

THE RIGHT TO INFORMATION IN SOUTH ASIA

MONTHLY NEWS DIGEST

(August 2016)

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Highlights of the month

This month we are reviving the practice of compiling and disseminating news digests focused on RTI in South Asia. As we were short staffed for several months, this practice went into cold storage. Sneha has joined the ATI Team as an Intern, last month, and is working dedicatedly to compile the RTI-related news published across S. Asia. Google Alerts threw up fewer stories in August, so this digest is somewhat slim compared to the earlier editions. We request readers and RTI activists to send us news, articles, editorials and opinion pieces mentioning RTI or mere reportage of RTI-related events published on English language websites that may not be recognised by Google. We will be happy to include them in the corresponding monthly digests, henceforth. Meanwhile, we have highlighted the following stories this month. We have indicated the story number (#) at the end of each highlight for easy access.

- On the 1st of August, the Speaker of Sri Lanka's National Assembly certified the text of the RTI Act approved by the House unanimously a few weeks earlier. With this formality complete, the RTI Act enters the statute book, making Sri Lanka the 108th country in the world and the 7th in S. Asia to enact a national law guaranteeing its people access to information held by public authorities. The law provides for a period of six months to one year for fully operationalising the law (#57).
- Sindh, in Pakistan, is planning to revamp its RTI law. According to media reports, the Cabinet has already given its approval for tabling the Transparency and Right to Information Bill in the Provincial Assembly. This Bill is likely to be referred to a select committee for detailed examination. Readers will remember that Sindh enacted a *Freedom of Information Act* in 2006, modelled along the federal *Freedom of Information Ordinance, 2002*. This law, dubbed- "toothless tiger", by critics, is not widely used by people in Sindh to demand access to information from the provincial administration (#61).
- The Chief Information Commissioner of Nepal has reminded International NGOs based there about their obligations of transparency under the country's *RTI Act*. This law, enacted in 2007, requires foreign funded NGOs to be transparent like public authorities under the Government. He also urged donor agencies to earmark 1% of their budget to spread awareness about the RTI Act amongst the people (#56).

- A 3-member Bench of the Supreme Court of India referred a pending RTI matter, relating to the disclosure of details about the appointment of judges of the Court, to the Chief Justice of India for placing it before a larger Constitution Bench. In January 2010, a 2-member Bench of the Court had framed three queries for examination by a Constitution Bench. One of the issues framed is whether providing information about judges' appointments will interfere with the independence of the judiciary ([#41 & 42](#)).
- In another case, the Supreme Court of India directed the Central Board of Secondary Education (CBSE) to comply with the rules framed for payment of fees under the RTI Act when students seek copies of answer scripts. Despite a 2011 judgement of the Court that upheld students' right to seek and obtain copies of their evaluated answer scripts under the RTI Act, CBSE had been charging them exorbitant fees for disclosure invoking its internal fee rules. While the Apex Court's order is to be welcomed, the Apex Court's Registry needs to urgently explain why it refuses to recognize the applicability of the RTI Act to judicial records and continues to charge fees under the Court's own Rules for supplying copies of records in pending cases even when a request is made under the RTI Act ([#21](#)).
- The Kerala High Court has stayed a recent decision of the State's Information Commission that directed the Chief Secretary and the General Administration Department to disclose decisions of the Council of Ministers promptly. The State Government has taken the plea that it is up to the concerned departments to make such disclosures keeping in view the conditions for disclosure provided under Section 8(1)(i) of the RTI Act, namely, that the matter must be complete or over prior to such disclosure ([#40](#)).
- Reversing its earlier decision in favour of disclosure, the Tamil Nadu State Information Commission is reported to have ruled that file notings relating to the control of private property by the Madurai Municipal Corporation were privileged documents and may not be disclosed to the true owner of the property. It is unfortunate that the Commission has not adequately appreciated that file notings as a class, are not barred from disclosure under the RTI Act unless one or more of the exemptions listed in Section 8 are applicable ([#33](#)).

Stories of successful use of the RTI Act and their impact

02 August 2016

1. NGO releases documents, sting videos on illegal sand mining

Vinobha KT| TNN | Aug 2, 2016, 06.23 AM IST

MANGALURU: National Environment Care Federation (NECF), an NGO, released on Monday a 300 page document with sting video clippings on illegal sand mining allegedly taking place in Unidivided Dakshina Kannada district.

NECF convener Shashidhar Shetty said the illegal sand mining in coastal Karnataka is a multi-crore scandal of more than Rs 850 crore per annum. He said, the document prepared in a span of nearly two and a half years, has sufficient documents to prove the illegal sand mining in Udupi and Dakshina Kannada district. "It took more than two years for us to obtain various documents that prove the illegal sand mining. We gathered 2,800 pages of documents through RTI Act and various other sources to prepare a 300 page PDF document. A year-long sting operation has been carried out at various locations, where illegal sand mining is being carried out in Udupi and Dakshina Kannada districts. It is found during our operation that sand mining is being carried out beyond the permissible limits and all the rules are being violated," Shashidhar said.

District administrations of Udupi and Dakshina Kannada have failed utterly in checking illegal sand mining activities, he said. "The process of sand bar identification adopted in this region is unscientific and is not as per rules. Sand mining is not allowed in Coastal Regulation Zones (CRZ). However, licenses have been issued to extract sand from sand bars in CRZs too. The Federation will question the legality of allowing sand mining in CRZ in coastal Karnataka at the National Green Tribunal (NGT)," he said adding that a petition has already been moved in the NGT New Delhi through an advocate.

He said illegal sand mining has destroyed even mangrove islands at several places in Unidivided Dakshina Kannada district. Though sand mining ban should be in place for four months from June 1 to facilitate the breeding of microorganisms, the ban period has been reduced to two months

unscientifically, he pointed out adding that DVDs containing documents and videos of illegal sand mining in twin districts have been sent to the Prime Minister, Union ministers, chief justice of the High Court, Governor, ministers, chief secretary, NGT, police department heads and National Human Rights Commission.

Source:

The Times of India, <http://timesofindia.indiatimes.com/city/mangaluru/NGO-releases-documents-sting-videos-on-illegal-sand-mining/articleshow/53494889.cms>

03 August 2016

2. Ganga cleanup: Rs 3,000 cr spent, results yet to show

Aug 3, 2016, 1:47 AM (IST)

It is not just the Opposition that is out to target Prime Minister Narendra Modi's emotive connect with the Ganga. Statistics show very little has been done in the past two years of BJP rule — in spite of spending Rs 2,958 crore of the Rs 3,703 crore allocated — to improve the condition of the river.

The response to a poser under the Right to Information (RTI) Act by a Aishwarya Sharma, a class X student from the city, to the Prime Minister's Office (PMO) has revealed that the much-hyped "Namami Gange" programme is largely on paper, much like the previous schemes declared in the past 30 years.

In her RTI question on May 9, the 14-year-old Lucknow girl had sought answers to seven queries, which included details of the number of meetings the Prime Minister chaired on the issue, budgetary provisions and the expenses so far. Subroto Hazra, the central public information officer with the PMO, forwarded the query to the Union Water Resources, River Development and Ganga Rejuvenation Ministry for a response. KK Sapra of the ministry responded on July 4 and the answers explicitly show that Modi's "Ganga Maiya ne bullaya hai" (Mother Ganga has summoned me) credo, which endeared Modi to the masses, especially in Varanasi, was little beyond an attempt to milk sentiments and votes.

The ministry said Rs 2,137 crore was allocated for the national mission of Ganga cleaning in 2014-15. This was cut by Rs 84 crore to Rs 2,053 crore. But the union government, despite the hype, spent only Rs 326 crore, leaving more than Rs 1,700 crore unspent.

The situation did not change much in 2015-16 either and, in fact, the union government slashed the budgetary allocation from the proposed Rs 2,750 crore to Rs 1,650 crore. Of the amended budget, Rs 18 crore was unspent in 2015-16.

“This is completely baffling, keeping in mind the high-decibel campaign by Modi on cleaning the Ganga,” said an upset Aishwarya, adding she was deeply disappointed. For the current 2016-17 fiscal, the student said the Union Government did not have any details of the expenses so far of the Rs 2,500 crore allocated. — IANS

Source:

Tribune, <http://www.tribuneindia.com/news/nation/ganga-cleanup-rs-3-000-cr-spent-results-yet-to-show/275349.html>

3. Tadoba violates SC, NTCA’s carrying capacity order: RTI

Vijay Pinjarkar| Aug 3, 2016, 03.54 AM IST

Nagpur: Under the garb of providing employment to locals, Tadoba-Andhari Tiger Reserve (TATR) in Maharashtra forest minister Sudhir Mungantiwar's hometown Chandrapur is blatantly violating National Tiger Conservation Authority (NTCA) guidelines and also Supreme Court directives by permitting more number of vehicles than its carrying capacity of 124 per day. Though excess vehicles entering the park is an open secret, no noise is made due to absence of authentic data. For the first time, information sought from TATR field director's office under the RTI Act (for a period between April 1, 2015 to March 31, 2016) by city consumer rights activist Avinash Prabhune reveals that during 4 months (just 64 different days), 904 excess vehicles entered the park beyond carrying capacity of 124 from all six gates — Mohurli, Kolara, Navegaon, Khutwanda, Pangdi and Zari.

The RTI queries included quota decided for entry of vehicles, actual vehicles entered, norms for VIP entry and their numbers, revenue earned, cancellations, procedure on allotment of cancelled bookings, etc.

RTI reply states that the carrying capacity of the park is 124. It includes Moharli (60), Kolara (32), Navegaon (12), Zari (6), Pangdi (6) and Khutwanda (8). This capacity doesn't include canters and minibuses operating from Moharli and Kolara. The reply, contained in over 352 pages, revealed that excess vehicles entering the park include 506 six-seater Gypsies and 398 (canters & minibuses).

TATR said 1,31,869 tourists visited the park generating a revenue of over Rs4.82 crore during the one year period. However, the park authorities were shy of giving information on VIP entries and vehicles and said the number of VIP visitors is included in it.

Interestingly, most of these excess vehicles have entered Tadoba during peak months of April (156), May (393), June (133) and December (222). These figures also include canters and minibuses, which are not shown in the carrying capacity.

December showed highest excess entries. Shockingly, 161 vehicles with about 1,000 tourists entered Tadoba on one single day on December 28, 2015. This included 84 vehicles in morning and 77 vehicles in the evening. This may be due to Christmas vacation, besides winter session of the state legislature when many families of VIPs enter the park at government expense.

Owing to excessive tourism, NTCA, based on Supreme Court directives, had calculated Tadoba's carrying capacity to 107 vehicles last year. With one Gypsy having capacity of 6 persons, NTCA had also asked the park management to consider 18-seater canter or mini bus as three Gypsies to be included in the carrying capacity. Presently, canters and minibuses are not part of the carrying capacity of 124.

Last year, NTCA member-secretary BS Bonal had also asked Tadoba authorities to stop monsoon tourism. However, TATR has shown little regards to the NTCA, a statutory body governing all 49 tiger reserves in the country.

Tiger Conservation Plan held up

As TATR is not following the 107 carrying capacity calculated by the NTCA, its Tiger Conservation Plan (TCP) is held up and subsequently the grants.

Bonal told TOI , "We have asked TATR to incorporate suggested changes in the TCP as per SC directives. Once they do it, we will approve the TCP. We have returned the TCP to the TATR and asked the authorities to submit a revised plan as per guidelines."

TATR CCF & field director GP Garad said, "We are following the carrying capacity of 136 vehicles as approved by Local Advisory Committee (LAC). I'm surprised how information about 124 has been given under the RTI. Chief wildlife warden too has given approval to 136 vehicles."

Garad said it is true that NTCA has calculated a carrying capacity of 107 vehicles per day as per SC directives of tourism in 20% of the core/critical tiger habitat based on compartment size. Chief wildlife warden has been apprised accordingly, he said.

He added that the NTCA should come clear on the TCP. "Either it should reject the plan or approve it. It has kept it hanging."

On the contrary, NTCA feels primary objective of tiger reserves is to conserve source populations. It has identified that unplanned and unregulated tourism in such landscapes can destroy the very environment that attracts such tourism in the first place. Hence, there is a need to move towards model of tourism that is responsible and compatible with such fragile landscapes.

Prabhune plans to file a PIL against these violations and has written to NTCA not to approve TCP of TATR until SC guidelines are followed in toto. The RTI reveals that instead of reducing number of vehicles, Tadoba authorities blatantly violated norms by permitting about 904 excess vehicles.

"Such overcrowding of Tadoba is not in the interest of wildlife. This will not stop unless top officials concerned are held accountable instead of making lower staff scapegoats," says Prabhune.

The RTI activist added government spends crores of rupees on conservation and it appears forest officials are misusing their powers as per their whims and fancies.

"It is already on record from NTCA 'Tiger census 2014 statistics' that Maharashtra has achieved lower tiger growth of 12% only as against national average of 30% across the country," Prabhune pointed out.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/nagpur/Tadoba-violates-SC-NTCAs-carrying-capacity-order-RTI/articleshow/53513989.cms>

9 August 2016

4. 10,932 companies default on provident funds, Airports Authority of India tops the list

Aug 9, 2016 08:20 IST, By Nikhil M Babu

It should have taken 30 days for Sanjaya Kumar (27) from Odisha to withdraw his father's provident fund of Rs 40,000, the post-employment, rainy day or retirement stash that companies must compulsorily deduct from salaries.

Instead, more than 1,825 days have passed since Kumar's father Krushna Chandra (53) died in 2011. "Please help me withdraw PF money, my mother is worried about losing it," said Sanjaya, in a complaint posted on an online forum.

Five years and three written complaints later, Kumar, has received no replies from the Employees' Provident Fund Organisation (EPFO), a government body that receives provident fund deductions from companies and administers 50 million provident fund accounts nationwide.

Chandra, worked in a company called Target Allied Securities Private Limited in Bhubaneswar, Odisha, and though his colleagues got their provident fund, his family did not. Kumar, settled in Hyderabad, said that he has sent "numerous emails"— he's lost count — to his father's employer and the EPFO.

Target Allied Securities Private Limited replied that they have already deposited the PF with EPFO and added Chandra's that kin has not submitted the required documents and that may be causing the delay.

“They’re not helping us, how can I go back and forth to Odisha from here?” asked Kumar. “My mother tells about it sometimes, but I have almost stopped chasing them.”

Source:

Firstpost.com, <http://www.firstpost.com/business/10932-companies-default-on-provident-funds-airports-authority-of-india-tops-the-list-2943578.html>

10 August 2016

5. Land Acquisition Ordinance – a secret?

NIDHI SHARMA | ET Bureau | Aug 10, 2016, 07.50 AM IST

NEW DELHI: Almost two years after the Narendra Modi government promulgated the controversial Land Acquisition Ordinance, the rural development ministry is still stonewalling information under Right to Information (RTI) Act. The ministry had been directed by Central Information Commission (CIC), the final appellate authority for the transparency legislation, in June to divulge Cabinet note, file notings and all government communication on the Land Acquisition Ordinance. However, the ministry has now filed a review petition before CIC on the ground that information is classified as “secret”. The ministry has taken the plea that information regarding Ordinance is exempted under Section 8 (1) (c) and Section 8 (1) (i) of the Act. Section 8 lists out exemptions from disclosure of information. The review petition says, “... the issue relating to disclosure of information was taken up with the public authority who have stated that information that were not provided to the appellants is classified as ‘secret’ and also under consideration in Parliament...” Section 8 (1) (c) exempts any information which could cause a breach of Parliament or state legislation and Section 8 (1) (i) exempts Cabinet papers of decisions that are not complete. Activist Venkatesh Nayak and journalist Chitragada Choudhury had sought information under RTI Act on events leading up to promulgation of Ordinance on December 31, 2014. The RTI applications were transferred within the government multiple times. Nayak had filed his RTI application in President’s Secretariat as the President had signed on the Ordinance. The application was transferred to Department of Land Resources which said it held no information and transferred it to legislative department and back to the President’s Secretariat. The

legislative department said in its RTI reply that department of land resources holds the information. Following this, CIC, which had clubbed all appeals, directed the department of land resources to disclose the requisite information. RTI applicants are protesting against the review petition on the ground that Ordinance has lapsed and there is no reason why the government should be hiding documents pertaining to it. Nayak told media, “The department has claimed applicability of Section 8(1)(c) and 8(1)(i) of the RTI Act to the information sought. It is not clear how this is possible as we have not asked for Cabinet Notes relating to the Bill pending in Parliament. We have asked for the Cabinet Note relating to the Ordinance which has since lapsed. So clearly, the matter is complete and over. There is no ground for applicability of exemption clauses.”

Source:

Economic Times, <http://reality.economictimes.indiatimes.com/news/regulatory/govt-refuses-to-divulge-land-ordinance-details-insisting-its-secret/53627252>

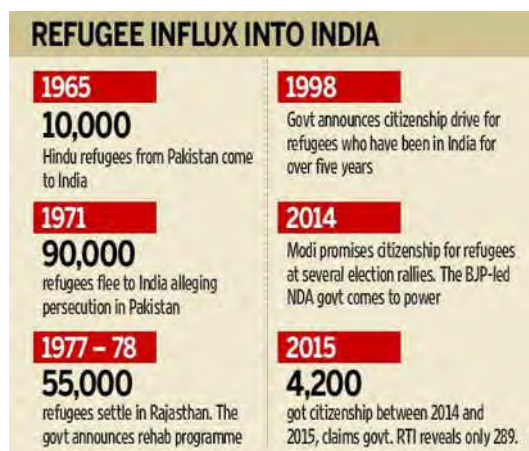
11 August 2016

6. Left out in the cold: Hindus who fled Pakistan await Indian citizenship

Avantika Mehta, Hindustan Times, Jodhpur Updated: Aug 11, 2016 10:55 IST

For more than a decade, Ajmal Singh has been trying to get Indian citizenship. He fled Pakistan 14 years ago and continues to live in a refugee camp, with ten children, on the outskirts of Jodhpur. He worked as a driver before crossing over but doesn't know farming or mining, the only two jobs readily available to Pakistani Hindus who have fled to India. His citizenship application is caught, as is often the case in India, in a bureaucratic maze fuelled by

political apathy. The 39-year-old is one of the more than 100,000 Pakistani Hindus who have taken refuge in India since 1965, citing religious persecution. Of these, 55,000 have settled in Rajasthan but continue to be 'nowhere people' Every week, the Thar Express brings more families who come



with visas that don't allow them to leave Jodhpur. Many of them are illiterate, poor farmers, who join thousands of others living without basic amenities of electricity, running water and proper toilets. Hope flickered in 2014 when Prime Minister Narendra Modi and other BJP leaders held out the promise of citizenship for these refugees during poll campaigns. But two years have passed since the BJP came to power and little has been done to improve the lives of thousands like Singh. At a citizenship drive in July, over 1,200 applications were received by Jodhpur's district magistrate BC Malick, who says "only some" were processed. The NDA government says more than 4,200 people have got citizenship between 2014 and 2015 but a Right To Information application revealed the number to be a mere 289. The biggest hurdle for the Pakistani refugees who want to be Indian is lack of paperwork, Malick says. The government wants proof that the grandparents or parents of refugees were born in undivided India. But the absence of documents is only a small slice of the plight of these displaced people.

Singh attended the citizenship drive, filled out the papers and then found he had to pay Rs 15,000 to be given for Indian citizenship. This was an impossible sum for the impoverished man who earns Rs 100 or Rs 200 a day if he's lucky. "It's a choice — do I feed my children or do I get citizenship?" he asks. The government had promised to make citizenship free for extremely poor refugees like Singh, but this plan has not yet materialised.

In the meantime, Pakistani Hindus are left to fend for themselves. Often, they face the same bigotry that they ran away from. Kavita Ram is 13-years-old. Her father, Chetan Ram, has been living in India since 2001. He developed an equation with the local Rashtriya Swayamsevak Sangh branch and a related body, The Hindu Helpline. He's got an Aadhaar card, a phone connection and his slum, Angandwa — just five kilometers outside Jodhpur — has a sewing centre, a shop and water installed by the helpline. He is filled with hope of a better future. While he feels the Modi government has taken some steps, Kavita disagrees. "I am scared all the time. When I go to school or go to the jungle to do my business, drunken men come and shout at me. They say they will kill me, that I am a Pakistani, that I should go back to where I came from or I will be dead." Many of the refugees are disillusioned by the government's claim to care for them. "They keep calling us to attend camps. (Chief minister) Vasundhara Raje has come, this one has come, home secretary has come. Come to the camps, they say. But, we come. We sit in the sweltering heat for hours. Nothing ever materialises," says Singh's wife Sri Devi. Yet, if one asks them whether they regret leaving

behind land, school and amenities in Pakistan, their answers always is an emphatic 'No'. "The government may not think of me as Indian, but in my heart I've always been a part of this country. This is my land, I love it like one loves their mother (and) father," says Singh. "I will live here and die here... even if it is under the label of Pakistani. I know I am Indian." Govt announces citizenship drive for refugees who have been in India for over five years Modi promises citizenship for refugees at several election rallies. The BJP-led NDA govt comes to power got citizenship between 2014 and 2015, claims the government. RTI reveals only 289.

Source:

Hindustan Times, <http://www.hindustantimes.com/india-news/nowhere-people-indian-citizenship-eludes-pakistan-hindus-in-exile/story-Js5ZcEX9Yg3XRQ65YLQShO.html>

7. Terror at night in Odisha: 'How could the force shoot at us defenceless villagers?'

Aug 11, 2016 · 09:00 am

Five people, including a child, were allegedly killed in firing by security forces in July. An inquiry is underway but villagers have no hope for justice.

On the overcast morning of July 26, Rahula Nayak, a subsistence farmer in his 20s, joined a few hundred villagers, mostly Kond Adivasis, making their way to Gumudumaha, a village in mourning, nestled in the Eastern Ghats in south-central Odisha's Kandhamal district. The crowds, most on foot, a few on bicycles and motorbikes or a rare tractor, were heading to a memorial meeting for five Gumudumaha residents who had been shot days ago on the outskirts of the village.

"We have come to cry for the dead," said Keshamati Pradhan, a Kond woman leader from Raikia, over 40 kms away, who was among the crowds. "When one suffers, we all do." On the night of Friday, July 8, returning to Gumudumaha in an autorickshaw after collecting NREGA wages at the block town of Baliguda nearly 45 kms away, the five – three women and a baby boy, among them – were killed when a 15-member team of the state's anti-Maoist paramilitary force, the Special Operations Group, allegedly fired at the vehicle. Several other passengers were injured – for example, the bullet that killed the baby boy Jehad Gehej, also grazed the side of his mother

Sangita. Another bullet hit his father Lota in the upper back, injuring him seriously. The young couple and others who survived the shower of bullets have since narrated the terror of being fired upon, out of the blue, on a dark, rainy night.

Gumudumaha is 12 kilometres away from the nearest black-top road, National Highway 59. It is particularly hard to access in the monsoon due to the absence of a serviceable road – despite multiple public works signs announcing road construction under various government programmes along the stretch, and listing the lakhs of rupees spent on them. We walked past villages, farms, a church and patches of forest, jumping over mud and slush on undulating tracks, crossing the site of the firing to arrive at Gumudumaha. “I felt I had to come today for the meeting,” Rahula said. “How can we protect ourselves against these cold-blooded killings? The same thing happened that night [in Gumudumaha] that had happened with my parents.” July 26, the day of the memorial in Gumudumaha, marked a year since Rahula’s parents Dhobeshwar and Bubudi Nayak had been shot dead in the nearby village of Madaguda. As they did on most Sunday evenings, the Nayaks set out on the evening of July 26, 2015, to seek a “network area”, a forested elevation in the village to speak on the mobile phone to Rahula, then away in Thrissur, Kerala, to work on a stone-breaking site. On the call, Rahula heard his father making a choking-like sound, and his mother scream before the line went dead. A villager called him later that night to say his parents had still not returned home. Two days later, after protests and a road block by villagers, the police returned the couple’s bodies, saying an SOG team had recovered them after crossfire with "Left-wing extremists" or LWEs, as they sometimes refer to Maoists. Villagers alleged that a contingent of security forces who had crossed Madaguda on the evening of July 26 had killed the couple.

Faced with criticism over the deaths, the government conceded that Dhobeshwar and Bubudi were “innocent people”, not Maoists. But it never took the villagers’ or Rahula’s accounts seriously, nor did it conduct an independent investigation into how the deaths occurred. This February, an inquiry by the Odisha Police’s Human Rights Protection Cell reproduced the exact account put out by the SOG team, and exonerated them. It ended by saying “... it is possible that the deceased may have died due to bullet fired by LWE Activists”. With the help of lawyers and activists, Rahula is challenging this conclusion at the Odisha State Human Rights Commission.

According to Odisha State Human Rights Commission data released this February under the Right to Information Act, Dhobeshwar and Bubudi are among 85 people killed in police and security force encounters between 2011-'15. Several of these deaths are being examined by the Odisha State Human Rights Commission or the National Human Rights Commission. The latest to join the list of encounter fatalities, Gumudumaha's dead have drawn attention like no other case. Since the night of the firing, over 20 fact-finding teams have visited the village in as many days. They range from official bodies like the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes to Opposition politicians, including serving MPs and former union ministers of the BJP and the Congress, to civil rights groups from within and outside Odisha.

Faced with this growing outcry, the Odisha state government successively announced a magisterial inquiry, a judicial inquiry and an inquiry by the Revenue Divisional Commissioner, a senior civil servant. It has handed out cheques ranging from Rs 50,000 to Rs 7 lakhs to the injured and the bereaved, and enrolled children from these families in government residential schools. It is paying for the medical treatment of the injured in hospitals in the faraway towns of Berhampur and Cuttack. It has also handed appointment letters to bereaved family members for "cook-cum-attendant" contractual jobs with a monthly wage of Rs 7,460. The deaths have opened the flow of development funds like never before. A few crore rupees have been allotted to build a black-top road from NH 59 to Gumudumaha, according to a senior district administration official. In the village, contractors and workers are setting up electric poles and wiring. "Agriculture, horticulture, medical staff...they all will come," said another official visiting the village last week

To deflect questions about how three women and an infant ended up dead in an anti-Maoist encounter, the government has transferred the criminal investigation from the block headquarter's Baliguda police station to a seven-member team of the Odisha Police's Human Rights Protection Cell, headed by Additional Director General of Police Mahendra Pratap, based in Cuttack. Though this team is entirely made up of serving Odisha police officers, who have essentially been given the task of investigating their own colleagues, the government is calling it a Special Investigation Team. But despite all the special attention for the July 8 killings, many on the ground in Gumudumaha and beyond remain certain that no one will be held to account for the deaths of the villagers.

On July 14, nearly a week after the firing, the Kandhamal police reported that a First Information Report had been filed on the morning of July 9 in Baliguda police station, based on a statement by SOG Sergeant Nilakantha Kanhar. Kanhar's statement provides a tidy account of what unfolded in the hours before and after the deadly firing in Gumudumaha. Kanhar states that he and 14 team members reached Gumudumaha around 8 pm on July 8 for anti-Maoist operations, and "laid an ambush at a tactical place". Around 9.30 pm, they noticed "movement of a suspected group of banned outfit of CPI (Maoist) at a height some distance away, who flashed torch lights and all of a sudden fired on us". The SOG team, Kanhar says, warned them not to fire, but they continued firing. "When our life was in danger, and finding no other alternative, and to save our lives, we opened controlled and restrictive fire," he says. Kanhar went on to state that while the exchange of fire was proceeding, "all of a sudden, an autorickshaw with people inside came on the kucha road and got stuck in the wet mud." On seeing it, he asked his team members to "stop firing and take tactical position to prevent any collateral damage and casualty". The firing, reported Kanhar, "went on from the other side and kept increasing. We suspected some persons in the auto got injured as they were shouting for help." Kanhar added that a colleague of his also got injured. "Apprehending danger, we tactically retreated and came to safety...As there was apprehension of further attack, we came and informed about the incident at the police station. As we suspected injuries on the passengers in the auto, we requested to render necessary help after we came to know that some people have died in the incident."

As per the record, Kanhar provided this account to the police station around 11 a.m. on July 9, over 12 hours after the villagers were fired upon. But the fact that the FIR had been filed came to light only on July 14, triggering much disbelief. *The Times of India* reported in a front-page story in its July 15 Bhubaneswar edition, "The SOG FIR is widely suspected as an afterthought of police with date manipulated ostensibly to shield its blunder." A senior state BJP leader Suresh Pujari called the FIR "a conspiracy to shield the truth". Besides the questions over its timing, the account provided by Kanhar and seconded by police officials is sharply at odds with what survivors of the firing continue to state, several of whom I spoke to, over three different days.

For example, Kanhar says there was crossfire between his team and suspected Maoists when suddenly, the auto came by, got stuck and was increasingly fired upon "by the other side". Multiple

accounts of villager passengers, as well as the driver of the auto, tell a very different story. The driver, Johan Majhi, a baby-faced man in his mid-twenties, was still in great shock over the incident when we met late in July, and spoke in a measured manner. He said the auto had got stuck in the slush over a culvert on the outskirts of the village, as the group was returning from Baliguda. All the passengers alighted, he said. He and the men began putting stones over the mud so that the auto could be pushed out. "All this took us several minutes," he said. "There was no firing going on when our auto got stuck."

This was corroborated by another passenger Bibi Mullick, who helped dislodge the auto from the mud. Mullick has lost his wife in the firing, and his elder brother is recovering from bullet injuries in a hospital in Cuttack. One of the woman passengers, a slender woman in her 40s, Gadesi Digal, recalled that after alighting from the stuck auto, she and other women with children and infants walked up the incline on the road to wait at its head for the auto to be freed. "If there was firing going on, would anyone ever walk into such a situation?" she asked. "Would we not fear for our lives?" The account by the forces, she said, is "a complete lie".

The villagers also challenge the SOG account that "the other side" fired on the auto. All the firing came from the left, they asserted. Corroborating this, all the bullet holes on the auto, now taken away by the police as part of the investigation, are on the left hand side. The right side of the dirt track on which the auto was coming up from is at a lower level, flat and with little foliage; the left is an incline with trees, where the SOG are said to have been positioned for the ambush. When the passengers were re-entering the auto at the head of the road's incline, Gadesi and others said, they suddenly found themselves hit by a volley of bullets from the left. Gadesi received a bullet in her right wrist before she could flee towards the village with several others, where residents spent the night in their homes in fear. Among them was Sangita, the mother of the infant, Gehej, who said, "I ran for my life, holding my bleeding child. When I reached home and placed him on the bed, he was dead." Her husband, Lota, who was hit by a bullet on his back, spent the entire night bleeding, lying on his stomach on the floor of their mud home.

At day break, Gadesi and other villagers summoned up the courage to return to the spot to look for their missing neighbours. A cloth tied around her bullet wound on her hand, she found her husband, Kukala among the four corpses of villagers around the auto, and broke down. There was heavy

deployment, she said, and security forces prevented her from coming close to her husband's body. Dulara, her son who tried to get close to his father's body, said, "A jawan threatened me to stay away saying, 'Your father has eaten a bullet, do you want to eat one too?'" Several villagers said they saw forces picking up cartridges from the site of firing in the morning rain. Villagers wanted to take the dead and the injured to "medical", but the forces had cordoned the only road leading out of the village. "No one can leave, nor can anyone come," several recalled being told. Anguished and helpless, Gumudumaha's villagers gathered around the spot and began crying for their dead.

Villagers and other eyewitnesses from outside such as journalists and residents of the surrounding area said that it was only much later in the morning, as the news of the killings spread, that crowds began to arrive, public pressure built up and security forces eased access. It was early afternoon by the time the seven injured, some with life-threatening bullet injuries, could begin the journey on bicycles and upturned cots towards the National Highway to eventually reach hospitals in Baliguda, Berhampur and Cuttack. The account in the FIR raises several questions, said E N Rammohan, a former Director-General of the Border Security Force: "How did the jawans see suspected Maoists in the dark of the night? Why did they retreat while they were hearing cries from injured villagers? What is the evidence of cross-fire? What were they doing until the next morning?" Rammohan who has investigated combatant and civilian deaths in the state-Maoist conflict zone, in areas such as Bastar, dismissed the narrative in the FIR as "concocted rubbish".

Biswapriya Kanungo, a civil rights activist and lawyer in Bhubaneswar, questioned the police decision to lodge the FIR based on the SOG commandant's account. "Here, the SOG jawans are a party to the dispute," he said. "They provide a narrative absolving themselves of any wrong-doing, and the police station just accepts it and lodges a case against Maoists on the basis on it?" On July 17, the local police transferred the July 9 FIR and various evidence (for example, guns, bullets, cartridges, soil samples, and clothes) to the Special Investigation Team headed by ADG Mahendra Pratap. Pratap's team spent July 17-July 19 in Kandhamal, including making a visit for a couple of hours on July 18 to Gumudumaha village.

In an interview last week in his office in the police headquarters of Cuttack, Pratap emphasised that the area of Gumudumaha "was very sensitive from the Maoist point of view". Even as he noted that his investigation was still underway and conclusions had not been reached, he said that

“firing was on and these people suddenly came in-between...that is how it must have happened.” This is at odds with the account of the villagers. But Pratap described their statements with reservation. “In the dark, in the dead of the night, it was dense forest, heavily raining,” he said. “They are emerging from 5-6 feet down. What did one see, what did one not, one can only estimate.”

Pratap said the bullet holes on the left of the auto’s body suggested firing from one side. But “the possibility of cross-fire” was indicated by the “seized evidence. Two-three different types of bullets and empty cases were recovered from the spot the next morning by the local police and the CRPF [Central Reserve Police Force] – our side and their [the Maoists’] side.” He asked, “Where did the rest of the empty cases come from?”, emphasising that this needed investigation. Continuing to speculate about possible cross-fire, he said “Maybe the other side fired...not necessary that all the bullets fired hit the auto.” The material along with the firearms, bullets and empty cases had been sent to the state forensic lab for expert opinion, he said. Asked if the evidence collected by the police included bullets from the bodies of the dead and the injured, he said, “I think one was found...yes...yes.”

Asked about why the SOG team did not come to the aid of the villagers hit by bullets, and whose cries they reported hearing, Pratap said, “They might been on the job since noon. The firing happened at night. They might be thoroughly fatigued. It isn't right to expect everything from them. If there was firing in retaliation and something had happened?” Pratap shrugged off the widespread criticism that the investigation is neither independent nor fair. “The decision was not mine to make the SIT,” he said. “I know people are saying police is investigating police. But in our country, who else will investigate?”

Emphasising that he would collate and assess various evidence to come at the “true picture”, he added, “I think we will be able to do justice.” In Gumudumaha, few believe that any action will actually be taken against those involved in the killings. “Shoot them, just the way my husband was shot dead,” said an angry Gadesi Digal. Bibi Mullick, whose wife was killed in the firing said he wanted a fair investigation and the forces who shot at them to be arrested, tried and punished. “The forces must go away from our village and the forest,” he said. “We are living in constant fear because of them.”

The withdrawal of the forces from the villages and forests – a crucial source of food, produce and livelihood for the locals – was a demand vociferously expressed by several residents, especially women, at the July 26 memorial meet. A July 20 fact-finding report of activists, who have investigated 17 encounter deaths in six cases, commented on this widespread demand for withdrawal, saying, “While the impunity given to these special police is a matter of serious concern to society at large, to those residing in the Fifth Schedule districts of South Odisha, it is a matter of life and death.”

When the question of justice was put to the auto driver, Johan Majhi, he too said that the guilty should be hung. “How could the force shoot at us defenceless villagers travelling in an auto in such a cold-blooded manner?” he asked. While families of the dead and injured have received some state relief, Majhi's plight has been overlooked. His auto has been taken away as part of the investigation, leaving him without any means of livelihood since the firing. He bought it last year, making a Rs 60,000 down payment on a loan of more than Rs 2 lakhs, which requires him to pay a monthly installment of Rs 5,500.

“We have not forgotten him,” said a senior official in the district headquarters of Phulbani. “As soon as this probe is over, we will repair the body of the auto and restore it to him.”The official’s assertion about repairing this crucial piece of evidence in a homicide case was further testament to how the outcome of the investigation is a foregone conclusion for most people.

Source: -

Scroll, <http://scroll.in/article/813193/terror-at-night-in-odisha-how-could-the-force-shoot-at-us-defenceless-villagers>

8. Infrastructure pressure on Kali Tiger Reserve

BENGALURU, August 11, 2016

While proposal to widen NH 4A gathers steam, the Railways wants to double Hosapete-Vasco line

Kali Tiger Reserve, it seems, is becoming confined to a cocooned island of its own between major infrastructure projects. While the proposal to widen National Highway 4A (connecting Belagavi

to Panaji) gathers steam, the Indian Railways has sought doubling its line from Hosapete to Vasco. The widening will claim nearly 2.22 hectares (or 5.5 acres) of lush forest land around the tiger reserve in the first phase, while the second phase (between Castle Rock and Caranzol on the Goa–Karnataka border) will see another 7.64 hectares (nearly 19 acres) of forest land being cleared.

The first phase proposal has been forwarded to the State Board for Wildlife and will be taken up in the next meeting, a senior Forest official has said. Though the project has been recommended by Forest officers, the recommendation letter from the Chief Conservator of Forests (CCF) of the region lists 552 animal species in the area. The reserve has submitted a report saying that 532 trees will be removed, while there was concern of soil erosion and impact on critically endangered species. However, improved connectivity for north Karnataka and ports of Goa as well as “helps the nations under strategic conditions”, have been listed as reasons for approval.

The reasoning, however, has not cut ice with activists. “The railway line passes through the Dandeli Wildlife Sanctuary in Uttara Kannada district, which is an important tiger and elephant habitat. This will eventually lead to fragmentation of wildlife habitat and escalate man-animal conflict,” said wildlife activist Giridhar Kulkarni. This adds to the long list of infrastructure projects that bifurcates or skirts the eco-sensitive tiger reserve. The proposed Hubballi–Ankola railway line cuts through Yellapur in the southern end of Uttara Kannada. In the past five years, nearly 70 mammals have been run over by vehicles or trains in and around the tiger reserve, show documents obtained under the Right to Information Act.

Forest officials said that as only a “small” extent of land was asked for, the track-doubling was expected to be approved. The proposal, however, has a long way to go. After approval from State Board for Wildlife, it will be presented before the National Board for Wildlife, National Tiger Conservation Authority and the Supreme Court.

Source:

The Hindu, <http://www.thehindu.com/news/cities/bangalore/infrastructure-pressure-on-kali-tiger-reserve/article8971179.ece>

9. Tweet helps 10,000 villagers get phone network

Yogesh Kumar | TNN | Aug 11, 2016, 10.30 PM IST

DEHRADUN: An RTI activist's tweet has done for 10,000 residents of Dudhali village, near Dehradun, what numerous complaints could not. A tweet on the BSNL exchange shutting down in the absence of a power back-up reached Union communication minister Manoj Sinha, who ensured prompt action and the exchange coming back to life. "For the villagers, it was a huge problem. We had no means of communication to use during emergencies, especially the medical ones. The BSNL exchange had no power back-up and there were no mobile network," RTI activist Ajay Kumar whose tweet helped the villagers told TOI. According to villagers, every time it rained during the monsoon and there was a power outage, their mobile phones would go without network for hours. On August 3, Kumar tweeted about lack of power back-up at the BSNL exchange at Doiwala block and problems it was causing to over 10,000 villagers and tagged the Union communication minister with it. "On August 10, I received a reply from the BSNL chief general manager of Uttarakhand circle stating that the non-functional battery at the BSNL exchange had been fixed and was working well. The same day it rained heavily and there was a power outage for hours, but our mobile phones did not show weak signals even for once. We were greatly relieved," Kumar said. The villagers do not know much about the behind-the-scene story but are happy with the change. Aslam Sadiq, a resident of Doiwala, said, "I have noted that our phones do not lose network during power outages. It is good for all of us." Kumar, who is very active on Twitter and other social media platforms, said, "I am a great believer in the power of social media. One tweet has done what our several attempts to reach out to BSNL official, scores of letters and personal representations could not do in months." Notably, Kumar had ensured that his village was included in the PM's ambitious Digital India initiative after he wrote him a letter in June. In his letter to PM Narendra Modi, Kumar had demanded e-smart classes and e-libraries in the schools, fibre network and internet connectivity all across the village. To his surprise, Kumar received a quick response and was informed that his village, Dudhali, near Dehradun, will be soon provided with internet facilities under the PM's Digital India initiative which aims to connect rural areas with high-speed internet networks. Soon after this, Kumar wrote to Delhi chief minister Arvind Kejriwal outlining the need to teach about the Right to Information (RTI) Act to schoolchildren.

Kejriwal replied promptly to Kumar telling him that his suggestion had been noted and the matter was being taken up with NCERT.

Source: -

Times of India, <http://timesofindia.indiatimes.com/city/dehradun/Tweet-helps-10000-villagers-get-phone-network/articleshow/53657798.cms>

10. PM Modi takes the lead in disclosing salaries of PMO staff

Vinita Deshmukh 11 August 2016

That, government salaries quite match those in the corporate world, has been aptly proven with Prime Minister Narendra Modi taking the bold step of pro-active disclosures, under Section 4 of the Right to Information (RTI) Act by public authorities, on the Prime Minister's Office (PMO) website.

Please note that the salary disclosures uploaded on the website are for the financial year 2015-16, which is before the implementation of the 7th Pay Commission, jacking up the salaries by 21%.

The PMO comprises 122 gazetted and 281 non-gazetted posts (excluding the personal staff of Prime Minister, Minister of State, National Security Advisor and former Prime Ministers). The salaries paid for the financial year 2015-16 for this came to around Rs26.4 crore.

Forget that the top notch officers in the PMO draw a salary between Rs1.75 lakh to over Rs2 lakh per month, the rest of the staff members are indeed in a comfortable financial position, compared to their peers in the private sector. For example, Dharamchand, a dispatch driver earns salary of Rs51,690 plus pension. Vijaykumar Singh, photostat operator gets salary of Rs35,595 while Mohammad Umar (carpenter) receives Rs35,925 every month. Sipahi Prasad is the highest paid peon (called the multi-tasking staff) at Rs40,011 and there are 72 of them. Neeraj Verma, the senior translator earns Rs61,580, Krishna Kumari, library clerk earns Rs58,553, R Suresh, personal assistant, earns Rs67,529, while another personal assistant, MS Rana earns Rs68,667. There are four of them in this salary range out of the 33 at this position. Tarun, assistant section officer, is the highest paid at Rs52,841 amongst 80 such officers. Ramesh Chandra, assistant reference officer

earns Rs54,900 while Dinesh Bisht, an executive assistant earns Rs73,781 per month as salary in the PMO.

Amongst senior officers, Bhaskar Khulbe, Secretary in the PMO gets a salary of Rs2 lakh, Nripendra Mishra, Principal Secretary to the PM and RK Mishra, the Additional Principal Secretary to the PM are paid Rs1.62 lakh plus pension every month. Subrata Hazra, under-secretary gets paid a salary of Rs91,733. Rajeev Topan, personal secretary to the PM earns Rs1.47 lakh per month as salary. The six joint secretaries earn between Rs1.60 lakh and Rs1.78 lakh, while directors earn between Rs1.20 lakh and Rs1.38 lakh every month. PMO's public relations officer, JM Thakkar earns a salary of Rs99,434 plus pension in a month.

Considering that similar grades would be applicable to other central government and state government employees, they are taken care of well enough to work with corporate efficiency and accountability. After all, their salaries come from the taxes that citizens pay from their hard-earned money and hence, they need to be totally accountable to the citizens and the government. Also, the salaries are good enough for decent living and the avarice for money through commission, kickbacks and bribes which account for multiples of the salary of those who indulge in these illegal practices, is indeed condemnable.

Now that Prime Minister Modi has set the ball rolling in transparency of not only salaries of his staff but other information falling under pro-active disclosures under Section 4 of the RTI Act, all other public authorities must follow suit.

Source:

Moneylife: <http://www.moneylife.in/article/pm-modi-takes-the-lead-in-disclosing-salaries-of-pmo-staff/47805.html>

15 August 16

11. RTI activists threaten to sue Govt over exemption of Vigilance from RTI purview

Published on 15 August 2016 by Prameya News7

Bhubaneswar: Odisha Soochana Adhikar Abhijan, an outfit spearheading a movement for wide use of RTI in the State, strongly denounced the State Government's decision for exempting the Vigilance Department from the purview of Right to Information Act (RTI), 2005 and decided to organise a mass demonstration on August 19 in Bhubaneswar and threatened to move to the court of law against the decision. "A mass convention of RTI activists and civil society groups will be held on August 19 in Bhubaneswar.

Later we will meet Governor SC Jamir to seek his intervention to direct the State Government to withdraw the decision. If the Government will not budge from its decision we will certainly move to the court of law," said Abhijan State convenor Pradip Pradhan. Information and Public Relations (I&PR) department had issued a notification on August 11 exempting the Vigilance Department from the purview of RTI. "In exercise of the powers conferred by sub-section (4) of Section 24 of the RTI Act, the state government do hereby specify that nothing contained in the said Act shall apply to the General Administration (Vigilance) Department and its organisation," said the notification.

Source:

Prameya News 7, <http://www.prameyanews7.com/en/aug2016/odisha/30390/rti-activists-threaten-to-sue-govt-over-exemption-of-vigilance-from-rti-purview-vigilance-from-rti-purviewodisha.htm>

12. Trust In the Law

VISVAKSEN P, August 15, 2016

Over the first week of January 2009, residents of the small, poll-bound town of Thirumangalam in Tamil Nadu, woke up to newspapers. Even households that had never subscribed, or were illiterate, found a crisp copy at their porch, each of them stuffed with currency notes and a party symbol. "I

have five votes in my family,” a leaked American diplomatic cable quotes a voter as saying. “So I should get ₹25,000, which will pay for my daughter's marriage.”

Cash for votes is a way of political life in India. Former Prime Minister Atal Bihari Vajpayee once said in Parliament, “Every legislator starts his career with the lie of the false election return he files,” acknowledging the constant violation of campaign expenditure ceilings by political parties. While the law specifies an upper limit on how much a candidate can spend, it does not regulate the spending of political parties on the candidate’s behalf. This loophole leads to inflated campaign bills. One estimate pegs the cost of the India’s last General Elections in 2014 at close to ₹30,000 crore, about 10 times what it was in 1996.

Most of the money spent by parties on their campaigns is untraceable as they claim to receive close to 75 per cent of their funding in the form of cash donations of up to ₹20,000 that do not need to be disclosed. And even if there is a sliver of accountable funding, regulatory loopholes ensure that the money trail can be obfuscated. One such avenue is an electoral trust, a supposedly independent and transparent entity through which an individual or a company can donate to political parties. But an investigation by *BusinessLine* over three months showed that the trusts have ended up as a conduit for political donations and channelling money, often untraceable, from companies to parties.

According to the Ministry of Corporate Affairs, there are 25 such electoral trusts operating in India at the moment. Only 18 of them are present on the list of trusts published by the Election Commission of India (EC). None of them has a website or publicly listed contact details. *BusinessLine* reached out to most of them, but just one responded. During the 2014 elections, six national political parties declared ₹622 crore as donations. About 40 per cent of that, about ₹250 crore, came from two sources — Satya Electoral Trust and General Electoral Trust.

The Satya Electoral Trust has received donations from multiple companies such as the Bharti Group, DLF and Hero MotoCorp. Though registered, the Trust has disclosed little. *BusinessLine* wrote to Mukul Goyal, a director at the Trust, and called at his office, but got no response.

General Electoral Trust (GET), on the other hand, is untraceable. The trust has never filed a report detailing the contributors and recipients of its funds, and neither is it registered with the Election Commission. Set up in 1998, General Electoral Trust is virtually a ghost in the system. Though media reports have associated the Trust with the Aditya Birla Group, the latter's spokesperson insisted that the GET operates independently, outside of the Group's purview.

According to a senior bureaucrat who previously served on the EC, "Trusts were created to introduce an additional layer between political parties and companies so that people cannot know who has given money to whom."

Close a leak and another sprouts

The electoral trust system can be traced back to a public interest litigation filed by activist HD Shourie on behalf of the NGO Common Cause in 1995. On New Year's Eve that year, the Supreme Court issued notices to political parties in the country, asking them to account for their income and expenditure in accordance with the Income Tax Act. Though the law has required such filings for over a decade and a half, few had complied.

Within a fortnight of the order, the finances of political parties became a matter of public record. The case concluded with a landmark judgement that coerced parties into regular disclosures by linking them to their campaign ceiling and income tax exemptions. Simply put, the parties could continue to avoid being taxed and spend as they saw fit on behalf of their candidates, as long as the spending could be accounted for.

Two months after the Common Cause judgement, the Tata Group pioneered a new method of political contribution. They set up the Electoral Trust, an independent entity that would channel funds from Tata Group companies to political parties without any mention of the original donor company's name on the balance sheets of the parties. The trust also sheltered companies from the scrutiny of their shareholders. Though their annual reports include details on political contributions, the beneficiary column now just had the name of the trust, instead that of political parties.

Over the next decade, according to data compiled by the Association for Democratic Reforms (ADR), a NGO, several other leading corporate houses set up electoral trusts. ADR's analysis of data released by the EC shows that between 2004-05 and 2011-12, six of these trusts — functioning without any regulatory oversight — allowed companies to contribute more than ₹100 crore to various political parties. Of this, nearly ₹50 crore was donated in the run-up to the 2009 General Elections.

Half-hearted regulation

In July 2009, Pranab Mukherjee presented the first budget of the UPA's second innings in office. Lost amidst the massive allocations to the food security and employment guarantee schemes, was a measure that proposed to make donations to electoral trusts tax-exempt. In 2013, the Central Board of Direct Taxes (CBDT) formally notified the electoral trust scheme.

While the tax exemptions granted to the trusts were enshrined in law, disclosure norms remained mere guidelines, with no penal provision. "India is one of the very few countries that provide 100 per cent tax exemption to corporate political donations. It should follow naturally that you also impose a penalty for non-disclosure which the law doesn't provide for," says Jayaprakash Narayan, a former MLA in Andhra Pradesh who campaigned extensively for electoral reforms.

Narayan points out that this "is a very corrupt system running on black money in which there is a lot of extortion of companies by political parties." And that is why, adds Harsh Srivastava, a former consultant to the Planning Commission, "Everybody should have a trust." The head of Corporate Affairs at Feedback INFRA says a trust "allows for systematic distribution of funds and shields the company from shareholder and political backlash generated by their donations."

The year after the new regime was introduced, the number of corporate-backed electoral trusts doubled.

The trust and its incarnations

The Tatas' Progressive Electoral Trust (which replaced the earlier Trust after the 2009 law) is probably the poster child of this approach towards campaign finance. It donates the funds it

receives from group companies on the basis of a formula. “Before the election, one half of the distributable funds are disbursed to political parties on the basis of the seats held by them,” explains Dinesh Vyas, Trustee of Progressive Electoral Trust. “After the election, the remaining funds are distributed on the basis of percentage of seats won.” The trust’s adherence on its formula-based approach appears to be so stringent that it donated ₹27 lakh to the Trinamool Congress on the basis of its performance in the 2009 Lok Sabha elections, barely a year after party supremo Mamata Banerjee led a high-profile campaign against the proposed Nano car factory in West Bengal. But not all electoral trusts are made equal. Satya Electoral Trust, for example received donations from multiple corporate groups including DLF and Indiabulls. But it is impossible to ascertain which company’s money has ended up with which party — and whether the companies influenced that division of funds — based on the limited public disclosures the trust is required to make by law. The Public and Political Awareness Trust, operated by the UK-based Vedanta Group, presents another example of how electoral trusts can be used to dodge regulatory norms. The trust donated ₹35 crore to the BJP between 2003-04 and 2012-13 according to disclosures made by the party to the EC. It received its corpus from companies like Sesa Goa and Sterlite Industries — which have majority foreign stake-holding and are therefore ineligible to donate to Indian political parties.

In March, the Delhi High Court ruled that parties had violated the Foreign Contribution Regulatory Act in receiving these funds and ordered the Home Ministry to take action within six months. Though an appeal in the Supreme Court is pending, the Government has effectively nullified the verdict through Clause 233 of the 2016 Union Budget, which retrospectively legalised foreign contributions to political parties.

A ghost in the system

Mohandas Pai, former CFO of Infosys and investor, describes electoral trusts as being ‘less than the full measure’ required for clean political finance. “Companies should invest in the democratic process by giving to all parties. But instead they use means like electoral trusts to give to one party over another, which is morally and ethically wrong. A company cannot have politics.”

And yet if the functioning of the General Electoral Trust is any indication, the political compulsions of the company can be at odds with the independence of a trust. Despite the Trust's claimed independence from the Aditya Birla Group, its address on several political parties' donor reports is listed as the same Churchgate Reclamation premises that houses the Group headquarters. Additionally, documents filed by the BJP with the EC reveal that the trust has made at least one donation under a PAN belonging to UltraTech Cement, an Aditya Birla company.

"Normally it is the company that decides who to donate to," says Julio Ribeiro, former Commissioner of Mumbai Police, who has been a trustee at General since its inception. "There is a committee of the Birlas that makes a recommendation and the trustees sanction it."

A Right To Information request filed by *BusinessLine* revealed that the Trust does not exist as far as the EC is concerned. A separate RTI filed by activist Venkatesh Nayak earlier this year also showed that the Trust hasn't registered with the CBDT. Ribeiro acknowledged that the Aditya Birla Group is aware that General Electoral Trust is not registered, insisting that they were told it was "not necessary." He also stated that, according to the Group, the EC's disclosure requirements were for political parties and did not apply to electoral trusts. Ribeiro added that since the Trust did not claim tax exemptions, it was not required to disclose its contributions. *BusinessLine* was unable to verify whether General had paid tax on its contributions. When contacted, officials at the CBDT agreed to respond to queries, but hadn't till the time of going to the press

Who will guard the guards?

While some of the trusts may be violating the guidelines laid down by the EC and the CBDT, the real problem here is the toothless regulation. "The IT Act has been amended to provide for tax relief on donations to the electoral trusts. However, there is no disclosure provision under the Representation of People Act (RPA) corresponding to the changes in the income tax laws," notes a March 2015 report of the Law Commission which was looking into the subject of electoral reforms. In effect, this means that while the rights of the trusts are enshrined in law, their responsibilities towards transparency are mere lines in the sand.

“Additionally, the only penalty prescribed for non-submission of an annual report of contributions to the ECI... is that ‘adverse notice shall be taken’ of the failure to comply with the instructions.” The report recommended amendments to the RPA that would ensure that errant trusts lost tax benefits and faced fines and prospect of a ban.

Like a vast majority of the other recommendations contained in the report, the proposals are nowhere close to implementation. “There is no penal action possible as of now,” says the former Election Commission official quoted earlier. “The politicians did not create such a provision knowing very well that this is a layer that has been created so that the opaqueness is increased and people don’t know who is giving to whom.”

However, the official also insists that the Election Commission’s hands aren’t entirely tied. “It depends on how proactive the EC is. Some former Commissioners have taken the view that Article 324 (which defines the powers of the EC) encompasses all the aspects where the law is not there so it can be applied wherever there is a vacancy.” The Election Commission declined to comment on this issue and simply referred to a copy of the official guidelines instead.

Speaking to a news magazine at the height of the Common Cause case, petitioner HD Shourie said that he had initiated the litigation simply because “he wanted to know why political parties weren’t following the rules.”

As he would have realised, when rules are framed by those they are meant to regulate, there will always be ways to get around them.

Source:

The Hindu Business Line <http://www.thehindubusinessline.com/specials/india-file/trust-in-the-law/article8991299>

16 August 16

13. 118 sexual harassment cases filed in BMC in 4 years, reveals RTI

Laxman Singh, Hindustan Times, Mumbai, Aug 16, 2016 21:38 IST

In the last four years (2013-16) the Brihanmumbai Municipal Corporation (BMC) officials have registered 118 cases of sexual harassment in its offices, reveals a right to information (RTI) response.

In a reply to the RTI filed by activist Anil Galgali requesting number of sexual harassment complaints filed in the civic administration and action taken, the civic body replied saying 21 sexual harassments cases were registered by its women employees till June this year.

According to this information, from 2013 to 2016, the average number of complaints registered with committee which works under Women Sexual Harassment Prevention chief and 'Savitribai Phule Women Resource Centre each year should be 29. While in 2013 and 2014, 32 and 34 complaints were lodged respectively, there was marginal decline in 2015 as 31 cases were filed. Out of the total 118 cases, 96% have been cleared and punishment has been announced by the committee. As per the data, no decision was taken in 4 out of 21 complaints this year.

There were 53 cases between 2010 and 2013, which increased to 32 in just 2014, said the report by the 15-member legislative committee on rights and welfare of women. However, Galgali has written to municipal commissioner Ajoy Mehta demanding that all the names of the officers, who have been found guilty of sexual harassment by the committee, should be displayed on the BMC website. This will act as a strong deterrent as the fear of public shaming will reduce such future instances.

Galgali further demanded that chairman, secretary and the members of the committee appointed to look into the complaints of sexual harassment by women employees be given a fixed term to ensure fair decision.

Source:

Hindustan Times, <http://www.hindustantimes.com/mumbai-news/118-complaints-of-sexual-harassment-filed-in-mcgm-in-two-years-rti/story-3kJEJ15WHQLpBJIHBboBtN.html>

14. Railway station flyover shops violate HC directives

August 16 2016 1:44 IST

Nagpur: In a suo motu public interest litigation (PIL) in 2010, the Nagpur bench of Bombay High Court had directed Nagpur Municipal Corporation (NMC) to ensure free parking and strictly no hotels or encroachments under the arches or shopping complex below the flyover in front of Nagpur railway station. Directives were also given to the police department to ensure there is no parking on the road between Jaistambh Square and Manas square. None of these directives have been followed by the two authorities, putting them in contempt of the HC's explicit orders.

Information obtained under Right to Information (RTI) Act by activist TH Naidu has exposed many more violations at NMC's shopping complex under the flyover. The approved plan of the complex shows two slots for parking towards Manas square, one on each side of Tekdi Ganesh Temple main gate, and two towards Jaistambh square. NMC was supposed to provide free parking for vehicles coming to the shops below the flyover at these spots.

A visit to the complex reveals NMC has constructed a night shelter in the parking slots towards Manas square, and fruit and paan vendors have encroached the slots towards Jaistambh square. Only the parking slots on both sides of the temple gate are being utilized for the stated purpose.

There are over 200 shops in the complex below the flyover between Jaistambh Square and Manas Square. Over 25 hotels or restaurants are operating from these shops. Almost all of them also cook the eatables in the shops. "The HC had clearly directed NMC not to allow hotels in the shops. NMC too restricted shop lease holders from cooking at the shops in the agreement. However, there is no control on the hotels," Naidu said.

In keeping with the HC order dated December 23, 2010, the police department had declared the road between the two squares as a no-parking stretch. But autos and two-wheelers can be seen parked on the right side of the road adjacent to the flyover ramp towards Jaistambh Square. A line of autos can also be seen parked along the road adjacent to the railway station compound wall. Further, parked autos, two-wheelers and four-wheelers are common till Manas Square.

Similarly, the arches in front of the shops are always encroached by parked two-wheelers, paan kiosk, goods stored by shops, and signboards of hotels etc. The citizens have to walk on the road due to the obstacles below the arches.

The HC had also directed NMC to ensure cleanliness on the road, considering the large number of people coming and going from the railway station. However, garbage and stagnant water are a permanent feature of this road. Also, the road cannot remain free of potholes and bad surface layer when it is maintained by NMC.

"Citizens are facing problems at the complex and on the road. Besides, people coming to the city from other places get a bad impression due to the mess right outside the railway station. While disposing off the PIL, the HC had strictly warned NMC and police department that they would face contempt of court action if there were any violation of its orders. We have decided to move the HC as NMC and police department are neglecting all the directives," Naidu said.

NMC officials told TOI that the market department, enforcement department and zone office will form a joint team and initiate action against violators. "Regular monitoring used to be done by the civic body, and will be started again," said an official

Source:

Times of India, <http://timesofindia.indiatimes.com/city/nagpur/Railway-station-flyover-shops-violate-HC-directives/articleshow/53481840.cms>

15. Finding the right measure

August 16, 2016 01:44 IST

Social progressiveness must be incorporated into discretionary use of the state funds

Every anniversary is cause for celebration, but India's 70th Independence Day also merits looking back. So, did we, the people of India, together create the nation we thought we would — one that secures its citizens justice, liberty, and equality? The question is, have we stayed on the path towards a just society that we had envisioned for ourselves, especially in our approach to women

and marginalised communities? While it has been a dramatic journey of social, economic and political progress since 1947, one that we are all proud of, several regressive practises continue to exist in India today, and it is these that we must look at addressing urgently in the future.

Discriminatory practices

Let's take two relatively recent examples. The former Chief Minister of Gujarat, Anandiben Patel, announced in May that a hospital would examine why some families only produce sons and some only daughters. Her reasoning was that Indians still prefer sons and the blame disproportionately falls on the woman if she produces only daughters. So, a state-of-the-art hospital will carry out "research" in this area, she said. Ms. Patel's statement may have stemmed from the fact that the sex ratio has dipped in Gujarat. This hospital is her solution to it. The second is Union Minister Sanjeev Balyan's proclamation that he spent a major part of his constituency funds for building over a 100 modern crematoriums for Hindus — separate ones for Dalits, Gujjars, Jats, and Brahmins in Muzaffarnagar, Uttar Pradesh. A Right to Information query by divyabhaskar.com revealed that the government in Gujarat is funding separate cremation grounds for the Scheduled Caste and Scheduled Tribe communities in several villages. In Jaisalmer, Rajasthan, too, the Urban Improvement Trust, under the jurisdiction of the State's Urban Development and Housing Ministry, sanctioned separate cremation grounds for different castes and communities at a cost of Rs.5 crore. The story repeats itself across parts of the country.

Reasons to worry

There are three fundamental reasons why such decisions and practices should worry us. While the courts can consider the legality of these issues, both seem to be broadly against the Constitution and to the relevant laws — at least in spirit if not in form. The proposed Gujarat hospital seems to go against the very objective of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994, the core objective of which is to "prohibit sex selection, before or after conception". The very idea of a hospital that will address the "issues" behind having "daughter after daughter" goes against the premise of the Act. Similarly, caste-based crematoriums contravene Article 15 of the Constitution which states that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them".

What should also worry us is that these decisions seem to have been taken by our elected representatives, and, if implemented, will be done using public funds. For instance, in the case of the separate crematoriums, the recommendation would have come from the MLA or MP concerned, and the facilities must have been built using the Member of Parliament Local Area Development Scheme or other constituency funds. While it is no one's case that due process has not been followed — and, in fact, a cursory check of the MPLADS site reveals that crematoriums are allowed under the scheme — it is the fact that public funds are being used for discriminatory purposes that is disturbing. Can there be any denying of the fact that building caste-based crematoriums is an example of elected representatives directing the use of public monies by state institutions to perpetuate the abominable caste system that we had vowed to abolish many years ago?

Realpolitik arguments

Finally we also need to examine what lies at the core of each of these decisions. The justification that is usually presented in such cases is that our representatives truly understand the people's needs and take such decisions as a result. The legislator concerned, we're usually told, is only responding to the ground reality and the "fact" is that Indians prefer sons, and caste Hindus often do not allow Dalits to cremate their dead in their crematoriums. So, by providing separate crematoriums, the Union Minister is apparently "helping" his Dalit constituents by giving them their own space to cremate their dead with dignity. The realpolitik arguments are familiar and specious, and we'll continue to see versions of them creep into our narrative almost unnoticed until they become a part of acceptable "state-sponsored solutions". And that's the real danger that we need to watch out for. For, as history shows, societies that refuse to acknowledge or question insidious ideas suddenly find themselves at dangerous junctures where the state apparatus is used against its own. Sixty-nine years since Independence, we need to consider issues of equality at times of both birth and death.

(Barkha Deva is Associate Director at the Rajiv Gandhi Institute for Contemporary Studies. These are her personal views.)

Source:

The Hindu , <http://www.thehindu.com/opinion/op-ed/barkha-deva-on-social-progressiveness-finding-the-right-measure/article8991386.ece>

17 August 16

16. I-T dept. seeks Sachin's nod to disclose tax details

Dalip Singh, New Delhi, Aug 17, 2016, DHNS:

The Income Tax Department has sought the permission of Sachin Tendulkar, nominated to the Rajya Sabha as a sportsman, to disclose his I-T returns in response to an RTI query. The RTI applicant is a lawyer who sought to know whether the cricket legend had claimed to be an actor to get tax exemptions.

Bengaluru-based Central Public Information Officer (CPIO) of I-T S Anjana wrote to Tendulkar on July 14 asking him to “make a submission” within 10 days if he has any objection to making public the information on his “declared profession” in the I-T Returns (ITRs). Even if he says no, the final decision rests with the tax department’s CPIO, explained I-T sources.

The Central Information Commission recently directed unwilling tax authorities to furnish details to Supreme Court lawyer Pranesh who had sought to know if Tendulkar filed his returns as an ‘actor’ or a ‘sportsman’.

He was nominated to the Upper House in 2012 and two years later was awarded the Bharat Ratna, taking into account his immense contribution to cricket. Prior to that, Tendulkar was allowed by an Income Tax Tribunal in Mumbai to ask for tax exemptions on the earnings he made through product endorsements. In the ITR, an assessee has to mention his profession since different heads of income may attract different taxes. The assessee has to reveal the head under which income derived from various sources should be taxed.

Earlier, the department had refused to share Tendulkar’s ITR on the grounds that disclosure of “personal information” was barred from the RTI Act. Central Information Commissioner Basant Seth, however, overruled this after the applicant argued that Tendulkar, being an MP, was a public servant and his ITRs should be in public domain. Seth quoted a Supreme Court judgement to order that personal information cannot be withheld if the CPIO is convinced that larger public interest justifies the disclosure.

Speaking to DH, advocate Pranesh validated his relentless quest to seek Tendulkar’s tax returns on the plea that “the nation should know what he has declared in the revenue records and the grounds on which he was nominated to the Rajya Sabha and bestowed the Bharat Ratna”. The

lawyer's contention is that his initial identity is that of a cricketer. The lawyer had in the past filed an RTI with the Rashtrapati Bhavan Secretariat questioning the then United Progressive Alliance government's decision to confer the highest civilian award on Tendulkar, who had been advertising for private companies. The ace batsman's rooting for products did not conform to "high standards and dignified conduct" of a member of the Rajya Sabha, he had protested. However, Parliament rules do not bar MPs from appearing in advertisements.

Source:

Deccan Herald, <http://www.deccanherald.com/content/565019/i-t-dept-seeks-sachins.html>

19 August 16

17. NGT seeks reply in illegal mining case by Sept 6

TNN | Aug 19, 2016, 10.39 AM IST

AURANGABAD: The National Green Tribunal's (NGT) Pune bench has asked the respondents in a case of illegal mining in Rampuri village, located about 20 kms from Aurangabad, to submit their replies at least 10 days prior to the date of next hearing, which is scheduled on September 16. On July 4, an application was filed in the NGT by Ajanta International Vipassana Samiti and some farmers demanding environmental protection in the vicinity of Rampuri which was disturbed by illegal stone crushing. The green tribunal had issued notices to Popatlal Chordiya, Krishna Bankar, the Maharashtra Government, the Maharashtra Pollution Control Board (MPCB), Aurangabad district collector and the Aurangabad deputy director of directorate of Geology and Mining. They were directed to remain present in the next hearing, which was held on August 9. The respondents then sought more time to file their responses, to which The NGT bench comprising justices Jawad Rahim and Ajay Deshpande stated: "Taking note of the submissions of respondents, who are represented, we grant all of them four weeks time from now with direction that they must furnish copy of their respective counters on the applicant at least, 10 days prior to the date of hearing fixed to enable the applicant to file rejoinder, if any."

The applicants, Ajanta International Vipassana Samiti and five farmers from Rampuri village, took help of advocate Asim Sarode to raise the serious issue of illegal mining, which they argued violated laws and rules related to environmental protection such as the Environment (Protection)

Act, 1986. The applicants argued that Chordiya and Bankar, without obtaining any permission or licence from any of the competent authorities, started the illegal stone-crushing unit.

The petitioners further argued that the illegal mining in Rampuri was causing air and noise pollution, thus disturbing the peace and calm of the Vipassana centre, which is located adjacent to the mine. Heavy machineries like compressor, drilling, earth moving machine and blasting operation are being carried out causing noise pollution, said the applicant.

The farmers stated that air pollution caused due to dust particles from the mine is affecting their crop and consequently their income. "The dust generated by the stone crusher industry is not only limited to causing health hazards to people in the vicinity and causing adverse effects on agriculture, but it also is detrimental to the bio-diversity to some extent," said advocate Sarode.

The applicants had used Right to Information Act (RTI) to obtain information about the legal status of the mine from office of Aurangabad district collector, the deputy director, Directorate of Geology & Mining, regional office MPCB Aurangabad and Environment and Forest Department, Aurangabad. The RTI revealed that no permission was granted to anybody for mining stones or excavation of stones at the said location.

On August 9, the NGT bench of justices Jawad Rahim and Ajay Deshpande, stated: "Taking note of the submissions of respondents, who are represented, we grant all of them four weeks time from now with direction that they must furnish copy of their respective counters on the applicant at least, 10 days prior to the date of hearing fixed to enable the applicant to file rejoinder, if any."

Vipassana is one of India's most ancient techniques of meditation. It was rediscovered by Gautam Buddha more than 2500 years ago and was taught by him as a universal remedy for universal ills - an Art of Living. This non-sectarian technique aims for total eradication of mental impurities and the resultant highest happiness of full liberation. Vipassana can be used to develop a healthy mind. It is actually a mental training. Therefore, for going to the stage of Vipassana Meditation silence is very important. Even a slight noise can break concentration and disturb the disciples. In the hall of meditation, no one is allowed to talk with each other. However, with stone crushing activities in nearby area, all the process of Vipassana has got disturbed, said the applicants in the petition.

Source:

The Times of India, <http://timesofindia.indiatimes.com/city/aurangabad/NGT-seeks-reply-in-illegal-mining-case-by-Sept-6/articleshow/53766600.cms>

18. Rs 51.6 lakh not utilised by Jalandhar health department: Audit

Jatinder Kohli, Hindustan Times, Jalandhar, Aug 19, 2016 14:08

While the district health department has been facing a vigilance inquiry into the alleged misuse of funds, an audit team has raised objections on the non-utilisation of Rs 51.6 lakh, earmarked under various health programmes under the National Health Mission (NHM). The audit team has noted that non-utilisation of funds has resulted in the denial of benefits to the people under the NHM programme as funds were given by the government as per the demand of district.

The amount was sanctioned under the programmes like the Mata Kaushalya Scheme (MKS) (at present, this programme does not exist), non-scalpel vasectomy week (NSV), National Cancer Control Programme (NCCP) and iodine deficiency programme.

In its report, procured by the Hindustan Times under Right to Information Act 2005 from the civil surgeon's office, the audit squad claimed that NHM programme was launched to provide accessible, affordable, accountable, effective and feasible health facilities in the rural and urban areas. It stated during the scrutiny of records, it was noticed that during the period from April 1, 2015, to March 31, 2016, a sum of Rs 51.6 lakh was available with the department but remained unspent.

It included Rs 49.7 lakh under the MKS, Rs 3,900 for the NSV week, Rs 1.4 lakh in the NCCP and Rs 45,650 for iodine programme. Not only this, the audit team had also pointed out that Rs 26.6 lakh, earned through interest on the NHM funds in the bank, also remained unutilised in the bank, in contravention of the guidelines.

It further detected as per guidelines of the department, funds are to be kept in an interest-bearing account and the interest occurred on the funds is to be treated as a grants-in-aid and utilised for the purpose for which these funds were earmarked. The instructions in this regard to all offices were given by the department in its letter issued on December 15, 2010. The local officials stated that matter would be referred to the higher authorities to sort the issue. The audit was conducted from April 15 to April 26 by an inspection team in the local office. It submitted its report with the civil surgeon office on May 23.

Civil surgeon Dr Rajiv Bhalla said, the department has replied to higher officials over objections pointed out by the audit. It is pertinent to mention here that Sanjeev Kumar, district accounts officer (DAO) in the civil surgeon's office here, who had been quizzed by vigilance sleuths in the probe, was transferred from here to Fazilka district in the first week of this month. The vigilance probe was initiated in February after the director general of police (DGP, vigilance) received a complaint about irregularities in the purchase of electronic equipment and other items by the health department.

Source:

Hindustan Times, <http://www.hindustantimes.com/punjab/rs-51-6-lakh-not-utilised-by-jalandhar-health-department-audit/story-xOlZxNtQafIfTVyPsskirL.html>

19 . School fee panel formed last year, yet to meet: RTI

Jatinder Kohli, Hindustan Times, Jalandhar Aug 19, 2016 14:08

Even as several schools in Mumbai and students' parents are locked in fights over fee hikes, the divisional fee regulatory panel in Mumbai has not held even a single meeting to resolve the disputes since its inception in 2015.

This was revealed in a recent Right to Information (RTI) query filed by the parents. This means that the school fee regulation Act that came into force two years ago is still not being implemented. The state government constituted fee regulatory panels in each of the state's divisions on May 12, as specified under the Maharashtra Educational Institutions (Regulation of Collection of Fee) Act, 2011. The schools' managing authorities are supposed to approach these panels if a fee hike goes over the 15% increase proposed by schools and approved by the executive Parents Teachers Association (PTA) panel.

At least 20 fee-hike disputes are pending with the education department for the last six to seven months but the panel is yet to hear any of them. A parents' group, PTA United Forum filed an RTI on July 18 to investigate why the cases were pending. The deputy directorate replied to the query

on Tuesday (August 16) stating, “The Mumbai division fee regulatory has not met since it was formed on January 1, 2015.” The reply was given by RR Sawant, RTI officer of the directorate. PTA had approached the panels for intervention in the Indian Education Society (IES) school hike case in which the management raised fees by 50% for students moving from senior kindergarten to Class 1. But they were not given a hearing, complained Arundhati Chavan, president of the forum. “The department gave us vague answers that the divisional committee is busy right now. They kept procrastinating hearings,” she said, adding, “The RTI shows that the department was lying to us.”

Commenting on the matter, BB Chavan deputy director of education, Mumbai region and secretary of the panel said, “One meeting was held when the panel was formed last year but it was just an introductory meet, after that the secretary has not called us for any hearing.”

Chavan added that the panel can conduct hearings if the school managements appeal to them. “So far we have only received appeals from the PTA members but the Act states that the management of the schools have to appeal to us,” he said, adding that a meeting would be held in a couple of days to decide what to do about the pending PTA appeals. Chavan also said that the panel does not even have an office to conduct hearings in yet.

Education activists, however, suspect a nexus between school managements and the department. “In court, the department shows that they have put the machinery for implementing the new Act in place but they have not spread any awareness regarding it,” said Jayant Jain, president of the NGO Forum for Fairness in Education.

Source:

Hindustan Times, <http://www.hindustantimes.com/mumbai-news/school-fee-panel-formed-last-year-yet-to-meet-rti/story-Nzi3MfmMdHIBY6FIbuU36M.html>

20th August 2016

20. Government sites fail to clear transparency test

Paras Singh | TNN | Aug 20, 2016, 12.04 AM IST

New Delhi: The Digital India initiative may be aiming to make all government services electronically available, but a recent study has found 10 government websites in Delhi lacking in several transparency parameters.

The study, published in Delhi Citizen's Handbook 2016, audited the websites against predefined parameters of Section 4 of Right to Information (RTI) Act that sets guidelines for proactive disclosure of information by government agencies without the public having filed RTI queries. Nine out of the 10 websites could not even meet 60% of the compliance points, said the study, conducted by Centre for Civil Society.

Delhi Jal Board (DJB) has outperformed all others with its website satisfying 81% of the parameters. It is the only agency with a nodal RTI officer who coordinates and facilitates the flow of information. But the website, which received praise for its design, doesn't have contact details of the public information officers. In fact, contact details of PIOs seem to be closely guarded secrets in almost all cases, with Delhi Commission for Women (DCW) and NDMC's education department being the only exceptions.

Two Delhi government agencies—Delhi Transport Corporation (DTC) and vigilance department—are found to be the worst performers. At 31%, the DTC website is the worst performer with incorrectly labelled and outdated information, and a poor layout making it difficult to access.

Researchers also carried out a comparison of the education and health departments of the three corporations (MCD), NDMC and Delhi government. In both cases, MCD turns out to be the worst compliant authority. "Incorrect labelling makes it extremely difficult to navigate through the websites," the study pointed out. The IT departments in the civic bodies have always drawn flak for shoddy performance. While many people-friendly IT projects have failed to take off in the past few years, even the basic details of the councillors are usually wrong.

Contrary to the spirit of RTI Act essential to attain the lofty goals of good governance, the departments were found to be blaming each other rather complying with Section 4. The study identified the ambiguity in the wording of Section 4 as the root of the problem. "The ambiguity allows public bodies room for interpretation on what information is to be disclosed. Lack of provision regarding regular updating is leading to variation in frequency of updates," the report said.

To improve accessibility, researchers recommended reworking of Section 4 to incorporate clearer wording and addition of a clearly defined penalty in case of non-compliance. Citing the best practices from the US, they also suggested a regular audit by a third party to ensure strict compliance.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/delhi/Govt-sites-fail-to-clear-transparency-test/articleshow/53777811.cms>

21. Supreme Court Orders CBSE to follow its judgment on Providing Answer Sheets to Students

20 August 2016

New Delhi August 20 (ENA) The Supreme Court of India has instructed the Central Board of Secondary Education (CBSE) to follow its 2011 judgment word by word that had directed the CBSE to provide answer sheets to all the students who have made the demand under the Right to Information (RTI) Act 2005.

The instruction has been issued by the court in response to a contempt petition that was filed by Kumar Shanu and others through advocate Prashant Bhushan by claiming that students are being asked to pay as much as Rs. 1000 for obtaining the copies of their answer sheets. While passing the instruction the Supreme Court of India observed that it need not proceed further with the contempt petition as CBSE has given clarification regarding the fees charged by it for providing

the answer sheets. CBSE in its response to the contempt petition has said that the reason behind charging fees is not to earn any benefit nor to deviate from the provisions of the RTI Act.

In the year 2011 the Supreme Court of India had passed a judgment according to which answer sheets come under the definition of information under the RTI Act and because of this a student has the right to ask for access to the answer sheets. Further as per the provisions a student shall have to pay Rs. 10 as application fees and Rs. 2 per page for the copies of the information being sought. (ENA Bureau)

Source:

Education News Agency, <http://www.enaindia.in/news/newsdetails/policy/governance/supreme-court-orders-cbse-to-follow-its-judgment-on-providing-answer-sheets-to-students>

22. NHAI runs office in residential building, lacks valid lease agreement

Anjaya Anparthi | TNN | Aug 20, 2016, 03.01 AM IST

Nagpur: The National Highways Authority of India (NHAI) falling under city MP and Union minister for road transport and highways Nitin Gadkari's ministry is operating its project implementation unit (PIU) in a residential building for last nine years. Also, the office continued to run in the rented building without valid lease agreement for last six years. RTI activist Ankita Shah has obtained documents related to the NHAI's office under the Right to Information (RTI) Act. The documents exposed various types of violations. The NHAI's office is situated on plot No. 159 in Shubankar Society, Hill Top. It is a residential layout as per the Nagpur Municipal Corporation's (NMC) records. The building in which the office is situated is also a residential sanctioned structure with G+2 floors. The entire building that houses crucial documents of NHAI is not having any type of fire safety and preventive equipments that is mandatory as per the NMC's fire and emergency services department.

The bedrooms on ground, first floor and second floor have been turned into office chambers. Halls have been divided into staffers working areas. There is also a kitchen on ground floor which is

lying idle. No provisions of parking is available for the staffers and visitors. Parking is done on a six-meter narrow road in front of the building. The front margin is also encroached. On October 1, 2007, the then project director had executed lease agreement with owner of the building for three years at monthly rent of Rs25,000. As per the NHAI's policy, the agreement was supposed to be renewed after three years. "NHAI did not renew the lease agreement in 2010 and in 2013 too. I had submitted an application under RTI on May 30. NHAI obtained a letter dated June 10 from the owner of the building in which he stated that lease continued on the same terms and conditions prescribed in agreement dated October 1, 2007. The letter cannot be treated as an agreement and also obtained after my application. It is a brazen violation and proves favour to a private person," Shah said.

Shah added there is no document to prove NHAI conducted tendering process for the rental office. "I inspected the file and there was no copy of tendering process. Officer looking after the issues related to rent also confirmed that there are no such documents with him. The official said he was not with this office when agreement was executed. Tendering process is mandatory as per the NHAI's policy," she said. Only silver lining in the case is that the NHAI did not increase monthly rent in last six years. However, the NHAI will end up paying Rs27 lakh (till October 1, 2016) for office situated in 2,800 sq ft structure. The NHAI could have constructed its own new building with same built-up at Rs28 lakh. "NHAI's policy says preference should be given for hiring office accommodation from the government agencies like central/state, PSUs etc. However NHAI failed to provide me any such document proving efforts taken for hiring any government-owned structures. Also policy allows PIU to operate in structure below 2,152 sq ft whereas this office built-up area stands at 2,800 sq ft," Shah said.

NHAI project director Shriram Mishra refused to comment. NHAI official on condition of anonymity said no action taken by the local authority as on date for running office in residential building. "There are provisions to increase monthly rent once in three years but we manage to continue with same rent for last nine years," he said.

Source:

The Times of India, <http://timesofindia.indiatimes.com/city/nagpur/NHAI-runs-office-in-residential-building-lacks-valid-lease-agreement/articleshow/53777983.cms>

23. Health dept. did not spend Rs 2.18 cr given under NHRM in 2014-15:

Audit

Jatinder Kohli, Hindustan Times, Jalandhar, Aug 20, 2016 15:33 IST

Already under scanner for not utilizing Rs 51.6 lakh for welfare of people in 2015-16, the health department had also not spent Rs 2.18 crore given under the National Rural Health Mission (NRHM) and Mata Kaushalya Scheme in the 2014-15 financial year. This came to light when the audit squad inspected the records of the district health department and submitted its report to the government.

The audit team stated that due to non-utilization of funds, beneficiaries were deprived of benefits as funds were given by the government as per the demand of district. Moreover, the team also had objected that the department failed to adjust Rs 22.6 lakh, which was shown under advances. The report has been accessed by Hindustan Times under Right to Information Act 2005 from the civil surgeon office.

The department had got funds worth Rs 17.6 crore in 2013-14, but it managed to spend Rs 15.52 crore only out of the grant for various programmes and projects. Therefore, Rs 2.07 crore remained unspent. The audit team has also detected serious irregularities in releasing financial assistance to beneficiaries under the Mata Kaushalya Scheme.

In this state-sponsored programme (now, the scheme does not exist), Rs 1,000 was to be given to each woman, who comes for delivery in the government hospital, irrespective of their economic status. The scheme was started to promote institutional deliveries in the state. It wrote that as per records from April 1, 2013, to March 31, 2014, the department recorded 11,269 deliveries in its health institutions and the amount to be distributed was Rs 1.12 crore among the beneficiaries but department gave the financial assistance of Rs 1.01 crore only thus remaining balance amount Rs 10.73 lakh was not disbursed among the women who reported in government hospitals for delivery.

The audit team pointed out that the department had an amount of Rs 1.5 crore, which was enough to cover all the beneficiaries. The audit was conducted from July 9 to July 22, 2014, by an

inspection team in the local office. It submitted its report with the civil surgeon office on August 22, 2014.

Source:

Hindustan Times, <http://www.hindustantimes.com/punjab/health-dept-did-not-spend-rs-2-18-cr-given-under-nhrm-in-2014-15-audit/story-zw2PzmEfzpNbCzGjDw04RN.html>

21 August 16

24. Taking on the system with information as his weapon

By Manoranjan Panda, 21st August 2016 02:27 PM

Manoranjan Panda narrates the tale of a law student from Odisha who'd used the Right To Information Act to fight corruption and help the underprivileged

Since 2005, the Right to Information (RTI) Act has built an impressive trajectory. In an era of global youth rebellion, it seems to be opening up new space for India's young to demand people's right to know. Taking a cue from this new trend of students digging up dirt, with the help of RTI, Rohit Kumar, a 24-year-old law student of KIIT University in Bhubaneswar, who tenaciously used RTI to fight corruption, has been preparing himself to provide justice to poor and underprivileged people.

Rohit, who has been using the RTI Act since 2012, is the youngest face in a growing brigade of information warriors. The young crusader takes on the system for everything from inedible hostel food to corruption in ration shops – looking for truth and ensuring justice. Currently pursuing internship at the chamber of Prashant Bhushan in New Delhi, Rohit has so far submitted more than 200 RTI applications and 125 first appeals to both the State and Central Government offices including the Prime Minister's Office (PMO).

Rohit had also asked Delhi CM Arvind Kejriwal's office for details of individuals who made official requests for appointment and those who had been granted an appointment. Responding to the application, the CMO said no records or list of appointments were maintained and so could not

be revealed. Earlier, Rohit had sought similar information from PMO. information was denied on the ground that it may threaten the security and sovereignty of India. “This is ridiculous. I have challenged the PMO’s decision with the Central Information Commission (CIC),” he said. A 2011 CIC order had ruled that PMO should make public the list of the visitors coming to meet the PM excluding only the sensitive meetings. To the young crusaders, the charm of RTI far outstrips the dangers. It allows them to break the monotony of everyday life and dream of leaving behind a legacy.

Source:

Indian Express, <http://www.newindianexpress.com/education/edex/Taking-on-the-system-with-information-as-his-weapon/2016/08/22/article3587691.ece>

25. Political parties cornerstone of democracy; can't abolish tax exemptions, says Modi government

By PTI | Aug 21, 2016, 11.05 PM IST

NEW DELHI: The government has rejected suggestion to abolish tax exemptions given to political parties, saying these are to strike a balance between encouraging political activities and regulating their activities in the interest of democracy in the country.

Terming the suggestion of RTI activist Subhash Agrawal as not feasible, the Ministry of Finance has said, "Political institutions are cornerstones of any democratic set-up and provisions contained in the 13A, 80GGB and 80GGC of the Income Tax Act, 1961 intend to encourage and empower such institutions." Six national political parties — Congress, BJP, BSP, NCP, CPI and CPI (M) — were brought under the purview of the RTI Act by the CIC because they enjoy indirect funding from the government in the form of subsidies and tax exemptions. All the political parties brought under the RTI Act are opposing the directive of the transparency panel.

It would not be appropriate to attempt a parallel comparison with the activities of other entities such as trusts, funds and institutions of charitable nature. The nature of activities undertaken by charitable entities is very different from that of political parties. "As the very purpose of charitable entities and political parties are different, different provisions have been made under the Income

Tax Act," it said. The response was provided to Agrawal who wanted to know what action has been taken on his suggestion to abolish tax exemption to political parties and NGOs.

"Democratic institutions form the very basis of polity in India and it was deemed necessary that political parties be treated differentially so that impetus is given to organised political activity. "Political parties require funds in order to carry out a variety of activities including contesting of elections, organising meetings and rallies, publishing literature among others," it said.

The response said these activities are both of a regular nature such as organising of rallies and bringing out publications and also periodic with respect to certain matters such as conduct of elections, etc. "Accordingly, political parties have been granted certain exemptions and deductions so that they are able to utilise maximum funds for the public purpose of political activity," it said.

Source:

Economic Times, <http://economictimes.indiatimes.com/news/politics-and-nation/political-parties-cornerstone-of-democracy-cant-abolish-tax-exemptions-says-modi-government/articleshow/53800799.cms>

26. From last 2 years, no formal written request from JK Govt for revocation of AFSPA: MHA

Published at: Aug 21, 2016

Srinagar, Aug 20: Government of India Ministry of Home Affairs has revealed it has not received any written request from the Government of Jammu and Kashmir with regard to revocation of Armed Forces Special Powers Act (AFSPA) from last two years.

The demand for revocation of Armed Forces Special Power Act, that gives impunity to army and paramilitary forces operating in JK state against criminal prosecution always figured top on agenda of National Conference and People's Democratic Party. The pledge to purge Kashmir off this dreaded draconian law has been made by ruling People's Democratic Party and it also figures in

the 'Agenda of Alliance' that was drafted by both BJP and PDP before forming the government in Jammu and Kashmir in 2015.

The recent revelation from the Government of India Ministry of Home Affairs has surfaced in response to an application filed under Right to Information (RTI) Act by senior Journalist and Human Rights activist M.M. Shuja. The Home Ministry according to news agency CNS has also revealed that from past two years, no formal meeting has been held regarding the revocation of AFSPA. In response to the several questions relating to revocation of this draconian law, the Ministry of Home Affairs has stated that: "The situation with regard to Jammu and Kashmir is being reviewed in the Ministry from time to time, however, no formal meeting with regard to revocation of AFSPA in Jammu and Kashmir has been held during last two years. Furthermore, no request has been received from the State Government of Jammu and Kashmir during last two years regarding the revocation of this Act."

The 'latest revelation' is not that latest and fresh. In March 2013 after Omar Abdullah upped the ante on AFSPA revocation in state legislative following the killing of a youth in Baramulla in army firing, the then Union Home Minister Sushil Kumar Shinde took the steam off the CM's campaign on AFSPA by stating that 'there have been no formal request from the JK government for scrapping of the Act'.

When asked why State Government didn't send a formal written request regarding the revocation of AFSPA to Government of India, State Government spokesperson and Minister for Education Nayeem Akhtar told CNS that such matters are not resolved through written requests but through mutual understanding. "Revocation of AFSPA from Jammu and Kashmir is an important part of Agenda of Alliance. We don't believe in cosmetic measures. We are committed to revoke this Act," Akhtar said.

In reply to the same question National Conference General Secretary Ali Muhammad Sagar said that Omar Abdullah used all his resources to motivate and persuade the then Central leadership to revoke AFSPA from Jammu and Kashmir, the fact publicly accepted by former Home Minister P.Chidambaram. "It is not fair to criticize previous government over the issue when we tried our best to repeal this draconian law from the State," he said.

Senior Congress leader who was a Minister in the Omar Abdullah government said that it was the then Defence Minister A.K Antony who vehemently opposed its revocation. (CNS)

Source:

Kashmir Monitor, <http://www.kashmirmonitor.in/Details/108273/from-last-2-years-no-formal-written-request-from-jk-govt-for-revocation-of-afspa-mha>

22 August 16

27. GREEN COURT SEES RED, ISSUES ARREST WARRANT AGAINST SLUGGISH STATES

By Mayuri Phadnis, Pune Mirror | Aug 22, 2016, 02.30 AM IST

Govts fail to implement bio-diversity act, documentation through people's register also non-starter observing the lackadaisical attitude of state governments in implementing the Biological Diversity Act, 2002, the National Green Tribunal's (NGT) principal bench in Delhi has issued an arrest warrant against all states which have been made respondents in the case.

Mirror had, on July 9, reported that despite the Act being passed 12 years ago, it still remains on paper. The petition was filed by a Pune based environment protection volunteer on the basis of information filed under the Right to Information (RTI) Act. The information had revealed shocking data about the fact that the states are severely lagging behind in forming the biodiversity monitoring committees as well as the fact that the People's Biodiversity Register documenting the flora and fauna found in the area falling under these committees, too, has not reached a conclusion despite several years having passed.

The court, in its hearing last week, had issued a bailable warrant against residents in the sum of Rs 10,000. The respondent states have also been directed to file their replies within three weeks with advance copy to the applicant who may file a rejoinder. The case is next going to be heard on September 29.

Commenting on this order, Chandra Bhal Singh, who had filed the petition, said, "For the first time, the court has passed such an order, which is unprecedented. It is an embarrassment for the administration that the court has to issue such a strong order. The administration has been taking no cognisance of this and it is extremely sad to look at their lackadaisical attitude towards protection of biodiversity. I welcome this order whole-heartedly."

The information gathered had revealed that even Maharashtra, which had the maximum number of monitoring committees, had a mere 1,562 committees for 28,813 panchayats and municipal corporations. The state had submitted no People's Biodiversity Register either.

"By now, we must have made around 4,000 committees across the state. It was after the first notice itself that the commissioners had taken the matter on a war footing and issued letters for quick action in this regard. The whole case has had a positive impact on quickening this process," said one of the members of Maharashtra's state biodiversity board.

Maharashtra's biodiversity committee was formed as late as 2012 and in the previous period had a lot of administrative problems. It is only now that the board has been stabilised.

"First of all, there have been no efforts taken to spread awareness among various villagers about the way they should go forth with creating the committees and the need for making the registers. They have to be shown the importance of biodiversity — how it is a treasure and how the services it gives us are invaluable. It is shameful that there is no seriousness in implementation of the Act and that the administration is taking it all lightly. This makes us wonder whether there are any vested interests at the government level — maybe they don't want to document the diversity which they feel might get in the way of 'development'," said Rajiv Pandit, founder of Jividha, an organisation working for environment conservation and education.

Santosh Shintre, another environmentalist from the city, said, "India was the first-ever country to pass a dedicated Act to protect biodiversity. However, this Act is not reflected in other policies of the country and exists in isolation even though it cannot be thus implemented. The government has to understand that better biodiversity is better and cheaper living. For example, in Raigad district, a maid, while returning home from work earlier, had access to 18 different types of wild vegetables which she could cook at home. Now, due to industrialization, it has been lost and the district has to import vegetables from Mumbai."

Environmentalist Pradeep Chavan said, "It is a good move by the NGT since all the environmental laws — the Biodiversity Act the most — have been neglected when it comes to implementation. In the initial phase, when the Act was passed, some people had opposed certain provisions, stating that this will put the traditional knowledge of the community at risk of exploitation by commercial forces. After that, discussion as well as implementation have totally fallen behind. It is a great step since it an offence that no heed was paid by the state governments to the previous orders."

This makes us wonder whether there are any vested interests at the govt level — maybe they don't want to document the diversity which they feel might get in the way of 'development'

Source:

Pune Mirror, <http://www.punemirror.in/pune/civic/Green-court-sees-red-issues-arrest-warrant-against-sluggish-states/articleshow/53800056.cms>

24 August 16

28. HT Exclusive: - Maharashtra pours Rs2,500 crore more down irrigation drain

Ketaki Ghoge, Hindustan Times, Mumbai, Aug 24, 2016 00:52 IST

In a classic case of throwing good money after bad, the BJP-led government in Maharashtra has cleared cost escalations totaling more than Rs2,500 crore in the past 18 months for pending irrigation projects, most of them in the backward Vidarbha region.

Though this in itself is not illegal, documents available with HT of 72 projects show that most of the cost escalations have been granted without any scrutiny or even updating the paperwork done during the previous regime when the portfolio was with the Nationalist Congress Party, whose leaders stand accused of wrongdoing on a massive scale in irrigation projects.

The BJP-led government cleared the cost escalations by restarting the process of granting revised administrative approvals (RAA), which allow increases in the budgets for projects cleared earlier.

Water resources minister Girish Mahajan told HT the approvals could not be held back. "We have inherited colossal problems and we can't start reviewing projects or cost escalation proposals from

scratch. If we don't give RAAs, project costs will only further increase making things further untenable. Currently, we are giving RAAs to pending projects whether they are 30 per cent, 40 per cent or 50 per cent complete.”

The RAA proposals by the water resources department were cleared at the state level following a go-ahead from the expenditure priorities committee led by finance ministry, which held meetings on August 21, 2014, April 9, 2015, and January 27 2016. HT got documents on the cost escalations from the water resources department under the Right to Information Act.

From March 2016 to August 1, 2016, 20 projects in Vidarbha got cost hikes worth Rs1,444 crore. This includes Lower Dyanaganga in Buldhana ,where cost has been increased from Rs30.45 crore to Rs159.55 crore, and Bawanthadi in Bhandara where cost has been hiked from Rs531. 26 crore to Rs867.20 crore.

Most of the hikes were approved at the state level until January 2016, after which powers were decentralised and given back to the irrigation development corporations set up in every region.

HT reviewed 54 such clearances given by the state and found out that the costs of 30 of these projects were updated based on scheduled rates (of material costs) dating back to 2007-08 to 2009-10. Five minor irrigation projects from Solapur district, a drought-prone region, were cleared based on scheduled rates dating back to 1999- 2000 and 2000-2001. Scheduled rates refer to the standard cost of material such as steel and cement, which is published each year by the government taking into account inflation.

Other than 11 barrages on the Painganga river in Vidarbha that saw a hike of Rs716 crore, none of the revised approvals were based on current rates. While all the approvals were on the condition that the projects be completed in one year, officials admit that this cannot be done unless even more funds were released.

“This is a way of pocketing funds for the contractor and using up the existing budget. One expected the BJP government to change the way the water resources sector has been functioning over the last two decades by taking a real-time review of irrigation projects. Instead of cleaning up the mess, they are following the same old route and granting cost hikes without analysing real benefit for the region,” said Anil Kilor from NGO Jan Manch, which had filed the first PIL over the irrigation scam in Vidarbha that centered around illegal cost hikes.

That's not all. For 52 out of the 54 projects, the government order approving the cost escalation states that the hike was also due to change in project design. When a design of a project or its scope changes, like in the case of the controversial Balganga dam in Konkan (the first charge-sheet has been filed in this case), the project has to be ideally considered afresh.

The result of the cost and time over runs is a poorer cost-benefit ratio as is the case of projects such as Bewartola minor irrigation project in Gondia and Amdapur minor irrigation project in Yavatmal, where it is barely over 1 at 1.1 and 1.04. The projects saw a cost escalation of Rs48 crore and Rs29 crore.

Pradeep Purandare, water expert and former associate professor with Water and Land Management Institute (WALMI), said, "The state government needs to first put in place an integrated state water plan promised in a law cleared way back in 2005 and then it can revise projects. The government has not even put in place a separate manual for the irrigation sector to grant RAA. Instead it is giving the go-ahead to cost escalation proposals prepared by the earlier government, which are suspect. The government's priorities are clearly skewed."

How the state government plans to complete pending projects worth Rs80,000 crore when its annual budget is only Rs7,000 crore, the bulk of which goes in meeting cost escalations, is not clear.

Source:

Hindustan Times <http://www.hindustantimes.com/mumbai-news/ht-exclusive-maha-pours-rs2-500-crore-more-down-irrigation-drain/story-GiithfjOy2m5Wp8x1WsaFL.html>

25 August 16

29.No records available on AgustaWestland deal: Defence

Ministry, IAF

Aug 25, 2016, 20:21 IST

The Indian Air Force (IAF) has claimed that it does not have records related to the controversial VVIP chopper deal with AgustaWestland which was later scrapped following allegations of

bribery. The IAF and Defence Ministry are primary holders of the information sought through an RTI query. The Ministry had referred the matter to CBI for a probe after alleged corruption surfaced in the Rs 3,600 crore deal.

Under the Right to Information Act, an application was filed with the Defence Ministry seeking complete records related to the deal, including price negotiations and file notings. In addition, the applicant had also sought information related to meetings of the Price Negotiation Committee on the deal, cancellation of the deal, first estimate of the helicopters provided by AgustaWestland, specific additions sought in the helicopters which increased the cost and deliberations which allowed lowering of flight ceiling and cabin height.

The application was transferred by the Defence Ministry on June 16 to Indian Air Force to furnish the information in accordance with the transparency law. An application is transferred under Section 6(3) of the RTI Act when the public authority does not have any or a part of information sought by the RTI applicant.

The Indian Air Force headquarters in a reply said, “The information sought vide your RTI application is not available at this HQ.” Surprisingly, several details of the deal were referred to by Defence Minister Manohar Parrikar during a debate on the issue in the Lok Sabha on May 6. The CBI, which is probing the case, had collected many records during investigation, but as per norms, copies of necessary documents were left with the concerned ministry or the department from where they had been collected.

According to Right to Information Act, the “information” is defined as “any material in any form...” which is held by or is under the control of a public authority. CBI had registered a case against former IAF Chief S P Tyagi along with 13 others, including his cousins and European middlemen, in connection with alleged bribery in the 2010 deal for 12 AgustaWestland helicopters for VVIPs.

The former Air Chief is accused of reducing the flying ceiling of helicopters from 6,000 m to 4,500 m (15,000 ft), which facilitated AgustaWestland to be in contention for the deal. Otherwise the company did not qualify for submission of bids. Tyagi has denied the allegations and claimed that the change of specifications, which allowed AgustaWestland to be in contention, was a collective

decision in which senior officers of Indian Air Force, SPG, NSA and other departments were involved.

Source:

Indian Express <http://indianexpress.com/article/india/india-news-india/no-records-available-on-agustawestland-deal-defence-ministry-iaf-2995966/>

29 August 16

30. RTI reveals irregularities in guest lecturers' appointment

Updated: August 29, 2016 06:55 IST, Madurai

Took place in constituent colleges of MKU in the academic year 2015-16

Details obtained through the Right to Information Act have revealed apparent irregularities in the appointments of nearly 20 guest lecturers, with salary on an hourly basis, at the constituent colleges of Madurai Kamaraj University in the beginning of academic year 2015-16.

Information provided for requests filed by A.R. Nagarajan, secretary of NET/SLET Association, showed that many appointees did not meet the qualification criteria and the appointments were made without forming selection committees or conducting interviews as procedures demanded.

As per the documents, most of the appointments were made without prior approval from the Convenor's Committee, which was in charge of the administration as there was no Vice-Chancellor. The approvals were instead obtained only for sanctioning of salaries after the appointees started working in the colleges on an 'ad-hoc basis.' Hinting at appointment of unqualified persons, the documents showed that a candidate with postgraduation in Commerce was appointed for teaching History at the constituent college in Kottur near Theni. Mr. Nagarajan alleged that many candidates had not cleared National Eligibility Test (NET) or State-level Eligibility Test (SLET) and they were also not doctorate holders.

"This is against University Grants Commission regulations. Many of the appointed candidates also had inadequate experience," he alleged. For instance, two appointees for teaching Economics at

the college in Andipatti and four appointees for teaching different subjects at the college in Sattur had no experience.

On the contrary, S. Madhusudhanan, a candidate from Madurai who has cleared SLET in Economics and has seven years of experience, said his application was never considered. “Though they did not advertise for these posts, I sent applications several times after knowing about the vacancies. My application was not even acknowledged,” he said. For Mr. Nagarajan’s petition to Chief Minister’s Special Cell demanding investigation into the appointments, the university authorities responded saying these were made to tackle the urgent need for teachers.

A letter sent by the Directorate of Constituent Colleges at the MKU to the Legal Cell handling petitions at the university said the appointments were ‘purely temporary’ and proper appointments would be made after the appointment of Vice-Chancellor. When contacted, P. Vijayan, Registrar (in-charge), MKU, claimed that he was not aware of these issues as he took charge only recently. “I will enquire and see if there is truth in the allegations,” he said. Mr. Nagarajan, who obtained the information after one year following an appeal to the State Information Commission, alleged that the information provided was incomplete and in violation of the order of the commission.

“They had not provided details on the action taken for my petitions to CM’s Cell and Higher Education Secretary. I will appeal to the SIC again,” he said.

Source:

The Hindu, <http://www.thehindu.com/news/cities/Madurai/rti-reveals-irregularities-in-guest-lecturers-appointment/article9044397.ece>

31. Maharashtra Lokayukta closed 1,863 complaints since 2014 with no action:

RTI

Updated: August 29, 2016 06:55 IST

Maharashtra Lokayukta received over 14,000 complaints in the last 30 months and closed 1,863 of them without taking any action, according to an RTI query. In response to a query by city-based

RTI activist Jitendra Ghadge, the office of the Lokayukta said it received 5,860, 5,200 and 3,028 complaints in the year 2014, 2015 and 2016 (up to July) respectively, but it closed 914, 831 and 118 complaints in the corresponding years without any action as these did not hold any merit. However, 319 reports in 2014 and 22 in 2016 were submitted by the Lokayukta to competent authorities recommending action, but action the taken report sent by the respective departments to these stood at 192 in 2014, 44 in 2015 (the carry forward from 2014) and only 1 in 2016, the reply said. It also said there were at least 795 cases in which the Lokayukta was not satisfied with the action taken by the competent authorities. Ghadge has alleged that the corruption watchdog has been reduced to a "recommendatory body" and virtually rendered "toothless" because of lack of powers.

"But since it has not been vested with any powers except for sending reports, it has virtually turned into an ineffective institution and has become toothless," Ghadge said.

The performance of the Lokayukta clearly shows that they have been stripped off their powers and only indulge in written correspondence with the government, the RTI activist alleged.

"As of now, the Lokayukta has no powers except for sending reports. The historic Lokpal agitation had absolutely no effect except for formation of a new political party. People have forgotten and so has the Maharashtra government," he claimed and alleged that both the Congress and the BJP governments have absolutely no intention of implementing the Lokpal and Lokayukta Act 2013.

Source:

Mid Day, <http://www.mid-day.com/articles/maharashtra-lokayukta-closed-1863-plaints-since-2014-with-no-action-rti/17570168>

31 August 16

32. GNDU selection norms repeatedly under scanner but V-C says all okay

Written by KAMALDEEP SINGH BRAR | Amritsar | Updated: August 31, 2016 10:24 am

For the second year in a row, the teachers selection criteria of the Guru Nanak Dev University (GNDU) has been challenged in the Punjab and Haryana High Court.

For the second year in a row, the teachers selection criteria of the Guru Nanak Dev University (GNDU) has been challenged in the Punjab and Haryana High Court.

Petitioner Raghubir Singh submitted that a Right to Information (RTI) reply revealed that in 2011, a certain female candidate for the post was interviewed twice by the same panel on the same day, one after the other. He added that the same candidate received posting on the basis of her second interview in which she scored 10 marks more.

The candidate Gurinder Bir Kaur, then native of Gurdaspur, had originally applied for the post of assistant professor in department of computer science and engineering in the GNDU main campus. However, the vice-chancellor Ajaib Singh accepted her written request to consider her for another post advertise for the GNDU regional campus in Sathiala and hence, the same panel interviewed her twice on September 19, 2011. While in the first interview she scored 8 marks, in the second she scored 18.

“Technically, it is not possible to appear for two different interviews at 11 am on same day. The jump of 10 marks in interview performance in front of same panel was extraordinary,” said Raghubir Singh.

Follow UGC rules: V-C

GNDU VC Dr. Ajaib Singh Brar claimed that there was nothing wrong with the selection criteria of the university. “Our selection criteria is according to UGC rules and regulations. There is nothing wrong in it. Filing of petitions does not mean that there is something wrong with the selection criteria. Court has never quashed our any selection committee for permanent posts. The V-C has no role to play in selection criteria. Syndicate and selection committee make the appointments,” he said.

Even in the case of Gurbinder Bir Kaur, he said, “It was decision of selection committee. There is nothing wrong in it. I have already given reply to the presentation made by Raghubir Singh to governor.”

“You can check with the selection criteria followed by any university. Selections committees have all marks in their hands during recruitment to institutes like the IITs and IISc. Same are the rules for universities like Oxford,” said Ajaib Singh Brar.

‘Disturbing’

The petitioner, who had first approached the office of GNDU chancellor, also Governor of Punjab, in April 2015 listed many such examples in his representation demanding probe into the appointments made during the tenure of V-C Dr. Ajaib Singh.

In 2015, the Punjab and Haryana High Court imposed Rs 25,000 fine on the university for irregularities in selection criteria for hiring teachers on contract basis.

While imposing the fine, Justice Deepak Sibal observed, “It was disturbing to find out that while making the appointments to the posts of assistant professors (may be on contract) there was no criteria made or followed and that there was no record of any proceedings recorded by the selection committee to judge the best candidates from the pool of eligible applicants.”

The V-C, however, claimed that he was not at fault. “In 2015, I was not the chairman of selection committee for those contractual appointments. It was the university dean who was the chairman,” Ajaib Singh Brar said.

Meanwhile, in another setback this year, GNDU had to stop the recruitment process of 10 professors, 24 associate professors and 129 assistant professors as another petition was filed questioning the selection criteria in May 2016. “Court has stayed on the appointments this year and we are more than happy,” said Ajaib Singh Brar. “Because no appointments have been made and we would not need to answer any RTIs related to appointments.”

In 2015, the Punjab and Haryana High Court had directed the competent authority to look into alleged irregularities in selection criteria. Alleging that the order had not been followed through by the government, Raghubir Singh Brar approached the court once again. The High Court has directed the government to respond in November.

Source:

Indian Express, <http://indianexpress.com/article/education/gndu-selection-norms-repeatedly-under-scanner-but-v-c-says-all-okay-3005242/>

Stories of challenges faced by RTI users

02 August 2016

33. RTI Act beneficiary finds it getting diluted over the years

August 2, 2016 05:47 IST

Back in 2012, an 84-year-old A. Syed Abdul Rahim was on cloud nine because a series of applications filed by him under the Right to Information (RTI) Act helped him legally assert ownership over three public streets at Anna Nagar here. However, now he is disillusioned.

Mr. Rahim who obtained a civil court decree in August 2012 declaring a 40-foot-wide road, named Moulana Sahib Street, on 54.5 cents of land and two 30-foot-wide roads, named Periyar Street (17.5 cents) and Kamarajar Street (22.5 cents), to be his private properties is now unable to obtain crucial documents to defend an appeal preferred by Madurai Corporation since the information is being denied to him.

His brother-in-law F.M. Jamiluddin (79), who has been drafting his RTI applications, says in 1948 Mr. Rahim's parents S. Abbas and A. Sunna Beevi owned about 10 acres in what is now Anna Nagar when a scheme, named Mathichiyam Part II Town Planning Scheme, was framed for the development of areas abutting Madurai Town.

The couple divided their land into residential plots for sale and left about 95 cents of their property for formation of the three roads under the scheme hoping that they would be acquired by the local bodies. Since Madurai Corporation did not acquire the three scheme roads from them and pay necessary compensation, the couple began filing a series of writ petitions in the Madras High Court since 1981.

In 1991, Justice S. Ramalingam held that the Corporation could not be compelled to acquire a particular land but said the three streets would remain as a private property and the owners could restrain people from using them as public roads. The decision was upheld by a Division Bench.

After the couple's death, the Corporation invoked Section 254 of the Madurai Municipal Corporation Act and issued a gazette notification in August 1998 declaring the three streets as

public property. Though Mr. Rahim filed a writ petition challenging the notification, the matter was put in cold storage until the RTI Act came into force.

In 2007, Mr. Rahim filed a civil suit seeking a compensation of Rs. 1.97 crore on the strength of voluminous documents accessed through the RTI Act, and obtained a favourable decree in 2012. But the civic body belatedly preferred an appeal before the Madras High Court Bench in July last and obtained a stay order. Explaining the reason for the delay, the then Corporation Commissioner contended that the file relating to the case had gone missing and it was traced only after Mr. Rahim took steps to get the Corporation building attached for non-payment of compensation.

However, to disprove the claim, Mr. Rahim again filed a series of RTI applications seeking copies of various Note Sheets, but in vain. In November 2015, Tamil Nadu State Information Commission held that the Corporation could not deny the information. Yet the civic body remained silent, prompting him to approach the Commission again. But this time, the Commission on June 29 took a different stand and said note files were privilege documents and could not be disclosed. “I have all along been successful in obtaining information under the RTI Act but over the years, I feel that information has become hard to come by even under this legislation,” Mr. Jamiluddin laments. He is now unable to obtain crucial documents to defend an appeal preferred by Madurai Corporation

Source:

The Hindu, <http://www.thehindu.com/news/cities/Madurai/rti-act-beneficiary-finds-it-getting-diluted-over-the-years/article8930987.ece>

10 August 16

34. Implement RTE Act properly: MDMK

Updated: August 10, 2016 08:18 IST

The Marumalarchi Dravida Munnetra Kazhagam has disputed the State Government’s figures on admissions under the Right to Education Act and said that the figures do not reveal the true picture. In a statement, the party’s State youth wing secretary V. Eswaran said that in the revised estimates for 2016-17, the government informed the Assembly that thus far 3.17 lakh students were admitted to private schools under RTE. The School Education Department by joining hands with private

schools was dishing out wrong figures by showing wealthy, affordable students who had already gained admissions in schools as those who had benefitted out of the RTE admissions. By following the Maharashtra and Delhi model, the Tamil Nadu Government should follow a transparent RTE admission model by going online. By refusing to do so, the government was siding with the private matriculation schools. The Delhi Government had brought within its control the admission under RTE to CBSE schools as well. But the Tamil Nadu Government seemed to be disinterested in all this. The Tamil Nadu Government should change its stand to ensure that the money spent on students from the underprivileged sections was well spent. A few MDMK members staged a protest at the office of the Chief Education Officer on Raja Street demanding replies to queries they had sought under the Right to Information Act. Mr. Eswaran said that the office had continuously been dodging their queries.

Source:

The Hindu, <http://www.thehindu.com/news/cities/Coimbatore/implement-rte-act-properly-mdmk/article8966115.ece>

11 August 2016

35. DRAG alleges harassment by government departments

By Team Herald | 11 Aug, 2016, 12:12AM IST

Disability Rights Association of Goa (DRAG) has objected to the harassment of persons with disabilities by various government authorities. In a statement DRAG president Avelino de Sa stated that the Personnel Department and Social Welfare Department were harassing persons with disabilities by not providing information under Right to Information Act with regard to rosters and reservations for persons with disabilities and were transferring the application for information between the two departments. De Sa said that the Social Welfare Department and Personnel Department should have the information with regard to the rosters and reservations for persons with disabilities in various government departments and if these departments do not have this information it can only imply that rosters are not maintained or are manipulated. DRAG demanded that Social Welfare Department immediately make public the backlog of vacancies for persons with disabilities in various government departments and take steps to fill them. Meanwhile, DRAG

also objected to the office of the Chief Electoral Officer for discriminating against a person with disability by not accepting his deputation to that office on grounds that he will not be able to perform outdoor duty. DRAG also objected to the misinterpretation of circulars of the Election Commission of India by the Office of the Chief Electoral Officer with regard to posting of persons with disability on election duty.

Source:

Herald, <http://www.heraldgoa.in/Goa/DRAG-alleges-harassment-by-government-departments/105038.html>

20 August 16

36. Lack of online RTI facility leaves citizens in the lurch

Abhijit Patil | TNN | Aug 20, 2016, 12.30 PM IST

Kolhapur: For the last two months, Ketan Sawant, a software engineer from Pune, has been struggling to file an online RTI application for his Rajopadhyenagar-based parents. The reason for this being that the Kolhapur Municipal Corporation (KMC) lacks the very facility.

Sawant has been trying to file a Right to Information (RTI) application questioning the absence of streetlights in the Rajopadhyenagar area where his parents reside. His parents often complained to local corporators and concerned officials demanding new streetlights in the area. They also tried to file an RTI. However, each time they were told to wait as the matter would soon be resolved. Following this, Ketan has been trying to file the application online.

Burhan Naikawadi, a city-based activist, said, "Applications are now to be submitted online. But the KMC authorities do not even know which officers are entitled to accept the forms. Most of the times, these forms are never accepted as officials ensure the applicant that the issues will be resolved soon and they discourage them from filing the RTI application. As the person spends a lot of time in the process, the online process can help save time and ensure that requests for information are not delayed."

According to the KMC's process, the person entering the main building is told to approach the departmental heads for submitting the RTI application which has to be filled manually. The departments are located at various city areas and citizens have to travel far and wide trying to find the right office and the concerned authorities. Activists claim that the department heads assign their junior officer to accept forms that ensure further delays in getting the information. They believe that the facility to process RTI forms online will bring in more transparency.

Vijay Kumbhar, a Pune-based RTI activist, said, "Many civic bodies or other local governing bodies do not have online facilities. In such cases, the applicant finds it tough to seek information from a distant place. The administrative machinery has not made the system compatible despite assurances on e-governance."

All three major administrative set-ups located in the city, the KMC, district collector office and superintendent of police office don't have online facility for filing an RTI application. Many municipal corporations such as Amravati, Nagpur and Aurangabad have the facility to accept the applications online. When asked about the absence of online RTI facility, district collector Amit Saini said that he will check with his subordinates and government directives. When contacted, Kolhapur Municipal Corporation officials were not willing to respond on the issue.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/kolhapur/Lack-of-online-RTI-facility-leaves-citizens-in-the-lurch/articleshow/53783153.cms>

23 August 16

37. Public authority not bound to collect and furnish information which is not required to be maintained by it: CIC

By: Ashok KM | August 23, 2016

The Central Information Commission has observed that a Public Authority has no obligation upon to collect/collate information which is not required by its law, rules or regulations to be maintained by it. In the instant case, an RTI application was filed before the Central Public Information Officer

(CPIO), Rajya Sabha Secretariat seeking information/historical documents on two points pertaining to the telecasting of a programme on 'Constitution' on 02.03.2014 on Rajya Sabha TV Channel. According to RSTV, they had outsourced the production of a programme named 'Samvidhan – Making of the Constitution' and hence, the information has not been compiled by RSTV.

Dismissing the Second Appeal, Information commissioner Sri. Sudhir Bhargava observed: "The information which is not required to be maintained by law, rules or regulations of the public authority, the RTI Act in such cases casts no obligation upon the public authority to collect/collate such non-available information and then furnish it to the appellant, as held by the Hon'ble Supreme Court of India in CBSE v. Aditya Banopadhyay"

In the case referred above, the Apex Court had held: "where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant."

Source:

Live Law, <http://www.livelaw.in/public-authority-not-bound-collect-furnish-information-not-required-maintained-cic/>

28 August 16

38. No system to lodge online complaints at Aurangabad SIC

Ranjana Diggikar| Aug 28, 2016, 08.42 AM IST

Aurangabad: The State Information Commission (SIC) has failed to provide any complaint redressal system or email address of the officials of its Aurangabad bench on the website for citizens to lodge their grievances under the Right to Information Act, 2005.

Also, the Aurangabad bench of the SIC does not have a full-time commissioner for over a year since the then chief, Justice D B Deshpande, resigned from the post. In the meantime, the pendency

of second appeals made under the RTI Act has soared to 5,000. Over 30,000 RTI queries are pending at the state SIC, including 7,000 cases in Pune.

RTI activist Milind Bembalkar accused the state government of neglecting the transparency legislation. "In December 2015, state information commissioner Ratnakar Gaikwad had issued orders that the websites of all key government departments should be updated twice every year. The Maharashtra government had issued a resolution on January 28, 2016 in this respect to all departments. However, the SIC's website has not even uploaded Aurangabad bench details and email address," he said. Since ne 2015, no full-time information commissioner has been appointed at Aurangabad bench. V D Patil, information commissioner for Nagpur bench of SIC, has been given additional charge of Aurangabad division since November 2015, said Bembalkar.

RTI activist Vivek Welankar said that despite the government having provision of appointing 11 information commissioners, it has not appointed more than 6 commissioners till now. "To leave the top post empty when cases are mounting shows that the government doesn't think public information is important," Welankar said.

Bembalkar said the absence of a full-time Aurangabad bench information commissioner had given a leeway for officials. "The officials have a field day. There is no control and vigilance regarding the implementation of the orders passed by the bench. At present, there is no complaint redressal system available to raise this issue," he alleged.

Source:-

Times of India, <http://timesofindia.indiatimes.com/city/aurangabad/No-system-to-lodge-online-plaints-at-Aurangabad-SIC/articleshow/53893597.cms>

39. RPF refuses RTI query over burgeoning Thane station

DNA CORRESPONDENT | Sun, 28 Aug 2016-07:15am, DNA

The fact that Thane station, with 11 platforms and hundreds of suburban and outstation trains halting there, is one of the country's most congested is stating the obvious. In the days to come it will get even more crowded, because the railways last week announced that eight more trains will

have halts at Thane from the first week of October. These four pairs of trains are highly patronised ones — the 12811/2 LTT-Hatia Express, the 12879/80 LTT-Bhubaneswar Express, the 22107/8 Latur-CST Express and the 12865/6 LTT-Puri Express.

The station already sees a footfall of more than 9 lakh passengers a day and some of its foot overbridges are among the most crowded in the country. Thane currently has 69 RPF personnel manning the station and nine CCTV operators handling 96 CCTV cameras.

However, all these have not stopped the railways from stonewalling a Right to Information (RTI) plea by an activist who wanted to know how the railways planned to ramp up security for the station.

Speaking to DNA, Ramachandra Karve, banker-cum-railway activist, said he was surprised by the refusal of the Railway Protection Force to give information pertaining to some of his queries.

"I had sought information on whether revision in the sanctioned strength and actual strength of the RPF is carried out with firstly an increase in the number of platforms at a particular station, like Thane, secondly whether an indent or request for increasing the said strength is submitted periodically to the RPF and railway administration for necessary action, and thirdly, whether the sanctioned strength and working strength are revised for stations like Thane with an increase in the volume of passenger traffic handled," said Karve.

The RPF informed Karve that answers to these queries would not be given because the three queries do not serve any public interest and hence could be refused under Section 8(1)(a) & (i) of the RTI Act.

"There has to be a corresponding increase in RPF personnel when the passenger traffic and platforms increase at a station. Thane, in the past 12-15 years, has seen its platforms increase from six to 11 now, which includes platform 10A. Their refusal to answer these queries reflect lack of understanding and concern on part of the RPF administration regarding security problems. This is unfortunate," said Karve.

He added that he planned to appeal. "Understaffed RPF cannot deal effectively with anti-social elements or those who risks the security of a station as well bonafide passengers using it," said Karve.

Source:

Daily News and Analysis, <http://www.dnaindia.com/mumbai/report-rpf-refuses-rti-query-over-burgeoning-thane-station-2249459>

Reports of court judgements relating to RTI

11 August 16

40. Kerala High Court stays SIC order for transparent cabinet

DECCAN CHRONICLE. Published Aug 11, 2016, 2:03 am IST

Kochi: The Kerala High Court has stayed the State Information Commission's order making all decisions, which are finalized in the cabinet, available to the public under the RTI Act.

Justice P.B. Suresh Kumar imposed the stay after the chief secretary moved the court challenging the SIC decision. The state sought a directive to declare that the chief secretary, state public information officer and joint secretary, general administration (SC) department, are not liable to provide the decisions of the council of ministers under the Right to Information Act. It also sought a declaration that the information under the Act as regards the decision of the council of ministers need to be provided only by the concerned administrative departments and that too only after the matter is complete or over.

The state argued that section 8(1) in the Right to Information Act, 2005 stipulates that the cabinet papers, including records of deliberations of the council of ministers, shall be made public after the decision has been taken, and the matter is complete or over.

The government submitted that it has no intention to thwart the right of the public to important information. The government or the public information officer in the office of the chief secretary is not against the disclosure of the cabinet decision or any such information.

Though the custodian of the agenda, minutes and decision of the meeting of the council of ministers is the chief secretary, the materials put forth to arrive at a decision originates from the department concerned and therefore, the completion of matters can be decided only at the department level.

Hence all the details can be provided only by the public information officers of the department concerned and not by the public information officer in the office of chief secretary.

The government has already issued instructions to all the departments in respect of simultaneous publication of orders issued in pursuant to the cabinet decision in the government portal, the state argued.

Source:

Deccan Chronicle, <http://www.deccanchronicle.com/nation/current-affairs/110816/kerala-high-court-stays-sic-order-for-transparent-cabinet.html>

24 August 16

41. SC needs to take an urgent call on five-judge Constitution bench: People have a right to know

Aug 24, 2016 12:05 IST

A three-judge bench of the Supreme Court of India headed by Justice Ranjan Gogoi last week referred a matter relating to the purview of the Right to Information Act, 2005, vis-à-vis the apex court to a larger Constitution Bench. This has raised certain concerns.

No one ideally should take exception to the stand taken by the Justice Gogoi bench. After all, if a larger constitutional issue is sought to be resolved, then the matter has to be heard by at least a five-judge bench. But then what causes unease is the unconscionable delay in dealing with the current issue. Let us examine the facts.

In January 2009, Subhash Chandra Agrawal, the well-known RTI activist, requested the chief public information officer (CPIO) of the Supreme Court to provide him with "complete file\s (only as available in Supreme Court) inclusive of copies of complete correspondence exchanged between concerned constitutional authorities with file notings relating to said appointment of Mr Justice HL Dattu, Mr Justice AK Ganguly and Mr Justice RM Lodha superseding seniority of Mr Justice AP Shah, Mr Justice AK Patnaik and Mr Justice VK Gupta".

The CPIO informed Agrawal that "the appointments of Hon'ble Judges of the Supreme Court and High Courts are made by the President of India as per the procedure prescribed by law and the matters relating thereto are not dealt with and handled by the Registry of the Supreme Court of

India." Agrawal was told that the information sought by him was "neither maintained nor available in the Registry".

Agrawal then filed the first appeal before the appellate authority of the Supreme Court of India challenging the CPIO's contention. But the appellate authority endorsed the response of the CPIO and dismissed the appeal.

Agrawal then moved his second appeal in the Central Information Commission (CIC) which set aside the order of the Registry of the Supreme Court of India and directed the CPIO of the apex court to furnish the information sought by Agrawal.

The Registry of the Supreme Court of India decided to challenge the CIC order in the Supreme Court itself. It was indeed a strange situation that the Supreme Court, acting in its judicial capacity, was to consider a matter filed by the same Court's administrative wing! After all, the head of the administrative as well as the judicial wing of the Supreme Court is the same person — the Chief Justice of India. So any decision to appeal against the CIC order could not have been taken by the Registry of the Supreme Court without the approval of the Chief Justice of India.

So the appellant was the Judge! That was an anomaly, a travesty of justice, so to say. But let that pass.

A two-judge bench of the apex court headed by Justice B Sudershan Reddy considered the Special Leave Petition filed by the Secretary General of the Supreme Court of India. In its judgement delivered on 26 November, 2010, the Justice Reddy bench framed three questions:

"Following substantial questions of law as to the interpretation of the Constitution arise for consideration:

- 1) Whether the concept of independence of judiciary requires and demands the prohibition of furnishing of the information sought? Whether the information sought for amounts to interference in the functioning of the judiciary?
- 2) Whether the information sought for cannot be furnished to avoid any erosion in the credibility of the decisions and to ensure a free and frank expression of honest opinion by all the constitutional functionaries, which is essential for effective consultation and for taking the right decision?
- 3) Whether the information sought for is exempt under Section 8(i)(j) of the Right to Information Act?

The above questions involve the interpretation of the Constitution... for the aforesaid reasons, we direct the Registry to place this matter before Hon'ble the Chief Justice of India for constitution of a Bench of appropriate strength,"

Under Article 145(3) of the Constitution, the minimum number of judges for deciding any case involving a substantial question of law which amounts to the interpretation of the Constitution shall be five.

But the then Chief Justice of the Supreme Court of India in his wisdom — despite the express desire of a two-judge bench for a Constitution Bench — decided to constitute a three-judge bench headed by Justice Ranjan Gogoi to consider the matter.

And, lo and behold, this three-judge bench directed the Registry of the Supreme Court last week (17 August) that since the issue involved a substantial question of law, the matter be placed before the Chief Justice of India for the constitution of a five-judge bench.

Can one see the distance travelled between 26 November, 2010 (when the two-judge bench headed by Justice Sudershan Reddy recommended the formation of a Constitution Bench to consider essentially the question if the Supreme Court of India would come under the purview of the RTI Act) and 17 August, 2016 (when a three-judge bench headed by Justice Ranjan Gogoi reiterated the same recommendation in the same case)?

After almost six years, the matter is back to square one. If there is a further delay in setting up a five-judge bench, that will be unfortunate. It would be worse if a five-judge Constitution bench sits over the matter for another five years and then makes a recommendation that, given the significance of the issue, the case be deliberated upon by a nine-judge bench!

The Supreme Court of India needs to take an urgent call on the matter to ensure that the great trust the people of India have in this institution of final dispenser of justice is not eroded.

Source:

FirstPost, <http://www.firstpost.com/india/sc-needs-to-take-an-urgent-call-on-five-judge-constitution-bench-people-have-a-right-to-know-2973490.html>

26 August 16

42. Should the Supreme Court come under RTI?

Fri, Aug 26 2016. 02 06 AM IST

Challenge to the apex court's immunity from the Right to Information Act has put the focus on judicial transparency

On 17 August, before it broke for a long weekend of four days, a three-judge Supreme Court (SC) bench of justices Ranjan Gogoi, Prafulla Chandra Pant and A.M. Khanwilkar referred a challenge to its immunity from the Right to Information (RTI) Act to a five-judge constitution bench. The decision, made after a brief hearing, was a surprise as well as a disappointment. We piece together various elements to make sense of the apex court's decision. Surely, this should be an open-and-shut case. Does the apex court not preach to others about transparency and openness? Indeed, it often has done. So, how is it not practising what it preaches by being exempt from RTI?

It's complicated. How did this case begin? It all started in 2009 with an RTI application filed by the well-known activist Subhash Chandra Agrawal with the apex court's Central Public Information Officer (CPIO).

Agrawal sought disclosure of the SC collegium's notes about the appointments of three SC judges: justices R.M. Lodha, H.L. Dattu and A.K. Ganguly. Why did Agrawal choose these three judges for scrutiny?

It was reported at the time that Lodha and Dattu had been elevated, superseding the all-India seniority of other high court judges who had become eligible for appointment as SC judges before them under the informal system. Lodha and Dattu (and Ganguly) were appointed on the same day: 17 December 2008.

Therefore, Agrawal was curious to know whether the collegium had emphasized merit over seniority, because Dattu, Ganguly and Lodha were at the time more junior than the then Delhi high court chief justice, A.P. Shah, and justices A.K. Patnaik and V.K. Gupta. An RTI application by Agrawal showed that even the then prime minister, Manmohan Singh, apparently objected to this supersession of seniority.

So, what happened to his RTI request with the apex court? Both the CPIO and the Appellate Authority of the SC rejected his request under the RTI Act, and he then filed his appeal with the RTI ombudsman, the Central Information Commission (CIC). The CIC allowed the appeal.

That makes sense. Collegium decisions are in any case reported in newspapers the following day. Why then is there such reluctance to disclose it under RTI? Legal correspondents do indeed report collegium decisions fairly quickly after they are made by talking to people familiar with the decisions (who nearly always speak on condition of anonymity).

The reluctance to disclose details of the decisions officially, after the appointment of judges, makes the collegium look a little shy about being transparent about its decisions. So, why was the SC's admission of the appeal against the CIC's decision surprising?

First of all, the appeal went directly to the apex court, skipping the high court entirely. That's quite unusual. The SC has done this by making a clever distinction between its administrative and judicial side. The SC's administrative branch is the appellant against the CIC decision, while the judicial branch will hear the appeal. Any other litigants appealing against the CIC's decisions cannot even dare hope for this privilege of directly approaching the SC, overlooking an appeal at the high courts entirely. This is not the first such case though, is it? No, it's not. In 2009, the SC registry first lost its appeal against a CIC decision ordering disclosure of judges' assets, before a single judge of the Delhi high court. And in 2010, it lost again before a three-judge bench of the Delhi high court. The high court held that the apex court was bound to disclose information about the assets of the judges. The SC then began to disclose information about the assets of judges, claiming it did so purely on a voluntary basis. However, the apex court never appealed against this judgement of the Delhi high court's three-judge bench. Therefore, the CIC relied on this to decide the current collegium case against the SC. Are all judges of the apex court now disclosing their assets on the SC website? Well, there are some notable exceptions.

The four new judges who have joined recently, namely, justices Khanwilkar, D.Y. Chandrachud, Ashok Bhushan and L. Nageswara Rao are yet to declare their assets, even though they assumed office on 13 May.

Also, four of the six judges who joined after July 2014 are yet to declare their assets. They are justices Rohinton Fali Nariman, A.M. Sapre, U.U. Lalit and Amitava Roy. Justices R. Banumathi

and Pant, both of whom were appointed on 13 August 2014, were the last to declare their assets. Does it mean that the SC judges feel they are no longer bound by the Delhi High Court judgement, even though there is no stay on it? Well, it does appear to raise that question.

As the judges said they were only declaring assets on a voluntary basis, it is hard to question them now that they appear to have stopped. Which brings us to the present RTI case that will be heard by a constitution bench. What is the reason for a reference to a larger bench? Well, the usual reason is Article 145(3) of the Constitution, which says that at least five judges must sit for the purpose of deciding any case involving a substantial question of law. But, did the two-judge bench, which referred the case to a three-judge bench in 2010, not realize that it involved a substantial question of law? Yes, the two-judge bench comprising justices B. Sudershan Reddy and Surinder Singh Nijjar, which referred this case, did mention three substantial questions of law. These are:

1. Whether the information sought would interfere with the independence of judiciary.
2. Whether disclosure would threaten the credibility of the decisions and free and frank expression of honest opinion by all the constitutional functionaries.
3. Whether non-disclosure is protected under Section 8(1)(j) of the RTI Act.

So, the matter could have immediately been referred to a five-judge bench, right? Why did it take so long?

The two-judge bench only held that it should be referred to a bench of an appropriate strength by the chief justice of India (CJI).

Obviously, CJI T.S. Thakur, who constituted the three-judge bench to hear the matter, considered three judges a bench of appropriate strength.

According to the reasoning of the bench, it also took so long because no one had mentioned the case before the CJI, seeking its expeditious hearing.

Maybe that's how the procedure goes. But not all substantial questions of law are heard by five judges, right?

You are right.

The matter about the constitutionality of Section 377 of the Indian Penal Code was heard and decided by a two-judge bench, which has now been referred to a five-judge bench. And Section 66A of the Information Technology Act was declared ultra vires (beyond the powers) by a two-judge bench, although it too was on a substantial question of law. So, what prevented this three-judge bench from going ahead with it? For a substantial question of law to be heard by a five-judge bench, it should not have been already dealt with by a bench of similar or larger strength earlier.

The three-judge bench in this case felt that what was before them was a so-called virgin matter, besides being a substantial question of law. But, not everyone agrees on this? Correct. Prashant Bhushan, counsel for the respondent Agrawal, does not, for one. Bhushan argued that the question of transparency in the appointment process had already been decided in favour of disclosure of information in the S.P. Gupta case (the so-called First Judges case) in 1981.

Then, why did last week's three-judge bench disagree with this view? The three-judge bench felt that S.P. Gupta and related cases favoured only disclosure of information to a litigant, but it could not be stretched to include disclosure to the general public, it reasoned.

Also, earlier decisions relating to this had been made before the RTI Act came into being in 2005. Bhushan called this contention bogus. Did not the National Judicial Appointments Commission (NJAC) judgement, and its sequel in which the SC said it would reform the collegium, also emphasize transparency? But now, a three-judge bench thinks that it is a virgin matter and refers it to a five-judge bench again? Yes, that's why some observers are disappointed. However, there is hope that the constitution bench, whenever it begins to hear the case, takes note of this contradiction and decides in favour of transparency and disclosure of information about the collegium (and about judges' assets).

What are other people's opinions on this? For instance, in the matter now referred to a constitution bench, many high courts have filed affidavits as parties to the case. Almost all the high courts have strongly opposed the contention that collegium minutes can be disclosed under the RTI Act. Judges seem to have form in resisting transparency in the judiciary, it seems? According to its judgements, yes. Recently, the SC also ruled against transparency in two other RTI matters concerning the judiciary. First, while hearing an appeal against a Delhi high court division bench judgement, it set aside a CIC verdict that mandated the SC to disclose information about cases in which

judgements had been reserved. The bench in that case did not furnish any reasons for dismissing this appeal.

Second, the SC recently refused to interfere with the Delhi high court's verdict dismissing a plea seeking details of medical reimbursements of SC judges, on the ground that it would amount to invasion of their privacy. So, why are judges so private? There are some valid arguments for the judiciary feeling the need for secrecy. For example, collegium discussions can be freewheeling and include the discussion of courtroom corridor gossip and judges' private lives, the examination of fairly invasive government intelligence reports and the expression of judges' personal opinions.

For judges, their credibility and reputation is hugely important, and many feel that the slightest potential slight on this could be debilitating and prevent judges from doing their job. That goes doubly so for judges who may have been rejected by the collegium, but continue to sit in high courts. Some may, perhaps legitimately fear, that a few over-enthusiastic advocates would love to get their hands on dirt against judges that they can take it out of context and use for leverage in court, by asking for their recusal or otherwise, questioning their independence in hearing a case. And ultimately, many judges are people too, and by tradition and necessity, deeply private ones at that.

Therefore, being completely subject to RTI is perhaps deeply uncomfortable to some of them at a deeper level. So, can anything be done to solve this issue? It's certainly not something allowing for easy solutions, as on top of all also hovers the SC's continuing stand-off with the government about reform of judicial appointments.

Source: -

Livemint.com, <http://www.livemint.com/Politics/wktNC40449U4ACuMkNi1AI/Should-the-Supreme-Court-come-under-RTI.html>

Important notifications and circulars on RTI and news about the Central and State Information Commissions

01 August 16

43. CIC upholds denial of information relating to grant of sanction for prosecution: Prof. Sridhar dissents

By: Ashok KM | August 1, 2016

A Full Bench of Central Information Commission, in a split verdict of two to one, has upheld the decision of a Bank which had denied the information to a person accused of corruption, who had sought information relating to the grant of sanction for his prosecution. The Bank had denied information on the following grounds RTI Act does not apply to the CBI, by virtue of the Second Schedule to the RTI Act, read with Section 24.

The information sought cannot be disclosed since it relates to the sanction for prosecution accorded to the CBI and exchanges between the CBI and the Respondents. The information sought by the Appellant is exempted from disclosure under Section 8 (1) (g) and (h) of the RTI Act. Disclosure of the details concerning the process of grant of sanction for prosecution could endanger the officers who participated in the process. Information is exempted from disclosure under Section 8 (1) (h) as its disclosure would impede the ongoing process of prosecution in the CBI Court.

The Information Commissioners, Shri Sharat Sabharwal and Shri Sudhir Bhargava, referring to Surinder Pal Singh case, held that the invocation of Section 8 (1) (h) by the Bank is justified. They also observed that the exemption granted to the CBI from applicability of the RTI Act, in terms of Section 24 (1), would become meaningless if RTI applicants could get from another public authority the very information that they cannot get from the CBI or information inextricably linked to the information and material provided by the CBI to a public authority.

However, in a strong dissenting opinion, Information Commissioner Professor M. Sridhar Acharyulu held that the decision of IOB to deny the information to the accused is illegal,

unconstitutional and in serious violation of appellant's internationally recognized human rights besides the RTI Act. He made the following pertinent observations: There are several judicial pronouncements to the effect that RTI is extension of right to freedom of speech and expression as guaranteed by the Constitution of India. It is a fundamental right granted by our Constitution, which cannot be undermined because of an alternative remedy is available. The contention of the CBI that information sought cannot be given because it is 'confidential and secret' can't stand because no such exemption is recognized under Section 8 or 9. It is the right of the accused to challenge the legality of the 'sanction' on sufficient grounds.

This Commission cannot decide legality of the sanction, but need to understand the prima facie case to do so to examine the interests of justice. Even according to CBI the investigation was over, charge sheet was filed and the trial commenced. Hence, apprehension of impeding the prosecution is baseless. As accused, he is legally entitled to challenge the validity of sanction of prosecution, but denial of information about details of sanction will obstruct him from exercising the legal right. The Commission has a duty to analyse whether denial to sanction related information on the ground of impeding the trial is impeding the fair trial. Can information be denied at the cost of fair trial? Is it in public interest? No.

As far as Bank is concerned, the information sought pertains to corruption in the bank. Appellant is obviously seeking these notes to challenge the sanction in court of law. It is his right to access to justice, if he is wrongfully implicated it would be breach of his human right. Hence the information sought by him pertains to either corruption in the organization or violation of human rights. Thus, even if the CBI advised Bank not to give, the Bank is expected to apply its judicious mind, exercise its own discretion and decide based on the provisions of RTI Act, especially the proviso to Section 24, 8(1) (h) and 8(2). Placing whole reliance on Surinder Pal Singh (2006) which per incuriam, and ignoring seven reasoned decisions of the same Delhi High Court from 2007 to 2014 as explained above is neither legal nor justified and against express provisions of RTI Act.

The decision of IOB to deny the information to accused appellant is illegal, unconstitutional and in serious violation of appellant's internationally recognized human rights besides the RTI Act. The investigating agency, CBI, performing police functions, was a contributor of investigative

inputs, while the IOB as sanctioning authority has complete decision making power. It is established that Section 24 was illegally invoked ignoring its proviso Regarding section 24 contentions, respondents have to understand that information sought is not 'security' or 'intelligence' related information, but only about sanction for prosecution, which is part of administrative decision by the concerned authority, disclosure of which would not harm anybody-nation, government or the organization, while its denial could prevent accused from exercising his right to challenging it.

Source:

Live Law, <http://www.livelaw.in/cic-upholds-denial-of-information-relating-to-grant-of-sanction-for-prosecution-prof-sridhar-dissents/>

11 August 16

44. Parties, CIC tug it out over RTI ambit

August 11, 2016 11:16 IST

In a landmark judgment in 2013, the Central Information Commission had ruled that political parties come within the ambit of the Right to Information Act.

The tug of war between the six national political parties and the Central Information Commission (CIC) continues as they continue to defy its orders three years after it had declared them as “public authorities” under the Right to Information Act, 2005 making it mandatory for them to fulfil all obligations under the provisions of the RTI Act. Petitions by several organizations and individuals questioning the defiance of the 2013 order of CIC are being heard by the full bench of the Commission even as a writ petition seeking a direction to the national parties to comply with the order is pending before the Supreme Court. At the recent hearing of the CIC, advocates on behalf of the Congress sought more time to gather the required documents or on the plea that the senior counsel on behalf of the party was not available. No one appeared on behalf of the BJP, CPI (M), CPI and BSP. Counsel for NCP Amit Anand Tiwari, attended and undertook to file 'Vakalatnama' (affidavit).

In earlier hearing, a different advocate undertook to file Vakalatnama but at the last hearing Amit Anand Tiwari stated that he was his junior. He stated that the hearing in the present matter will be Res Judicata (a matter that has been adjudicated by a competent court and therefore may not be pursued further by the same parties) as the issue is pending before Supreme Court of India. Prakash Karat and Sitaram Yechury filed written statements on behalf of CPI (M) and Sudhakar Reddy have filed written statement on behalf of CPI explaining their reasons why the RTI is not applicable. No reply has filed by BSP and BJP. After hearing the parties present, the CIC while adjourning the case to August 26 has directed that fresh notices to be issued to all parties both present and not present. “Parties shall exchange the petitions/submissions to each other through post and will file proof of service. Parties who have objection to intervention shall file the same by 19 August 2016”, the CIC has said. In June 3 in a landmark judgement the full bench of the CIC, in response to petitions filed among others by the Association for Democratic Reforms (ADR) had ruled in favor of bringing the national parties under the ambit of the RTI.

The petitioner had sought information from national political parties regarding their income, expenditure, donations and funding. In March 2015 while holding its previous order “legally correct and binding” also observed that they do not have any powers to ensure compliance of its own orders. In August last year in an affidavit in the Supreme Court the union government had opposed a plea to bring political parties under the ambit of RTI Act, saying it would adversely impact their internal working and political functioning. It had said that the Central Information Commission (CIC) erroneously ruled in June 2013 that political parties are public authorities under the RTI Act and, hence, are accountable under the transparency law.

Source:

The Hindu, <http://www.thehindu.com/news/national/the-tug-of-war-between-parties-and-cic-over-rti-issue-continues/article8973122.ece>

45. Students can get answer sheets: Haryana info panel

Sukhbir Siwach| TNN | Aug 11, 2016, 10.55 AM IST

CHANDIGARH: Haryana state information commission has ruled that the university can't stop a student from seeking photocopies of answer sheets under the RTI Act. The panel said the RTI Act enabled the students to access their answer sheets as "information," even if the university rules don't permit that. Guru Jambheshwar University of Science and Technology, Hisar had refused to give copies of answer sheets to a student Raman Mehra on the ground that "there was no rule for supplying the answer sheet or copy of answer sheet." Hisar resident Mehra wanted a photocopy of his answer sheet of two subject of M Tech (mechanical), which was refused.

Now, State Information Commissioner Yoginder Paul Gupta has directed the university to supply attested photo copies of the answer sheets to the applicant. Even if there is no provision in the rules of the respondent university for giving certified copies of the answer sheets, the provisions of the RTI Act entitle an information seeker to get certified copies of his answer sheets," Gupta observed in a recent order. The information commissioner stressed that Section 22 of the RTI Act said that the provisions of this Act will have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

The university's state public information officer (SPIO) Sanjay Singh had informed Mehra that he can inspect his answer sheet(s) on depositing requisite fee of Rs. 100 per answer sheet. But, the commission made it clear that the SPIO will not demand any documentation charges other than that prescribed under the Haryana Right to Information Rules, 2009. Under RTI Act, the charges for the inspection of documents are very nominal in the state. The state information commission has observed that various state government universities in Haryana have different rules and different fee structure for providing copies of the answer sheets to an information seeker. While Guru Jambheshwar University rules do not permit giving certified copies of answer sheets (only inspection is allowed), universities like Maharshi Dayanand University, Rohtak, and Kurukshetra University, Kurukshetra, give certified copies of the answer sheets after payment of the prescribed fee.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/chandigarh/Students-can-get-answer-sheets-Haryana-info-panel/articleshow/53647474.cms>

16 August 16

46. CIC issues show cause notice to scientists in Environment Ministry

By: PTI | New Delhi | Published: August 16, 2016 2:54 pm

The Central Information Commission has issued a show cause notice to two scientists of the Environment Ministry for not following its orders to proactively disclose minutes of the Genetic Engineering Appraisal Committee meeting on genetically modified mustard.

The Central Information Commission has issued a show cause notice to two scientists of the Environment Ministry for not following its orders to proactively disclose minutes of the Genetic Engineering Appraisal Committee meeting on genetically modified mustard. In case of biosafety data being sought, the resolution of the issue with the crop developer should have been over by now and all data shared in public domain. The matter is of great urgency since more and more evidence is emerging on the regulators' failures and by not sharing all data, they are concealing their failures from citizens," Information Commissioner Sridhar Acharyulu said.

On the plea of activist Kavitha Kuruganti, CIC had ordered the Environment Ministry to proactively make public the data related to genetically modified plants as it was in larger public interest, a clause which over rides exemptions from disclosure under the RTI Act. But the Environment Ministry officials sought more time from putting the data on their website.

"Apart from the issue of third party related processes is a fairly simple matter of the regulators putting on the website their meeting agenda and full minutes. Their website shows that they do not do this, despite assurances in the CIC hearing and CIC Orders," Acharyulu said. He said the public authority did not honour its own commitment to furnish the details and on June 28, 2016 they sought another extension, this time for 90 days. "To furnish a copy of a report or to place the agenda and minutes of GEAC meeting, they need no time at all. They are just asking for time though they do not require it," he noted.

Acharyulu said the officials failed to give any specific time for furnishing the details. “They are holding and controlling the copy of report, resolution, agenda and minutes. Their plea that they are awaiting for final decision is not tenable as that is against RTI Act and Public interest...The Commission views that such tactics are only to delay but not serious requirement for giving. By this they will only harm public interest and facilitate to promote some interest, not desirable,” he said.

Acharyulu said the Ministry is attempting to keep vital information out of public discussion. “It amounts to prevention of constitutionally guaranteed freedom of speech and expression of the appellant, who are interested in discussing the pros and cons of GMO related issues of GM Mustard, which if permitted would cause serious impact on the public health of consumers in large scale,” the Information Commissioner pointed out. Achayulu issued a show cause notice to P Saranya and Madhumita Biswas, both scientists, why maximum penalty should not be imposed against each of them for non-compliance of Section 4(1)(b) even when such information was rightly sought and directed to be provided under Section 3 and 6 of RTI Act as not hit by Section 8(1).

Source:

Indian Express, <http://indianexpress.com/article/india/india-news-india/cic-issues-show-cause-notice-to-scientists-in-environment-ministry-2978663/>

20 August 16

47. CIC pulls up SCB for denying information to RTI activist

By Express News Service Published: 20th August 2016 06:16 AM

HYDERABAD: The Central Information Commission (CIC) has hauled up the CEO of Secunderabad Cantonment Board for mismanagement of RTI affairs in the organisation. CJ Karira, a Secunderabad-based RTI activist had sent four separate applications to the cantonment board and none of them were replied. He was the one who trained CIC officers about the RTI Act and helped them in implementing the suo motu disclosure under Section 4, mandated under the RTI Act 2005.

The CEO, who is the First Appellate Authority (officer responsible to provide information that has been demanded), did not conduct first appeal hearings or pass any orders on his first appeals though they were all filed within the mandated time limit. The CIC, while disposing off two second appeals filed by Karira, ordered the director general of Defence Estates to take immediate corrective action.

Based on the appellants pleadings, the CIC also issued a show cause notice to the Central Public Information Officers for their refusal to provide information as it appeared to be in bad faith. It also directed the Secunderabad Cantonment Board to provide all the information sought within 15 days.

Meanwhile, Karira said, "If this what I face, one can only imagine the plight of ordinary citizens." He is now lodging a complaint with the director general of Defence Estates, about the shoddy implementation of this Act in the Board.

Source:

Indian Express, <http://www.newindianexpress.com/cities/hyderabad/CIC-pulls-up-SCB-for-denying-information-to-RTI-activist/2016/08/20/article3588122.ece>

30 August 16

48. Info commission slams home department over refugees

TNN | Aug 30, 2016, 10.39 AM IST

Hyderabad: More than eight months after an RTI activist was denied information pertaining to refugees in Hyderabad and Ranga Reddy districts by the Telangana government, the State Information Commission recently intervened and directed the police department and district administration to provide details within 45 days even as it expressed "surprise" at the delay.

According to the activist S Q Masood, the RTI query was filed last December in order to study the conditions of refugees living in and around the city. The query requested information on the number of such people, "interventions" of the government and the method of liaising with the office of the UN High Commissioner for Refugees.

While the query was addressed to the chief secretary of the Telangana government, it was later forwarded to the home department under relevant sections of the RTI Act by the General Administration Department.

However, Masood said that at a hearing before the in-charge chief information commissioner M Ratan, the Home Department representative said that no such letter from the GAD received.

An excerpt from the order, a copy of which is with TOI, reads thus: "It is surprising that the representative of the Home Department who is present today stated that this note along with enclosure were not traced and that they received copy of 6 (1) application regarding refugees for the first time along with the notice of the AP Information Commission dated 19-7-2016". The commission also directed the Home Department to probe how the note from the GAD went missing.

"After no information came from the concerned department, I went for the first appeal with the appellate authority of the Home Department. This too yielded no result and I was forced to approach the commission after which a hearing was scheduled on August 8. I am hopeful that after the commission's order, I will be provided the information," Masood said even as he lamented that delay was inordinate and is reflective of the state of affairs of government departments with respect to providing information.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/hyderabad/Info-commission-slams-home-department-over-refugees/articleshow/53922979.cms>

Reports of penalties imposed under the RTI Act

02 August 16

49. SIC asks top cop to pay Rs. 2,000 compensation to RTI petitioner.

By Our Bureau | THE HANS INDIA | Aug 02, 2016, 11:48 PM IST

Warangal: The State Information Commission (SIC) has directed Warangal Commissioner of Police G Sudheer Babu to pay a compensation of Rs 2000 to an appellant in connection with an RTI petition filed at Atmakur police station. The compensation was asked to pay for causing inconvenience to the petitioner and for failing to provide information sought through the RTI petition.

The State Information Commissioner C Madhukar Raj has issued the orders in this connection under section 19 (8) (b) of RTI Act 2005. He asked the Commissioner of Police to file a compliance report before the SIC within 10 days of receipt of the order dated July 29, 2016. According to the appellant, A Ramana Reddy of Hanamkonda, an RTI petition was filed at Atmakur police station on July 7, 2014 seeking the details of progress of a case related to issuing illegal pattadar passbooks by local revenue officials. An FIR under crime number 169/13 was registered at the police station on June 12, 2013 following directions from first additional JFMC court in Warangal. The Public Information Officer (PIO) who happens to be the Circle Inspector of the police station failed to provide information even though more than one year passed since the application was made.

Following which the appellant Ramana Reddy approached the SIC in Sep 2014 responding to which the Information Commission for four times has summoned the PIO and concerned Assistant Police Commissioner (ACP) who happens to be first appellate authority in RTI cases for hearing. The PIO appeared before the SIC only once and failed to provide information claiming that revealing the information could impede the investigation. The PIO also failed to appear before the commission for a recent hearing called on June 28. The SIC took the absence of the police official at the hearing seriously and directed a show-cause to the PIO Ravi Kumar and asked him to reply to the notice.

Source:

Hans, <http://www.thehansindia.com/posts/index/Telangana/2016-08-02/SIC-asks-top-cop-to-pay-2000-compensation-to-RTI-petitioner/246285>

17 August 16

50. Info not given to applicant, 4 PIOs slapped 1L penalty

TNN | Aug 17, 2016, 03.09 AM IST

LUDHIANA: The State Information Commission has slapped a penalty of Rs 25,000 each on four public information officers for causing inordinate delay in providing information to the applicant under the RTI Act, 2005.

Official spokesperson of the State Information Commission said the penalty was imposed by the single bench of S S Channy, chief information commissioner, Punjab. The spokesperson said Rohit Sabharwal, president, Kundan Bhawan, 126, Model Gram, Ludhiana, has sought information from PIO, municipal corporation, Ludhiana on December 24, 2015 under the RTI Act.

The information sought was to be provided by the respondent PIOs -- Bhupinder Singh, PIO, municipal corporation; Danesh, PIO, municipal corporation; Ankit Midha, PIO, municipal corporation; and Navneet Khokhar, building inspector-cum-APIO (deemed PIO), municipal corporation. Failing to get any information within 30 days as mandated under Section 7(1) of the RTI Act, the appellant had filed first appeal with the first appellate authority and then approached the state commission in second appeal under Section 19(3) of the RTI Act.

The commission noticed that although the First Appellate Authority Ghanshyam Thori, additional commissioner-cum-FAA had passed the formal speaking order and directed the respondent PIOs to furnish the information free of cost within seven days, none of the respondent PIOs supplied the information to the applicant or furnished any kind of response.

The chief information commissioner in his order stated, "Such kind of failure on the part of the respondents is intolerable." The amount of penalty would be deducted from their salaries for the month of August and September and would be deposited in the treasury under the relevant head.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/ludhiana/Info-not-given-to-applicant-4-PIOs-slapped-1L-penalty/articleshow/53731346.cms>

Attacks on RTI users and activists

51. Official used gun to threaten me: RTI activist

Rosamma Thomas| TNN | Aug 18, 2016, 06.21 PM IST

JAIPUR: Right to Information activist Yashovardhan Sharma of Barmer this May submitted a petition to the district forest department seeking answers to 11 questions. On Tuesday, he was invited to the department to inspect documents. "I was taken to an isolated space and one person held a gun to my chest, telling me I should sign a sheet of paper which said that the inspection of documents I had sought was completed to my satisfaction," he told TOI on Thursday.

Among Sharma's 11 questions were points pertaining to the funds received by the department under the corporate social responsibility head, the manner in which this money was spent, the number of animals rescued since 2002, the numbers that died, details of planting operations undertaken and expenses incurred on this, action taken against poachers and progress of cases filed, details of the census of wild animals and a list of animals in the district whose population is dwindling to danger levels. Sharma twice appealed to higher authorities - in both the forest department and the state information commission - before he received a letter on August 14 inviting him to the forest department so he could personally inspect documents two days later.

"There are a large number of women in the forest department's office. I suspect that many of these women are hired as forest guards but seek softer postings and just do office work," Sharma told TOI, adding that the women too joined in the threatening: "One woman told me that there were several women in the office, and if I did not desist from filing RTI applications, they would ensnare me in cases," he said. Sharma said he was so shaken by the experience that it did not occur to him immediately to file an FIR. "I have since sent by speed post a letter to the officer at the city police station, seeking that an FIR be filed," he said.

Buddharam Bishnoi, station officer at the Barmer city police station, said, "We have not yet registered any FIR in this matter. It is likely the letter is still on its way." Told that someone in the forest department had used a gun to threaten the activist, Bishnoi said, "But in the forest department, would they have guns?" In his complaint, Sharma has mentioned that he was slapped

too and instructed to sign a paper saying that the inspection was complete, even before it actually began. Barmer forest officer Laksham Lal told TOI, "I do not wish to speak on this matter. Whatever I say will be misinterpreted by this RTI activist."

Source:

Times of India, <http://timesofindia.indiatimes.com/city/jaipur/Official-used-gun-to-threaten-me-RTI-activist/articleshow/53756991.cms>

30 August 16

52. Reporters Murdered ‘With Complete Impunity’ in India: Committee to Protect Journalists

BY GAURAV VIVEK BHATNAGAR ON 30/08/2016

According to the Impunity Index, between 1992 and July 2016, 27 Indian journalists were murdered due to their work.

Expressing deep concern and dismay at the work-related murder of 27 journalists in India since 1992 and the inability of the state governments to secure a conviction in even one of them, the Committee to Protect Journalists (CPJ) on Monday noted that India has, for the past eight years, been a fixture on its annual Impunity Index, which “spotlights countries where journalists are slain and their killers go free.”

Additionally, while noting that “more than half of those killed reported regularly on corruption”, CPJ urged the Centre to “bring together a group of experienced jurists, journalists, scholars, and experts specialising in issues concerning the freedom of expression to submit draft proposals for a national-level journalist safety and protection mechanism and a method to federalise crimes against free expression, which is a guaranteed right under Article 19 of the Indian Constitution.”

The report, written by Sumit Galhotra, senior research associate at CPJ’s Asia programme, and Raksha Kumar, a freelance journalist, also points to the fact that most of the journalists who were killed belonged to rural areas. “The cases of Jagendra Singh, Umesh Rajput, and Akshay Singh, who died between 2011 and 2015, show how small-town journalists face greater risk in their reporting than those from larger outlets, and how India’s culture of impunity is leaving the

country's press vulnerable to threats and attacks." A deeper insight into this trend has been provided by P. Sainath, an award-winning journalist and co-founder of the People's Archive of Rural India, who wrote the foreword for the report, which included the following statement:

"Rural and small-town journalists are at greater risk of being killed in retaliation for their work than those in the big cities but, as this report shows, factors such as a journalist's location, outlet, level in the profession's hierarchy, and social background add to that risk. The language a reporter writes in and, most importantly, what they are writing about –especially if it challenges the powerful – increase the vulnerability."

Sainath also explained why those working for the national media usually escaped such a gory end, saying: "The elite sections of the national media, particularly English outlets, are better protected. There is a built-in insurance that comes with working for powerful media organisations that have access to those in government." Titled 'Dangerous pursuit: In India, journalists who cover corruption may pay with their lives', the report takes a close look at all the 27 cases. Claiming that all these journalists were murdered "with complete impunity", it said, "this has created a challenging environment for the press, especially small-town journalists and those reporting on corruption, who are often more vulnerable to attack and whose legitimacy is questioned when they are threatened or killed."

What compounds the matter for these journalists, who work in the absence of any kind of protection, was "an overwhelmed justice system and lack of media solidarity". The report also notes how often the victims are discredited after their death.

In the case of Jagendra, it said: "Before dying from extensive burn injuries in June 2015, freelancer Jagendra Singh accused a police officer of setting him on fire. Local police disputed his account and tried to downplay his journalistic credentials. More than a year later, the case is still being investigated at [the] state-level and no arrests have been made."

The report included that often such investigations were also plagued by delays and key evidence going missing. Such was the case in the murder of Rajput, a reporter with the Hindi-language daily Nai Dunia, who was shot dead outside his home in January 2011. The case was finally handed to the CBI, but Rajput's family is still waiting for justice.

The report also mentions the “mysterious death of Akshay Singh”, an investigative reporter for the prominent India Today Group, who was working on one of India’s largest corruption scandals when he unexpectedly died during an interview. “In part because of his high profile, Singh’s case was moved to the CBI relatively quickly: a marked contrast to the way the deaths of the other journalists featured in this report were handled.”

The report also includes a map of India’s deadliest states. The Committee to Protect Journalists released a report highlighting the Indian states where the most journalists were murdered in direct retaliation for their work. Credit: Committee to Protect Journalists

The Committee to Protect Journalists released a report highlighting the Indian states where the most journalists were murdered in direct retaliation for their work. Credit: Committee to Protect Journalists

Galhotra said that the idea for creating the report emerged in view of the poor “impunity record” and the “escalation in journalists being harassed or attacked, particularly in states such as Uttar Pradesh and Chhattisgarh, CPJ took an investigative trip to India in March 2016 to speak with members of the press, lawyers, and the relatives of three dead journalists, to try to understand the challenges in attaining justice and the risks faced by reporters on the front lines of exposing wrongdoing.” He said the cases of Jagendra, Rajput and Akshay highlighted these challenges. “Corruption was the impetus for all three journalists’ final reports and in all three cases, there have been no convictions.”

“Freelancer Jagendra Singh, who died from his injuries after allegedly being set on fire by the police in June 2015, was reporting on allegations that a local minister was involved in instances of land grab and a rape. Before he was shot dead in January 2011, Umesh Rajput was reporting on allegations of medical negligence and claims that the son of a politician was involved in an illegal gambling business. Investigative reporter Akshay Singh was working on a story linked to the \$1 billion Vyapam admissions racket when he died unexpectedly in July 2015,” he said. Noting that CPJ found a pattern of authorities resisting the execution of independent investigations, Galhotra said lawyers and families of journalists that CPJ’s representatives spoke to said that police often failed to carry out adequate investigations or to identify and apprehend attackers.

Galhotra noted that journalists and whistleblowers, including activists who use the Right to Information Act, have played an indispensable role in exposing corruption in India, including allegations of the misuse of funds when India hosted the 2010 Commonwealth Games and the 2G Scam of 2011. Quoting media experts, he said that while Prime Minister Narendra Modi made corruption a central issue in his election campaign in 2014, since coming to power, “despite vowing to take action on corruption, authorities have done little to protect the journalists who are on the front lines in trying to expose wrongdoing”. “No government in India has been an ardent champion of press freedom. The silence by all who have been at the helm of power over the years – be it the Congress Party, Bharatiya Janata Party, or the regional parties that head state or municipal governments – has only fostered a culture of impunity,” he said.

The CPJ also stated that while 27 journalists were murdered in connection with their work and no convictions have been secured by the prosecution in all these cases till date, the mysterious death of another 25 was being investigated by it to see if they were also murdered for their work.

Geeta Seshu, the Mumbai-based consulting editor of media watch website The Hoot, who contributed to the research for the report, said she could think of several cases where the police’s first line of response to a threat, attack, or killing of a journalist was to claim that the victim was not a journalist or that the attack was not work-related. “There is a deflection and that becomes the narrative then. That becomes the course of the investigation also.” The report also mentioned that the investigations also suffered because the CBI has not always been the most efficient. In fact it mentioned how the agency once claimed before the Supreme Court that it was “overworked and under-staffed” with 724 or nearly 16% of its posts lying vacant, with ongoing investigations in over 1,200 cases and another 9,000 pending in court.

The CPJ also noted that in its 2015 report on the safety of journalists the Press Council of India found that “even though [the] country has robust democratic institutions and [a] vibrant and independent judiciary, the killers of journalists are getting away with impunity. The situation is truly alarming and would impact on the functioning of the democratic institutions in the country.” But despite the entire journalistic community being under attack, both physically as well as through social media, the CPJ report said several journalists its researchers spoke to echoed the view that there is little outrage, among the media fraternity and society at large, when a journalist is attacked or killed in India.

In light of the prevailing hostile conditions for journalists, the CPJ has also made several recommendations. It has demanded that the best practices used by other nations be studied and a national protection mechanism be set up to provide security to journalists. Simultaneously, it has urged that a parliamentary hearing be convened on the issue of impunity in anti-press violence – to identify shortcomings in providing justice and ways to overcome challenges of capacity in law enforcement and the judiciary.

Also, it has called upon the Centre to send out a strong message on all attacks on journalists by publicly and unequivocally condemning all killings of journalists.

The CPJ has also urged the CBI to expeditiously complete investigations into the 2015 death of Akshay Singh in Madhya Pradesh and the 2011 murder of Umesh Rajput in Chhattisgarh. It has also asked the Uttar Pradesh government to transfer its investigation of the 2015 death of Jagendra Singh to the CBI.”

In the case of Chhattisgarh, the CPJ has demanded that the state government “order the police to immediately cease any and all intimidation of journalists attempting to do their work.” It has also urged it to “ensure that any actors, including the anti-Maoist group Samajik Ekta Manch, who harass or threaten journalists, are held to account” and that all journalists imprisoned in the state in connection to their work are released. Finally, CPJ has also asked the Indian media to “better investigate and report on issues of anti-press violence, including individual attacks, threats, and harassment, regardless of the victim’s media affiliation.” The organisation has also put out a complete list of the journalists that it is convinced were murdered because of their work.

Source:

The Wire, <http://thewire.in/62558/scribes-are-murdered-with-complete-impunity-in-india-committee-to-protect-journalists/>

Reports of RTI-related events

21 August 16

53. RTI trainings held at Peren, Mokokchung

21 Aug. 2016 11:51 PM IST

Two- day training programme on Right to Information (RTI) Act, 2005 was held on at Peren on August 19 and 20 at DCs conference hall. According to DIPR, the PIOs/APIOs from all government offices in Peren district and nominated representatives from prominent NGOs participated in the training programme. Inaugural address was done by SDO (Civil) Peren, Shivam Verma, IAS who stressed on the importance of RTI Act in ensuring transparency and accountability in the working of public authorities. He further emphasized on maintenance of proper records to facilitate the RTI. The training programme covered various topics on RTI Act, its working and the related practical aspects. The resource persons were EAC Athibung, LithrilaAnar, SDEO Peren Doris Yanthan and SDO PWD (R&B) Er. Asembe.

MOKOKCHUNG: In Mokokchung programme was held on August 20 at town hall for all PIO, APIO, prominent NGOS and academic institutions under Mokokchung district.

Deputy Commissioner, Mokokchung, Sushil Kumar Patel, IAS, in his keynote address said that Right to Information (RTI) Act 2005 was an Act to provide 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. He maintained that, though RTI empowers every citizen the right to seek information from a public authority, one must realize that while applying RTI one should not target for personal gain but the intention must be good otherwise the objective of RTI would not be achieved, he said. EAC HQ, Daniel Angami and EAC Chuchuyimlang, Meyiazungba were the trainers while SDO (C) Mokokchung, T. LemilaSangtam hosted the training programme.

Source:

Nagaland Post,

<http://www.nagalandpost.com/channelnews/state/StateNews.aspx?news=TkVXUzEwMDEwMTI0NA%3D%3D>

23 August 16

54. CIC inaugurates RTI workshop

TNN | Aug 23, 2016, 11.57 AM IST

ALLAHABAD: Chief information commissioner of UP Jawed Usmani addressed a workshop here on Monday where he said the Right to Information Act has changed the working of government. The workshop was held to make functioning of this act more effective in government offices. Usmani said earlier public had no access to the working of the government. However, with the Right to Information Act 2005, the public has access to government's working and this would help check corruption, he said.

Source:

Times of India, <http://timesofindia.indiatimes.com/city/allahabad/CIC-inaugurates-RTI-workshop/articleshow/53823120.cms>

RTI in South Asia

01 August 16

55. CIAA chief Karki's property details sought

August 1, 2016 07:43 AM

CIAA spokesperson Puskar appointed economic counselor to India

KATHMANDU, Aug 1: As many as 55 individuals have registered an application at the Commission for Investigation of Abuse of Authority (CIAA), demanding the property details of CIAA Chief Commissioner Lokman Singh Karki. Making use of the Right to Information Act, the individuals, who have been expressing solidarity with Dr Govinda KC's demand of the impeachment of CIAA chief Karki, filed an application at the CIAA on Sunday asking it to provide them Karki's property details. Even three years after being appointed CIAA chief, Karki is yet to make public his property details. As per the CIAA Act, any person holding a public post should make public his or her property details within 60 days of appointment to the post. Likewise, individuals holding public posts should submit their as well as their family members' property details at the end of each fiscal year. In the application, the 55 individuals have asked the CIAA to provide Karki's property details as soon as possible.

Ujawal Thapa, chairman of Bibeksheel Nepali Party, said that they will go to the National Information Commission if the CIAA fails to furnish Karki's property details. Meanwhile, the government has decided to appoint CIAA spokesperson Krishna Hari Pushkar as economic counselor to India, in contravention of the practice of deputing an official with an economic and trade background to the post. A recent cabinet meeting had decided to appoint joint-secretary Pushkar to the post of economic counselor to India though he is from an administrative background. As per existing practice, joint-secretaries from the Ministry of Finance or the Ministry of Commerce are deputed to the post.

Pushkar is leaving for India in a few days "I am going to India with my family to assume the post soon," he said. According to a highly-placed source at the Office of Prime Minister and Council of Ministers, Pushkar was appointed to the post after CIAA chief Lokman Singh Karki pressured

the government to do so. “He had been trying to cultivate leaders from various power centers to get appointed as consul general at an important posting such as Hong Kong, Lhasa or Kolkata. He lobbied for appointment as economic counselor to India after failing to get the post of consul general,” the source said. The cabinet had kept the decision to appoint Pushkar economic counselor a secret as the appointment might drag both the government and the CIAA into controversy.

Earlier, the CIAA had directed the government to take a clear standard regarding the appointment of officials to such diplomatic posts. However, the CIAA has remained silent over Pushkar’s appointment.

Source:

My Republica, <http://www.myrepublica.com/news/3072>

02 August 16

56. NIC asks I/NGOs to respect public's right to information

August 2, 2016 01:00 AM, Republica

KATHMANDU, Aug 2: National Information Commission (NIC) has asked all I/NGOs to respect the Right to Information (RTI) Act and disseminate information related to their activities to the general public on a regular basis to ensure transparency and accountability.

Speaking in an interaction program organized by the NIC with the development partners on Monday, Chief Information Commissioner Krishna Hari Baskota also asked the I/NGOs to compulsorily allocate at least 1 per cent of their budget under the RTI head and use it to disseminate information to the general public in line with the RTI Act 2008.

The NIC has developed 20 indicators for RTI audit and all the 31 ministries have been carrying out RTI audit based on the indicators. Since the RTI Act defines I/NGOs as public bodies, the development partners should carry out RTI audit as per the act,” Baskota said.

He said that the NIC decided to ask development partners to act according to the act as part of the commission's effort to implement the law effectively. “So far, we have found that development partners are comparatively transparent as they regularly upload information on their activities on their websites. But still, we decided to hold the interaction to remind the development partners about provisions of RTI Act and take initiatives to follow it,” he added.

Representatives from various I/NGOs, including World Bank, Asia Development Bank, UNDP, UNFPA, UN Women, Norwegian Embassy and Embassy of Finland, among others, were present in the program.

Baskota also urged I/NGOs to inform NIC about their initiatives on raising awareness about RTI act among the general public. “Many INGOs are already working to raise awareness about right to information. Together, we can collaborate and work effectively to raise awareness about RTI among the public,” he added.

Source: -

My Republica, <http://www.myrepublica.com/news/3121>

03 August 2016

57. Speaker certifies RTI Bill into law

AUG 03 2016

Speaker Karu Jayasuriya certified the Right to Information (RTI) Bill into law on Monday, co-cabinet spokesman and Parliamentary Reforms and Mass Media Minister Gayantha Karunatileka said yesterday. Minister Karunatileka addressing the weekly Cabinet briefing at the Government Information Department said the delay was due to the Speaker having left to Singapore recently. While the RTI Bill itself was passed in Parliament on June 24, there was criticism that it had not been passed into law. The Act also stipulates that its contents needs to come into effect six months after having been made into law.

Transparency International Sri Lanka (TISL) in a statement released to the media earlier this week urged the Speaker to act on RTI or to inform “the public of the reasons for any further delay”.

“TISL is conscious of the time needed to accommodate Committee Stage amendments, but in light of the fact that nearly all amendments had been pre-drafted, TISL believed a lapse of over a month is unwarranted. In delaying the certification of the Bill, the entire process of rolling out the RTI infrastructure is put on hold, including the setting up of the RTI Commission, the appointment and training of Information Officers, Designated Officers and Commissioners, and the sensitisation of the entire public service,” the TISL statement added.

Source:

Daily News, <http://www.dailynews.lk/?q=2016/08/03/political/89373>

58. RTI Bill Done But Not Dusted

August 3, 2016

In spite of earlier intimations that the Right To Information Bill had received the certificate of the Speaker on 7 July, the RTI Bill has in fact still not been certified and therefore does not have the force of law. This was confirmed upon reference to the latterly published official Hansard.” says the Transparency International Sri Lanka.

Issuing a statement last night the TISL said: “The RTI Bill was passed by MPs in Parliament on 24th June 2016. As a leading advocate for the enactment of comprehensive RTI legislation in Sri Lanka, TISL has closely monitored the passage of the Bill, and would urge the Speaker of Parliament to expeditiously certify the RTI Bill and conclude the legislative process. TISL is conscious of the time needed to accommodate committee stage amendments, but in light of the fact that nearly all amendments had been pre-drafted, TISL believes a lapse of over a month is unwarranted. In delaying the certification of the Bill, the entire process of rolling out the RTI infrastructure is put on hold, including the setting up of the RTI Commission, the appointment and training of Information Officers, Designated Officers and Commissioners, and the sensitization of the entire public service.

“In strengthening the RTI Bill from its initial draft, TISL acknowledges the tireless efforts of the RTI drafting committee and civil society. Looking to the future, TISL remains concerned as to the commitment of human and financial resources to ensure the effective roll out and implementation of the RTI framework. However, as a preliminary matter of urgency TISL reiterates the need for the Speaker of Parliament to certify the Bill, or inform the public of the reasons for any further delay.”

Source:

Colombo Telegraph, <https://www.colombotelegraph.com/index.php/rti-bill-done-but-not-dusted/>

14 August 16

59. The Information Commission can help

12:00 AM, August 14, 2016

Shamsul Bari and Ruhi Naz

I can't waste my time responding to RTI queries from riff-raffs and vagabonds," a public official was recently heard saying. Right to Information (RTI) workers throughout the country are familiar with such statements, which reflect the attitudes of many public servants, even seven years after Bangladesh's RTI Act 2009 came into force. Few are willing to open up public records for scrutiny by the public, which is the basic objective of the law.

A large number of civil servants, bureaucrats and other employees belonging to the three branches of the Government - the executive, judiciary and the legislative - semi-government authorities, entities that run on or enjoy public fund, like schools, colleges and universities, NGOs that receive foreign funding and other agencies covered by the RTI Act, are still unprepared to abide by the transparency requirements of the RTI Act.

As a result, when citizens ask them for such information, they fret and fume and threaten them with unpleasant consequences. Whether they serve at the union, upazila, district or national level, many public officials cannot believe that ordinary people who trembled before them in the past would now dare to ask them for disclosure of information which was out of bounds for them. They

get particularly angry with RTI activists and NGO workers who help ordinary citizens to make RTI demands. Officials are unwilling to reconcile with the fact that the days of secretive governance are gone, with the advent of RTI.

A research project recently completed by an NGO on the challenges and prospects of RTI in Bangladesh gives voice to these attitudes. Quotes from officials include:

"We have lots of work to do at office. If you people add to our burden by asking for unnecessary information, where shall we go? You better withdraw your application or be prepared for trouble."

"Because of you I have now been summoned to appear before the Information Commission. How could you do that? Don't you know, we could put you in trouble? So please inform the Commission that you got the information now, so both you and I will not have to appear before it."

The research findings also revealed that ordinary citizens avoid exercising their right to information for fear of retaliatory measures by public authorities. Some of their comments include I am afraid to apply. I may be summoned to the office and threatened with dire consequences simply because I have asked for the information. This has happened to people I know. I would rather starve than make an RTI application."

"Who will protect me if the authorities file a fake case against me or send the police to arrest me? I know of people who receive telephone calls from concerned officials threatening them to withdraw their RTI applications or face consequences." "People are afraid to confront public authorities. In my union, we know that we always get less than our entitlements under the government's safety-net programmes. But I dare not complain or ask, as I am afraid my name may be struck off the beneficiary list altogether."

"People don't see public authorities as friends. They are afraid to ask them any question. They would rather avoid them. I don't see RTI gaining popularity with ordinary people." Such opinions go some way towards explaining the slow progress of the RTI Act in the country. The public must have confidence in the efficacy of the law, and public officials a healthy fear of it, if we are to make full use of this right.

The three main players who can do something about this situation are the government, the Information Commission and the civil society. Civil society remains divided because many key NGOs who fall within the ambit of the law are reticent to promote it for fear that it may boomerang on them. Some smaller NGOs have played a sterling role to keep the RTI ball rolling among the marginalised sections of the country, although their efforts to engage the middle and upper classes have largely failed so far.

There are positive signs that the Government of Bangladesh is slowly moving towards greater engagement with the law, not unexpected for a government which adopted the law to fulfill its election pledge. However, the government appears not to have fully discovered yet the value of RTI as an instrument to improve governance and bring citizens closer to it. In fact, in most developing countries, governments tend to see RTI/Freedom of Information laws as unnecessary encumbrances on their use (or abuse) of power. Normally, it is citizens who keep RTI alive.

The Bangladesh Information Commission (BIC) has borne the bulk of the responsibility to take the RTI Act forward in the last seven years. For a new entity entrusted with an unknown task, it has made significant contributions to put the law on track. In previous columns, we have written about what more it can do. Till the time the government comes out fully to play its role and the civil society is engaged to promote the law more vigorously, the BIC must take the lead to provide the much needed shot in the arm for the sagging RTI regime. Some simple steps would achieve a great deal.

Together with awareness-building and other stipulated activities, the BIC should consider: a) removing procedural difficulties faced by applicants in submitting RTI applications; b) encouraging greater use of the law through more positive interpretation of its provisions; and c) putting the punitive provisions of the law to greater use so that recalcitrant public officials realise that they must respect the law or face penalties.

Towards these objectives, the BIC could consider the following:

- 1) Allow applications to unnamed Designated (Information) Officers: Among issues which bother RTI applicants, the requirement to address RTI applications to specifically-named Designated

Officers is foremost. This is because, apart from the difficulty in obtaining the names, in many offices the DOs have not been appointed or been changed/transferred or incorrectly named on the website. The rejection of applications for such mistakes frustrates applicants, leading many to abandon RTI. A significant number of complaints are "discharged" by the IC for this reason. Simply allowing RTI applications to be addressed to unnamed DOs would improve the situation dramatically. Similarly, other reasons for "discharging" about 43 percent of all complaints over the years could also benefit from a more accommodating attitude of the IC.

2) Consider registered mail to be definitive proof of receipt: A significant number of RTI applications are lost because the authorities concerned deny having received them, even when dispatched by registered mail. The BIC's leniency on the DOs impacts negatively on the applicants. Simply adopting a rule that applications sent by registered mail will be deemed to have been received can remove the problem.

3) Hold Designated Officers accountable: In another large number of complaints heard by the IC, the DOs concerned justified their failure to provide information by claiming ignorance about the law. About 78 percent of DOs agreed to provide information only at the prodding of the IC. While the law provides for punitive measures for such failures, the BIC has consistently been reticent to impose them. In seven years, only six penalties were imposed on DOs, while hundreds went scot free. As a result, people's trust in the law suffered. Their fear of public officials will reduce significantly if punitive measures foreseen in the law are applied more stringently. However, the fact that DO's are often guided by the views of senior colleagues, against whom no penalty provisions exist, must also be addressed.

4) Follow-up of decisions: Applicants are also discouraged when they fail to obtain the information even after IC directives. A better follow-up mechanism can end their gripes.

) Alternative venues for redress: The holding of complaint hearings by the BIC at different locations in the country and/or through video conferencing will reduce cost for complainants and remove another impediment to the growth of RTI.

The BIC has the ball in its court. If it plays it well, the entire nation will benefit.

The writers are Chairman, Research Initiatives, Bangladesh (RIB) and Project Coordinator (RTI section), RIB, respectively.

Source:

Daily star, <http://www.thedailystar.net/op-ed/the-information-commission-can-help-1269187>

17 August 2016

60. Farewell: - RTI chief completes tenure

By Our Correspondent

Published: August 17, 2016

Right to Information Commission Chief Information Commissioner Sahibzada Muhammad Khalid has retired after completing his tenure. This was announced in a press release on Wednesday. He was the first chief information commissioner to be appointed after the enactment of the RTI act. A farewell ceremony was hosted by the commission to honor his services. The commission has answered thousands of complainants which were denied at first. “Transparency in public bodies is a fundamental right,” the press release cited Khalid as saying. He advised the employees to devote themselves to public service.

Source:

Express Tribune, <http://tribune.com.pk/story/1164032/farewell-rti-chief-completes-tenure/>

21 August 16

61. Sindh acts to implement NAP in letter and spirit

By Azeem Samar August 21, 2016

Print: Karachi

With the objective of implementing the National Action Plan against terrorism in letter and spirit, the new Sindh cabinet has approved the drafts of two bills to adopt a mechanism to register religious seminaries and monitor their funding as well as for keeping an eye on non-governmental

organisations in the province. The cabinet, which met at new Sindh Secretariat building on Saturday with Chief Minister Syed Murad Ali Shah in the chair, accorded approval to the draft of the Sindh Deeni Madaris Bill 2016 and the Sindh Voluntary Social Welfare Agencies' Bill 2016.

The proposed bill for the registration of madrasas and the monitoring of their funding will soon be tabled in any of the upcoming sessions of the Sindh Assembly.

Chairing the meeting, the chief minister said NAP's implementation would be ensured at any cost, and to achieve that goal, madrasas would be registered. He said his government would fully support the seminaries while madrasas too were under an obligation to cooperate with the government in this regard. Shah let every member of the cabinet speak their mind about the two drafts. The cabinet constituted a committee headed by Adviser to CM on Law Murtaza Wahab to improve the madrasa bill draft.

The committee, whose members include former aide to chief minister on religious affairs Dr Abdul Qayyum Soomro, will approach leading representatives of religious scholars and clerics in the province to seek their suggestions for the proposed law. Cabinet also approved the draft of the Sindh Transparency and Right to Information Bill 2016. The proposed piece of legislation, which would be referred to a select committee for bringing about improvement, is aimed at giving the right to citizens to get information on the working of the provincial government.

The cabinet also took into consideration a bill to amend the Sindh Arms Act 2013 and decided that the proposed amendment bill would be reviewed once again. It constituted a committee to further consider the draft of the Conflict of Interest Bill 2016 and the committee for the purpose would comprise Law Adviser Murtaza Wahab, Minister Mohammad Bux Khan Mahar and Jam Ikramullah Dharejo and the chief secretary. The committee would present its report on the proposed bill in the next six weeks. The bill is meant to ensure good governance in the province and to ensure transparency in working of the government.

The meeting resolved that the cabinet would reconsider the draft of the proposed Defamation Bill 2016 with the proposal to constitute summary trial courts or tribunals for deciding complaints in defamation cases as in the original draft of the bill there was no provision for decreeing interim orders while there was also overlapping jurisdiction of different authorities in the proposed law.

The meeting deferred consideration of the agenda items related to proposed amendments to the rules of business of the government, the constitution of proposed terms of reference of the Special Security Division and the proposed law for the collection of Ushr. The chief minister said the committees constituted to consider the drafts of the proposed bills had to complete their task within the given time.

Speaking to media after the cabinet meeting, Information Adviser Moula Bakhsh Chandio said the provincial government had started taking steps for implementing NAP in letter and spirit. He said the Sindh Police, Rangers and other law-enforcement agencies had been playing their due role in preventing crime and terrorism in the province. Law Adviser Murtaza Wahab said the cabinet meeting had earlier in the day considered a number of drafts of proposed bills to be tabled in the Sindh Assembly. He said the drafts would soon be finalised.

He said all religious seminaries would be registered in the province and their funding monitored under the proposed new law. The law adviser said the meeting also considered the draft of the Right to Information Bill, which would enable any concerned citizen to get the required information regarding the working of government through correspondence. He said the Pakistan Peoples Party considered the right to access to information as one of the basic rights of the people.

Wahab said a number of NGOs had been working in Sindh and there were reservations regarding their security and funding matters. He said the proposed legislation would make it binding to get clearance from the home department for the registration of any new NGO. He said that under the proposed law, suspicious elements would not be able to register NGOs in the province. To a question, Moula Bakhsh Chandio said the army and other security agencies had made it clear that NAP had not been fully implemented. He said this showed the failure of the federal government and alleged that Chaudhry Nisar Ali Khan had proved to be a failed interior minister of the country. He said the fact that the prime minister had to intervene and constitute an implementation committee showed that the federal government had failed to implement NAP.

Responding to another question, the law advisor said a number of people, including the interior minister, had resorted to politicking on the issue of extension of special policing powers of the Sindh Rangers and stay of the paramilitary force in the province in aid of the civil administration

and police. He said the Sindh government was quite clear on the issue, and its position was ultimately endorsed by the federal government.

Wahab said the Sindh Assembly had the final authority to extend the special powers of the Rangers, but since the government's stance had been accepted by all the quarters concerned, there was no controversy over the issue. He said the targeted operation being conducted in Karachi against criminals and terrorists would continue.

Source:

<https://www.thenews.com.pk/print/143999-Sindh-acts-to-implement-NAP-in-letter-and-spirit#>

21 August 16

62. Army Safe from OMP?

August 21, 2016 *Easwaran Rutnam and Thushari Nathanie*

The Office on Missing Persons (OMP) which was approved by Parliament recently, has made sure there is no mention of investigating the army for rights abuses. The Bill on the OMP which was passed with amendments, notes in its mandate, that it will be authorised to appoint a specified officer to enter without warrant and investigate, at any time of day or night, any place of detention, police station, prison or any other place in which any person is suspected to be detained, or is suspected to have previously been detained in, by the State or any State agency, instrumentality, or any officer of the State.

The clause does not directly mention army detention or military detention centers which were also alleged to have been locations where some Tamils were detained during the war. The mandate of the OMP says the new Office will be authorised to examine, make copies of, extract from, seize and retain, any object that is deemed necessary for the purposes of any investigation being conducted by the OMP and make an application to the Magistrate having territorial jurisdiction, for the issuance of a search warrant, to enable Police or specified officers of the OMP, to search any premises suspected to contain evidence relevant to an investigation being conducted by the OMP.

The OMP will also be authorised under law to examine, make copies of, extract from, seize and retain, any object that is deemed necessary for the purposes of any investigation being conducted by the OMP, to refer, after due consultation with the complainant, to the police or any other relevant law enforcement authority all cases of missing persons. Minister of National Dialogue Mano Ganeshan however says the major Tamil political parties support the OMP Bill in its current form.

“Nobody can satisfy everybody. I too have my reservations on this bill. But we have to get the better and go forward. While respecting the right to opinion of all and everybody, I wish to remind as simple truth. A majority of the Tamil population living in the north and east has voted for the Tamil National Alliance (TNA) and other majority of the Tamil population living outside north and east has voted for us, the Tamil Progressive Alliance (TPA). We are going with the bill. To my knowledge the TNA is of the same view. That seals everything for the time being. But we will monitor the developments,” he told *The Sunday Leader*. Ganeshan noted that there are definite drawbacks in the Bill and he is not totally satisfied but he will not discuss his concerns in public. “I am an optimist. This is the best we can do at this juncture. I will get what is best at a point of time and march forward for the better,” he said.

Protected against RTI

According to the Bill, notwithstanding anything to the contrary in any written law, except in the performance of his duties under the Act, every member, officer, servant and consultant of the OMP shall preserve and aid in preserving confidentiality with regard to matters communicated to them in confidence and the provisions of the Right to Information Act will not apply with regard to such information. No member, officer, servant or consultant of the OMP shall be required to produce, whether in any court or otherwise, any material communicated to him in confidence in the performance of his duties under the Act, except as may be necessary for the purpose of carrying out or giving effect to, the provisions of the Act.

The OMP will take all necessary steps including technical safeguards to ensure the security of all its databases and data. Minister Ganeshan rejected the allegation raised by former President Mahinda Rajapaksa that anyone who supports the OMP Bill is a traitor to the nation.

“He is inviting hazard onto him by saying this. If I happen to agree with Mahinda Rajapaksa, I will have to label him as the number one traitor. This missing persons issue first came into Sri-lankan socio-political vocabulary in the 1980s. It was during the 80s JVP’s Deshapremi insurgency, that’s how it was called then Sri lankan citizens started going missing. Mahinda Rajapaksa, then an opposition SLFP MP, was the human rights champion to the rights of the victims of enforced disappearances, the family members of the missing persons.

Mahinda went to Geneva taking a file containing the names and identities of the missing persons with his comrade buddy Vasudeva Nanayakkara to lodge complaints with then human rights committee of the UN. Whom do you think that Mahinda listed as the violators and perpetrators to the crimes of enforced abduction and extra judicial killings? It is none other than the Sri Lankan army and police. Can he deny it today? He and Vasudeva named the action of the then UNP government as ‘State Terrorism.’ Therefore, if Mahinda considers the screening of any wrongdoers in the army, police and state political goon for enforced abduction, extra judicial killings as treacherous, he is the pioneer traitor in this country. We today just follow him in the so called “treacherous path”, Ganeshan said. He also said that the OMP will listen to the complaints related to all those reported missing in this country and is not restricted to any region or race and religion or period.

“Mahinda is reported to have said nearly 60,000 went missing during the 1980s. Manori Muttetugamage’s report had kept it at 26,401. In 1971, it is claimed about 10,000 have reportedly have gone missing or killed. Police tells me that they lost 38 in 1971 and 357 in 1980. I don’t have the army count. The arrest and killing of JVP leaders Rohana Wijeweera and Upatissa Gamanayaka are popular issues like what happened to the Kataragama Beauty queen.

Not all of the killings are put on the army and police accounts. The JVP’s Deshapremi movement is also in the list of accused with goon groups like PRAA. Who killed Vijay Kumaratunga and many other personnel of political and artistic fames? Army, police, JVP’s Deshapremis, PRAA, private armies of the powerful political and defense personnel are in the long list of alleged perpetrators. All these could be reported to the OMP. I wish these are investigated. I have met many Sinhala mothers who have lost their sons to state terrorism of 1980s. These mothers and

relatives of the missing persons of 1980s are working with Britto Fernando, the activist then and now,” Ganeshan said.

Ganeshan also recalled that even the LLRC which was appointed by Rajapaksa, had demanded investigations on the Army and Police and so did the Presidential commissions on missing persons. “There are various reports put out by number of national and international human rights organisations including the Civil Monitoring Commission, that I led during the hey days between 2006 and 2009 and the report of United Nations. Like in the 80s list of Mahinda Rajapaksa, the current list also have many accused including the state security forces. And like JVP then the LTTE is accused this time. Like PRAA and private armies then, we have EPDP, PLOTE, EPRLF and TELO. And the goon groups led by SLFP vice president Karuna Amman and Pillaiyan, the former UPFA CM of the EP. There are accusations against some state sponsored ministerial political goons of the former regime. It is common man’s knowledge that powerful defense ministry officials conducted private assailant units, the so called private armies. Already two DIGs are behind bars and number of army, police and security personnel are either in remand or out on bail facing man slaughter charges and ransoms,” the Minister said. The Minister said that the numbers on those missing vary with the Bishop of Mannar putting the number at 147,000, ICRC putting it at 16,000, Paranagama repor at 20,0000, Darusman and many international human rights organisations at 40,000. The army says 5,600 of its men went missing.

Source:

The Sunday Leader, <http://www.thesundayleader.lk/2016/08/21/army-safe-from-omp/>

29 August 16

63. Be informed

Aug 29 2016, Sri Lanka

The next six months will have the intricacies of the Right to Information (RTI) Act unravel into reality and as the Ministry of Mass Media and Parliamentary Affairs is busy keeping to its schedule of implementation, we need to understand how we can make it work in our daily lives.

Executive Director of the International Centre for Ethnic Studies (ICES), Dr Mario Gomez, explained that, “A Right to Information law gives a person a right to demand information from a public body (and in some cases from a private body) without having to say why the information is being sought. Such a right can enhance the transparency of public decision making and decrease the level of arbitrary and ad hoc decision making at all levels of government.”

“The right to information is about giving people the right to pierce the opaque tiers of governance. It is about allowing people to learn more about the basis of government decisions and the reason why one option was preferred over the other. It is about using that information to challenge the different levels of government and seek to prevent an abuse of public power and a misuse of public resources”, added Dr Gomez.

He pointed out that in Sri Lanka, the RTI can be used to: ask for information on how relief was distributed after a disaster, by slum-dwellers to ask for information on their eviction, to ask for information on school admission, to ask for information from public information and access to public medical care, used to ask for information on Police action and inaction, for information on the environmental impacts of projects and ask if EIAs were conducted or by journalists to seek information on stories they are working on, among other things.

Dr Gomez added that RTI should not be seen as a law that will only benefit the elites, “It should be seen as something that benefit poor people as well, and who will be able to question national, provincial and local decision making. In Chile the law was used to demand information on a reforestation project with serious environmental consequences; in Nepal it was used to monitor the disbursement of disaster relief; in India it has been used to monitor how local government disbursed public funds and responded to food crises. In Brazil the right to information has been used to overturn amnesty laws and in Colombia to found a right of victims of human rights violations to a right to truth”.

An Information Commission consisting of five Commissioners and a Director General to oversee the functions of the RTI would be established with the next month or so. The people thus will have access to information which is in ‘possession, custody or control of a public authority’. The Information Commission will also be in charge of stipulating the fee which is needed be paid by the public for the information they require.

Each public authority will also have an information officer appointed to help the people get the information they require.

Information not open to public

Not all information however would be open to scrutiny. This includes: personal information which has no relationship to any public activity or interest, information related to defence of the State or its territorial integrity or national security; that which can be seriously prejudicial to Sri Lanka's relations with any State, or in relation to international agreements or obligations under international law, the disclosure of such information would cause serious prejudice to the economy of Sri Lanka, information on exchange rates or the control of overseas exchange transactions; the regulation of banking or credit; taxation; the stability, control and adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other income; or the entering into of overseas trade agreements; information related to commercial confidence, trade secrets or intellectual property protected under the Intellectual Property Act, No. 36 of 2003, disclosure of any medical records relating to any person, the information consist of any communication between a professional and a public authority to whom such professional provides services, the information is required to be kept confidential by reason of the existence of a fiduciary relationship; the disclosure of such information which would cause grave prejudice to the prevention or detection of any crime or the apprehension or prosecution of offenders; information which will expose the identity of a confidential source of information in relation to law enforcement or national security, the information has been supplied in confidence to the public authority concerned by a third party and the third party does not consent to its disclosure; the disclosure of such information would be in contempt of court or prejudicial to the maintenance of the authority and impartiality of the judiciary; the disclosure of such information would infringe the privileges of Parliament or of a Provincial Council as provided by Law; if the disclosure of the information would harm the integrity of an examination being conducted by the Department of Examination or a Higher Educational Institution; the information is of a Cabinet memorandum in relation to which a decision has not been taken; or the information relates to an election conducted by the Commissioner of Elections which is required by the relevant election laws to be kept confidential.

However, a case could be made for its disclosure if the information is over 10 years old. Trade agreements which have not been completed, even over 10 years however is excluded here.

Government authorities

Given that the above sections cover a large proportion of information, the Act also leaves room for some respite, when it stipulates that the Information Commission can decide on any information that has been refused to be divulged.

“A request for information shall not be refused where the public interest in disclosing the information outweighs the harm that would result from its disclosure. An information officer may seek the advice of the Commission, with regard to an issue connected with the grant of access to any information which is exempted from being disclosed under subsection (1), and the commission may as expeditiously as possible and in any event give its advice within fourteen days”, stated the Act.

More importantly any information request needs to be met within 14 working days.

In order to supply all this information, the government authorities will now be required to pay more attention to their records, maintain them and if resources are available, make sure they are digitized. They are required to maintain records going back 10 years and moving forward for the next 12 years.

Records cannot be destroyed if there is a pending request for it. The public authorities will also have to produce reports every year which should outline the function of the relevant ministry, its officers, details of its budgets and what they did with it. The reports should also be available in all official languages.

If the Ministry is to undertake a foreign funded (US\$100,000 and more) or locally funded (Rs 500,000 or more) project, they need to inform the public in the area concerned of it, three months prior to commencement. If it is an urgent project however, a week’s notice is allowed.

When speaking of public authorities or government, the people need to take into account that this would include: “a Ministry of the Government; anybody or office created or established by or under the Constitution, any written law, other than the Companies Act No. 7 of 2007, except to the extent specified in paragraph (e), or a statute of a Provincial Council; (c) a Government Department; (d) a public corporation; (e) a company incorporated under the Companies Act, No. 7 of 2007, in which the State, or a public corporation or the State and a public corporation together hold twenty five per centum or more of the shares or otherwise has a controlling interest; a local

authority; (g) a private entity or organisation which is carrying out a statutory or public function or service, under a contract, a partnership, an agreement or a license from the government or its agencies or from a local body, but only to the extent of activities covered by that statutory or public function or service; (h) any department or other authority or institution established or created by a Provincial Council; (i) non-governmental organisations that are substantially funded by the government or any department or other authority established or created by a Provincial Council or by a foreign government or international organisation, rendering a service to the public in so far as the information sought relates to the service that is rendered to the public; (j) higher educational institutions including private universities and professional institutions which are established, recognised or licensed under any written law or funded, wholly or partly, by the State or a public corporation or any statutory body established or created by a statute of a Provincial Council; (k) private educational institutions including institutions offering vocational or technical education which are established, recognised or licensed under any written law or funded, wholly or partly, by the State or a public corporation or any statutory body established or created by a statute of a Provincial Council; (l) all courts, tribunals and institutions created and established for the administration of justice”.

The Information Commission

The Information Commission will be similar to the other Independent Commissions appointed by the Constitutional Council. The five persons in charge of it too will be appointed by the President under the recommendation of the Constitutional Council. These recommendations will include a person with legal background nominated by the Bar Association of Sri Lanka, a person from the media and another from civil society.

The nominees are not be those holding public office, members of Parliament, Provincial Councils or local government, connected with a political party or pursuing any professional or business interests. Once appointed, they will carry for office for a period of five years. In addition, a Director General is also to be appointed for the general management of the Commission.

The Act also stipulates that the Commission will have its own fund and can receive funds both locally and internationally.

The information officers are the ones who will come into contact with the people on a day-to-day basis. They are to be appointed to every public authority within the next three months. These officers will keep records of requests and assist the citizen with getting what what is required.

All public authorities need to also display details and contact numbers of the information officer present and the fee levied for it.

Making a request

When making a request, you need to supply the following information: 1. Provide adequate details of the information you need, 2. Specify the language in which you need it in, 3. If you think the information is necessary to safeguard the life or liberty of a person, include a statement to that effect, including the basis for that belief; and 4. You are not required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting you.

When the information is given, the citizen has the right to; inspect relevant work, documents, records; take notes, extracts or certified copies of documents or records; take certified samples of material; obtain information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.

The information which is to be supplied or refused within 14 working days can only be extended until 21 days. If it is being extended, the officer needs to specify the reason for doing so, the time period of the extension and when an appeal can be made.

In order to protect officers who act in the best interest of the public, the Act also mentions that, “No liability, whether civil or criminal, shall attach to any public authority or any information officer or any other officer of such public authority, for anything which in good faith is done by such officer in the performance or exercise of any function or power imposed or assigned to such officer under this Act”.

However if an information officer is to wilfully not provide or assist in getting accurate information, he or she is liable to disciplinary action.

Any person who deliberately obstructs the provision of information or intentionally provides incorrect, incomplete or inaccurate information can be sued in a Magistrate's court and fined not exceeding Rs. 50,000, imprisoned for a term not exceeding two years or to both.

The Act allows for an appeal to be made in the case of an information request being rejected. If the person is not happy with the decision taken by the Commission, within a period of two months, they can direct their complaint to the Court of Appeal.

Source:

Daily News, <http://www.dailynews.lk/?q=2016/08/29/features/91649> (Daily news Sri Lanka)

30 August 16

64. Open Singha Durbar

August 30, 2016 00:25 AM, [Yek Raj Pathak](#)

How can Nepal, which has enacted RTI Act, deny its citizens access to the office of their representatives?

The ground floor of the Prime Minister's Office (PMO) of Sweden is open to all Swedish citizens. There is a public library on the same floor, which people can visit and easily view records of PM office. People can get the attested copies of those records on demand. Documents are computerized and made accessible online. This model of dissemination of information has been replicated by all Scandinavian countries: their major government offices and central secretariats are accessible to the people. Needless to say, these offices also work for the people.

In Nepal, people are not allowed to enter Singh Ddurbar, the central secretariat of the government, where all the ministries are located. They restrict the public from entering the compound, let alone reach the ministries. People are denied access to the secretariat of the sovereign parliament, which also lies there. Those who do not have political reach or acquaintance with government employees inside Singha Durbar cannot meet their representatives, ministers and administrators. People are rather compelled to meet them at their residence. For the last six months, however, one "Open Singha Durbar" campaign has been gaining momentum. The campaign that had been launched via social networking sites has taken a legal form as well. Realizing the need of an approachable

Singha Durbar, some people lodged an appeal at the National Information Commission (NIC) three months ago. The NIC then issued an order to the concerned offices to open the gate for the public. Singha Durbar, however, is defiant.

Nepal entered the tenth year of implementation of Right to Information (RTI) Act on August 19. But there has not been a satisfactory progress, even though a few precedents have been established. The disclosure of duplicate VAT bill affair, the provision to present the bill voucher of all government expenses, the availability of answer sheets of the university exams and the marks of Public Service Commission exams to the examinees on demand are some notable achievements in RTI. But there has been no progress in securing the access to information of a broad section of the society. NIC leadership is more proactive in reaching out to public these days. Information campaign activities are also increasing in the country.

There is no proper record to ascertain the exact demand for information made in these nine years since the Act's implementation. The informal estimate is around 4,000. In India, more than 4.2 million people had demanded some kind of information in 2015 alone.

More than 60 percent of the populations of the Scandinavian countries have at some point or the other exercised their right to information. Singha Durbar has closed itself, but we seem content to keep our queries to ourselves. We lack time and temperament to acquire the entry passes or to please the staffs inside in order to enter Singha Durbar. This also discourages us from seeking information from the offices inside. Our access to Singha Durbar is vital for other reasons as well.

Every year, the National Information Commission submits its annual report to the prime minister, whereupon the report must be discussed in the parliament. But not a single report has been discussed till date. That these reports have not been forwarded to the parliament shows that our government officials are still not serious about RTI and that it's not one of their priorities.

Again, Singha Durbar is closed for the general public. How can a country that has enacted RTI Act deny its citizens access to the parliamentary secretariat, the office of their representatives and all central administrative offices? In a democracy, the parliament is as important and sensitive a body as the judiciary. How can people get their voice across to their representatives when the parliament secretariat is not accessible to them? How can they give feedback on the laws to be

formulated? Suggestion boxes have been kept at each and every ministry, but how can citizens drop their suggestions when they cannot even get there?

Public participation is a must for framing and implementing public policies. In fact, in a democracy, such policies are drafted in line with people's feedback. In Nepal, however, the policy drafting body—the parliament and the central administrative authority—willfully prohibits the people from taking part in the vital policy-making debate. This is against the fundamental norms of democracy. Security concern is often cited as a reason for denying general people access to Singha Durbar. But security can be easily maintained by deputing more security personnel and by using metal detectors. Right To Information is not limited to acquiring a photocopy of vital information. Citizens must be able to visit the right place, and collect information first-hand on the workings of the government. This is why Singha Durbar must be open to all. People's representatives and high-level administrators confined within the walls of Singha Durbar must realize that the bigger the lock at the gate, the more tyrannical the government is likely to be.

The author is an executive editor at Rastriya Samachar Samiti (RSS)

Source:

<http://www.myrepublica.com/news/4687>

65. Q and A: Sri Lanka's Right to Information Act and 8216; Must Be Implemented by People, - Official Says

Tuesday 30th August, 2016

COLOMBO, SRI LANKA - Decades after the idea was first discussed, Sri Lankans now have a law guaranteeing their right to government information. The government first committed itself to introducing the Right to Information (RTI) bill in 1994. It was approved by lawmakers this June. In theory, Sri Lankans can now access huge troves of government information, including details on many official decisions and actions, via a formal process. There are exemptions to protect national security details and other sensitive information. The law has the potential to dramatically improve the level of confidence Sri Lankans have in their government. Transparency International, a global corruption watchdog, in 2012 noted in its Global Corruption Perception Index that Sri Lanka is "unable to minimize the level of corruption in the public sector." Freedom House, which

analyzes press freedom around the world, includes Sri Lanka among the list of countries lacking a free press. But the law's success will depend on how well it's implemented, says Ranga Kalansooriya, the director-general of the Department of Government Information and the coordinator of the RTI Advisory Task Force.

Under the law, a trained information officer is to be appointed to each public institution, including schools, hospitals, police stations and government offices. Information will be requested through submission of a form and a fee, the amount of which has yet to be decided. Information officers will have to provide the information within 14 days. An extension can add an additional 21 days.

People who don't receive the information they request can appeal to the Information Commission. Kalansooriya, who is also a media trainer and columnist, spoke to Nirasha Piyawadani of the Sri Lanka News Desk about the future of the act's implementation and its challenges.

This is an excerpt from that interview.

- What are the benefits of the Right to Information Act to a Sri Lankan citizen? People gain the right to question the government through this. They can question if the government, which operates with their tax money, is using the tax money to benefit people. They can also question about their rights. Very often, the state mechanism does not have an environment that shares information. It's an environment that hides information. But this act paves the way for people to obtain information as a basic right. For example, the most important problem for the farmers now is fertilizer. Why was the relevant money for fertilizer not transferred to their account? How much money has been allocated to repair a road in your area? Why is the repair late, even though money has been allocated? People now have the right to question and get information officially.
- Have you found that Sri Lankan citizens have a clear understanding about the RTI Act? No. Our people have no adequate understanding about it yet. Sri Lanka brought this act in a very different way to how it was introduced in India. The people of India struggled in the streets to win this right. But such a big struggle was not seen in Sri Lanka. Not only people but even certain politicians also have no clear understanding about this. We understood [that] when we observed the discussions in Parliament. Because of this, we conducted a

special program to make [members of Parliament] aware that this is a democratic right. We had to work hard to make them aware that this is a democratic right of the people. I think we will have to continue this in the next four to five years, in order to establish that awareness. A government can only prepare the mechanism for delivering information by way of training the officials and developing the application processes. A government can also make people aware to a certain extent. But the civil organizations must shoulder the greater burden of creating the awareness. Historically, all acts were implemented by the government. But this act must be implemented by people. It will not be active unless people demand information. The Sri Lankan government doesn't have a history of being open to sharing information with citizens.

- How can the RTI Act be implemented within this context? The sharing of information will take time to be successful, as happened in Bangladesh. In Bangladesh also, this act was introduced by those in authority and was not a demand of the people. It was introduced in Bangladesh in 2009. It took about four to five years for the act to be widely enacted and for people to begin requesting information. This will happen in Sri Lanka also. It's natural. But it's essential that we make people aware using all methods at our disposal. The RTI bill has been presented by its advocates as a legislation that would reduce and perhaps even prevent corruption in Sri Lanka.
- Do you believe the act that was passed in Parliament has delivered on this? Yes. When people demand information and when they get the correct data, corruption and fraud will become less. When government officials see that people are on the alert, [that] they are vigilant and questioning, they will be fearful about engaging in corruption and fraud.
- Civil society groups who campaigned for the law say the approved version is watered down from the original draft. How do you respond? India has a system of imposing fines in the event that the relevant institute does not divulge information. We cannot carry out this fining system. According to our constitution, a non-judicial body cannot impose fines. That's a technical issue we had to face. But we have done all we can through this act. We have introduced disciplinary actions instead of imposing fines. Those who were involved in the process of introducing this act know that it is a victory gained after massive labor over a long period.

- How does the law safeguard a citizen's right to information in the context of political forces that have in the past acted to prevent the release of information? Everybody must bow to the law. The country's politicians, all the members of the legislature passed it unanimously. No one objected. That means the political environment building up in the country is prone to safeguard the basic rights of the people. Taking forward this right that has been received is the duty of people and the civil society organizations. Otherwise, this will be just another act. The Right to Information bill, as a formal proposal, was first suggested by the government in 1994.
- Why has it taken 22 years for it to be passed? If the RTI Act was passed at the time it was first discussed, Sri Lanka would have been the first country in South Asia to have passed the RTI Act. But we fell behind to last. The reason was the lack of political will. During the times there were political will, this was developed halfway and got stuck. The two giant characters of [President] Maithripala [Sirisena] and [Prime Minister] Ranil Wickremesinghe mentioned this prominently in their election manifestos and gave civil society a chance to take it forward.
- Can the provisions of the RTI be misused to obtain personal information or to harass any individual in any way? Can the RTI become a tool for revenge or personal attacks? You cannot obtain personal information of an individual under this act. They are in the excepted list. Only the fiscal information, for example the facts related to tax money, can be obtained through this. Although a minister is an official maintained by public funds, his personal information cannot be obtained. Public institutions are subjected to the Right to Information Act. Individuals are not. Vital facts related to state security, territorial integrity and national security cannot be divulged. In the same way, the facts that must be safeguarded under an international agreement or an international law also cannot be exposed. The information that affects the economy of the country, that amounts to contempt of court and that infringes parliamentary privileges can be barred. The government can release some of these facts after 10 years, but the secret information of persons and the facts related to state security cannot be exposed. You are the coordinator of the RTI Advisory Task Force. As head of the Department of Information, you are also involved in implementing the provisions of RTI across the public sector.

- What are the challenges you see in implementing the RTI in Sri Lanka? The biggest challenge at the moment is the lack of awareness among people. Changing the mind-set of the state mechanism on revealing facts is also a challenge. It will be a great challenge in the first two to three years to change those attitudes. This is a great social change that may cause problems when implemented. The government must pave ways to face those challenges and provide solutions. That's the biggest challenge for a government. Ajith Perakum Jayasinghe translated this article from Sinhala.

Source:

Zimbabwe Star, <http://www.zimabwe.com/index.php/sid/247180127>

Other stories related to RTI

2 August 16

66. Ex-Rajasthan official to head Transparency International

August 2, 2016 07:40 IST

Retired civil servant from Rajasthan I.C. Srivastava has been unanimously elected chairperson of Transparency International India (TII), a voluntary civil society group seeking to promote transparent and ethical governance and eradicate corruption in public life in the country.

Mr. Srivastava, who retired from Rajasthan cadre of the Indian Administrative Service in 2003, had authored the State's first Citizen's Charter in the Food and Civil Supplies Department in 1998 and the second in the Revenue Department in 1999.

Considered a governance specialist, Mr. Srivastava also accomplished the long-pending amalgamation, under the Company Law, of two public sector undertakings dealing with minerals as their common chairperson. He has authored four books on governance

At a meeting of the newly-elected TII Board members in New Delhi on Saturday, academician Madhu Bhilla and retired IAS officer V. Balasubramanian were elected vice-chairpersons, while former Chief Engineer of Damodar Valley Corporation, A.K. Jain, was appointed treasurer.

Source:

The Hindu, <http://www.thehindu.com/news/national/other-states/exrajasthan-official-to-head-transparency-international/article8930152.ece>

17 August 16

67. Update Officers' Details Handling RTI Matters: Government to Departments

All India | Press Trust of India | Updated: August 17, 2016 21:39 IST

All central government departments have been asked to ensure that updated details of officers responsible for handling RTI applications are available in the public domain. One of the items to be disclosed proactively by the public authorities (or government departments) under the Right to

Information (RTI) Act pertains to the names, designations and other particulars of the Central Public Information Officers (CPIO) and its updation on yearly basis. CPIOs are nodal authorities to receive RTI applications for departments concerned. "It has been observed that in some of the public authorities, there are frequent changes at the level of the CPIOs and First Appellate Authorities (FAAs)."

During updation of the names and designations of the CPIOs or FAAs, the public authorities remove the names and designations of the earlier ones from their website. In the absence of complete details (name and designation etc) of the CPIO concerned at the relevant time, the Central Information Commission while adjudicating second appeals faces difficulty in proceeding with the matter to afford reasonable opportunity of hearing to CPIO, which delays disposal of the cases," the Personnel Ministry said in an order.

In order to avoid any hardship to CPIOs or FAAs, all the public authorities are requested to put up on their website the details of all such officers designated during different periods, beginning on January 1, 2015 till date and keep it updating from time to time, it said. Section 4 of the RTI Act, 2005 lays down the items of information which should be disclosed by public authorities on proactive basis. The purpose of suo motu disclosures is to place a large amount of information in the public domain on a proactive basis to make the functioning of the public authorities more transparent and to reduce the need for filing individual RTI applications, the order said.

In order to enhance quality and quantity of information disclosed by the public authorities, the Centre had issued orders recommending more items to be disclosed on proactive basis and get the proactive disclosure audited, it said, seeking more proactive disclosure from government departments.

Source:

[NDTV, http://www.ndtv.com/india-news/update-officers-details-handling-rti-matters-government-to-departments-1445370](http://www.ndtv.com/india-news/update-officers-details-handling-rti-matters-government-to-departments-1445370)

20 August 16

68. BJP exposed for duplicity; RTI being sabotaged in J&K: Harsh

August 20, 2016

STATE TIMES NEWS

JAMMU: Expressing grave concern over the fast collapsing RTI Institutions in the State, Harsh Dev Singh, Chairman JKNPP and former Minister, has blamed the BJP-PDP for making the said progressive piece of legislation in the State almost defunct.

He said that out of the three members of State Information Commission (SIC) two including CIC had retired months back and the lone Information Commissioner was due to retire within a month or so but the government had failed to initiate any process for reconstitution of the said SIC. He regretted that repeated calls from the civil Society, RTI activists and journalists for appointment of Information Commissioners and for strengthening the RTI mechanism, the State Government had failed to initiate any action thus allowing the RTI enactment to die its own death. Ridiculing the tall claims of the government of good governance, transparency and accountability, Singh observed that the single most powerful legislation on transparency was being sabotaged by the government itself. He also said that not only had the government turned a blind eye to the structural shortcomings in the Act and its implementation but had also allowed vested interests and regressive forces to defeat the path and purpose of the most potent law against corruption. He further said that the enactment of the RTI Act had generated a lot of hope amongst the common masses especially the disadvantaged sections and aggrieved citizens.

He emphasized that there were widespread expectations that traditional electoral democracy would be transformed into participative democracy.

He said that the government had also made tall claims that defective elective system would be metamorphosed and the promise of democracy actualised. He said that the people expected that the time bound provision of information under the Act would not only ensure accountability but also curb corruption. Regretting utter lack of accountability in the present dispensation coupled with growth of patronized corruption, Singh attributed the malaise to the extremely in-effective RTI mechanism in the State.

Lambasting the apathy shown by the bureaucrats and other government functionaries towards the RTI Act in the absence of stern punitive measures, Singh said that there were ample examples to show the contemptuous disregard of the RTI applications of information seekers by the said officers.

He said that there were several instances where the higher authorities and Administrative Department had been forwarding the RTI applications to hundreds of their subordinates merely to create confusion despite the onus lying upon the administrative departments and these top bureaucrats to provide the information. He said that vague replies were being given in several others cases only to evade, avoid and conceal the information. Likewise, he said, the senior officers often sheltered their subordinates despite proven instances of violation of the Act. He said that a defunct SIC further added to the confusion as a single Information Commissioner, for the entire State only amounted to a cruel joke with the SIC. Blaming the incumbent government for sabotaging the Act, Singh said that the ministers and MLAs particularly those of BJP believed that while transparency was good for others, they should be left free and unquestioned. He said that the BJP's resistance to RTI Act became evident from the fact where one of the BJP MLAs moved a Bill in the recently concluded Assembly session for amendment of J and K RTI Act and alleged misuse of the Act by the so called "unscrupulous elements". He claimed that the mover of the said Bill was the same MLA who called himself RTI activist before becoming MLA and had moved unlimited RTI applications against various government departments. He said that it was ironical that the same BJP MLA was now speaking of misuse of RTI when his own dirty laundry had been exposed before the public through RTI.

Source:

State Times, <http://news.statetimes.in/bjp-exposed-duplicityrti-sabotaged-jk-harsh/>

21 August 16

69. Babus and netas across nation resort to freak ways to resist RTI

By Express News Service Published: 21st August 2016 12:06 AM

CHENNAI; Bashir, a Kashmir resident, was excited when the then Chief Minister Omar Abdullah visited his village. He was hoping that the visit would also bring roads to his village, lacking proper road connectivity. But to his dismay, Abdullah took an helicopter for the visit. Soon, Bashir filed an RTI petition on why the CM took the chopper and how much it cost. Apparently embarrassed to explain that the village has no accessible roads, the state administration soon laid roads. Bashir is now a local legend.

This is one of the success stories that social activist Aruna Roy, instrumental in framing the Right to Information Act, shared among enthusiastic students of the IIT Madras on Saturday on the inaugural of the NSS batch this year. The situation has not been successful for all. So far 52 people have died trying to just find information. One of them was shot right outside Gujarat High Court. Roy asks, “if forty people asked the same question, which one person the criminals kill?”

Bashir and his contemporaries realised that asking simple questions could get a lot of work done. This is what Aruna Roy calls as the power of RTI, a single question that leads to a collective one. This power of the Act has made corrupt bureaucrats squirm. Manmohan Singh, when in power said that this law has been designed to destroy the iron railing and framework of India. Roy however said, “RTI will help reveal that all we have is a weak wooden frame eaten by white ants from the inside.”

One such expose happened in Rajasthan. Several villagers stopped receiving their pensions as they were marked dead by official records. By demanding the ‘dead list’ through RTI, Roy revealed that in the district of Kushalpura, out of the 40 declared dead, 29 were alive. Seven lakh people were legally resurrected overnight all over the state! National security is another tool that is used to curb the utility of RTI Act. In 1997, Bhairon Singh Shekhawat, the then Chief Minister of Rajasthan said what an RTI revealed on the poor status of a worn out bridge in the border district of Balmer, was a threat to national security as the Pakistanis would exploit it.

Roy says national security is being used as a red herring to hide scams in several cases. She added, “In a true democracy one should know that while we have the courage to talk, to listen and agree that everyone has the right to dissent and yet not lose track of the fact that we must be scientific and rational.”

Source:

Indian Express, <http://www.newindianexpress.com/nation/Babus-and-netas-across-nation-resort-to-freak-ways-to-resist-RTI/2016/08/21/article3589350.ece>

24 August 16

70. UN Brahma award for Aruna Roy

Guwahati, Wednesday, August 24, 2016

KOKRAJHAR, Aug 23 - The UN Brahma Soldier of Humanity Award, 2016 will be conferred on renowned social activist Aruna Roy. This was decided by the Upendra Nath Brahma Trust in a meeting held here.

The award will be presented to Roy on August 26 in a function to be held at Rabindra Bhawan in Guwahati. Senior journalist Samudra Gupta Kashyap will chair the award presentation ceremony to be attended by a number of social activists of the northeastern region.

The UN Brahma Soldier of Humanity Award is presented annually to a person having immense contribution towards humanism and uplift of downtrodden people. Aruna Roy is the 13th recipient of the award. Prior to her, Jogen Basumatary, Dr Promod Chandra Bhattacharyya, Hem Bharali (all from Assam), Natwar Bhai Thakkar (Maharashtra), Patricia Mukhim (Meghalaya), and Mahesweta Devi (West Bengal), among others, had received this award.

Aruna Roy, who co-founded the Mazdoor Kisan Shakti Sangathan (MKSS), a grassroots organisation for empowerment of workers and peasants, played a crucial role in the establishment of the Right to Information Act (RTI). She also served as a civil servant in the Indian

Administrative Service before deciding to dedicate herself fully to social and political campaigns. It was while working in the administrative service that she was exposed to the level of corruption within the Indian bureaucracy.

She earlier received some prestigious awards like the Ramon Magsaysay Award for community leadership in 2000 and Lal Bahadur Shastri National Award for excellence in public administration, academia and management in 2010.

The UN Brahma Soldier of Humanity Award carries a memento, cash and a citation.

Source:

The Assam Tribune, <http://www.assamtribune.com/scripts/detailsnew.asp?id=aug2416/at051>

29 August 16

71. BJP, Congress, other parties continue to thrive on black money, Centre's accountability promise be damned

Nalini R Mohanty Aug 29, 2016 12:52 IST

The Times of India (TOI) reported last week that political parties of India are a safe haven for black money.

“Sure, the government is on an overdrive for ridding the economy of black money and promoting cashless transparent transactions, but the fact is that 70 percent of all cash raised by India’s political parties, especially the BJP and the Congress, comes from unknown donors – in income tax parlance — it is called black money,” the report (August 23) said.

Quoting the information put together by the Association of Democratic Reforms (ADR) — an organization relentlessly working for greater transparency and accountability in our governance process – the *TOI* report said that in 2013-14, political parties, in their income tax returns, had declared a total income of Rs 1,519 crore (the BJP had the highest share of Rs 674 crore while Congress came second with a collection of Rs 598 crore).

But income from unknown sources amount to more than 70 percent of their total income. Unknown sources are income declared in the income tax returns but without identifying who the donors are. The unknown sources include sale of coupons, purse money, relief fund, voluntary contributions, contribution from meetings and *morchas*. In each case, a consolidated figure is mentioned, without putting out the names of individual donors. Needless to say, all such contributions are in cash; the fact is that it is big black money which is being passed off as small individual contributions by masses.

Only those individuals and corporate houses that make their monetary contribution by cheque and declare the same in their respective income tax returns find a mention in the I-T returns of the parties. All those who ply their black money into the coffers of the political parties in cash remain unidentified. Such illegal contributions come from two sources: First, big and medium business houses which make cash donations and keep it off their respective balance sheets. Second, wealthy individuals who make similar donations in cash. This is clearly in exchange for quid pro quo.

That explains why when more than Rs 2 crore went missing from the headquarters of the BJP in Ashoka Road in Delhi in 2008, the party decided not to file a police complaint. ‘When asked why, party spokespersons said the burglary was being investigated internally.’ How could it explain the source of the money – it was the dilemma.

Bhavdeep Kang, a well-known journalist, spilled the beans when she wrote: “Sources in the BJP office say the bulk of the money (Rs 2 crore) had been deposited by an industrialist – ironically, one closely associated with the Congress – on account of favours rendered to his company in BJP-ruled Chhattisgarh. The theft was detected and a hue and cry was raised by a somewhat naive, if honest, party official. He was told to hold his peace, but too late.”

But then BJP is not the only party that thrives on black money. Congress, which ruled for decades in both the Centre and several states, had made cash transactions, the life-blood of its party organization. Most other parties which fulminated against the corrupt ways of the Congress followed its lead in institutionalizing corruption in their respective party framework.

Under the aegis of the Congress government, Section 13A of the Income Tax Act enacted in 1961 exempted political parties from paying income tax. Political parties were given 100 percent tax exemption from all sources of income. The only condition stipulated in the Act (Section 139 4B)

was that the political parties would be required to file income tax returns in a prescribed format every financial year, failing which the exemption would be withdrawn. Despite such mandatory requirement, all the political parties, both national and regional, refused to file income tax returns for years but continued to enjoy income tax exemptions. This was absolutely illegal, but both the ruling and opposition parties were in cahoots to continue the illegality and the government agencies were either coerced or bribed to hold their peace.

This went on for several years till 1996, when the Supreme Court, responding to a public interest litigation filed by the Common Cause (headed by the indefatigable HD Shourie) gave a clear direction that the political parties failing to file income tax returns would not be covered under the Section 13A of the Income Tax Act.

The parties were then left with no option but to file their I-T returns, but since I-T returns used to be a closely guarded secret in India, that remained confined to the files of the officials who merely acknowledged the receipt of the annual returns. That brought the situation back to square one – parties could sit pretty by making any arbitrary claims, but did not have to account for it.

After the Right to Information Act was passed in 2005, the Association of Democratic Reforms (ADR) sought the copies of the I-T returns of different parties under the same Act. But the income tax department – used to the secretive manner of its functioning over the years – refused to oblige saying that information containing details of commercial activities of political parties were exempt under the RTI Act.

The ADR then moved the Central Information Commission. Most political parties, including the Congress and the BJP but excluding the Communist parties, raised their objections to the ADR appeal before the CIC on the grounds of infringement of privacy. The CIC, however, overruled the objections saying that political parties could not claim special privileges while being very much an integral part of the public life. In its order dated 29 April, 2008, the CIC directed the income tax authorities to provide to the petitioner the details of the tax returns of political parties within six weeks.

This decision was a major setback to the parties. But the greater setback came when the full bench of the CIC, in its order on 3 June, 2013, directed that six parties – Congress, BJP, CPM, CPI, NCP and BSP — be designated as public authorities under the RTI Act. “The presidents, general

secretaries of these parties are hereby directed to designate CPIOs and appellate authorities at their headquarters in six weeks. The CPIOs so appointed will respond to the RTI applications extracted in this order in four weeks time,” the bench directed.

The Manmohan Singh government then considered the proposal to either issue an ordinance to nullify the CIC order or to amend the RTI Act itself to the effect that political parties were out of the purview of the RTI Act. But before it could act, the UPA went out of power.

In any case, the national parties had chosen not to comply with the CIC order. Frustrated, RTI activist Subhash Chandra Agrawal and Anil Bairwal of the ADR, the original petitioners to the CIC, moved the Supreme Court. In August 2015, the Narendra Modi government made it clear in its submission to the apex court that it was on the same page with the previous Manmohan Singh regime in opposing the CIC stance. Since then the matter is pending before the highest court of the land.

It is shameful that both Manmohan Singh and Narendra Modi – and their finance ministers P Chidambaram and Arun Jaitley respectively — made big promises in eradicating the menace of black money and enforced many salutary legal provisions to ensure that wealthy individuals and corporate entities did not get away with their illegitimate income, but when it came to their respective political parties – which are the biggest den of the black money – these national leaders have been stubbornly refusing to come clean.

The Supreme Court must act swiftly and decisively to put an end to this national shame.

Source:

FirstPost, <http://www.firstpost.com/politics/bjp-congress-other-parties-continue-to-thrive-on-black-money-centres-accountability-promise-be-damned-2981184.html>

72. 100 percent jump in expenditure for CIC Convention 2015: RTI

ANI | New Delhi [India] August 29, 2016, 19:02 IST

In October, 2006, on completion of one year of the RTI law, the Central Information Commission (CIC) and government organized the first ever RTI Convention with clear objective to take stock of the evolution of the RTI Act, 2005 during previous one year and to chart 'Way Ahead'.

It involved sharing experience among the stakeholders, consisting of both sides i.e. information providers (Officials from the Centre and state governments) and information seekers of the civil society, using transparency law. A balance of numbers of participant was ensured among the stakeholders to achieve realistic outcome. Thereafter, it had becomes a yearly affair. (2014 was exception, when the convention could not take place as the post of the Chief Information Commissioner, was lying vacant.)

2015 CIC Convention held for taking stock of 10 Years of Transparency Law will be more remembered for the controversies it generated by inviting only about 10 RTI practitioners of Civil Society from across the nation among 2000 invitees, thus creating imbalance among the stakeholders. It was reported that 7 of the civil society members had boycotted the inaugural session in solidarity with others who were not invited. The rest of invitees were believed to be government officials from center and states, including State Information Commissioners (SICs).

From the point of view of civil society, in the absence of representatives from different regions of the nation, the convention was a failure as it did not meet the objectives of the annual convention. At the most the convention could be treated as conduct of training/awareness under Section 26 for the government officials. The analyses of expenditure reveal 100 percent increase in the expenditure from the past. CIC instead of maintaining austerity involving tax payers' money, in keeping with the spirit of the RTI Act.

CIC had incurred Rs.28.6 lakhs of taxpayer's money of which 13.5 lakhs has been spent on hospitality items mainly for the government officials who attended the Convention on duty and would have been entitled for TA/DA.

(This story has not been edited by Business Standard staff and is auto-generated from a syndicated feed.)

Source:

Business Standard, http://www.business-standard.com/article/news-ani/100-percent-jump-in-expenditure-for-cic-convention-2015-rti-116082901106_1.html

73. Centre yet to decide whether RTI applicants personal information should be disclosed

ANI | New Delhi [India] August 29, 2016, 19:02 IST

The Centre is yet to take a final call on whether to reveal information seekers' personal details while uploading replies to their applications as part of suo motu disclosure. Delhi-based RTI applicant Commodore Lokesh Batra (Retd) had sought to know the status of the plan in June this year.

Batra had sought the number of suggestions for and objections to the decision. Around 16 people had sent their suggestions and objections and they all varied. Most, however, were of the view that the information should not be disclosed.

The Department of Personnel and Training further responded to Batra stating that the final decision was yet to be taken. "The government is dithering on taking a decision on uploading RTI replies on website after expunging personal information," Batra said.

Source:

DNA, <http://www.dnaindia.com/mumbai/report-centre-yet-to-decide-whether-rti-applicants-personal-info-should-be-disclosed-2249494>

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