

Shri Shantaram Naik,

Chairman, Parliamentary Standing Committee.

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Sub.: RTI amendment Bill

Dear Sir,

The undersigned would like to give his submissions in the matter of the proposed amendment to the RTI Act. I am taking up the reasons mentioned in the Statement of Objects and Reasons which have been provided in the Bill first:

1. Para 2 indicates that the decision of the CIC is not in consonance with the law.
This reason has also been mentioned in Public statements by many political leaders. There can be a legitimate difference of opinion in interpreting the provisions of an Act. In that event, the proper course of action would be to challenge it in a writ. Many decisions of the CIC have been challenged and some have been quashed. An amendment would be required only if the Government believes that the CIC decision is unassailable under the law.
2. Para 3 states that there are enough regulatory provisions in the Representation of People's Act and the Income tax Act requiring adequate disclosures to the Election Commission and the Income Tax authorities.
It is an open secret that over 90% of the elected representatives spend 10 to 40 times the amounts they mention in their statements to the election commission. There is no evidence that the Income Tax department verifies the details given in the affidavits with the Income tax returns of the candidates and it is generally believed that the affidavits are at variance with the Income Tax returns. If our regulatory mechanisms were working reasonably satisfactorily, corruption would have been at much lower levels. It must be clarified here that RTI will only give access to citizens of what is on records, and most of the black money may not get exposed. But continuous public gaze and scrutiny by thousands of individual citizens will help to bring down the arbitrariness and corruption in political parties. It is also likely to result in a gradual reduction in black money in Politics and the country. Sunlight and truth are the best remedies to dispel darkness. The regulators have hardly taken any serious action against the political parties so far, and vigilant citizens are likely to aid them.
3. Para 4 :If RTI is applied to the political parties, their functioning will be seriously affected, since they do not have the capability of providing information to the RTI queries and this will damage democracy. Political rivals may misuse the RTI provisions.
Small NGOs, and aided schools with budgets of less than 1 million rupees have been able to cope with RTI without being overwhelmed. For any party which contests just 10 to 20 seats in a State assembly election, the actual budget is over 100 million rupees. To claim that even a small regional party will find it difficult to cope with RTI queries does not appear to be a credible argument. As to the contention that rival parties will be able misuse RTI provisions, we can only state that no such 'misuse' has been reported in the last eight years in any organization which could seriously harm any public authority. Some inconvenience and embarrassment may occur but these would make them better.

Some of the other issues raised by some of the political leaders are:

a) They will be questioned on why they chose a particular candidate for elections. RTI requires only the records to be provided. It does not require queries to be answered beyond the records.

b) Political parties do not want to be answerable to the Information Commissions. Firstly, the answerability in RTI is to citizens of India, and that too only in terms of providing information on records. This Act has certain exemptions in Section 8 to ensure that no major harm can come to any public authority by disclosure of information. In the last eight years during which RTI has been implemented, there has been no instance of any organization having been put to great harm or being rendered dysfunctional. Certain arbitrary or corrupt actions may be uncovered and these should be corrected. If political parties say they do not wish to be accountable to citizens, this would be unacceptable.

Political parties must realize that changing a law because they find it inconvenient is setting a very bad example for the health of the rule of law. Those who do not have a stake in the rule of law, may choose to defy it if they do not find it convenient. This is not an option which lawmakers can take, without damaging their credibility and of Parliament.

Apart from looking at the objections, Citizens feel this is a great opportunity to make our democracy more meaningful. When RTI was first introduced Police and Army had said they needed to be exempted from RTI, failing which they would not be able to perform their duties. No harm has befallen these two entities, and the exemptions have adequately safeguarded these and all other Institutions. In the last few decades citizens have developed a lack of respect for Politicians and their parties, which is not healthy for a democracy and for India. The trust deficit which exists needs to be reduced. If Indian democracy has to deliver its services and fruits to citizens, there is great need for trust to be developed between citizens and the political parties. Unless a meaningful and constant interaction takes place, the Nation will not be able to progress in a fair, equitable and meaningful way. If the political parties think about the future of their parties after a decade and dream of better parties serving the Nation which should take its rightful position in the world, they will realize that transparency and accountability towards all citizens will be beneficial for everyone.

The fear being displayed by Political parties is understandable. Most people and organisations feel that transparency is good for others, and they do not need to be transparent. Once they get over the initial resistance and develop a culture of transparency, they become better in the process and get the benefits which flow from transparency and truth. It would be a historical blunder to miss this opportunity.

I request a meeting with the Standing Committee to present my views and discuss them.

Yours truly

Shailesh Gandhi

Former Central Information Commissioner

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