultations with various parties, segments and interest groups the Group of Interlocutors submitted its report to the Government of India in October this year. Dr. Muzaffar Bhat, Convener Jammu and Kashmir RTI Movement, filed a formal written request with the Ministry of Home Affairs, seeking a copy of the report. The Public Information Officer of the Ministry rejected the request as under - *"I am directed to refer to your RTI application dated 17th November 2011, received in this Division on 30th November, 2011 vide OM No A-43020/01/2011-RTI dated 28th November 2011 and to say that the information sought by you cannot be provided as it attracts the provisions of Section 8(1)(a) and (c) of the RTI Act, 2005."*

According to **Mr. Venkatesh Nayak**, Programme Coordinator, Access to Information Programme, Commonwealth Human Rights Initiative, the rejection order is wrong. It has been alleged that the PIO has dealt with the RTI application in an amateurish manner without due application of mind. First, the order shows that he is writing on the orders of some unnamed senior or superior officer. This is not allowed under the RTI Act as the PIO is required to make a decision of disclosure or otherwise on his own without being dependent on the advice or guidance of any other officer. However, he is free to seek the assistance of any other officer, even a superior one in order to deal with the request. Yet instead of using one's statutory powers the PIO has merely conveyed the decision of his senior officers not to disclose the information. This is nothing but an abdication of one's statutory duty.

Mr Nayak has also criticised the PIO for mechanically invoking the two exemption clauses to deny access to the report. Section 8(1)(a) has eight specific grounds on exemption can be claimed and reads as follows:

"8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;"

He has pointed out that the PIO has failed to specify which of the eight grounds is attracted by the request for disclosure. Surely grounds such as 'scientific' and 'economic' interests do not apply even by the wildest of imaginations.

Invoking of Section 8(1)(c) by the PIO has evoked criticism. The section reads as follows:

"8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;"

Shri Nayak stated that from the PIB press release cited above, it is clear that the Group of Interlocutors was established by an executive resolution, not by any resolution of Parliament. Given this clarity about the origin of this group, invoking the exemption relating to parliamentary or legislative privilege makes little sense. Further, as the Parliamentary privileges have not been codified yet in India, the PIO will have little ground to justify the denial of access during the appeals stage.

Some details of the report have been allegedly leaked to the media while the official version is yet to come out in open. Two of the three authors of the report are from professions that have a direct relationship with transparency - Mr. Padgaonkar is a respectable senior journalist who has worked for bringing in greater transparency in public affairs while Mr. M M Ansari was appointed as a member of the first batch of Information Commissioners under the RTI Act in 2005. Yet the contents of their report are yet to see the light of the day. Wouldn't such a report facilitate greater debate in Jammu and Kashmir as well as in other parts of the country? The RTI activists have criticised it as episode which shows the deep chasm between promise and practice of transparency in Government.