

# **Point by Point Rebuttal: Standing Committee Report for RTI Amendment**

## **Background:**

'The Right to Information (Amendment) Bill 2013' seeks to amend the Right to Information Act 2005, in order to nullify the order of a full bench of Central Information Commission (CIC).

The Central Information Commission had given an order on 3<sup>rd</sup> June 2013 declaring six National Political Parties INC, BJP, CPI, CPI(M), BSP and NCP as "public authority" under the Right to Information Act. The Parliament tried to bring in an amendment in the RTI Act by excluding political parties from its ambit.

Because of immense public pressure, the government referred 'The Right to Information (Amendment) Bill 2013' to the Parliamentary Standing Committee on the 12<sup>th</sup> of September, 2013. There was a public hearing convened by the Standing Committee and submissions from various civil society organisations and citizens were invited. However, the Standing Committee came out with a report on the 13<sup>th</sup> of December, 2013 conceding to the amendment.

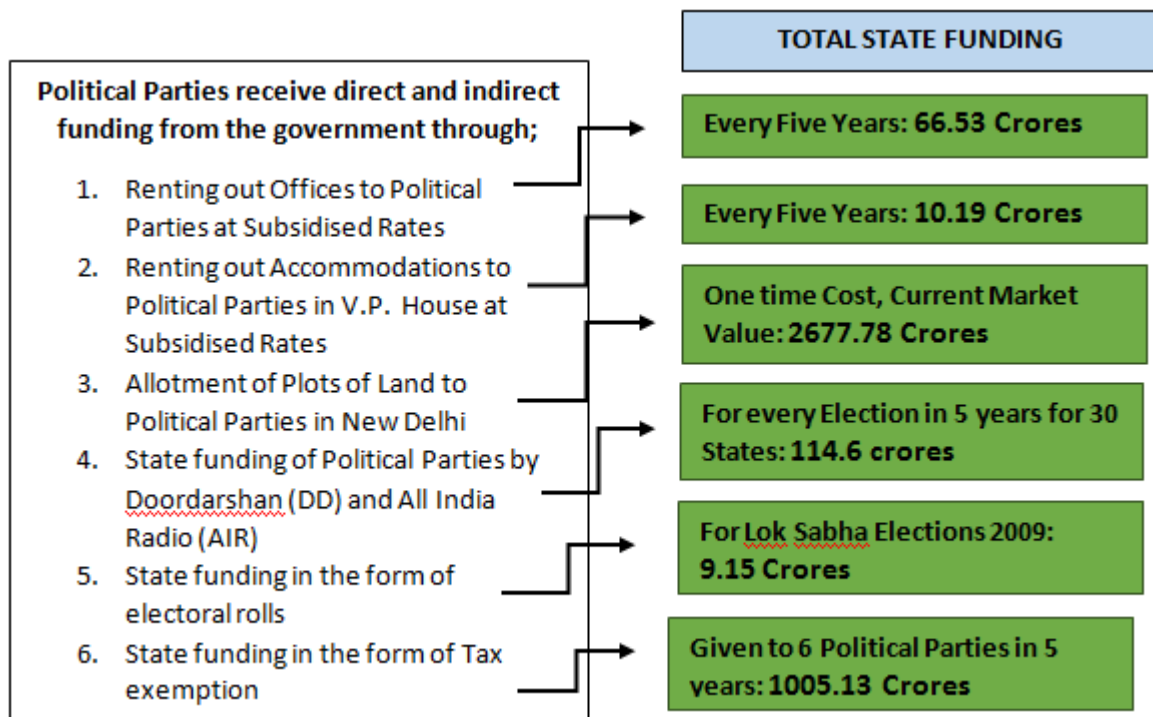
This document analyses the arguments made in the Standing Committee report and presents the reasons why political parties should be declared a public authority under the Right to Information Act.

**"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."**

## **Rebuttal:**

An authority or body does not require to be established or constituted by or under the constitution or any other law made by the Parliament, to be called a public authority.

Under Section 2(h) of the RTI Act, **an organisation that is 'substantially financed, directly or indirectly by funds provided by the appropriate Government' can fall under the category of public authority.**



Thus, it would not be a 'liberal interpretation' of 2(h) of RTI Act, to say that Political Parties fall under the category of 'public authority', as they are substantially financed by the government.

**"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."**

**Rebuttal:**

- A. 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 **over 75% of the funds cannot be traced and are from 'unknown' sources.**
- B. The submissions made by the Political Parties are not scrutinized and they are not penalized even when they don't file their submissions.

From these above facts, it can be safely summarized that the finances of the Political Parties are far from being transparent.

**"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."**

**Rebuttal:**

- A. **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. Information relating to a third party

or personal information which has no bearing upon public function of the authority can be denied under this.

- B. **Large volumes of RTI applications can be avoided through voluntary disclosure** of information on the websites of these political parties under Section 4(2) of the RTI Act.
- C. One of the prime concerns before the RTI Act was implemented was that the public authorities would be flooded with RTI applications and the normal functioning of the body would be hampered. However, nothing of the sort has happened.

**“The Committee understands that none of the six political parties, who happened to be respondent to CIC Order of 3<sup>rd</sup> June, 2013, challenged the order in the higher judiciary. That was the option with those political parties, which they did not exercise, as the instant case, is a case of misrepresentation of a clear provision of law.”**

**Rebuttal:**

The correct and the established practice for a party aggrieved by a decision made by the CIC, is to go to the High Court to challenge the CIC’s decision. If this is a case of ‘misrepresentation of a clear provision of law’ there is no necessity of an amendment of the law as the ‘misrepresentation’ can be corrected merely by following the due process of law.

**The Attorney General, the highest law officer of the government under the constitution, said that the amendment is unconstitutional. Furthermore, Anu Aga, the only non-political member of the committee gave a note of dissent against the Standing Committee report.**