

## News on Right to Information Nov 2011

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1st November,2011

### **BCCI under RTI Act? Larger bench of CIC may decide**

*The Economic Times*

NEW DELHI: The Central Information Commission may refer to a larger bench of the transparency panel to decide whether the Indian cricket board is a public authority and fell under the ambit of the Right to Information (RTI) Act.

At the first hearing of the transparency panel in the presence of TV cameras, Information Commissioner M L Sharma indicated that the matter may be decided by a larger bench. The cameras were ordered to be moved out after Amit Sibal, counsel for the Board of Control for Cricket in India (BCCI), raised objections. "I am not going to decide whether you (BCCI) are a public authority. I had called this hearing on your request so that I can decide whether this matter could be referred to a larger bench. So my jurisdiction at the moment is very limited," Sharma told Sibal.

[http://articles.economictimes.indiatimes.com/2011-11-01/news/30346090\\_1\\_larger-bench-bcci-indian-cricket-board](http://articles.economictimes.indiatimes.com/2011-11-01/news/30346090_1_larger-bench-bcci-indian-cricket-board)

1st November,2011

### **Holding an account**

*The Indian Express*

As the Right to Information Act (RTI) celebrated the sixth year of its coming, there has been much heated discussion, often emotional, of the benefits that it has brought and also the challenges with which it has confronted government. This debate came to a head with the prime minister's inaugural address to the Annual Convention of the Central Information Commission on October 14.

It is accepted in all circles that the essence of government in a democracy must be transparency with every organ of government — executive, judiciary and legislature — being answerable to the citizen. Hence the father of the nation, when describing his vision of self governance for India, described it as follows:

“The real Swaraj will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused”

India’s Right to Information Act, 2005 therefore, asserts that democracy requires an informed citizenry and transparency of information, which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed. This is a universal truth of particular relevance to us as a country, the government of which has, at least since the ‘70s, remained committed to “garibi hatao” . In the words of Kofi Annan, the former UN secretary general:

“The great democratising power of information has given us all the chance to effect change and alleviate poverty in ways we cannot even imagine today. Our task, your task— is to make that change real for those in need, wherever they may be. With information on our side, with knowledge of a potential for all, the path to poverty can be reversed.”

<http://www.indianexpress.com/news/holding-government-to-account/868485/>

02 November, 2011

## **Reveal bank inspection reports: CIC to RBI**

*The Hindustan Times*

In what could open banks for public scrutiny, the Central Information Commission has asked the country’s banking regulator Reserve Bank of India (RBI) to disclose information regarding inspections of banks under the transparency law -- - Right To Information. Information Commissioner Shailesh Gandhi rejected the RBI’s claim that if the information regarding banks was disclosed it could lead to reduction of faith in banks and it could affect economic interest of the states.

“The idea that citizens are not mature enough to understand and will panic is repugnant to democracy,” Gandhi said, in his order and added that in over 60 years the citizens have handled their democratic rights in a mature fashion and have punished leaders who have shown tendencies of trampling their rights.

Gandhi also took his own commission to task, which had earlier given a blanket exemption to RBI to decide the information it could disclose on the ground that it was an expert body to understand implications of the information for the banking sector.

"If the position of the full bench (of the CIC) is to be accepted...then all public authorities could be best judge of what information could be disclosed. In such an event the information commission would have no role to play," Gandhi said, while hearing an appeal of Jayantilal N Mistry of Gujarat against RBI.

The commission cannot abdicate its responsibilities under the RTI Act to RBI on the ground that latter was an expert body, Gandhi said. He also ruled that CIC's full bench had no powers to review the decision of former information commissioner M M Ansari, who had asked RBI to provide complete information relating to performance of banking sector.

Holding RBI guilty of not reading the full bench decision completely, Gandhi said it had clearly stated that a larger public interest was likely to be served by disclosure of such information and RBI should be proactive in this. "It is unfortunate that the RBI has not taken any steps to proactively disclose this information in the last five year," he said, while asking RBI to disclose information to the applicant by end of November.

Gandhi was also amused at the RBI's contention that disclosing information regarding inspection report of a particular bank could jeopardize economic interests of India. "Declaring the audit, inspection and investigation reports of all

cooperative banks which have gone into liquidation cannot do any further harm to such banks," he said.

<http://www.hindustantimes.com/India-news/NewDelhi/Reveal-bank-inspection-reports-CIC-to-RBI/Article1-764092.aspx>

6th November,2011

### **Make public details of loan settlements: CIC to SBI**

*The Economic Times*

NEW DELHI: The details of loan and other settlements entered by banks through a compromise with defaulting parties should be disclosed as it will help in their "transparent functioning", Central Information Commission has held.

The State Bank of India had refused to disclose the information under Right to Information Act citing clauses of commercial confidence and personal information of third parties, with whom such compromise settlements were made.

[http://articles.economictimes.indiatimes.com/2011-11-06/news/30366582\\_1\\_settlements-state-bank-loan](http://articles.economictimes.indiatimes.com/2011-11-06/news/30366582_1_settlements-state-bank-loan)

[http://articles.economictimes.indiatimes.com/2011-11-06/news/30366582\\_1\\_settlements-state-bank-loan](http://articles.economictimes.indiatimes.com/2011-11-06/news/30366582_1_settlements-state-bank-loan)

6<sup>th</sup> Nov,2011

### **RTI a form of education, says info commissioner**

*The Indian Express*

Delivering a thought provoking lecture on the 'Role of Right To Information in Education' PPS Gill, Information Commissioner (RTI), Punjab and PAU alumnus said, "RTI itself is an education. It is one of the acts of independent India which has stirred the nation and empowered the people."

He was addressing the varsity faculty and the students on the occasion of National Education Day on Friday . The event was organised by the Punjab Agricultural University Science Club. Gill said that in a democracy, there are three important ingredients which include awareness, information and knowledge

Sharing the essential details of the Right To Information Act, Gill said that information about e-mails, press releases, documents, orders, circulars, can be sought **through the public authority.**

12th Nov,2011

### **Empowering *law enforcers***

*The Times of India*

Had our forefathers shown foresight in two areas, we would have been a different country today. First, population control and, second, professional, independent and accountable policing.

Since i am not an expert on the first issue, i am focussing on the second one - policing.

I recall what attracted me instinctively to policing when i was growing up. More than once, i saw my father approached for help in dealing with the corrupt police system. Problems such as false arrests or the rigmarole of lodging a theft report were common. I recall vividly how my milkmaid used to come crying to our house every time her husband was falsely detained on trumped-up charges. For releasing him, the police would demand money. It used to anger me without limit. I wanted to run to the police station to undo the injustice.

18th Nov, 2011

### **Lokpal: NCPRI, IAC attempt to find common ground**

*The Indian Express*

Ahead of the winter session of Parliament, Anna Hazare-powered India Against Corruption (IAC) and Aruna Roy-led National Campaign for People's Right to Information (NCPRI) — seen so far as arguing for a different approach to the issue of corruption — are hoping to close ranks “to ensure a good Lokpal Bill” and make sure “the Centre cannot use divisions in the approach to defer an effective Lokpal Bill any further”.

Sources said the two groups had utilised the time after the second fast of Anna Hazare in August to try and find a common ground and appear tough but reasonable by holding a series of meetings, which were attended by IAC members, mainly Prashant Bhushan and Arvind Kejriwal, and NCPRI members Shekhar Singh, Nikhil De and Aruna Roy.

Shekhar Singh of the NCPRI told The Indian Express that there was no joint statement as of now but “we have agreed to agree with any elements in the other's approach that we find palatable and good, and register our approval from our respective platforms”.

It is believed that the complexity of dealing with the government and procedures — in Parliament and in public life — have made the IAC try and appear more flexible and draw upon experiences of the other group which helped push for the Right to Information and MNREGA as laws. Notwithstanding their key differences in approach even now, both groups feel it may be in order to build on the commonalities, so the government is forced to pass a reasonable Lokpal Bill. The Centre's concerted attempts to keep the Prime Minister and the judiciary out of any such mechanism have also contributed to the two inching closer.

20<sup>th</sup> Nov,2011

## **Lokpal to bring more transparency: Singhvi**

*The Hindustan Times*

The Lokpal Bill and the Judicial Accountability Bill are aimed at bringing much-needed transparency in the system, Congress leader Abhishek Manu Singhvi on Sunday said, who also hailed the Right to Information Act as a watershed initiative in this direction.

"The current existing structures in India usually culminate in conflict of interests...legislations like the Lokpal, Judicial Accountability and Public procurement Bills etc will bring more transparency in the existing system," he said at a seminar.

"Business ethics is the ultimate oxymoron I can think of... the irony today is that ethics at the end of the day cannot be enacted in its true sense...The central dilemma of the corporate world is that it does not have a soul or body," he said.

The seminar 'Sustainable development through ethics and value-based education' was held by the PHD Chamber of Commerce and Industry in New Delhi.

On the occasion, BJP leader Prakash Javedkar emphasised on 'inclusive human development' based on value-based education process.

"Consumerism is not the only way of achieving desired development...I believe growth and development is incomplete, unless an inclusive human development is achieved, which should have virtue and ethics as its essence.." the BJP spokesman said.

President PHD Chamber of Commerce and Industry, Salil Bhandari said that the education and skill development, industrial development, agri-business and agricultural development, health, housing, infrastructure are imperative for the overall growth of the society.

"To attain sustainable development, ethics imbibed through well-designed and orchestrated value based education have to penetrate into organisational development at micro and macro levels," he said.

21, Nov 2011

## **Madrasas, vedic schools to be kept out of RTE**

*The Hindustan Times*

Both Hindu and Muslim religious schools will get exemption from the provisions of watershed Right to Information Act, the government has decided. Number of religious organisations had sought exemption of their schools from the law as both mode of teaching and learning was different from conventional schools.

Zafaryab Zilani, convenor of the Shiksha Sangharsha Sanyukt Morcha said if necessary changes were not made in the RTE, madrasas and vedic schools will have to be closed as they will lose their affiliations.

The RTE law provides for 25% reservation for economically weaker sections, a specific student teacher ratio, mandatory school management committee and no annual examination till elementary level, in addition to free education to children in 6-14 age group.

There are about 3,000 vedic pathshalas (schools) in India and thousands of madarsas spread across country. The Kanchi Matha, the Ahobila Matha, and the Andavan Ashram are among the major south-based vedic institutions that have signed petitions seeking exemption from the Act.

Although the HRD ministry had earlier said these religious schools were not covered citing Constitutional safeguards for religious institutions, a decision has now been taken to insert an explicit provision in the RTE law to have clarity.

There was apprehension in some political quarters that the RTE law can be misused to close down madarsas which fail to comply with its norms. "The right to education says that its provisions will be applicable to all schools," a government official said, and there is a need to specify the exemptions clearly.

HRD minister Kapil Sibal has told the ministry officials to end the ambiguity in the law regarding minority institutions and the changes have been circulated for law ministry's approval.

Another amendment in the RTE law is already pending with the Parliament regarding special needs of differentially enabled students in schools. The ministry

has decided to incorporate provisions to ensure that RTE does not hamper education of such students.

23<sup>rd</sup> November ,2011

## **The 'king' has a right to know**

### *Business Line*

With the private sector today providing a slew of services that were once the government's preserve, such activities should be open to scrutiny by the general public, and not just to the companies' shareholders.

November 23, 2011:

The influence that Mr N. R. Narayana Murthy wields over civil society is far greater than what one would expect to flow from his official position as the emeritus chairman of Infosys. As an individual, entrepreneur and business leader, Mr Murthy's views have had a profound impact, not just on policymakers and his peers in the corporate sector, but on ordinary men and women without even a remote connection to information technology.

He has used this influence to good effect in steering debate and shaping policy in several critical areas. He has not shied away from tackling issues close to the corporate heart, either. He was the first major business leader to publicly address the issue of exorbitant executive remuneration, for instance.

Corporate governance, too, would have remained an issue confined to the end pages of company annual reports, or the subject matter of post-luncheon discussions in industry fora, had it not been for his forceful advocacy of governance issues, which eventually led to the industry adopting a stringent code of ethics on corporate governance, as well as important changes in the law. In other words, when Mr Murthy speaks, the decision-making world listens. So, one assumes, would Infosys, the company he founded, and with which his name is still inextricably linked in the public mind.

### **RTI Ambit**

Which is why it was disappointing to see the current Infosys chief, Mr S. Gopalakrishnan, rejecting outright the idea of bringing corporates under the ambit of the Right to Information (RTI) Act. The timing is singularly unfortunate. The RTI Act is itself under attack, with a beleaguered government rattled by a series of scams — many exposed with the help of the RTI Act — mounting a campaign to push for dilution of the existing provisions.

Meanwhile, the bureaucracy, whose acts of omission and commission have been ruthlessly exposed by RTI activists, chimes in with its own attempts to ensure that information is not shared. In fact, even the Prime Minister himself has lent his voice to the “re-look at RTI” chorus. So, when Infosys, with the implied weight of Mr Murthy behind it, comes out strongly against it, the demand is bound to be looked at even more sceptically than it already is.

“The RTI was created for a specific purpose to bring in certain level-playing field between citizens and the government. But to expand that beyond that (purpose)... we should be very careful,” Mr Gopalakrishnan said at a recent Confederation of Indian Industry meeting.

His argument against getting private enterprises under the RTI ambit was that there are industry-specific regulators entrusted with the job of public oversight.

There is also the argument that private enterprises, by definition, fall outside the purview of monitoring by government bodies, and that any private enterprise is accountable, first and last, to its shareholders alone.

There is considerable merit in such arguments. By nature, free enterprise cannot function, let alone thrive, in a stifling atmosphere of government controls.

It is also valid to argue that private enterprises should, apart from complying with the laws of the land, be held accountable only by their shareholders who have invested their capital in the venture. There is also the opinion that private enterprises function in a competitive environment and revealing information might adversely impact their competitive advantage.

### **Not unreasonable**

While all these arguments make for a good case against bringing the private sector under the RTI, the demand to bring private enterprises, at least partly, under the RTI ambit is not as unreasonable as it is made out to be.

The government is the single biggest customer in the country. A plethora of goods and services required by the government are provided by the private sector, and one can justifiably argue that any private entity which provides something under contract on behalf of the government is engaged in public activity which is indistinguishable from that of the government, and should, therefore, be covered by the same laws.

Then there are so-called public-private partnerships (PPPs), which fall into a more grey area. While most PPPs are technically private entities, a significant part of their assets are contributed by the government, in addition to funding. Here too, the case for individual public scrutiny — as separate from ‘public’

scrutiny of the sort carried out by regulators and audit bodies — is fairly strong, since most PPPs are created for the express purpose of 'public good'.

But excluding all the activities of all private enterprises on the ground that private enterprises are accountable only to their shareholders would be disingenuous.

### **Blurred distinctions**

As the dividing line between what is provided by the government and what is provided by private activity gets increasingly blurred as a result of reforms and downsizing of government, in general, there are a growing number of facilities and services which used to be considered the responsibility of government but are today carried out by the private sector.

It is not unreasonable to ask that such activities, at least, be open to scrutiny by the people for whom they are meant, and in whose name they are carried out.

The 'regulator' argument is also deceptive. First off, there are very few independent, constitutionally empowered regulators in India. Even in sectors where a regulator exists, such as telecom or power, there has been considerable dissatisfaction amongst ordinary consumers about how effectively such regulators are actually safeguarding their interests. Besides, there is an anomaly in recognising the right to information (of a kind, at least) of a shareholder, whose actual investment in a company may be as low as a rupee, while completely excluding the right to know of the enormous section of the public which actually keeps the private sector alive and well — the consumer.

"The consumer is king" is a dearly held motto of the private sector. Doesn't the 'king' have a right to know?

<http://www.thehindubusinessline.com/opinion/columns/article2653636.ece>