

**To:**

**Department-related Parliamentary Standing Committee  
on Personnel, Public Grievances, Law and Justice**

**Subject Matter:**

**THE RIGHT TO INFORMATION (AMENDMENT)  
BILL, 2013**

**Submission Of Memorandum From:**

**Association For Democratic Reforms**

**+91-9654 136 583; +91-9999 620 944**

**Request for submission of oral arguments**

**BEFORE THE STANDING COMMITTEE**

**SUBMISSIONS IN RESPECT OF PROPOSED AMENDMENT IN THE RIGHT TO  
INFORMATION ACT, 2005**

**FOLLOWING A THREE- BENCH CIC ORDER DATED 03-007-2013**

At the outset, we at Association for Democratic Reforms (ADR) would like to invite the attention of this **Hon'ble Committee Members** to our Submission, and urge them to please take the contents of this submission into consideration before coming to any decision on the proposed amendment with regard to the Right to Information Act, 2005.

We hereby also submit our request to appear before the Committee Members for our submission through oral arguments regarding the matter at hand.

Association for Democratic Reforms (ADR).  
B-35, Qutub Intuitional Area, Kiwanis Centre,  
4<sup>th</sup> Floor, New Delhi- 110 016  
Mobile-+9654136583, 9999620944

## Contents

FOLLOWING A THREE- BENCH CIC ORDER DATED 03-007-2013.....	2
Chapter 1 .....	6
Responses To The “STATEMENT OF OBJECTS AND REASONS” Of “THE RIGHT TO INFORMATION (AMENDMENT) BILL, 2013” .....	6
CIC decision is accurate (literal) interpretation of section 2(h) of RTI Act.....	6
A. About the CIC Decision .....	6
B. Oxford dictionary meaning of Liberal .....	9
C. Section 2(h) of the Right to Information .....	9
D. Accurate (literal) interpretation of section 2(h) of RTI Act .....	10
Liberal construction is the soul and spirit of the RTI: .....	10
Legislative intent of the RTI Act.....	11
Transparency in Financial Aspects of Political Parties.....	12
A. Very Limited Transparency in Financial Aspects of Political Parties. ....	12
B. Election Commission has no power to impose any penal action on Political Parties even if they don’t file their submissions. ....	13
C. The Election Commission don’t scrutinize the submissions by Parties. ....	13
Irrational Concerns: Functioning of Political Parties will be hampered & Misuse of RTI.....	15
A. Smooth internal working will not be hampered.....	15
B. RTIs provisions cannot be misused .....	16
Chapter 2 .....	17
Political Parties under RTI- Questions raised in Public Domain and their Answers. ....	17
Question: If Political Parties are “private institutions”, then why should they come under RTI? ...	17
Question: If Political Parties are not government sector offices (i.e they are neither created by a notification nor by a government order) then why should they come under RTI?.....	18
Question: Are only those bodies or institutions supposed to come under the RTI that are established “by notification issued or order made by the Government”( i.e. are RTI clauses 2(h)d(i) & 2(h)d(ii) independent of 2(h)d?).....	19
Question: Will Political Parties come under the control of Information Commission, and if that’s the case will it be detrimental to the India democracy?.....	19
Question: Will Political Parties be swamped by millions of RTI requests by manipulators?.....	20
Question: Will RTI Act be misused and specific questions pertaining to the internal meetings and strategy of the Political Parties be asked under the garb of RTIs? .....	21

Question: If Political Parties are already transparent and answerable to the Election Commission of India and Income Tax Department, then why should they come under RTI?.....	21
Question: If tax-exemption is made the ground of ascertaining that who will come under RTI then a whole lot of companies and individual should also come under RTI? .....	22
Question: As Political Parties are saying, is it true that the implementation of RTI Act will not be feasible with regard to their functioning since they don't maintain many records?.....	23
Question: Are Political Parties directly or indirectly financed by the Government resources? .....	23
Question: Will Political Parties under RTI going to solve the fundamental problems surrounding the campaign financing?.....	24
Question: Why CIC has now ruled that Political Parties should be under RTI when an earlier CIC ruling had already denied bringing Political Parties under RTI? .....	25
Question: A whole lot of bodies like Media Houses, Schools, NGOs, Societies also get land from Government on concessional rates, should they also come under the RTI? .....	25
Question: Is this CIC decision based on non-credible grounds? .....	26
Chapter 3 .....	27
Backdrop behind this Submission for Having Political Parties Under RTI Act.....	27
1. Political parties have a binding nexus with the populace.....	28
2. Parties must connect .....	29
3. A democratic state cannot be governed by parties with undemocratic structures. ....	29
4. To give static power and participation to the People of India: .....	29
5. Public function, Public Purpose, and Larger Public Interest .....	30
6. What does accountability within the Political Class imply? .....	30
7. Need for accountability and transparency in the functioning of political parties. ....	32
Chapter 4 .....	34
RTI Act: An Objective Interpretation setting out Grounds for Inclusion of Political Parties in its Ambit.....	34
1. Preamble of the RTI Act: .....	35
2. The object of RTI:.....	36
3. Interpretation and intention of the whole RTI Act:.....	37
4. A Judicial backdrop of the RTI Act.....	38
5. An earlier view on Political Parties and Right to Information Act:.....	39
6. Right to Information Act vis-a-vis Article 19 of the Indian Constitution and Article 25(a) of the ICCPR:.....	39
7. Rationale for the organizations that are exempted u/s 24 of RTI Act:.....	40
Chapter 5 .....	42

Arguments based on Legal Jurisprudence & Equity for Inclusion of Political Parties under RTI Act. ....	42
1. A “ <i>Laissez-faire</i> ” outlook gauged under Article 19(1)(a): .....	42
2. Illegality of the proposed amendment:.....	43
3. Preamble of Indian Constitution compasses the length and breadth of Political parties within RTI Act: .....	44
4. Remedy lies with the Political Class:.....	44
5. A significant supremacy of the political parties under Tenth Schedule:.....	45
6. Article 13(2)- A sentinel for Fundamental Rights(Right to Know):.....	45
7. Scope of this particular amendment vis-à-vis ‘Right to Know’: An amendment has to be in line with the Constitution: .....	46
8. Parliament’s Competence to make Laws in certain matters. ....	47
9. 170 <sup>th</sup> Law Commission Report: .....	49
<b>AMOUNT OF SUBSTANTIAL FUNDING RECEIVED BY POLITICAL PARTIES: ...</b>	<b>50</b>
A. State funding in the form of Offices/ Bungalows , VIP Houses, Suits etc at the prime locations, land allotment etc: .....	50
B. State funding in the form of free airtime in Doordarshan and AIR: .....	56
C. State funding in the form of electoral rolls: .....	64
D. State funding in the form of Tax exemption: .....	65
E. Summary of all the above mentioned forms of State Funding given to Political Parties .....	67

## Chapter 1

### Responses To The “STATEMENT OF OBJECTS AND REASONS” Of “THE RIGHT TO INFORMATION (AMENDMENT) BILL, 2013”

2. *The Central Information Commission in one of its decision dated 03.06.2013 has held that the political parties namely AICC/INC, BJP, CPI (M), CPI, NCP and BSP are public authorities under section 2(h) of the said Act. The Government considers that the CIC has made a liberal interpretation of section 2(h) of the said Act in its decision. The political parties are neither established nor constituted by or under the Constitution or by any other law made by Parliament. Rather, they are registered or recognised under the Representation of the People Act, 1951 and the rules/orders made or issued there under.*

#### CIC decision is accurate (literal) interpretation of section 2(h) of RTI Act

##### A. About the CIC Decision

The decision pronounced by the full bench of Central Information Commission on 3<sup>rd</sup> of June 2013 primarily laid out arguments of three fundamental natures, those the bench found instrumental in arriving at the decision. These three critical and adequately reasoned out arguments are:

##### **a) Substantial Financing of Political Parties by the Central Government:**

- i. *Allotment of Land in Delhi*: Indirect Financing of Political Parties by Allotment of large tracts of land to them in prime areas of Delhi either, free of cost, or at concessional rates.

- ii. **Allotment of Land in State Capitals:** Allotments of land to Political Parties in State Capitals as well.
- iii. **Accommodations/Bungalows at Concessional Rentals:** Directorate of Estate has allotted Bungalows to Political Parties in Delhi at highly concessional rates; this is also a form of indirect financing of the Parties.
- iv. **Total Exemption from Income Tax:** Income of political parties is 100% exempt from the payment of income tax (under section 13 A of the Income Tax Act).
- v. **Free Airtime on Doordarshan & All India Radio:** During Lok Sabha Elections and State Assembly Elections, Political Parties are allotted airtime slots on Doordarshan and All India Radio absolutely free of any charge.

## **b) Performance of Public Duty**

- i. **The Political Parties are the life blood of our polity:** Elections are contested on party basis. Political Parties affect the lives of citizens, directly or indirectly, in every conceivable way and are continuously engaged in performing public duty.
- ii. **Political Parties unique institutions:** Political Parties are essentially political institutions and are non-governmental. Their uniqueness lies in the fact that inspite of being non-governmental, they come to wield controlling influence, directly or indirectly, on the exercise of governmental power. It would be odd to argue that transparency is good for all State organs but not so

good for Political Parties, which, in reality, control all the vital organs of the State.

- iii. **Preamble of RTI Act:** The preamble of RTI Act aims to create an ‘informed citizenry and to contain corruption and to hold government and their instrumentalities accountable to the governed’. Needless to say, Political Parties are important political institutions and can play a critical role in heralding transparency in public life. Political Parties continuously perform public functions which define parameters of governance and socio-economic development in the country.

### c) Constitutional/legal provisions

Political Parties have constitutional and legal rights, and liabilities, because of the following:

- i. **Registration of Political Parties:** Political Parties are required to be registered with the ECI under section 29A of the R.P. Act, 1951 – a Central Legislation. An association or body gets the status of a political party only on its registration. ECI awards symbols to Political Parties under the Election Symbols (Reservation and Allotment) Order, 1968, only after registration.
- ii. **Filing of Election Expense and Contributions:** The ECI calls for details of expenses made by the Political Parties in the elections. Contributions of the value of Rs. 20,000/- and above received from any person or a Company by a Political Party are required to be informed to ECI under section 29C of the R.P. Act.
- iii. **ECI superintendence:** ECI is vested with the superintendence, direction and control of elections under Article 324 of the Constitution. ECI is also



vested with the authority to suspend or withdraw recognition of a political party in certain contingencies.

- iv. **Tenth Schedule of Constitution:** Political Parties can recommend disqualification of Members of the House in certain contingencies under the Tenth Schedule. Political parties thus exercise **constitutional authority** and have the right to undo the choice of voters.

### **B. Oxford dictionary meaning of Liberal**

The oxford dictionary provides the following meaning of the word ‘Liberal’ with respect to an interpretation of a law-

*“broadly construed or understood; not strictly literal”*

### **C. Section 2(h) of the Right to Information**

**2(h) "public authority" means any authority or body or institution of self-government established or constituted—**

**a)** by or under the Constitution;

**b)** by any other law made by Parliament;

**c)** by any other law made by State Legislature;

**d)** by notification issued or order made by the appropriate Government,

and includes any—

**(i)** body owned, controlled or substantially financed;

**(ii)** non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

#### **D. Accurate (literal) interpretation of section 2(h) of RTI Act**

The details of these above mentioned types (in (a)) of financing provided by the Government to the Political Parties are provided in the Chapter 6 namely **“AMOUNT OF SUBSTANTIAL FUNDING RECEIVED BY POLITICAL PARTIES”**.

Therefore, there is no case of liberal interpretation of the clause 2(h) of RTI Act in the CIC decision. On the contrary it's a very accurate (literal)(and conservative) application of the clause 2(h) (d) (ii) of the RTI Act.

**Accurate (literal)**: Political Parties receive these funds directly or in-directly from the Government and hence in a precise (non-liberal) manner they are perfectly eligible to be Public Authorities under clause 2(h)(d)(ii) of the RTI Act.

**Conservative**: The above mentioned sources of Government funding of Political Parties are only a few that could be discovered. All the possible sources of Government funding of Political Parties are yet to be ascertained.

#### **Liberal construction is the soul and spirit of the RTI:**

The CIC's order is perfectly valid under law. Putting 'political parties under RTI Act' arises from the citizen's fundamental right of "Right to Know". The freedom to receive and to communicate information and ideas without interference is an important aspect of the freedom of speech and expression. This bridges the gap between citizens and political parties. The principle intention is to have a healthier public participation in the democratic set up of our country. In fact, it is the responsibility of our government to supplement such a right.

That style of interpretation is relevant which substantiates or fulfils the object of the law. It is a shared function as well as duty of both the Legislature and the Judiciary to understand a provision of an act which furthers the capacity of the law in question. It

is not right to construe words in vacuum. The CIC's order is aiming at the wider exposure of transparency and accountability within the political parties and citizens.

### **Legislative intent of the RTI Act**

One important principle laid down by Prime Minister through his speech in Lok Sabha when the RTI bill was debated upon prior to its enactment as an Act was- "**Public Benefit Test**".

Speaking on the floor of the Lok Sabha on 12<sup>th</sup> of May 2005, Prime Minister Dr. Manmohan Singh stated the following-

*"...The Bill that we have presented has the widest possible reach, covering the Central and the State Governments, Panchayati Raj institutions, local bodies as well as recipients of Government grants. Access to information under this Bill is extensive with minimum exemptions, which too can be over-ridden on the basis of a **public benefit test**, namely when the benefit of release of information outweighs the harm caused by disclosure of information."*

Clearly the legislative intent behind enacting the RTI law was to bring under the purview of the RTI Act anything and everything that concerns the benefit of the citizens at large. Bringing Political Parties under the ambit of the RTI is one such beneficial act where "the benefit of release of information outweighs the harm caused by disclosure of information".

3. *It has also been observed that there are already provisions in the Representation of the People Act, 1951 as well as in the Income-tax Act, 1961 which deals with the transparency in the financial aspects of political parties and their candidates.*

## **Transparency in Financial Aspects of Political Parties.**

### **A. Very Limited Transparency in Financial Aspects of Political Parties.**

An analysis by Association for Democratic Reform (ADR) of Income Tax returns for six current National Political Parties (INC, BJP, CPM, CPI, BSP and NCP) and the statements filed by them with the Election Commission shows that the sources of the funds of the Parties remain largely unknown. Even by the most conservative estimates, over 75% of the funds cannot be traced and are from 'unknown' sources.

The highlights of this ADR analysis are as follows (Annexure- Attached):

- Total income of six National Political Parties between FY 2004-05 and 2011-12: **Rs 4,895.96 crores**
- Total income of six National Political Parties from known donors (details of donors as available from contribution report submitted by parties to Election Commission): **Rs 435.85 crores, which is 8.90% of the total income of the parties**
- Total income of six National Political Parties from other known sources (e.g., sale of assets, membership fees, bank interest, sale of publications, party levy etc.): **Rs 785.60 crores, or 16.05% of total income**
- Total income of political parties from unknown sources (income specified in the IT Returns whose sources are unknown): **Rs 3,674.50 crores, which is 75.05% of the total income of the parties**

**B. Election Commission has no power to impose any penal action on Political Parties even if they don't file their submissions.**

In a recently furnished affidavit (Copy of the Affidavit Attached) by Election Commission of India to the Delhi High Court, in a matter where the court asked for responses by Election Commission along with other departments such as Home Ministry of India in a petition where it's been argued that two National Political Parties have received funds from foreign sources, in paragraph 4 the commission has declared that it doesn't have power to take any action against the Political Parties in case they fail to submit the reports to the commission.

*"..Nor does the law provide for any penal consequences to be imposed by the Commission if the political parties do not file the report under rule 85B of the Conduct of Election Rules, 1961... "*

**C. The Election Commission don't scrutinize the submissions by Parties.**

In the same affidavit the Election Commission has stated that it doesn't scrutinize the submissions regarding financial matters by the Political Parties. In Para 4, the commission states further-

*"..The Commission puts these statements of contributions received from the political parties on its website and also forwards a copy of the reports to Central Board of Direct Taxes for necessary action on their part.."*

In paragraph 5 of the same affidavit the Election Commission said the following-

*"That the Election Commission is not an investigating agency in respect of any offence under the FCRA or the Income Tax Act. From the contribution reports furnished to the Commission by the political parties, it can't be detected by the*

*Commission as to which of the sources are foreign companies or their subsidiaries operating in India...”*

From these above facts, it can be safely summarized that the finances of the Political Parties are far from being transparent. This opaqueness regarding financial matters creates suspicion in the minds of citizens at large. This suspicion is by far the single most reason responsible for the cynicism among the citizens of the country regarding the polity in the country. This situation can drastically improve if citizens be provided the information that they wish to get from the political parties and there is cordial and symbiotic relationship that is established between citizens and parties.

4. *Declaring a political party as public authority under the RTI Act would hamper its smooth internal working, which is not the objective of the said Act and was not envisaged by Parliament under the RTI Act. Further, the political rivals may misuse the provisions of RTI Act, thereby adversely affecting the functioning of the political parties.*

## **Irrational Concerns: Functioning of Political Parties will be hampered & Misuse of RTI**

### **A. Smooth internal working will not be hampered**

Firstly, since Political Parties are taking decisions that are of public importance and welfare, and which, by their own claims, are in the public interest, they shouldn't have any objection in making their records public.

Secondly, the RTI Act has enough built in protection in the form of the section 8-**“Exemption from disclosure of information”**. This section 8 lists several grounds under which a public authority can deny a permission that is sought by an RTI request. Ofcourse, while denying the information the authority will have to mention specifically the reasons (or grounds mentioned in Section 8) under which a particular RTI request is dismissed by them.

*For example: It has been mentioned in section 8(j) of RTI Act that the information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of privacy can be denied to any person.*

## **B. RTIs provisions cannot be misused**

This was also one of the fears of the opponents of RTI when the provisions of this law were publicly debated before this law came into being in 2005. However, nothing of the sorts has ever happened to any public authority.

Also, undoubtedly the nature of information in which most of the people will be interested in will actually be about the issue of funding that Political Parties receive. This information regarding Parties' finance, and other type of information in which people express tremendous interest, should be put on the Parties' websites as recommended in section 4 (1)(b) of the RTI Act. This voluntary disclosure of information will invariably reduce the number of RTIs received by political parties.

Moreover, section 4(2) of RTI Act reads as follows- *“It shall be a constant endeavour of every public authority to take steps .... to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.”*

All political parties need to do is to comply with Section 4(2).



## Chapter 2

### Political Parties under RTI- Questions raised in Public Domain and their Answers.

**Question:** If Political Parties are “private institutions”, then why should they come under RTI?

**Answer:** A body or an institution does not have to be a part of the government in order to come under the ambit of RTI. The RTI Act is applicable to those organizations that pass the test of section 2(h) of the Act, which defines the term “Public Authority”. The section 2(h) says that in addition to the government bodies, those organizations should also come under RTI that fulfil the eligibility of below mentioned 2(h)(d)(i) or 2(h)(d)(ii):

**2(h) "public authority" means any authority or body or institution of self-government established or constituted—**

**a)** by or under the Constitution;

**b)** by any other law made by Parliament;

**c)** by any other law made by State Legislature;

**d)** by notification issued or order made by the appropriate Government,

and includes any—

**(i)** body owned, controlled or substantially financed;

**(ii)** Non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

Using this principle, a large number of private bodies (or non-governmental bodies) have already been declared as public authorities by Central Information Commission (CIC) and various State Information Commissions (SIC). Some of these bodies had also approached

various courts challenging the decisions of CIC or SICs of being declared as “public authorities”, but those courts have upheld the decisions taken by the CIC and SICs.

A few examples of the non-governmental bodies that have been declared as Public authority and have been brought under RTI are *Indian Olympic Association, Sutlej Club Ludhiana, Christian Medical College and Hospital Ludhiana, Chandigarh Lawn Tennis Association (CLTA), Sanskriti School Delhi, St. Mary’s School Delhi, KRIBHCO, NCCF, NAFED, Population Services International* – these bodies have been declared as public authorities by either the decisions of CIC/SICs or judgements of various Courts.

CIC in its 3<sup>rd</sup> June 2013 decision has ascertained that Political Parties are also Public Authorities because they fulfil the criteria defined in the RTI Act for a body to be declared as public authority and thus, have now come under RTI.

**Question: If Political Parties are not government sector offices (i.e they are neither created by a notification nor by a government order) then why should they come under RTI?**

**Answer:** As explained in the first question, it is an incorrect fact that only government sector offices are supposed to come under RTI Act. The RTI act has a definition of the term Public authority in section 2(h) and the provisions of the Act apply only and only on the identification of this Authority.

The applicability of RTI Act is based solely on this definition of public authority and CIC in its 3<sup>rd</sup> June, 2013 decision has ascertained that Political Parties are Public Authorities because they fulfil the criteria as set up in RTI Act. As a matter of fact there are already plethora of organisations and institutions that are strictly not governmental i.e. they are not set up by a statute or by constitution or by a legislation but they still come under the ambit of RTI because they fulfil the criteria of clause 2(h) (d) of the RTI Act.

**Question: Are only those bodies or institutions supposed to come under the RTI that are established “by notification issued or order made by the Government” (i.e. are RTI clauses 2(h)d(i) & 2(h)d(ii) independent of 2(h)d?)**

**Answer:** There are many court judgements that have cleared the confusion whether only those bodies or institutions can come under RTI (or can be adjudged as Public Authorities) that have been established either by a Government’s Notification or Order.

Courts have ruled in their judgments that for a body or institution to be a public authority and to come under RTI, it is not necessary for them to be established by a Government Order or Notification. For example in the case *Indian Olympic Association (IOA) vs Veeresh Malik & Ors*, the Delhi High Court Judge Justice Ravindra Bhatt has ruled that even a body like IOA that was never established by a government order or notification should be public authority because it’s substantially financed by government funds (legally speaking- The Judge ruled that RTI clause 2(h)(d) and clauses 2(h)(d)(i) & 2(h)(d)(ii) are independent of each other and are not be read together).

**Question: Will Political Parties come under the control of Information Commission, and if that’s the case will it be detrimental to the India democracy?**

**Answer:** If an organisation comes under RTI it does not mean that the organisation is under the control of the Information Commission. The Commission’s mandate is merely to ascertain that the RTI’s objectives and provisions are being met by the organisation and the rights of the seekers of the information are well taken care of.

Even the President’s Secretariat, Prime Minister’s Office and Secretariats of both the houses of Parliament are currently under the RTI. Therefore, being under the RTI does not imply that these highest institutions of our democracy are under the control of CIC.

Finally, everyone has to follow the laws of the land. RTI Act is just one of the many laws. The RTI Act has to be followed by everyone just in the same manner as everybody obeys the Income Tax Act, Foreign Exchange Regulation Act, Representation of People Act etc.

**Question: Will Political Parties be swamped by millions of RTI requests by manipulators?**

**Answer:** This was also one of the basic apprehensions of the opponents of RTI when the provisions of this law were publicly debated before this law came into being in 2005. However, nothing of the sorts has ever happened to any public authority.

Also, undoubtedly the nature of information in which most of the people will be interested in will actually be about the issue of funding that Political Parties receive. This information regarding Parties' finance, and other type of information in which people express tremendous interest, should be put on the Parties' websites as recommended in section 4 (1)(b) of the RTI Act. This voluntary disclosure of information will invariably reduce the number of RTIs received by any organisation.

Moreover, Section 4(2) of RTI Act reads as follows- *“It shall be a constant endeavour of every public authority to take steps .... to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.”*

All political parties need to do is to comply with Section 4(2).

**Question: Will RTI Act be misused and specific questions pertaining to the internal meetings and strategy of the Political Parties be asked under the garb of RTIs?**

**Answer:** Firstly, since Political Parties are taking decisions that are of public importance and welfare, and in the public interest, they shouldn't have any objection in making their records public.

Secondly, the RTI Act has enough built in protection in the form of the section 8-**“Exemption from disclosure of information”**. This section 8 lists several grounds under which a public authority can deny a permission that is sought by an RTI request. Of course, while denying the information the authority will have to mention specifically the reasons (or grounds mentioned in Section 8) under which a particular RTI request is dismissed by them.

*For example: It has been mentioned in section 8(j) of RTI Act that the information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of privacy can be denied to any person.*

**Question: If Political Parties are already transparent and answerable to the Election Commission of India and Income Tax Department, then why should they come under RTI?**

**Answer:** Currently, Political Parties reveal only limited amount of information both in their submissions to ECI and Income Tax Department. They file details of donations received by them annually to the ECI. But these donations are only those that are in excess of Rs. 20,000. Donations less than Rs. 20,000 are not reported and Political Parties exploit this loop hole. There are parties that do not declare any donation above Rs 20,000 even though their income is in hundreds of crores of rupees.

Similarly, in their Income Tax Returns, the Political Parties don't divulge many details of the sources of incomes.

Also, Political Parties put out only very limited information regarding their internal functioning details such as *total number of members of the Party, internal elections in the Party, details about the office bearers, criteria to induct members*. All this information is about the issues that people want to know about and RTI will bring this in public domain.

**Question: If tax-exemption is made the ground of ascertaining that who will come under RTI then a whole lot of companies and individual should also come under RTI?**

**Answer:** There are already a lot of NGOs, trusts, cooperative societies, schools, hospitals, sports bodies etc which get the direct or indirect benefits from the government and are under the ambit of RTI.

Political Parties get most favourable exemptions when compared with other organisations. Also, Political Parties have not been brought under RTI solely because they get tax exemptions. In addition to the tax exemption and other direct and indirect means of funding by the government, their nature of work is purely for public good. Also, another argument considered by the CIC before giving the decision is that the Parties wield immense power to control the government and the vital state organs. For example by using whip they can force their members to vote in a certain way in the Parliament and State Assemblies and also they can disqualify those elected representative who belong to their Parties. It is inconceivable that a transparency act that applies on all branches of the government will not apply to the institutions that form and control the government.

Also, the tax-exemptions given to certain NGOs, Societies, Trusts, and Companies etc. are given under highly strict conditions laid down in the Income Tax Act which they must

comply with. The exemptions are given to these organisations only if they pursue the objectives outlined in their respective charters.

On the other hand, the tax exemption given to the Political Parties is complete, the only condition being that they must annually report to the Election Commission of India with the details of all the contributors who contribute the sum of Rs. 20,000 or more to the Political Party concerned. Thus, the Political Parties enjoy an almost **unfettered exemption** from payment of income tax, a benefit not enjoyed by any other charitable or non-profit non-governmental organisation.

**Question: As Political Parties are saying, is it true that the implementation of RTI Act will not be feasible with regard to their functioning since they don't maintain many records?**

**Answer:** Political Parties are the most important organ of the state, actually they are, in effect, creators of the state governing machinery, they should also develop systems and processes to document their proceedings. Political Parties perform various important functions in a democracy and they should function in a systematic manner. Having said that, RTI act will only be applicable on information/records that are maintained by the Public Authority. RTI Act does not force a public authority to create information which does not exist.

**Question: Are Political Parties directly or indirectly financed by the Government resources?**

**Answer:** The 3<sup>rd</sup> June 2013 decision by CIC has clearly laid out the exact nature of funding received by the Political Parties by the government in various direct and indirect ways. Some of these are:

- vi. **Allotment of land in Delhi:** Indirect Financing of Political Parties by Allotment of large tracts of land to them in prime areas of Delhi either, free of cost, or at concessional rates.
- vii. **Allotment of land in State Capitals:**Allotments of land to Political Parties in State Capitals as well
- viii. **Accommodations/Bungalows at Concessional Rentals:**Directorate of Estate has allotted Bungalows to Political Parties in Delhi at highly concessional rates; this is also a form of indirect financing of the Parties.
- ix. **Total Tax Exemption:**Central Government also provides to Political Parties total exemption from the payment of income tax against the incomes of the Parties (under section 13 A of the Income Tax Act)
- x. **Free Airtime on Doordarshan & All India Radio:**During Lok Sabha Elections and State Assembly Elections, Political Parties are allotted airtime slots on Doordarshan and All India Radio absolutely free of any charge

**Question: Will Political Parties under RTI going to solve the fundamental problems surrounding the campaign financing?**

**Answer:** RTI Act is not an answer to all the problems that plague our electoral and political system. However, if implemented properly, it can slowly move the Political Parties towards more accountability through transparency. In conjunction with other instruments like stricter tax laws, robust accounting standards, vigilant measures of the ECI, RTI will also contribute to address various problems in our electoral system.



**Question: Why CIC has now ruled that Political Parties should be under RTI when an earlier CIC ruling had already denied bringing Political Parties under RTI?**

**Answer:** The earlier order was given by a Single Bench of the CIC in Complaint No. CIC/MISC/2009/0001 and CIC/MISC/2009/0002. The applicant had neither appeared in front of the CIC nor had he supplied to the commission any evidence of direct or indirect funding of the Political Parties by the Government. It was argued primarily on an earlier order of the CIC which had made the income tax details of the Political Parties public.

However, after considering the merits of the present complaint and matters of complex law, a Full Bench has set aside the earlier orders and held that AICC/INC, BJP, CPI, CPI (M), NCP and BSP are Public Authorities and come under RTI under section 2(h) of the RTI Act.

**Question: A whole lot of bodies like Media Houses, Schools, NGOs, Societies also get land from Government on concessional rates, should they also come under the RTI?**

**Answer:** The CIC decision of 3<sup>rd</sup> June 2013 has primarily laid out three arguments of fundamental nature, in arriving at the decision:

- Substantial Financing by Government;
- Political Parties perform Public Duty;
- Political Parties have Constitutional and Legal rights.

Therefore, Political Parties have not been brought under RTI *merely* on the basis that either they get tax exemptions or get free land from government.

Also the NGOs, Societies etc who get Government Aid are already under RTI. Many of them have been brought under the RTI by the rulings of State/Central Information Commissions. A few example of these bodies that have been brought under RTI are- *Indian Olympic Association, Sutlej Club Ludhiana, Christian Medical College and Hospital Ludhiana, Chandigarh Lawn Tennis Association (CLTA), Sanskriti School Delhi, St. Mary's School Delhi, KRIBHCO, NCCF, NAFED, Population Services International.*

**Question: Is this CIC decision based on non-credible grounds?**

**Answer:** This decision is one of the lengthiest decisions that has ever been delivered by full bench of CIC. The decision has examined all the issues from many angles.

Not only has the CIC analysed the arguments presented by the Political Parties during the hearings, the Commission has also taken inputs from Election Commission and Income Tax Department. The Election Commission has infact categorically stated that it has no objections if Political Parties are brought under RTI. The CIC has reached the conclusion only after considering all the issues and thus this decision is based on solid credible grounds.

## Chapter 3

### Backdrop behind this Submission for Having Political Parties

#### Under RTI Act.

The contention of this submission is that the Political Parties constitute one of the most important institutions in a constitutional democracy. That is why the CIC decision quoted the following:

“Prof. Harold J Laski in his classic text “Grammar of Politics” has termed them ‘natural’, though not ‘perfect’. According to him, the life of a democratic State is built upon the party system. Without Political Parties, there would be no means available of enlisting the popular decisions in a politically satisfactory manner. To quote him;

*‘The life of the democratic State is built upon the party-system and it is important at the outset to discuss the part played by party in the arrangement of affairs. Briefly, that part may be best described by saying that parties arrange the issues upon which people are to vote. It is obvious that in the confused welter of the modern State, there must be some selection of problems as more urgent than others. It is necessary to select them as urgent and to present solutions of them which may be acceptable to the citizen-body. It is that task of selection, the party undertakes. It acts, in Mr. Lowell’s phrase, as the broker of ideas. From the mass of opinions, sentiments, beliefs, by which the electorate moves, it chooses out those it judges most likely to meet with general acceptance. It organizes persons to advocate its own view of their meaning. It states that view as the issue upon which the voter has to make up his mind. Its power enables it to put forward for election candidates who are willing to identify themselves with its view. Since its opponents will do the same, the electorate, thereby, is enabled to vote as a mass and decision that would otherwise be chaotic, assumes some coherency and direction.*

... ..

*What, at least, is certain, is that without parties there would be no means available to us of enlisting the popular decision in such a way as to secure solutions capable of being interpreted as politically satisfactory.’”*

## **1. Political parties have a binding nexus with the populace**

**1.1)**        **SUBMISSION** is that the early years of the twenty-first century have witnessed an acute paradox. On the one hand democracy, both as an ideal and as a set of political institutions and practices, has triumphed in most countries of the world. Even in those where it has not, democracy forms the aspiration of many of their citizens. On the other hand, these years have also seen a widespread cynicism developing about the results of democracy in practice. Such disappointment as termed by Italian political theorist Norberto Bobbio -‘broken promises’ – the ‘contrast between what was promised and what has actually come about’. It was in an effort to bridge the gap ‘between what was promised and what has actually come about’ that the Indian Parliament enacted the Right to Information Act, 2005.

**1.2)**        **AND** political parties today have a key role in addressing this paradox. As the central institution of democracy, they embody the will of the people in government, and carry all their expectations that democracy will be truly responsive to their needs and help solve the most pressing problems that confront them in their daily lives.

**1.3)**        **BECAUSE** it is impossible to ignore the fact that, while individual parliamentary representatives at the constituency level may be respected, there is a growing cynicism about politicians as a group and political parties as entities. This is partly because as an institution, political parties seem more remote and inaccessible, especially in India where ‘Trust’ is an essential attribute in the relationship between citizens and political parties.

2. **Parties must connect** with society if they are to perform their democratic function properly and if they are to gain the respect of the people. Their core values play a major role in the politics of India. Both the executive branch and the legislative branch of the government are run by the representatives of the political parties who have been elected through the elections. Through the electoral process, the people of India choose which representative and which political party should run the government. As Konrad Adenauer, the first chancellor and prime minister of the Federal Republic of Germany after the Second World War has stated: *“Each political party exists for the benefit of the people and not for itself. Political parties, their members and leaders are therefore more than ever required to face this responsibility.”*

3. **A democratic state cannot be governed by parties with undemocratic structures.**

Mass democracy can only function in the form of representative democracy and that the parties are in the end the only institutions that are legitimated by their participation in general elections, justifying their representation and legitimacy through their participation in these elections.

4. **To give static power and participation to the People of India:**

To participate in the Indian democracy in terms of making an informed choice in the light of Right to Know under Article 19 along with Right to Equality under Article 14 and words Democracy and Justice (Political) as enshrined in the Preamble of Indian Constitution.

## **5. Public function, Public Purpose, and Larger Public Interest**

Any organisation performing any public function, working for any public purpose, and in the larger public interest, cannot claim to be independent from public inspection and scrutiny. This is because of the basic reason of their existence involves the public. Political parties fall squarely in this category. All of them claim that they work for the people and their well-being. It is hard to imagine some other institution working for public purpose and performing public function than political parties. These very characteristics make them most appropriate focus of the twin objectives of the RTI Act, Transparency and Accountability, to the populace at large.

## **6. What does accountability within the Political Class imply?**

- The use of public resources such as finances and natural resources;
- The way policy decisions are taken and how they perform with regard to serving the wider public interest in a resource efficient, effective and fair manner;
- The way it acts and executes its public roles within the law, in a fair, non-corrupt and legitimate manner;
- To disclose information and be transparent;
- To explain and justify behavior and performance;
- To accept the consequences of this behavior by accepting sanctioning in case of bad performance or criminal acts, rewards in case of good performance, or suggestions for change to learn and do better in the future.

### 6.1) Functions of political parties in a democracy:

- They articulate and aggregate social interests: Parties express public expectations and demands of social groupings to the political system = **Function of political opinion-making.**
- They recruit political personnel and nurture future generations of politicians: They select persons and present them as candidates for elections = **Function of selection.**
- They develop political programmes: Parties integrate various interests into a general political project and transform it into a political programme, for which they campaign to receive the consent and support of a majority = **Function of integration.**
- They promote the political socialisation and participation of citizens: Parties create a link between citizens and the political system; they enable political participation of individuals and groupings with the prospect of success. = **Function of socialization and participation.**
- They organise the government. They participate in elections to occupy political charges. Normally in party democracies, a good part of government authorities arise from political parties = **Function of exercising political power.**
- They contribute to the legitimacy of the political system: in establishing the connection between citizens, social groupings and the political system, the parties contribute in anchoring the political order in the consciousness of the citizens and in social forces = **Function of legitimating.**

- Politics require active citizens who take part in political discussions with ideas, demands and expectations, and actively contribute to the functioning of political institutions. **Function of linking a conduit.**

6.2) **Therefore, under the umbrella of RTI Act, Preamble (Justice-social, economic, and political), Article 19(1)(a) of Indian Constitution, citizens have a mandatory right:**

- To pose questions;
- To have access to and receive relevant information on, and a justification of, the behaviour and performance of the actor;
- To provide a judgment on this;
- To impose sanctions, directly or through others who have sanctioning power in case of bad performance, reward good behaviour or suggest changes for learning and better performance in the future.

7. **Need for accountability and transparency in the functioning of political parties.**

Legislation which gives citizens access to information held by public bodies is an important democratic resource, which is also broadly endorsed by the 'Right to Seek information' provision given under article **19(1)(a) of the Constitution of India** as well as under International Covenant on Civil and Political Rights. **Article 25(a) of the International Covenant on Civil and Political Rights** also states that *every*



*citizen shall have the right and the opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives.*

## Chapter 4

### **RTI Act: An Objective Interpretation setting out Grounds for Inclusion of Political Parties in its Ambit.**

“The one and only rationale in the wake of every kind of disclosure given under various provisions of Right to Information Act is to have transparency and accountability amid Citizens and Parliamentarians. The entire design behind this whole framework of disclosure is to help citizens in a way so that they can equally contribute in the political and electoral affairs of their country with a well conversant and observant participation. Therefore, if, Political parties are excluded from such an important intake, the whole purpose and intention behind our disclosure system will defeat and so will our representative democracy.” Right to Information Bill, 2004 when introduced in the Parliament.

#### **Prime Minister’s speech during RTI bill debate:**

*“I believe that the passage of this bill will see the dawn of a new era in our processes of governance, an era of performance and efficiency, an era which will ensure that benefits of growth flow to all sections of our people, an era which will eliminate the scourge of corruption, an era which will bring the common man's concern to the heart of all processes of governance, an era which will truly fulfill the hopes of the founding fathers of our Republic.”*

**- Shri. Manmohan Singh, Prime Minister of India in his intervention speech on RTI bill debate in Lok Sabha in May 2005**

**Bill No. 107-C of 2004, passed by Lok Sabha on 11-05-2005 and by Rajya Sabha on 12-05-2005:**

*“Public participation in the democratic and governmental process is at its meaningful best when citizens have adequate access to official information. This access lays the foundation for good governance, transparency and accountability and participation. The fundamental right of freedom of speech and expression is meaningless without the requisite information about issues and subjects on which opinions are to be formed and expressed. The Right to information is therefore, implicit in the right to free speech and is as much fundamental. Parliament has now enabled the citizens to exercise their fundamental rights of free speech and right to information.*

*Therefore, there are reasons to cheer the passage of the much awaited Right to Information Bill, 2005, a landmark in the history of Indian democracy. The Bill goes a long way in putting together a comprehensive mechanism for citizens to secure information under the government’s control and thereby promotes “transparency and accountability” in the working of every public authority. The legislation is in accordance with both Article 19 of the Indian Constitution as well as Article 19 of the Universal Declaration of Human Rights. The bill is an important step in fulfilling the promises made to the people of the country by the UPA Government under the Common Minimum Programme.”*

**1. Preamble of the RTI Act:**

*“An Act to provide for setting out the practical regime of 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, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.....”*

**THEREFORE**, the object of the RTI Act is to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions. It provides an effective framework for effectuating the Right to Information guaranteed under Article 19 of the Indian Constitution. It is a very progressive piece of legislation conferring on citizens an important right to obtain regarding essential prerequisites of democracy. And it must be noted that a Preamble is an integral part of a statute. It sets out principles and objectives.

## 2. **The object of RTI:**

To reinforce and give further effect to certain fundamental principles underlying the system of constitutional democracy, namely –

- Governmental Accountability;
- Transparency; and
- Public Participation in national decision-making, by granting the public a general right of access to official documents held by public authorities.

It is necessary that ordinary person is enabled to participate in the political process because functioning of the political parties affect our daily lives. Therefore, citizens should be empowered with information pertaining to the political process in the country in order to play an effective role in policy making and legislative decision making. With the passage of the RTI Act, the disclosure of information is no longer a transgression but an obligation. Conversely, its withholding is no longer a virtue, but an offence.

### **3. Interpretation and intention of the whole RTI Act:**

Under the provisions of the RTI Act, the political parties can not escape from their obligation as well as responsibility of imparting the information merely by saying that they do not have it. This way they will be in fact trying to thwart, or at least, narrow down the whole intention of the RTI Act. An important fundamental function of the Public Authorities under the RTI Act is not to limit or taper down the reach of the information but instead, their approach should be to broadly reach out to the citizens with as much information as possible. It cannot be neglected that the Legislature opens its mind in the form of certain language. It enacts a law with a definite purpose. The object of the interpretation is to discover what the Legislature intended. Therefore, that interpretation needs to be followed which fulfils or furthers the object of the statute instead of negating this fundamental basic right to know.

The following observations made by a learned judge of Madras High Court in Tamil Nadu Newsprint and Papers Ltd. State Information Commission (2008) CDJ MHC 1871;

*"Sometimes even harmless information is not made available. When what is asked for is just ordinary data, data that any interested tax-paying citizen has a right to know \_ a human right, even no national secrets that threaten public interest are asked for \_ it is not furnished. This access to information is more vitally important in developing countries. It is very necessary that the ordinary person is enabled to participate in the processes that affect daily life and he/she is empowered with the information to play an effective role in policy-making and legislative decision-making. To promote broader political participation, there should be accountability and transparency of government, to prevent the criminalisation of policy making & implementation, there should be free flow of information. These are the reasons why the Act came into force.*

*The Government should have the will to make the shift from being niggardly in providing access to information. Transparency is essential for a healthy democracy and robust economy.”*

#### **4. A Judicial backdrop of the RTI Act**

The opening paragraph of the judgment delivered by Hon’ble Justice MS Sullar in the High Court of Punjab and Haryana in **Civil Writ Petition No.19224 of 2006**, is very pertinent in the context of the current complaint. The Learned Justice said,

*“As strange as it may seem, but strictly speaking, the tendency and frequency, of some of the Institutions, of not supplying and taking somersault in denying the informations, have been tremendously increasing day by day, leaving the public at large in general and the information seekers in particular, in lurch to damage the edifice of the democracy and larger public interest” (Para 1).*

The above view was held in the High Court of Delhi by Hon’ble Justice Ravinder Bhat in WP (C) No.876/2007 in Indian Olympic Association v. Veerish Malik & others, Para 41;

*“The Act marks a legislative milestone, in the post independence era, to further democracy. It empowers citizens and information applicants, to demand and be supplied with information about public records; Parliamentary endeavor is to extend it also to public authorities which impact citizens daily lives. The Act mandates disclosure of information, and abolishes the concept of locus standi, of the information applicant; no justification for applying (for information) is necessary; Decisions and decision making processes, which affect lives of individuals and groups of citizens are now open to examination. Parliamentary intention apparently was to*

*empower people with the means to scrutinize government and public processes, and ensure transparency” (Para 41) (Italics added).*

**5. An earlier view on Political Parties and Right to Information Act:**

In para 28 of the this Commission’s order CIC/AT/A/2007/01029 & 01263-01270, announced on 29.04.2008, it was held that

*“28. Political parties are unique institution of the modern Constitutional State. These are essentially civil society institutions and are, therefore, non-governmental. Their uniqueness lies in the fact that in spite of being non-governmental, political parties come to wield or directly or indirectly influence, exercise of governmental power. It is this link between State power and political parties that has assumed critical significance in the context of the Right of Information — an Act which has brought into focus the imperatives of transparency in the functioning of State institutions. It would be facetious to argue that transparency is good for all State organs, but not so good for the political parties, which control the most important of those organs. For example, it will be a fallacy to hold that transparency is good for the bureaucracy, but not good enough for the political parties which control those bureaucracies through political executives”.*

**6. Right to Information Act vis-a-vis Article 19 of the Indian Constitution and Article 25(a) of the ICCPR:**

Legislation which gives citizens access to information held by public bodies is an important democratic resource, which is also broadly endorsed by the ‘right to seek information’ provision given under article **19(1)(a) of the Constitution of India** as well as under International Covenant on Civil and Political Rights. **Article 25(a) of**

the **International Covenant on Civil and Political Rights** also states that *every citizen shall have the right and the opportunity to take part in the conduct of public affairs*, directly or through their chosen representatives.

7. **Rationale for the organizations that are exempted u/s 24 of RTI Act:**

It is submitted that political parties cannot be taken out from the ambit of Right to Information Act simply by bringing an arbitrary amendment to the RTI Act. This will have to be tested for constitutionality and conflict of interest in the court of law. The subliminal role played by the political parties in the life of a common man cannot be overlooked. Their assessment making directly affect us in many ways. This is a constitutional crisis and this is a huge predicament for people at large.

Even the organizations exempted under Section 24 read with 2<sup>nd</sup> Schedule are the ones that work on highly sensitive issues, information of which can at times impede with the sovereignty and security of this country. The Legislature was quite mindful on Section 24 of the Act. The sole intention of the legislature on Section 24 was to exempt only those organizations which are exceptionally different in their working and require somewhat immunity for giving information. It excluded that information which had no relevance with the public function and public interest at large. Clause (1) of section 24 specifically mentions that nothing contained in this Act shall apply to intelligence and security organizations specified in the second schedule. Likewise under Section 24(4), the State Government(s) are empowered to specify such intelligence and security organizations. Furthermore, the exemption under Section 24



is not absolute. Information pertaining to allegations of corruption and human rights violations are not excluded from the purview of RTI Act.

## Chapter 5

### **Arguments based on Legal Jurisprudence & Equity for Inclusion of Political Parties under RTI Act.**

#### **1. A “Laissez-faire” outlook gauged under Article 19(1)(a):**

It is submitted that the right of the citizens to obtain information on matters relating to public acts streams from the Fundamental Right enshrined in Article 19(1)(a). Right to Information is a facet of the Right to Freedom of Speech and an expression as contained under Article 19(1)(a) of the Constitution. Right to Information or more to say Right to Know, indisputably is a Fundamental Right. Therefore, when the effect of RTI is to secure the interest of the society and not the interest of political parties, as a result, such an amendment in the Right to Information Act, is completely unconstitutional, unwarranted, and undemocratic.

**In 1927, in Whitney v California 247 U.S. 214, Louis Brandeis, J.,** made a classic statement on freedom of speech in context of the U.S Constitution:

*“Those who won our independence believed that the final end of the state was to make men free to develop their faculties.....they believed liberty to be secret of happiness and courage to be the secret of liberty. They believed that the freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile. ....that public discussion is a political duty; and that this should be a fundamental principle of the American government.”*

In view of the above, the proposed amendment will not only reduce public participation in a democracy but it will also reduce to a considerable extent the better efficiency, conduct and behavior of political parties. In the interest of the public and for a more vibrant democracy, it is requested before the Hon'ble Committee to review the implications of the restriction proposed by the said amendment with a view that such an amendment restricting political parties from the purview of the RTI Act should not go against the indispensable norms and morals of a democracy and nonetheless it should not be against the fundamental objective of Article 19(1)(a).

**2. Illegality of the proposed amendment:**

This submission before this Hon'ble Committee is aimed against the particular amendment brought out by the Legislature by exempting political parties from the purview of the RTI Act. Section 2(h) of the RTI Act gives out the definition of the "Public Authorities". Therefore, every single organization that fulfils such a criteria of being a "Public Authority" under Section 2(h) will be declared as a public authority thereby falling under the ambit of Right to Information Act, 2005. Political parties fulfil the criteria given under the definition given under Section 2(h). Therefore, exempting political parties from the ambit of the Right to Information Act especially when it is clear that they meet all the criteria of being a public authority would be not only illegal but also immoral.

### **3. Preamble of Indian Constitution compasses the length and breadth of**

#### **Political parties within RTI Act:**

**3.1. Democracy as the basic structure:** The Preamble to the Constitution proclaims India to be a Sovereign Socialist Secular Democratic Republic. The significant aspect of the Preamble is that the Republic is Democratic and Justice, liberty, equality and fraternity are essential characteristics of a democracy as declared in the Preamble as the very objectives of the Constitution. Time and again, democracy has been held a part of the basic structure of the Constitution. The institution set up under the Constitution shall seek to give effect to democracy in India which is to be sustained by right to know, right to form an informed choice and right to participate.

**3.2. Justice as the basic structure of the Constitution:** The word Justice given in the Preamble talks of justice- social, economic and political. Therefore, for a political justice, the citizens have a right to be part and parcel of a political environment. They have a equal right to contribute, pose questions or form an opinion. Any act of the Parliament which contravenes such political justice is in contravention of the political justice as mentioned in the Preamble.

### **4. Remedy lies with the Political Class:**

A true democracy cannot work until and unless the citizens can and do participate, and take their identical share of responsibility in it. Democracy cannot just stand on one pillar. For an active and a vibrant democracy, the People of India need to participate, express their opinion, and make their choices. This goal cannot be reached until and unless there is a transparency and accountability in the political structure of our country. Henceforth, Political parties have to come clean, be more accountable and transparent, and let people question them freely, openly and legitimately.

**5. A significant supremacy of the political parties under Tenth Schedule:**

The Forty Second Amendment of the Constitution with effect from 01.03.1985 which introduced Articles 102(2) and 191(2), and **The Tenth Schedule to the Constitution**, has made political parties a constitutional entity and even more critical, important, and powerful in the functioning of democracy in the country. The Tenth Schedule gives a most noteworthy right to the political parties so as to decide whether an MP should be in the Parliament or not. The representatives have to vote as well as work according to the directions of the party to which they belong. Therefore, the political parties have the power over their elected MPs and this power is not confined only to the manner of voting but it also extends to their conduct.

A supreme dominance has been accorded to the political parties under Tenth Schedule. In the light of the above-mentioned function, it is contended before the Hon'ble Committee that such an amendment excluding political parties from the ambit of Right to Information Act, 2005 is clearly unconstitutional and also leads to the issue of conflict of interest.

**6. Article 13(2)- A sentinel for Fundamental Rights(Right to Know):**

Article 13(2) bars the State and its instrumentalities from making any law which infringes the Fundamental Rights as enshrined in the Constitution. According to Article 13(2), the State shall not make any law which takes away or abridges the Fundamental Rights and a law contravening a Fundamental Right is to the extent of that contravention, void. Article 13(2) is a crucial constitutional provision which deals with the post constitution laws. Submission before this Hon'ble Committee is that Article 13 (2) acts as a sentinel, defender and interpreter of the Fundamental Rights. It is the function of Article 13(2) to assess individual laws vis-a-vis the Fundamental

Rights so as to ensure that no law infringes a Fundamental Right and to declare such a law as unconstitutional.

It is submitted before this Hon'ble Committee that this particular amendment in the Right to Information by the Parliament can be a cantankerous law. This particular exemption in question is not only perverse but it also contravenes with the basic fundamental rights of the citizens i.e Right to Know (Article 19(1)(a) and Right to Equality (Article 14).

**7. Scope of this particular amendment vis-à-vis 'Right to Know': An amendment has to be in line with the Constitution:**

Whenever Legislature proposes an amendment to a law, it should be in keeping with the whole act, its intention, belief and basic structure. It should be in line with the whole idea behind the act, its reasons and scope. Going by the provisions in the RTI Act which in turns emerges from Freedom of Expression guaranteed under Article 19(1)(a), the Parliament cannot escape from their obligation of imparting the information by bringing such an uncontrolled amendment to the RTI Act. This way they will be in fact trying to narrow down the whole intention of the RTI Act. The Legislature opens its mind in the form of certain language. It enacts a law with a definite purpose. The object of interpretation is to discover what the Legislature intended. Therefore, that conjecture needs to be followed which fulfils or furthers the object of the statute instead of bringing such an amendment which will only negate this fundamental basic right; "Right to know".

Taking lexis from the Supreme Court while describing on the exercise of power by executive and its limits in *Association for Democratic Reforms vs. Union of India* ,

W.P 490 OF 2002 took the view in *P. Sambamurthy v. State of A.P.* [(1987) 1 SCC 363], this Court observed:—

*“74 ..... it would be unfair to adopt legislative procedure to undo a settlement which had become the basis of a decision of the High Court. Even if legislation can remove the basis of a decision, it has to do it by alteration of general rights of a class but not by simply excluding the specific settlement which had been held to be valid and enforceable by a High Court. The object of the Act was ineffect to take away the force of the judgment of the High Court. The rights under the judgment would be said to arise independently of Article 19 of the Constitution.”*

Again it was held in Para 76;

*“76. The principle which emerges from these authorities is that the legislature can change the basis on which a decision is given by the Court and thus change the law in general, which will affect a class of persons and events at large. It cannot, however, set aside an individual decision inter parties and affect their rights and liabilities alone. Such an act on the part of the legislature amounts to exercising the judicial power of the State and to functioning as an appellate court or tribunal.”*

## **8. Parliament’s Competence to make Laws in certain matters.**

8.1 An issue worth noting is: Is there a limit to Parliament’s authority to make laws?

Is the Parliament authorized to make a law which benefits only and only political class and harms the populace in general? Does Parliament have a right to make a law which is unconstitutional or which generates a conflict of interest?

8.2 In words of Justice P.N Bhagwati, in Rajasthan v. Union of India AIR 1977 SC 1361 and 369 U.S.186 ;

*"80 It is necessary to assert in the clearest terms particularly in the context of recent history, that the constitution is supreme lex, the permanent law of land, and there is no department or branch of government above or beyond it. Every organ of the government, be it the executive or the legislature or the judiciary, derives its authority from the constitution and it has to act within the limits of its authority. No one however highly placed and no authority howsoever lofty can claim that it shall be the sole judge of the extent of its power under the constitution or whether its action is within the confines of such power laid down by the constitution. This court is the ultimate interpreter of the constitution and to this Court is assigned the delicate task of determining what is the power conferred on each branch of government, whether it is limited, and if so, what are the limits and whether any action of that branch transgresses such limits."*

8.4. It is submitted before the Hon'ble Committee that in a State with a written Constitution, forming the fundamental and paramount law of nation, the legislature must act within the ambit of the powers as defined by the Constitution and subject to the limitations prescribed thereby. Even in A.K Gopalan case, the Supreme Court has emphasized that, *"In India it is the Constitution that is supreme and that a statute law to be valid, must in all cases be in conformity with the constitutional requirements and it is for the judiciary to decide whether any enactment is constitutional or not and*



*if a legislature transgresses any constitutional limits, the Court has to declare the law unconstitutional."*

## **9. 170<sup>th</sup> Law Commission Report:**

The major flaw in the political set up of our nation is the lack of financial transparency and accountability. By getting political parties under the ambit of Right to Information Act, this particular error can be majorly corrected. Transparency in the functioning of political parties was recommended by the Law Commission of India in their 170th Report on "Reform of the Electoral Laws" submitted in May 1999. This is what the Law Commission said:

*"On the parity of the above reasoning, it must be said that if democracy and accountability constitute the core of our constitutional system, the same concepts must also apply to and bind the political parties which are integral to parliamentary democracy. It is the political parties that form the government, man the Parliament and run the governance of the country. It is therefore, necessary to introduce internal democracy, financial transparency and accountability in the working of the political parties. A political party which does not respect democratic principles in its internal working cannot be expected to respect those principles in the governance of the country. It cannot be dictatorship internally and democratic in its functioning outside" (Emphasis added) (Para 3.1.2.1).*

## Chapter 6

### **AMOUNT OF SUBSTANTIAL FUNDING RECEIVED BY POLITICAL PARTIES:**

*(Information was received through various RTIs filed with the Directorate of Estates (DOE), Doordarshan, All India Radio (AIR), ECI, Income Tax department, District Election Officers as well as various press reports)*

#### **A. State funding in the form of Offices/ Bungalows , VIP Houses, Suits etc at the prime locations, land allotment etc:**

##### **1) Accommodation allotted with its monetary value as well as its analysis: (Based on our RTI )**

##### **1.1) Allotment of prime Bungalows to the Political Parties:**

###### **Rationale for current Market Rental Rates**

Current market rental rates are being arrived at on the basis of the consulting reports generated by the best companies in the domain of Real Estate Consulting/Investment. **(Jones Lang Lasalle, Cushman and Wakefield and Citigroup)**. These reports are primarily based on the principle of “*Comparative Valuation*” where the activity in the real estate market is tracked (in terms of how many properties in a particular area are rented out at what rental rates) and an average rental rate is being put forward as the current benchmark rate for a particular geographical region within a city. For example, one such report by the firm named Jones Lang Lasalle (JLL) writes that in March 2013 the rental rates for Offices in Barakhamba Road have been in the range of {Rs. 170 to Rs. 400 per sq. ft.} and rental rates for Retail spaces in South Delhi and West-North Delhi geographical zones have been in the range of {Rs. 180 - Rs. 280} and {Rs. 140 - Rs. 220} respectively. **Therefore, if we take a Rs.**

**200 per sq. ft. rental rate for the posh Lutyen's Delhi it will be a very conservative figure to estimate the rental values in that area.**

Party	Office and Address	Area (in Square Meters) (A)	Total Rent being paid by the party for the office (Rs. per month) (B)	Market Rent per month (based on the very conservative rates for Lutyen's Delhi- @ Rs. 200 per sq ft) (Rs. In Lakhs) (C=A*10.76*200)	Effective state funding per month (Rs. In Lakhs) (D=C-B)	Effective state funding per year (Rs. in Crores) E=(D*12)	Total state funding for these political parties (Rs. In Crores per year) (F)	Total state funding for these political parties (Rs. In Crores per 5 years) (G=5*F)
INC	26, Akbar Road	623.85	5,167	13.43	13.37	1.60	6.24	31.19
	24, Akbar Road	936.97	48,785	20.16	19.68	2.36		
	5, Raisina Road	639.3	37,318	13.76	13.38	1.61		
	C II/109, Chanakyapuri	261.77	8,078	5.63	5.55	0.67		
BJP	11, Ashoka Road	1000.11	73,585	21.52	20.79	2.49	4.67	23.33
	14, Pandit Pant Marg	848.56	16,403	18.26	18.10	2.17		
BSP	16, G.R.G. Road	419.78	935	9.03	9.02	1.08	1.08	5.41
NCP	10, B.D. Marg	-	935	-	-	-	-	-
CPIM	8, Teen Murti Lane	512.57	2519	11.03	11.01	1.32	1.32	6.60
<b>Total state funding for these political parties (for the above offices only) per 5 years in Crore Rs.</b>								<b>66.53</b>

\*1 Sq. M. = 10.76 Sq. Ft.

\*Political parties are also allotted accommodation in V.P. House a list of which is given below.

### **1.2) Allotment of V.P Houses to the Political Parties:**

Party	Accommodation and Address	Area (in Square Meters) (A)	Market Rent per month (based on Real Estate Consulting Reports @ Rs. 200 per sq ft) (Rs.) (B= A*10.76*200)	Total Rent paid by the party for the accommodation (Rs. per month) (C)	Effective state funding per month (Rs.) (D= C-B)	Effective State Funding per year (Rs. In Lakhs) (E= D*12)	Effective State Funding per year per party (Rs. In Lakhs) (F)	Effective State Funding per 5 years per party (Rs. Crores) (G=F*5)
INC	1, V.P.House	45.26	97399.52	352	97047.52	11.65	93.17	4.66
	15, V.P.House	45.26	97399.52	352	97047.52	11.65		

Party	Accommodation	Area	Market Rent	Total Rent paid	Effective	Effective	Effective	Effective
	16, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	104, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	112, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	211, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	411, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	416, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
BJP	24, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65	93.16	<b>4.66</b>
	115, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	122, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	301, V.P.House	45.26	<b>97399.52</b>	382	97017.52	11.64		
	302, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	317, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
	417, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65		
503, V.P.House	45.26	<b>97399.52</b>	352	97047.52	11.65			
RJD	13, V.P.House	67.28	<b>144786.56</b>	508	144278.56	17.31	17.31	<b>0.87</b>
<b>Total state funding for these political parties (for the V.P House Only) per 5 year (Rs. In crores)</b>								<b>10.19</b>

## 2) Accommodation allotted with its monetary value and analysis:

(Based on RTI information received by Mr. Subhash Chandra Aggarwal )

### Rationale for current Market Values (Capital Values)

- The Real Estate (property) consulting reports generated by **Cushman and Wakefield and Citigroup** for the first quarter of 2013, also provides current market rates for the various areas in Delhi. Both these reports mention that the current prevailing market rate per sq ft in the Central Delhi Area is in the range of {Rs. 60,000 per sq ft. - Rs. 90,000 per sq ft.}
- In addition to relying on the above mentioned research reports of Real Estate Consulting Giants, the market value of the properties can also be assessed by tracking the recent popular real estate deals in and around the (Central) Lutyen's Delhi Area.

### Recent Sales in Lutyen's Delhi Area as reported by Media (in 2012 & 2013 reports)

S. No.	Address	Area (A)	Market Value (Rs. In crores) (B)	Effective Rate per sq. ft. (Rs.) C=B/A
1.	11 A/C Prithviraj Road	3171 sq yd.	300	<b>1,05,119.3</b>
2.	13 Pritviraj Road	8543 sq yd.	590	<b>76,735.99</b>

S. No.	Address	Area (A)	Market Value (Rs. In crores) (B)	Effective Rate per sq. ft. (Rs.) C=B/A
3.	13, Amrita Shergill Marg	2950 sq. yd.	300	1,12,994.4
4.	38, Amrita Shergill Marg	3450 sq. yd.	165	53,140.1
4.	45, Prithviraj Road	4840 sq. yd.	480	1,10,192.8
5.	17, Tughlaq Road	8000 sq. yd.	600	83,333.33
6.	Leela Palace Hotel, Chanakyapuri	3 Acres	610	46,678.91
Current Average Market rate per sq feet				84,027.83

\*Conversions Used: 1 Sq. yd. = 9 Sq. ft. & 1 Acre= 4840 Sq. Yd.

\* Based on Press Reports-

- <http://indiatoday.intoday.in/story/realty-rates-lutyens-delhi-tughlaq-road-prithviraj-road/1/226253.html>
- <http://www.indianexpress.com/news/power-elite-used-land-sale-to-give-themselves-a-new-new-delhi/1115056/0>
- <http://www.financialexpress.com/news/in-realty-rates-lutyens-delhi-beats-ny-london-hands-down/1082578>
- <http://www.firstpost.com/real-estate/dilapidated-bungalows-in-lutyens-delhi-costlier-than-ny-condos-730239.html>
- [http://articles.economictimes.indiatimes.com/2013-04-26/news/38843472\\_1\\_bungalows-rs-600-crore-property-prices](http://articles.economictimes.indiatimes.com/2013-04-26/news/38843472_1_bungalows-rs-600-crore-property-prices)

2.1) **Allotment of Plots of Land that have been allotted to the political parties: Therefore, if we take Rs. 60,000 as a representative rate for Lutyen's Delhi it will be a very conservative figure to estimate the capital values in that geographical area.**

Party	Office and Address (with Allotted Dates)	Area (A)	Area in Sq. Fts. ( 1 sq. m. = 10.76 sq fts, 1 sq. yd. = 9 sq. fts., 1 Acre= 4840 sq. yds.) (B)	Current Market Value of the Allotted Plots of Land (based on Real Estate Consulting Reports @ Rs. 60,000 per sq ft (Rs. In Crores) (C= B* 60,000)	Current Market Value of these Allotted Plots (Party- wise) (Rs. In Crores)
INC	Plot at Dr. Rajinder Prasad Road, New Delhi (Allotted on 08-09-1975)	9518.42 sq. yds.	85665.78	513.99	1097.27

Party	Office and Address (with Allotted Dates)	Area	Area in Sq. Fts. ( 1 sq. m. = 10.76 sq fts, 1 sq. yd. = 9 sq. fts., 1 Acre= 4840 sq. yds.)	Current Market Value of the Allotted Plots of Land (based on Real Estate Consulting Reports @ Rs. 60,000 per sq ft (Rs. In Crores)	Current Market Value of these Allotted Plots (Party- wise) (Rs. In Crores)
		(A)	(B)	(C= B* 60,000)	
	Pocket 9A, Kotla Road, New Delhi (Allotted on 19-11-2007)	8092 sq. m.	87069.92	<b>522.42</b>	
	Plot No. 2, Rouse Avenue Institutional Area (Allotted on 15- 5-1987)	1127 sq. yds.	10143	<b>60.86</b>	
BJP	Between Dr. Rajendra Prasad Road and Raisina Road (Allotted on 08-03-2001)	1.87 Acres	81457.20	<b>488.74</b>	<b>618.13</b>
	Plot No. 4 & 5 Kotla Road New Delhi (Allotted on 12-05- 2010)	1060.80 sq. m.	11414.21	<b>68.49</b>	
	Plot No. 1, Rouse Avenue (Allotted on 25-04-2001)	.233 Acres	10149.48	<b>60.90</b>	
CPI(M)	Plots No. 27, 28 & 29 at Market Road Institutional Area, New Delhi (Allotted on 11-04-1967)	1197 sq. m.	12879.72	<b>77.28</b>	<b>240.94</b>
	Plot No. 10, 11, 12 & 13 Kotla Road, New Delhi (Allotted on 11- 12-2008)	2535 sq. m.	27276.60	<b>163.66</b>	
CPI	Plot No. 15 Kotla Marg, New Delhi (Allotted on 2-12- 1967)	. 3 acres	13068.00	<b>78.41</b>	<b>78.41</b>
RJD	Plots No. 34, 57, 58 & 59 at Kotla Road, New Delhi (Allotted on 03- 07-2007)	1904 sq. m.	20487.04	<b>122.92</b>	<b>122.92</b>
SP	Plot No. 1, Vasant Kunj Institutional Area, New Delhi (Allotted on 21-01- 2009)	1 Acre	43560.00	<b>261.36</b>	<b>261.36</b>
JD	Plot No. 4, Vasant Vihar Institutional Area, New Delhi (Allotted on 24-10- 2010)	2000 sq. m.	21520.00	<b>129.12</b>	<b>129.12</b>

Party	Office and Address (with Allotted Dates)	Area  (A)	Area in Sq. Fts. ( 1 sq. m. = 10.76 sq fts, 1 sq. yd. = 9 sq. fts., 1 Acre= 4840 sq. yds.)  (B)	Current Market Value of the Allotted Plots of Land (based on Real Estate Consulting Reports @ Rs. 60,000 per sq ft (Rs. In Crores)  (C= B* 60,000)	Current Market Value of these Allotted Plots (Party- wise) (Rs. In Crores)
AIADMK	Plot No. 13 & 25, Pushp Vihar, MB Road Saket, New Delhi (Allotted on 30-07- 2010)	1008 sq. m.	10846.08	<b>65.08</b>	<b>65.08</b>
AITC	Plot Nos. 2 and 3 at DDU Marg, New Delhi (Allotted on 01-03- 2011)	1000 sq. m.	10760.00	<b>64.56</b>	<b>64.56</b>
<b>Total of Current Market Values of the plots of land allotted to the Political Parties (Rs. In Crores)</b>				<b>2677.78</b>	<b>2677.78</b>

**3) Total summary of State Funding of Political Parties in the form of renting out offices at subsidized rates and allotment of plots of land**

S. No.	Type of State Funding	Total Amount of State Funding (Rs. In Crores)
1.	Renting out Offices to Political Parties at Subsidised Rates	<b>66.53</b> (every 5 years)
2.	Renting out Accommodations to Political Parties in V.P. House at Subsidised Rates	<b>10.19</b> (every 5 years)
3.	Allotment of Plots of Land to Political Parties in New Delhi	<b>2677.78</b> (One time Cost, Current Market Value)

\*Similarly properties are also allotted to Political Parties in different states (**Attached-Uttar Pradesh Estate Office Document, Andhra Pradesh Revenue Department Document**)

**B. State funding in the form of free airtime in Doordarshan and AIR:**

*(Information was received through Doordarshan and AIR by the way of RTIs filed with them. The same information is also available on the website of ECI.)*

**1) Amount spend by State on free airtime in Doordarshan**

**1.1) Buy rate for the time in Doordarshan :**

For National Network

- i. Prime –Time ₹ 60,000/- per 10 second
- ii. Mid- Prime – Time ₹ 15,000/ per 10 second
- iii. Non-Prime- Time ₹ 15,000/- per 10 second

For the regional Kendras

- i. Prime –Time ₹ 20,000/- per 10 second
- ii. Mid- Prime – Time ₹ 15,000/- per 10 second
- iii. Non-Prime- Time ₹ 10,000/- per 10 second

**1.2) Total telecast time allotted to a few Political Parties on National Channel and Regional Kendras during 2009 Lok Sabha election with analysis:**

State Funding by DD through National Network					State Funding by DD through Regional Kendras			
S. No	Name of the Party	Time allotted for telecast at the national network of DD during LS '09 (Min)	Minimum Rate charged by national network of DD at non prime time every 10 seconds	Amount spend by the state for the national network during LS '09 (₹ crores)	Time allotted for telecast at the regional network during LS '09 (Min)	Minimum Rate charged by regional network at non prime time every 10 seconds	Amount spent by State for the regional network during LS '09 (₹ crores)	Total Amount spend by the state on political parties for both the national and regional network during LS '09 (₹ crores)
		(A)	(B)	(C)=[{(A*60)/10}*B]	(D)	(E)	F=[{(D*60)/10}*E]	G=(C+F)
1	BJP	140	15,000	1.26	215	10,000	1.25	2.51
2	INC	160	15,000	1.44	240	10,000	1.44	2.88
3	BSP	70	15,000	0.63	100	10,000	0.60	1.23
4	CPI	50	15,000	0.45	75	10,000	0.45	0.90
5	CPI(M)	70	15,000	0.63	105	10,000	0.63	1.26
6	NCP	50	15,000	0.45	80	10,000	0.48	0.93
7	RJD	55	15,000	0.49	85	10,000	0.51	1.00
	<b>Total</b>	<b>595</b>		<b>5.35</b>	<b>900</b>		<b>5.40</b>	<b>10.75</b>

Table: Amount spent by state on political parties during Lok Sabha 2009 elections

**As can be seen from the table above, Doordarshan spent a minimum of Rs. 10.75 crores just on 7 Political Parties during Lok Sabha 2009 elections**



2) **Amount spend by State on free airtime in All India Radio(AIR):**

2.1) **Buy rate for the time in All India Radio:**

- i. Time- Category – 1, 1900-2200: ₹ 1,200/- per 10 second
- ii. Time- Category – 2, 2200-0100: ₹ 1,000/- per 10 second
- iii. Time- Category – 3, 0100-0600: ₹ 800/- per 10 second

2.2) **Total broadcast time allotted to a few Political Parties during Lok Sabha 2009 elections with analysis:**

S. No	Name of the Party	Time allotted for broadcast at the AIR during LS '09 (Min) for political parties (A)	Minimum Rate charged by AIR in time-category – 3 for every 10 seconds (B)	Amount spent by the state for AIR (₹ lakhs) (C)=[{(A*60)/10*B}]
1	BJP	140	800	6.72
2	BSP	70	800	3.36
3	CPI	50	800	2.40
4	CPI(M)	70	800	3.36
5	INC	160	800	7.68
6	NCP	50	800	2.40
7	RJD	55	800	2.64
	<b>Total</b>	<b>595</b>	<b>800</b>	<b>28.56</b>

*\*Regional Channels Rate Card was not available for All India Radio*

**All India Radio spent a minimum of Rs. 28.56 lakhs just on 7 Political Parties**

2.3) **Amount spent on a few Political Parties by DD and AIR in Lok Sabha 2009**

S. No	Name of the Party	Amount spent on a few Political Parties by the state for the national network during LS '09 (Rs. In Crores) (A)	Amount spent on a few Political Parties by the state for the regional network during LS '09 (Rs. In Crores) (B)	Amount spent on a few Political Parties by the state for the All India Radio (Rs. In crores) (C)	Total Amount spend by the state on political parties for both the national and regional network during LS '09 (Rs. In crores) (D= A+B+C)
1	BJP	1.26	1.25	0.067	2.58
2	INC	1.44	1.44	0.077	2.96
3	BSP	0.63	0.6	0.034	1.26
4	CPI	0.45	0.45	0.024	0.92
5	CPI(M)	0.63	0.63	0.034	1.29
6	NCP	0.45	0.48	0.024	0.95
7	RJD	0.49	0.51	0.026	1.03
	<b>Total</b>	<b>5.35</b>	<b>5.4</b>	<b>0.286</b>	<b>11.04</b>

The table above provides the aggregate of the money spent by DD and AIR on just 7 Political Parties during Lok Sabha 2009 elections. On 7 Political Parties DD & AIR collectively spend Rs. 11.04 crores, during Lok Sabha 2009 elections.

**2.4) Total State Funding by Doordarshan (DD) and All India Radio (AIR) on all Political Parties during Lok Sabha 2009 Elections**

The following computations are based on the ECI order, during Lok Sabha 2009 elections, where the total time slots have been mentioned that were supposed to be dedicated to Political Parties on DD & AIR. The amount spent by DD & AIR during elections is calculated based on the minimum rates offered (by them).

	<b>Allocation of Telecasting/Broadcasting time in LS 2009 (A)</b>	<b>Number of Hours (B)</b>	<b>Lowest Rate charged by national network of DD at non prime time every 10 seconds (C)</b>	<b>Total State Funding in LS 2009 (in crores) [D={{(B*3600)/10*C}]</b>
Doordarshan	National Channel of the Doordarshan for telecasts by National Parties	10	10,000	3.60
	Regional Doordarshan Kendras for telecasts by the National Parties	15	10,000	5.40
	Regional Doordarshan Kendras for telecasts by the State Parties	30	10,000	10.80
	Regional Satellite Services to viewers across the whole country	7.5	10,000	2.70
All India Radio	National Hookup of the All India Radio for broadcasts by National Parties	10	800	0.28
	Regional AIR Stations for broadcasts by the National Parties	15	800	0.43

	Regional AIR Stations for broadcasts by the State Parties	30	800	0.86
	National Hookup of the All India Radio for broadcasts by State Parties	7.5	800	0.21
<b>Total</b>		<b>125</b>		<b>24.28</b>

Overall, the total state funding of all Political Parties by Doordarshan and All India Radio on Lok Sabha 2009 Elections was **Rs. 24.28 crores**

**2.5) Amount Spent by Doordarshan and All India Radio on Political Parties in the 2012 Assembly Elections in 7 states**

The following calculations are based on the ECI orders during state assembly elections in 2012 where party-wise time slots on DD & AIR have been provided. The amount spent by DD & AIR during elections is calculated based on the minimum rates offered (by them).

State Funding by DD through National Network				State Funding by DD through Regional Kendras		
Elections to State Assembly	Political Parties	Doordarshan time slots allocated to party (in mins) (A)	Amount spent by the state (in lakhs) @ Rs. 10,000 per 10 secs [B = {(A*60)/10}*10000]	All India Radio time slots allocated to party in mins (C)	Amount spent by the state (in lakhs) @ Rs. 800 per 10 secs [D= {(C*60)/10}*800]	Aggregate of Doordarshan and AIR, value spent by state on political parties (in lakhs) (E = B+D)
Uttar Pradesh (2012)	BSP	178	106.80	178	8.544	115.344
	BJP	119	71.40	119	5.712	77.12
	CPI	45	27	45	2.16	29.16
	CPI(M)	46	27.60	46	2.208	29.808
	INC	83	49.80	83	3.984	53.784
	NCP	45	27	45	2.16	29.16
	RLD	46	27.60	46	2.208	29.808
	SP	156	93.60	156	7.488	101.388
<b>Total</b>		<b>720</b>	<b>432</b>	<b>720</b>	<b>34.56</b>	<b>466.56</b>

State Funding by DD through National Network				State Funding by DD through Regional Kendras		
Elections to State Assembly	Political Parties	Doordarshan time slots allocated to party (in mins) (A)	Amount spent by the state (in lakhs) @ Rs. 10,000 per 10 secs [B = {(A*60)/10}*10000]	All India Radio time slots allocated to party in mins (C)	Amount spent by the state (in lakhs) @ Rs. 800 per 10 secs [D= {(C*60)/10}*800]	Aggregate of Doordarshan and AIR, value spent by state on political parties (in lakhs) (E = B+D)
Punjab (2012)	BSP	59	35.40	59	2.832	38.232
	BJP	73	43.80	73	3.504	47.304
	CPI	48	28.80	48	2.304	31.104
	CPI(M)	46	27.60	46	2.208	29.808
	INC	186	111.60	186	8.928	120.528
	NCP	45	27	45	2.16	29.16
	SAD	173	103.80	173	8.304	112.104
<b>Total</b>		<b>630</b>	<b>378</b>	<b>630</b>	<b>30.24</b>	<b>408.24</b>
Uttarakhand (2012)	BSP	91	54.60	91	4.368	58.968
	BJP	169	101.40	169	8.112	109.512
	CPI	46	27.60	46	2.208	29.808
	CPI(M)	46	27.60	46	2.208	29.808
	INC	160	96	160	7.68	103.68
	NCP	52	31.20	52	2.496	33.696
	UKD(P)	33	19.80	33	1.584	21.384
	JUKD	33	19.80	33	1.584	21.384
<b>Total</b>		<b>630</b>	<b>378</b>	<b>630</b>	<b>30.24</b>	<b>408.24</b>
Manipur (2012)	BSP	45	27	45	2.16	29.16
	BJP	50	30	50	2.40	32.4
	CPI	76	45.60	76	3.648	49.248
	CPI(M)	45	27	45	2.16	29.16
	INC	230	138	230	11.04	149.04

State Funding by DD through National Network				State Funding by DD through Regional Kendras		
Elections to State Assembly	Political Parties	Doordarshan time slots allocated to party (in mins) (A)	Amount spent by the state (in lakhs) @ Rs. 10,000 per 10 secs [B = {(A*60)/10}*10000]	All India Radio time slots allocated to party in mins (C)	Amount spent by the state (in lakhs) @ Rs. 800 per 10 secs [D= {(C*60)/10}*800]	Aggregate of Doordarshan and AIR, value spent by state on political parties (in lakhs) (E = B+D)
	NCP	91	54.60	91	4.368	58.968
	MPP	128	76.80	128	6.144	82.944
	RJD	81	48.60	81	3.888	52.488
	NPP	64	38.40	64	3.072	41.472
<b>Total</b>		<b>810</b>	<b>486</b>	<b>810</b>	<b>38.88</b>	<b>848.88</b>
Goa (2012)	BSP	45	27	45	2.16	29.16
	BJP	175	105	175	8.40	113.4
	CPI	46	27.6	46	2.208	29.808
	CPI (M)	45	27	45	2.16	29.16
	INC	183	109.80	183	8.784	118.584
	NCP	66	39.60	66	3.168	42.768
	MAG	82	49.20	82	3.936	53.136
	SGF	78	46.80	78	3.744	50.544
<b>Total</b>		<b>720</b>	<b>432</b>	<b>720</b>	<b>34.56</b>	<b>466.56</b>
Himachal Pradesh (2012)	BSP	67	40.2	67	3.2	43.4
	BJP	175	105.0	175	8.4	113.4
	CPI	46	27.6	46	2.2	29.8
	CPI (M)	47	28.2	47	2.3	30.5
	INC	161	96.6	161	7.7	104.3
	NCP	45	27.0	45	2.2	29.2
<b>Total</b>		<b>541</b>	<b>324.6</b>	<b>541</b>	<b>26.0</b>	<b>350.6</b>
Gujarat	BSP	53	31.8	53	2.5	34.3

State Funding by DD through National Network				State Funding by DD through Regional Kendras		
Elections to State Assembly	Political Parties	Doordarshan time slots allocated to party (in mins) (A)	Amount spent by the state (in lakhs) @ Rs. 10,000 per 10 secs [B = {(A*60)/10}*10000]	All India Radio time slots allocated to party in mins (C)	Amount spent by the state (in lakhs) @ Rs. 800 per 10 secs [D= {(C*60)/10}*800]	Aggregate of Doordarshan and AIR, value spent by state on political parties (in lakhs) (E = B+D)
(2012)	BJP	191	114.6	191	9.2	123.8
	CPI	45	27.0	45	2.2	29.2
	CPI (M)	45	27.0	45	2.2	29.2
	INC	158	94.8	158	7.6	102.4
	NCP	48	28.8	48	2.3	31.1
Total		540	324.0	540	25.9	349.9

**2.6) Party-wise Distribution of State Funding of a few Political Parties by Doordarshan (DD) and All India Radio (AIR) during State Assembly Elections of 2012**

Major Political Parties	Amount spent by DD & AIR on UP elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Pujab elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Uttrakhand elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Manipur elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Goa elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Himachal Pradesh elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Gujarat elections of 2012 (in Rs. Lakhs)	Amount spent by State in 7 state elections of 2012 (in Rs. Crores)
BSP	115.34	38.23	58.97	29.16	29.16	43.4	34.3	3.48
BJP	77.12	47.30	109.51	32.4	113.4	113.4	123.8	6.17
CPI	29.16	31.10	29.80	49.25	29.81	29.8	29.2	2.29
CPI(M)	29.80	29.80	29.80	29.16	29.16	30.5	29.2	2.08
INC	53.78	120.52	103.68	149.04	118.58	104.3	102.4	7.53
NCP	29.16	29.16	33.69	58.97	42.77	29.2	31.1	2.54
SP	101.38	-	-	-	-	-	-	1.01
SAD	-	112.10	-	-	-	-	-	1.12

Major Political Parties	Amount spent by DD & AIR on UP elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Pujab elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Uttrakhand elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Manipur elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Goa elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Himachal Pradesh elections of 2012 (in Rs. Lakhs)	Amount spent by DD & AIR on Gujarat elections of 2012 (in Rs. Lakhs)	Amount spent by State in 7 state elections of 2012 (in Rs. Crores)
RJD	-	-	-	52.4	-	-	-	0.52
Total Value of State Funding by DD & AIR on Political Parties by (Doordarshan and AIR) in 7 state elections of 2012					Rs. 26.74 crores			

**2.7) Summary of State Funding of Political Parties by Doordarshan (DD) and All India Radio (AIR) during State Elections**

State Funding of a few Political Parties by Doordarshan and AIR during State Assembly Elections of 2012 in 7 states	Rs. 26.74 crores
Average State Funding of Political Parties by Doordarshan and AIR per State Assembly Elections	Rs. 3.82 crores
Therefore, for every election conducted in <b>5 years for the 30 states, the state funding of Political Parties by Doordarshan (DD) and All India Radio (AIR)</b>	Rs. 114.6 crores

**C. State funding in the form of electoral rolls:**

*(Information was received by filing RTIs with the District Election Officers of the various states)*

**1) Constituency- wise amount spent by ECI on free supply of electoral rolls for LOK Sabha 2009 elections:**

Under the provisions of rules 11 and 12 of the Registration of Electors Rules, 1960 two copies of the Electoral roll, one printed copy and another in CD is supplied to recognized political parties, free of cost, after draft and final publications. RTIs were filed to know the amount spent by the Election Commission on electoral rolls for recognized political parties at various constituencies. The information received from these RTIs is provided below:

S. No	Constituency	State	Data given by various Government of India offices under RTI	Cost for 1 roll
1	Bangalore North	Karnataka	Cost per roll is ₹97000 for 4 candidates.	₹97,000
2	Shillong	Meghalaya	Total Cost for 3 sets given to 3 candidates contesting from recognized parties is ₹3,01,660	₹1,00,553
3	Tura	Meghalaya	Total Cost for 2 candidates from recognized political parties is ₹1,74,468	₹87,234
4	Howrah	West Bengal	Total Cost for candidates of recognized political parties is ₹1,98,604	₹49,651
5	Uluberia	West Bengal	Total Cost for candidates of recognized political parties is ₹1,85,553	₹46,388
6	Namakkal	Tamil Nadu	Total cost for 4 candidates of recognized parties is ₹79,896	₹19,974
7	Fatehpur Sikri	Uttar Pradesh	Total cost is ₹1,96,712 for candidates of recognized political parties	₹49,178
8	Deoria	Uttar Pradesh	Cost for each candidate from recognized party is ₹33,319.50	₹33,319
9	Salempur	Uttar Pradesh	Cost for each candidate from recognized party is ₹22,321.50	₹22,321
10	Amravati	Maharashtra	Total Cost for 2 candidates of recognized political parties is ₹1,19,266	₹59,633
<b>Average cost for 1 electoral roll= Sum of cost for 1 roll/No. of Constituencies</b>				<b>₹56,525</b>

**2) Total amount spent by the State on supplying electoral rolls to the political parties for Lok Sabha 2009:**

If we calculate the average cost of 1 electoral roll for a candidate from recognized party from the information attained we find it to be approximately ₹ 56525. (The formula undertaken to obtain this amount is sum of cost of 1 electoral roll for all constituencies / total number of constituencies.)

Using this average and based on the number of candidates that contested from recognized parties we can find the approximate amount spend by the state for giving free electoral rolls to political parties. The amount spent on each national political party is as given below:

Party	Total no. of Contesting Candidates in LS '09	Average calculated of 1 electoral roll per candidate from recognized party in LS '09	Total amount spend by the state on free supply of electoral rolls in LS '09 (₹ crores)
BSP	500	₹ 56,525	₹ 2.82
BJP	433	₹ 56,525	₹ 2.45



INC	440	₹ 56,525	₹ 2.48
CPI	56	₹ 56,525	₹ 0.31
CPI (M)	82	₹ 56,525	₹ 0.46
NCP	68	₹ 56,525	₹ 0.38
RJD	44	₹ 56,525	₹ 0.25
Total Amount Spent while providing Electoral Rolls (Rs. In Crores)			9.15

#### D. State funding in the form of Tax exemption:

##### 1. Step-wise Computation of Tax-Payable from which Political Parties are exempted

As per section 13A of the Income Tax Act large amount of money is exempted under tax exemption on the income of political parties. Income Tax returns filed by political parties were analysed with expert help and on the basis of this analysis we have been able to calculate tax payable, which is exempted for the national parties.

<b>Computation of Total Income based on the IT returns filed by political parties received through RTI (FY 2008-09)</b>			
	<b>BJP</b>	<b>INC</b>	<b>BSP</b>
Income from House Property (as declared in IT Returns Filed)	20,18,786	Nil	Nil
Profits and Gains from Business and Profession	-2,94,13,325	496,87,62,060	181,84,84,774
Income from Other Sources	219,64,07,142	Nil	Nil
<b>Gross Total Income (as declared in the IT returns filed)</b>	<b>216,90,12,603</b>	<b>496,87,62,060</b>	<b>181,84,84,774</b>
<b>Total Income Rounded Off U/S 288A (A)</b>	<b>216,90,12,603</b> <b>(216.90 crore)</b>	<b>496,87,62,060</b> <b>(496.87 crore)</b>	<b>181,84,84,770</b> <b>(181.84 crore)</b>
<b>Computation of Tax on Total Income (FY 2008-09)</b>			
Tax on ₹ 1,50,000	Nil	Nil	Nil
Tax on ₹ 1,50,000 (3,00,000-1,50,000) @ 10%	15,000	15,000	15,000
Tax on ₹ 2,00,000 (5,00,000-3,00,000) @ 20%	40,000	40,000	40,000
<b>Tax on Total Income declared (Total Income-5,00,000)@ 30%</b> <b>B=[{A-5,00,000}*30%]</b>	<b>65,06,08,781</b>	<b>149,05,33,618</b>	<b>54,54,50,431</b>
Add: Surcharge @ 10% <b>C=[B*10%]</b>	<u>6,50,60,878</u>	<u>14,90,53,362</u>	<u>5,45,45,043</u>
<b>Sum</b> <b>D=B+C</b>	71,56,69,659	163,95,86,980	59,99,95,474
Add: Education Cess @ 2% <b>E=[D*2%]</b>	<u>1,43,13,393</u>	<u>3,27,91,740</u>	<u>1,19,99,909</u>
<b>Sum</b> <b>F=D+E</b>	72,99,83,052	167,23,78,720	61,19,95,383
Add: Secondary and Higher Education Cess @ 1% <b>G=[D*1%]</b>	<u>71,56,697</u>	<u>1,63,95,870</u>	<u>59,99,955</u>
<b>Sum</b> <b>H=F+G</b>	73,71,39,749	168,87,74,590	61,79,95,338

<b>Computation of Total Income based on the IT returns filed by political parties received through RTI (FY 2008-09)</b>			
	<b>BJP</b>	<b>INC</b>	<b>BSP</b>
<b>Tax Payable</b>	<b>73,71,39,749</b> <b>(73.71 crore)</b>	<b>168,87,74,590</b> <b>(168.87 crore)</b>	<b>61,79,95,338</b> <b>(61.79 crore)</b>

**2. Income Tax Exemption given to Political Parties for 5 years**

The table below aggregates the tax exemptions given to 6 National Political Parties for 5-years

<b>Party</b>	<b>Tax payable exempted in FY 2006-07 (Rs in Crores)</b>	<b>Tax payable exempted in FY 2007-08 (Rs in Crores)</b>	<b>Tax payable exempted in FY 2008-09 (Rs in Crores)</b>	<b>Tax payable exempted in FY 2009-10 (Rs in Crores)</b>	<b>Tax payable exempted in FY 2010-11 (Rs in Crores)</b>	<b>Tax Payable exempted in 5 years (Rs in Crores)</b>
<b>BJP</b>	26.86	40.68	73.71	78.52	50.25	<b>270.02</b>
<b>INC</b>	57	75.05	168.88	144.47	94.88	<b>540.28</b>
<b>BSP</b>	15.44	23.61	61.8	17.49	30.83	<b>149.17</b>
<b>CPI(M)</b>	6.98	4.63	6.53	6.9	7.17	<b>32.21</b>
<b>CPI</b>	0.01	0.21	0.02	3.3	0.26	<b>3.8</b>
<b>NCP</b>	0.9	0.68	8.07	NIL	NIL	<b>9.65</b>
<b>Total tax exemption given to 6 Political Parties in 5 years (Rs. In Crores)</b>						<b>1005.13</b>

**E. Summary of all the above mentioned forms of State Funding given to Political Parties**

The table below assembles all the 7 forms of State Funding of Political Parties that are elaborated upon in the report above:

<b>S. No.</b>	<b>Form of State Funding</b>	<b>State Funding (Rs. In Crores)</b>
1	Offices/Bunglows allotted to a few Political Parties	<b>66.53</b> <b>(every 5 Years)</b>
2	V.P House Accommodation to a few Political Parties	<b>10.19</b> <b>(every 5 Years)</b>
3.	Plots of Land Allotted to a few Political Parties in New Delhi	<b>2677.78</b> <b>(One Time, Current Market Value)</b>
4	Broadcast and Telecast Time Allotted on DD & AIR on Lok Sabha Elections 2009	<b>24.28</b> <b>(every 5 years)</b>
5	Broadcast and Telecast Time Allotted on DD & AIR to Political Parties on State Assembly Elections	<b>114.6</b> <b>(every 5 Years)</b>
6	Electoral Rolls	<b>9.15</b> <b>(every 5 Years)</b>
7	Value of Tax Exemptions given to Political Parties (6 Parties) (for 5 years)	<b>1005.13</b> <b>(aggregate of only 5 years)</b>