

# **RTI as a tool for transparency and accountability of political parties, electoral candidates and campaign financing**

**Maj. Gen. Anil Verma (Retd.)**

**Head – Association for Democratic Reforms &  
National Election Watch**



# Preview

**1**

**Introduction to ADR  
Organisation and Team**

**2**

**ADR's tryst with RTI  
Act, 2005**

**3**

**Public disclosure of  
Income Tax Returns of  
the Political Parties**

**4**

**Designating Political Parties as  
public authorities and bringing  
them under the RTI Act, 2005**

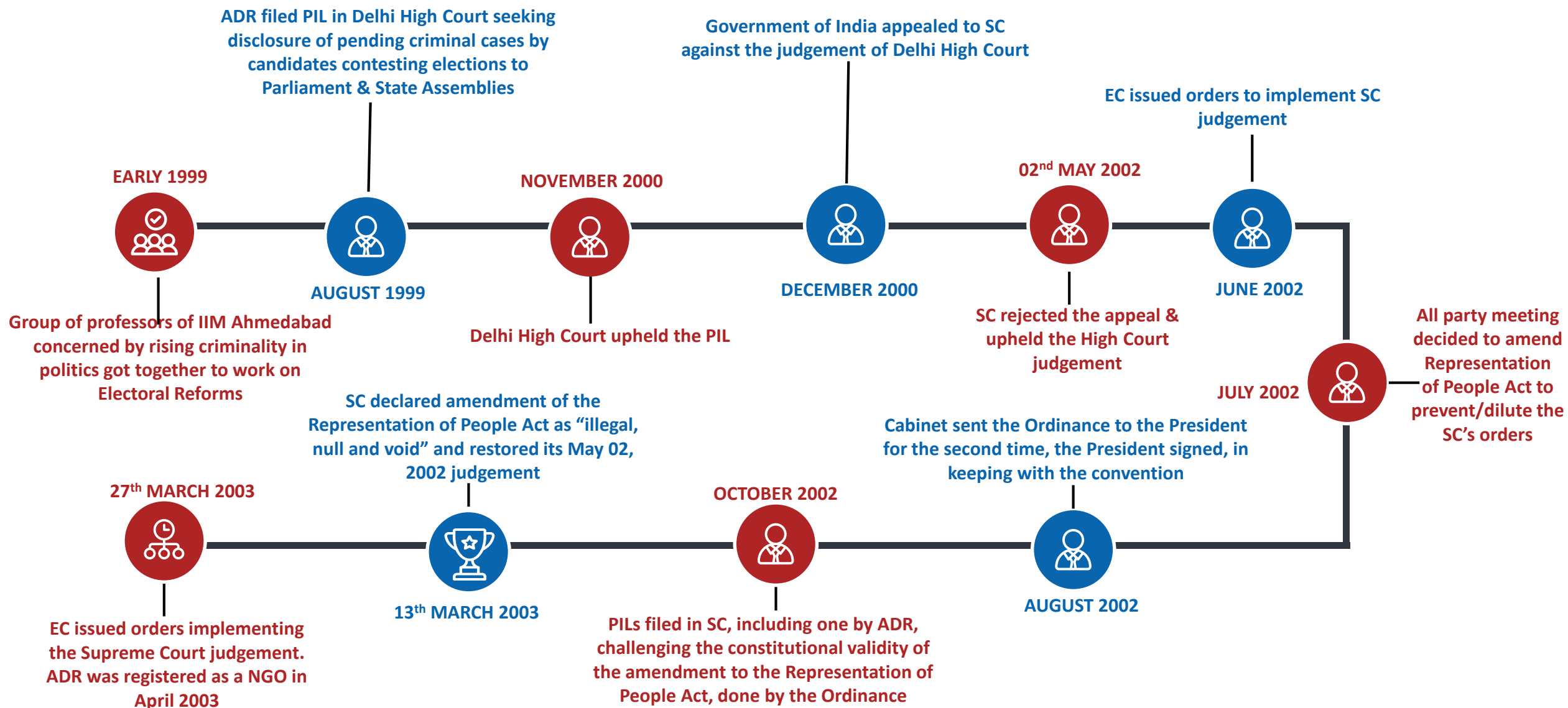
**5**

**Other significant RTIs  
filed by ADR**

**6**

**ADR State partners'  
activities related to RTI**

# **Introduction: ADR Organisation and Team**





# Mission

To improve governance and strengthen democracy by continuous work in the area of Electoral and Political Reforms

## Focus Areas

- Corruption & criminalization in the political process
- Empowerment of the electorate through greater dissemination of information relating to the candidates and the parties, for a better and informed choice.
- Need for greater accountability of Political Parties.
- Need for inner-party democracy and transparency in party-functioning

# Organization Overview

## Election Watch

Started in 2002

Background details of candidates submitted to the Election Commission (via their affidavits) are analyzed and released in an effort to help citizens make an informed choice

## Political Party Watch

Started in 2008

Analysis of Donations above Rs. 20k that are received by Political Parties (National & Regional) & IT Returns filed by them

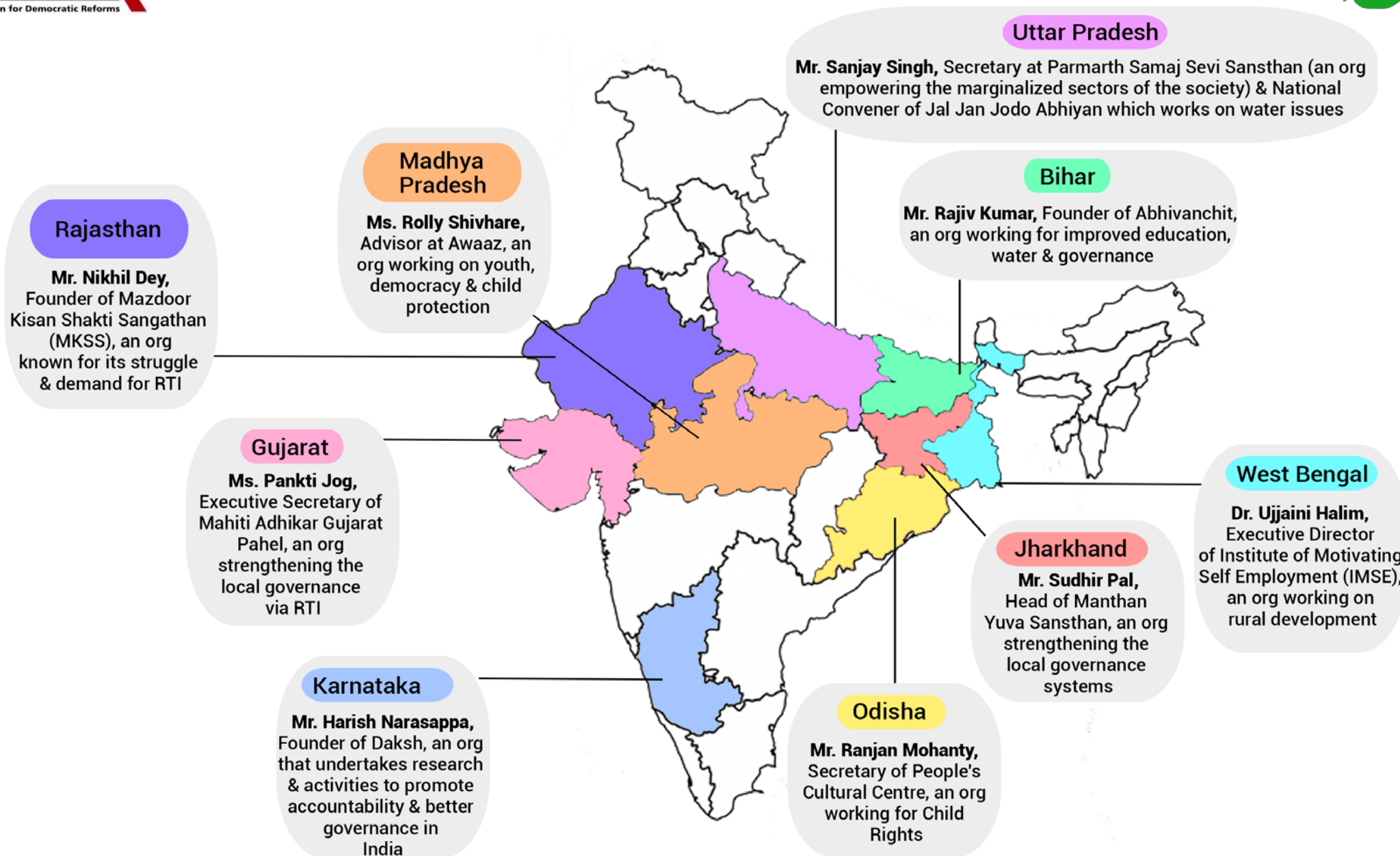
**ADR**

## Legal Advocacy

Filing complaints & PILs with Central Information Commission, Supreme Court/ High Court as well as other Central and State agencies

## Communications & IT

Enhancing ADR's outreach offline and online



# **ADR's tryst with the Right to Information (RTI) Act, 2005**



ADR since the inception of RTI Act in 2005 has used it extensively to access information from various bodies like the ECI, CBDT, Income Tax offices and so on, related to functioning of our political parties and elected representatives. Several RTIs filed by ADR are currently in various stages of processing.

### **Session Focus:**

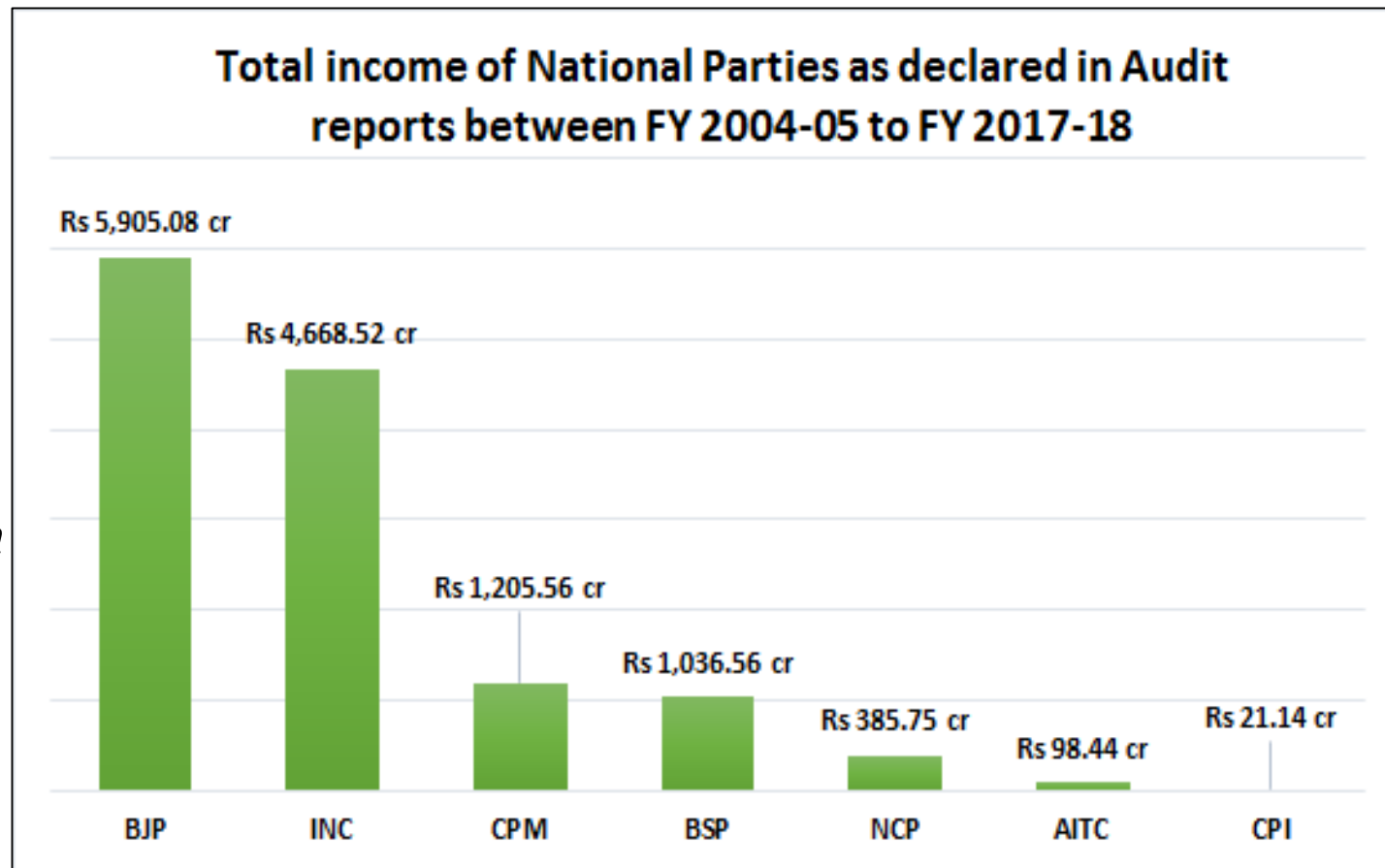
1. ADR RTI application that sought disclosure of financial information by the political parties
2. Declaring Political Parties as “public authorities” and bringing them under the RTI Act, 2005
3. Other routine RTIs of significance
4. ADR state partners’ activities related to RTI

# **I. Public disclosure of Income Tax Returns of the Political Parties**

## Context

1. Political Parties are exempt from paying any Income Tax under the Section 13A of the Income Tax Act.
2. Section 29C of the Representation of the People Act, 1951:

*Parties to file details of all contributions in excess of Rs 20,000 received in a given financial year with the Election Commission (EC) annually, before the due date for furnishing a return of its income to the EC of that financial year, to be entitled for tax relief.*



## Information sought under RTI

**2007:** ADR filed RTI applications before Election Commission and the Tax authorities seeking information whether Political Parties file their contribution reports as per Sec 29(A) of RPA (Representation of Peoples' Act) 1951 to get tax benefits under Sec 13A of Income Tax Act, 1961

ADR filed an **RTI application** dated **28 Feb, 2007** before the Central Public Information Officer (CPIO), Central Board of Direct Taxes (CBDT) requesting for the following information:

1. Whether the political parties have submitted their Income Tax Returns (ITR) for the financial years between 2002 and 2007
2. The PAN numbers allotted to these parties
3. Copies of ITRs filed by parties for the aforesaid years along with the corresponding assessment orders, if any

## Response to the RTI Filed

**21 June, 2007:** EC response to the RTI contained details of 21 parties' contribution reports. Many parties were listed for not submitting the reports ever.

Tax authorities, on the other hand, refused to divulge the information on the following grounds:

- **ITRs** – submitted in fiduciary capacity and **confidential**
- **Information disclosure** – **no** relationship with public activity or **public interest involved**
- PAN disclosure can result in **misuse of information**
- **Information is confidential** under Section 138 of the IT Act, 1961
- **No obligation** to give any information; disclosure can cause unwarranted **invasion of privacy**

## **Political Parties' response**

With exception of Communist Party of India (CPI) & Communist Party of India (Marxist) that had no objection to disclosure of the concerned information, other parties challenged the disclosure due to the following reasons:

**Confidential  
information**

**Parties are not public  
authorities**

**ITRs are not public  
documents**

**Info disclosure will  
compromise privacy**

**ITRs are personal &  
fiduciary entrustment**

**Appellant has mala-fide  
intent**

**ITRs contain commercial information  
& attract Section 8(1)(d) of RTI Act**

## ADR's counter

Parties represent interests of people who elect them to power

Political parties work in public domain and use public funds

Transparency is essential in larger public interest. Public interest is above the interests of political parties

Disclosure promotes transparency and reduce the role of black money.

Access to information under the RTI Act, 2005 would prevail over the Income Tax Act, 1961

The CEC, Shri T.S. Krishnamurthy, recommended parties to make public their accounts annually for information & scrutiny by public

Alternative remedy under Section 138 of the IT Act/any other act would not bar a citizen from seeking information under the RTI Act, 2005

Appellant and the organization are completely non-political & non-partisan.

## ADR Impact

**April 29, 2008:** On the basis of an RTI filed by ADR, the Central Information Commission (CIC) gave a landmark ruling by stating that **Income Tax Returns of Political Parties would now be available in the public domain** along with the assessment orders.



ADR scrutinized the copies of the IT returns of parties collected using RTI.



Scrutiny of copies of return revealed that all the parties have availed benefit under Sec 13 A of the Income Tax Act, even those who have not filed their statutorily mandated contribution reports before Election Commission.



Till FY 2013-14, ADR continued to file RTI applications every year for IT returns submitted by National and Regional political parties.



## ADR Impact

As of FY 2014-15, there has been *suo motu* disclosure of IT returns by political parties, copies of which are made available on the ECI website for general public



The information provided is regularly analyzed and disseminated by ADR to the public for information



The scanned copies of the IT returns are made available to public on ADR website <http://myneta.info/party/>



ADR helped mobilize public opinion on the need for greater financial transparency in political parties



As a result of this RTI struggle, both Audit & Donations Reports of the parties were made available by the ECI on its website from FY 2014-15 onwards, prior to which this information was only available through RTI mode

## ADR Impact

NOIDA  
THE HINDU • TUESDAY, SEPTEMBER 11, 2012

# No transparency in sources of funds for political parties, reveals RTI

11.89% of Congress, 22.76% of BJP income in 2009-10, 2010-11 came from donations in excess of 20,000

DECCAN HERALD  
Tuesday, September 11, 2012

# NGOs call for transparency in political funding

THE ASIAN AGE  
NEW DELHI  
TUESDAY 11 | SEPTEMBER 2012

# INDIA'S PARTIES GOT ₹4,662CR FUNDS IN 7 YRS

HINDUSTAN TIMES, NEW DELHI  
TUESDAY, SEPTEMBER 11, 2012

# 85% of Congress, BJP donors faceless

HT Correspondent  
letters@hindustantimes.com

department, 23 political parties including the Congress and BJP

WHO GOT WHAT FROM 2004 TO 2011

the politicalbusinessdaily  
New Delhi, Tuesday, September 11, 2012  
www.pbd.in

# Congress leads parties in fund collection, BJP follows: Report

## **II. Designating Political Parties as public authorities and bringing them under the RTI Act, 2005**

- In an **RTI application** dated 29 Oct, 2010 before the Public Information Officer (PIO) of the 6 National Parties, **ADR sought information** on the source, mode of payment, amount and year of **donations and contributions received by these political parties.**
- **RTI Response:** Barring CPI, **all National parties** such as INC, CPI (M), NCP **refused to divulge any information** stating that they are not “public authorities” and did not come under RTI. Parties like BJP & BSP did not respond to the RTI.
- **Action taken by ADR:** On the basis of the above, a **complaint was filed by ADR with the CIC in March 2011** requesting that political parties should be declared as public authorities so as to bring them under the purview of RTI.
- The complaint was admitted before the CIC on **March 14, 2011. Two hearings** were convened before the CIC, first in **September 2012** and second in **November 2012** discussing the substantial funding given to parties in details.
- The **details** provided by ADR to CIC **for the case** were **based on the RTI applications** filed to various govt. departments.

- **ADR Impact:** On June 3, 2013, a full bench of the **CIC declared the 6 National political parties** (INC, BJP, CPI, CPM, NCP and BSP) as “**public authorities**” under the RTI Act in response to a complaint filed by ADR and Subhash Agarwal.

NATIONAL

## Political parties come within ambit of RTI Act: CIC

 **Mohammad Ali**

NEW DELHI, JUNE 03, 2013 17:47 IST  
UPDATED: JUNE 28, 2016 21:54 IST

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In a landmark judgment, the Central Information Commission (CIC) has ruled that political parties come within the ambit of the Right to Information Act.

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## Political parties come under RTI Act, says Central Information Commission

Terms political parties public authorities as they are substantially funded by Central government

## THE TIMES OF INDIA

THIS STORY IS FROM JUNE 4, 2013

## Political parties come under RTI, rules CIC

The order comes on two applications filed by Association for Democratic Reforms (ADR) and RTI activist S C Agrawal.

CIC has directed parties to appoint public information officers within six weeks to respond to RTI queries and adhere to legal provisions.



- **National Parties refused to comply with the 2013 CIC order** which the CIC declared as final and binding in another order dated March 16, 2015.
- **ADR's response:** ADR filed a plea in the Supreme Court in May 2015 urging the apex court to declare all National & Regional parties as “public authorities” and bring them under RTI. Last hearing was held in October 2017.

## Business Standard

Political parties unite against  
CIC's RTI ruling

Association for Democratic Reforms says parties not interested in transparency would be exposed

## THE HINDU BusinessLine

RTI Act: ADR to move court against 6  
parties

## INDIA TODAY

CIC notices to six parties, asking why no  
information officer yet

*The six parties, declared as public authorities, come under ambit of the Right to Information Act (RTI).*

### **III. Other significant RTIs filed by ADR**

## ***Transparency & Accountability of Political Parties***

- RTI seeking information on election expenditure incurred by National & Regional parties and requesting for their timely upload on the ECI website.
- Details of Income Tax Returns and donations of Registered Unrecognised parties that contested and won seats in elections.
- Information on action taken by CBDT against de-listed political parties.

## ***Campaign Finance***

- Information on political parties that submitted details of Electoral Bonds to ECI in sealed cover.
- Phase, branch and denomination wise details of sale and encashment of Electoral Bonds\* since the inception of the Electoral Bond Scheme, 2018.
- Information on the rules governing the functioning of the Electoral Trusts in view of the notification of the 2013 scheme of Electoral Trusts.

*\*Latest revelations on EBs in response to RTIs filed by transparency activists*

## ***Electoral Candidates***

- After a two year long battle, crucial information on the 'Register of Members' Interest' in the Rajya Sabha was mandated by the CIC to be available in public domain in June 2011.
- Information seeking election affidavits of contesting candidates as well as details of expenditure incurred by candidates during elections.
- Publication of criminal antecedents of contesting candidates in print & electronic media.



## Information collected through aforesaid RTIs analysed by ADR and compiled in form of reports are released for public dissemination

**Outlook**

THE NEWS SCROLL

11 SEPTEMBER 2019 Last Updated at 3:16 PM | SOURCE: IANS

From shareholding to consultancy, RS members earn in crores: ADR



From shareholding to consultancy, RS members earn in crores: ADR

New Delhi, Sep 11 (IANS) The upper house or the Rajya Sabha (RS) members of Parliament are often called "unelected". Many a time allegations are levelled against political parties that such seats are "sold". Now the Association for Democratic Reforms (ADR), a National Election Watchdog has reviewed financial interests of 213 sitting Rajya Sabha members to sense why they are so sought after.

**NEWS 18**

**Over 40 Registered Unrecognised Political Parties That Got Donations Via Electoral Bonds Were Ineligible: Report**

SBI has sold as many as 12,313 electoral bonds worth Rs 6,128 crore since March, 2018 when first tranche of such bonds was issued till October 2019. Bonds worth Rs 3,620 crore were sold in March and April this year ahead of the Lok Sabha polls

*Scroll.in*

POLITICAL FUNDING

**Electoral bonds worth Rs 277 crore sold since General Elections: Association for Democratic Reforms**

The ECI, in its response dated November 5, 2019 to an Right to Information (RTI) application, filed by the Association for Democratic Reforms (ADR), said that 93 political parties, which included seven national parties, 19 state parties and 67 registered unrecognised parties, had submitted the details of donations received through electoral bonds to the ECI in a sealed cover in compliance with Supreme Court's orders.

**THE WIRE**

**Electoral Bonds Worth Rs 6,128 Crore Sold in 20 Months, More Than Half of it in Two Months Before LS Polls**

As many as 12,313 electoral bonds were sold by the State Bank of India, between March 2018 and October 2019, reveals a new study.

## **IV. ADR state partners' activities related to RTI**

**1****Strengthening local democracy through RTI:**

ADR Gujarat state partner conducted RTI workshops with Tribal and Nomadic Tribe communities. Motivated them to file RTIs to seek answers to any misappropriations in the public delivery system.

**2**

Bihar Election Watch organised **discussions on the issue related to political parties coming under the ambit of the RTI Act**. A capacity building meet for volunteers of Bihar Election Watch was also held.

**3**

Punjab Election Watch held a **‘Seminar on Political Parties under RTI’**. Central Information Commission’s order declaring political parties under the RTI Act was discussed extensively.

**4**

**Discussion** organized by ADR’s Madhya Pradesh state coordinator on the **need to bring political parties under RTI**.

**5**

ADR received the **‘Rahul Manganekar Award’ for ‘Best RTI citizen’** by RTI Awards 2009.

# THANK YOU !