

‘Civil society recommends rejection of Parliamentary Committee report on amendment of RTI Act’

New Delhi, Dec. 30, 2013: The amendment made in the RTI Act by the Parliament that proposed to keep political parties outside its ambit has been approved by the Parliamentary Committee, entrusted with the task of reviewing it despite much opposition from civil society organizations and citizens.

In a landmark decision on June 3, 2013, the Central Information Commission (CIC) pronounced that the political parties (INC, BJP, CPM, CPI, NCP and BSP) are public authorities under section 2(h) of the RTI Act. The Government brought an amendment to the RTI Act excluding political parties from its ambit.

However, due to mounting public pressure, the Parliament chose to refer the Bill to the Parliamentary Committee, which invited suggestions on the proposed amendment to the RTI Act. ADR was one of the organizations which made its submission apart from NCPRI, MKSS, Subhash Chandra Agarwal and Shailesh Gandhi among others. All of them strongly objected to the amendment.

Rejecting Parliamentary Committee’s nod to the amendment, Prof. Jagdeep Chhokar, one of founder members and trustees of ADR, said, *“The committee has not given any logical reasoning for its recommendation in its report. Excluding political parties from RTI Act is unconstitutional. It is odd to argue that transparency is good for all state organs but not for political parties, which in reality control all the vital organs of the state.”*

Expressing a similar view, Shailesh Gandhi, ex-CIC, stated, *“The standing committee doesn’t appear to have taken into account objections to the RTI amendments submitted by the civil society organizations. No arguments have been given in the report which indicate that the committee has noted our objections. It is obvious that no reasons were taken to counter our views before suggesting construing citizen’s fundamental rights.”*

Mr Subhash Agarwal stated, *“Report of Parliamentary standing committee recommending that CIC-verdict holding political parties being covered by RTI Act is not justified because according to the committee it was not intent of legislature to cover political parties under the transparency Act. There are many bodies claiming not covered under RTI Act but are declared public-authorities by Information Commissions and even endorsed by High Courts as public-authorities. None of such bodies were ‘intended’ specifically by the legislature to be covered under RTI Act. Surprisingly, the committee has overruled Attorney General’s advice that any legislative step against CIC-verdict may be struck down by courts. It is not appropriate that it may become*

compulsory to involve precious time of Supreme Court in every matter to get things done in public interest."

Anjali Bhardwaj from NCPRI also questioned the Parliamentary Committee's approval to the Bill, saying, *"NCPRI has consistently held that the proposed amendment to RTI Act is unconstitutional. Political Parties ought to be covered as public authorities under the RTI Act. There is no rationale for people who made the law to keep themselves out of its ambit. We feel there are adequate exemptions under section 8 of the Act. The law doesn't need any amendment."*

Justifying its decision to amend the Bill the Government said – **The political parties are neither established nor constituted by or under the Constitution or by any other law made by Parliament.**

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

The Government also claimed – **"There are already provisions in the Representation of the People Act, 1951 as well as in the Income-tax Act, 1961 which deal with the transparency in the financial aspects of political parties and their candidates."**

However, an analysis by Association for Democratic Reform (ADR) of Income Tax returns for six National Political Parties and the statements filed by them with the Election Commission show that **over 75% of the funds cannot be traced and are from 'unknown' sources.**

Another point made by the government was – **Declaring a political party as public authority under the RTI Act would hamper its smooth internal working. Further, the political rivals may misuse the provisions of RTI Act.**

The above-mentioned claim of the Government does not hold much ground as the **RTI Act has enough built in protection in the form of the section 8-** "Exemption from disclosure of information."

The Parliamentary Committee observed that **none of the six political parties, who happened to be respondent to CIC Order of 3rd June, 2013, has challenged the order in the higher judiciary which is a case of misrepresentation of a clear provision of law."**

However, 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.

Contacts:

Journalist Helpline: +91-8010394248 adr@adrindia.org	Prof Jagdeep Chhokar IIM Ahmedabad (Retd.) Founder Member, National Election Watch & Association for Democratic Reforms +91 9999620944 jchhokar@gmail.com	Prof Trilochan Sastry IIM Bangalore Founder Member, National Election Watch & Association for Democratic Reforms +91 9448353285 trilochans@iimb.ernet.in	Mr. Anil Verma National Election Watch & Association for Democratic Reforms +91 8826479910 anilverma@adrindia.org	Mr. Anurag Mittal National Coordinator National Election Watch & Association for Democratic Reforms +91 9811108914 anurag@adrindia.org
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