

## Central Information Commission turning into a parking lot (27 June, 09)

Dear friends,

We have a situation (and a vacancy) in the Central Information Commission (CIC). Ms. Omita Paul a Central Information Commissioner, appointed in May, has resigned. She has been appointed Adviser to the Finance Minister.

(For more information click on: <http://economictimes.indiatimes.com/News/PoliticsNation/Omita-Paul-appointed-FMs-advisor/articleshow/4706989.cms> or <http://www.business-standard.com/india/news/omita-paul-appointed-fm%5Cs-advisor/65755/on>).

Congratulations to her on the new appointment but where does this leave the Central Information Commission?

Ms. Paul's appointment as the 8th Central Information Commissioner was cleared in May 2009 even before the general elections were completed. At that time the media reported that RTI advocates and activists including Mrs. Aruna Roy had voiced objections to the appointment because it constituted a violation of the model code of conduct that was in place. However the Government pushed through her appointment and Ms. Paul was administered oath of office on 13th May. She had spent a little more than 30 working days at the CIC before submitting her resignation.

There are two important issues that beg our serious attention. First, whether the CIC can be allowed to be treated as a temporary parking lot for retired bureaucrats expecting more attractive appointments at a later stage? Second, whether it is proper for an Information Commissioner to accept a posting within government soon after leaving the CIC?

On the first issue- the CIC is a statutory body created by Parliament for the protection of every citizen's fundamental right to seek and obtain information from the Government. Information Commissioners are selected by a high-powered committee consisting of the Prime Minister, Leader of the Opposition and another Cabinet Minister and appointed by the President. The Information Commissioner holds a high rank equivalent to that of an Election Commissioner which is equivalent to that of a judge of the Supreme Court. Surely the Government must think deeply before treating such an august body like a parking lot for retired bureaucrats. Ms. Paul was judged by the appointing committee as best suited for a job at the CIC in May. Less than a month later she has been found fit for another appointment by the same government. The wall of secrecy that surrounds the process of selecting champions of transparency contributes to this state of affairs.

What guiding principle ought to determine the number of Commissioners in an Information Commission? Commonsense would indicate 'increased workload'. So let us assume that reducing the CIC's workload was the determining principle behind Ms. Paul's appointment in May. Has the workload reduced so much within the last month that the government thinks her services are now required elsewhere? There is no visible jump in the number of cases disposed of by the CIC during this period. Clearly political expediency has become the guiding factor behind appointments to the CIC. Absence of transparency in the selection process is the sole cause behind such anomalies. The prestige of the Central Information Commission has suffered as a result of this game of hop, skip and jump played for the benefit of a few individuals.

Second, the prospect of having a retired bureaucrat, who swore to keep official information secret at the time of joining service, become a champion of transparency is ironical in itself. Leaving the CIC for a job within government makes matters worse. Advocators will remember that the civil society draft Bill submitted to Government in 2004 contained a provision to disqualify Information

Commissioners from appointment to any post in the government. RTI advocates wanted this clause in as it would have ensured some degree of independence and objectivity in the Information Commissions making them immune to the lure of plum postings after retirement. This provision was dropped later due to pressure from within government. The latest episode of appointment and resignation shows that the posts on the Commissions have indeed become objects of patronage intended to be distributed amongst faithful and pliant bureaucrats. Probity in public life requires that an individual who played an adjudicatory role in a case refrain from seeking gainful employment with any of the involved parties. However all such niceties have been given the go by. As a result the prestige of the Central Information Commission has taken a beating. This is undeserved.

Restoring the disqualification clause will require amendment of the RTI Act. This is not desirable at all given the fact that a can of worms is waiting for a Pandora to come along. Perhaps the Government could adopt an executive policy stipulating a minimum cooling off period of 3-5 years before a retired Information Commissioner is considered for appointment to any post in the public sector. This will not require any amendment to the RTI Act.

The only preventive against the recurrence of such episodes of patronage distribution is to open up the process of selection of candidates for appointment as Information Commissioners. A realistic assessment of the workload situation in every Commission must be made before thinking about expansion. The process of appointment should be transparent and the posts should be publicly advertised as is done in Mexico. People, civil society especially, should have the space and the opportunity to debate the suitability of shortlisted candidates. All these can happen if the government internalises the basic objectives of the RTI Act, namely, creating an informed citizenry and engendering transparency in every decision-making process. Appointments to Information Commissions are no exception to this requirement.

Thanks

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