



Commonwealth Human Rights Initiative

NGO in Special Consultative Status with the Economic & Social Council of the United Nations

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Date: 25 June 2007

To,
Mr. Wajahat Habibullah
Chief Information Commissioner
Central Information Commission
Block IV, 5th Floor
Old JNU Campus
New Delhi- 110 067.

Dear Mr. Chief Information Commissioner,

Re: Submission regarding the Central Information Commission (Management) Regulation, 2007

I am sending you our analysis of the Central Information Commission (Management) Regulations, 2007 notified by the Additional Registrar last week. I would like to welcome the fact that the Commission has chosen to notify the Regulations on the second anniversary of the Presidential assent to the RTI Act.

However, I would like to respectfully express my disappointment at the lack of public consultation around these Regulations which is a precondition of participatory democratic processes. As a champion of transparency the Commission ought to have put the Regulations in the public domain soon after they had been drafted.

Although I have enclosed a detailed analysis of the regulations prepared by the CHRI team I would like to draw your attention to the fact that some of these regulations have the potential to make appeals and complaints proceedings before the Commission as cumbersome as judicial processes in courts. If the Commission's procedures become cumbersome people would be discouraged from approaching the Commission with their grievances about denial of information by public authorities. Every right must have an effective remedy. The right to information is a deemed fundamental right. The RTI Act creates a general system of information access for citizens. The CIC is the champion of transparency and also the adjudicator of disputes between the citizen and the public authority. The system of complaints and appeals act like remedial mechanisms to guard against unlawful infringement of the citizens' right to information. If this system gets bogged down by unfriendly procedures peoples' faith in the Commission is likely to be eroded.

Some of the provisions, as has been pointed out in the analysis enclosed, are in excess of the powers granted to the Commission by the RTI Act. For example, the power to reject appeals and complaints on grounds of technical defects, the power to levy fees on parties seeking inspection of files relating to their cases, the power to order costs and compensation on the appellant or complainant are all contrary to the letter and spirit of the law. They must be withdrawn and amended forthwith. The accompanying analysis also includes specific recommendations for amending some of the Regulations.

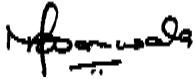
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The RTI Act was drafted after wide spread public consultation in 2005. In fact it was the culmination of a public education and consultative process launched by civil society advocates and activists since the mid 1990s. There is no reason why the Regulations should not be subject to public debate before they are operationalised. I would strongly urge you to hold public consultations on these Regulations and collect feedback from civil society and the public at large. The Regulations which are in excess of the provisions of the RTI Act should be withdrawn and suitably amended to become compliant with the letter and spirit of the RTI Act.

My team would be happy to provide you and your Commissioners and officers any assistance to improve the Regulations further. Please feel free to contact me at maja.daruwala@gmail.com or my colleague Mr. Venkatesh Nayak at venkatesh@humanrightsinitiative.org This submission will be posted on email discussion groups for the reference of all RTI advocates.

With regards,
Sincerely



Maja Daruwala
Director