



# Transparency Review

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## ELECTIONS INJURING SOCIETY

**I**t is time, high time, to re-examine the suitability of the Westminster or multi-party parliamentary system to our country and look for other models of democratic governance. Its ugliest aspect is seen with the approach of general elections. As articles in this issue point out, the skyrocketing cost of campaigning puts a premium on corruption, favouring candidates with criminal and questionable backgrounds. Electoral politics has become a business with quick and high returns on investment. Since the financial stakes are high, no limit is placed on the means used to influence voters. Communal and caste passions are inflamed to reinforce vote banks; the foetid atmosphere generated is exploited to wreak violence.

Minority groups are the main victims.

The no-holds race to have MP or MLA attached to one's name is not motivated by the desire to improve the administration, as early proponents of Westminster would have us believe. It is used to influence administrative and police actions to favour select individuals, for which the member extracts a price. Far from keeping a check on

corruption, government officials and policemen are encouraged to participate in the loot. Honest officials refusing to toe the line find themselves transferred to minor posts. The cost of corruption runs into crores. As Rajiv Gandhi conceded, the bulk of the funds meant to alleviate poverty is diverted before reaching the poor. As a result, after sixty years of independence, millions still go to bed hungry. And with each election, the gap between rich and poor widens.



Looking back we must acknowledge that it was a mistake to assume that the Westminster model evolved in Britain for a small closely-knit country could meet the needs of a newly-independent nation, many times its size, riven by deep caste, communal, tribal and other social divisions.

Instead of narrowing differences, the political process has accentuated them. Nobody can seriously maintain any longer that the Westminster system serves the greatest good of the greatest number, the key test of a functioning democracy.

The disease has bitten too deep for superficial reforms to help. We need to reassess the role of political parties, the choice

**Editor: Ajit Bhattacharjea**

of candidates, the procedure of elections and their suitability to our traditions and society. Among those who did so were Mahatma Gandhi and Jayaprakash Narayan, both outspoken critics of the Westminster system. They recommended a very different system in which our traditional panchayats form the base and candidates are chosen by consensus. Gandhiji was assassinated before he could amplify his ideas. JP provided a fuller picture in his writings. In one of them

written as early as 1959, he described the ailments that have worsened since then:

***Experience has shown that present-day mass elections, manipulated by powerful, centrally-controlled parties, with the aid of high finance and diabolically clever methods and super media of communication, represent far less the electorate than the forces and interests behind the parties and the propaganda machines.***

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### Letters To The Editor

Thanks for your copy of the Transparency Review We have placed it in the library so that it can be accessed by a large number of students. We would be happy to send back comments and suggestions made by the students.

**Rukshana Shroff**

Students Advisor ,  
Lady Shri Ram College for Women

Many thanks for sending the current issue of Transparency Review carrying an overview of the media scene.

I found, "Two Faces of Media" extremely interesting. Congratulations.

**D.R.Karthikeyan**

Advisor Law-Human Rights-Corporate Affairs  
Former Director, Central Bureau of Investigation

I have been receiving regularly issues of Transparency Review and I peruse them with great interest.

**B.G.Deshmukh,**

Former Cabinet Secretary, Government of India

*Mr N. Gopalaswami, Chief Election Commissioner, wants a fixed term for legislatures, decriminalization of politics and compulsory voting, besides power to de-register parties who do not contest elections for five years or more*

## ELECTION CHIEF'S CRITICISM



The Election Commission should be empowered to deregister political parties not contesting polls for more than five years, its chief N Gopalaswami has said. He voiced concern over proliferation of parties which were in existence to make money and "convert black money into white".

"The Election Commission (EC) is only authorised to register political parties, but cannot deregister them. There are 967 political parties in the country, many of which function only for making monetary benefits and convert black money into white," he said, while delivering a lecture here yesterday on "Electoral Democracy: the Context, Cost and Consequences".

He cited the example of a party which was found to be getting donations but not serving any political activity "and was confined to a room, one table and a chair." "Allow us to deregister parties not contesting (polls) for more than five years," he said. The Commission was receiving three applications a week from parties seeking registration, the CEC said.

Citing the recent Karnataka Assembly elections, he said that though the upper limit for expenditure for a candidate was only Rs 10 lakh, some of them were found to spent even upto Rs five crore. He said that EC officials had recovered Rs 45 crore worth of election material meant for distribution to voters. "The role of money and muscle power is one of the growing complexities of elections in India," he said.

He called for a fixed term for legislatures, decriminalisation of politics and compulsory voting among others as measures to ensure a free, fair and peaceful elections, besides strengthening the election system itself.

Stressing on the need for compulsory voting, Gopalaswami told reporters later that countries like Australia had been effectively implementing such a provision for a long time. To a query on the Commission's preparedness to curb the circulation

of black money in the coming parliamentary elections, he said, "We can do our best but cannot catch all the money."

Earlier, speaking at the National Police Academy in Hyderabad, Mr Gopalaswami said he favoured prohibiting civil servants from joining political parties for at least five years after resignation or retirement from service. "This suggestion could be implemented from the top -- the CEC and the Election Commissioners," he said. Mr. Gopalaswami also advocated a fixed term for legislatures saying "we are tired of conducting election after election". The other reforms he suggested was to prescribe a minimum of 50 per cent plus one vote for the winning candidate, ceiling on party expenditure and single mandatory ID card.

Referring to EC's proposal made in 1998 to bar persons facing charges of committing heinous crimes from contesting elections, he regretted that this had not passed muster with parliamentarians. There were 18.18 per cent MPs with criminal cases in Lok Sabha, 49 per cent MLAs in Bihar, 38.30 per cent MLAs (Uttar Pradesh), 32.91 per cent (Tamil Nadu), 30.86 per cent (Jharkhand) and 15.31 per cent MLAs (West Bengal), among other States.

"We cannot be proud of abusing authority, using Government servants, especially the police, criminals in fray, exceeding expenditure limit mostly observed in breach, bribing with freebies, liquor. So you start wondering at some point of time whether it is democracy or demo(no)cracy?"

Explaining the measures taken to tackle bogus voting due to migration and resultant absentees, he mentioned that in the Uttar Pradesh elections in 2007, it was found that the absentee electors were 85 lakh (7.59 per cent of the electorate). In a first of its initiative, list of missing voters was prepared polling station wise. Referring to high intra-city and inter-city migration, he said that a New Metropolitan Electoral Roll Management was in the offing.

Expressing concern over "innumerable instances of misuse of Government servants" and the transfer of officials just before elections, he urged the IPS probationers to maintain their integrity of thought and action.

*(Courtesy: PTI And The Hindu)*

*(The sordid events surrounding the trust vote last month did not exactly cover our democracy in glory. Yet, we could learn from it and convert the trust vote into a turning point to usher in a better style of politics, says N. Vittal former Central Vigilance Commissioner)*

## TRUST VOTE A TURNING POINT



Out of evil cometh good. The trust vote won by the UPA Government on July 22, 2008 was certainly not a matter of glory for our democracy. The cynical horse-trading of MPs and display of currency note bundles showed to what low levels our democracy has sunk. Nevertheless, with a little imagination, the trust vote can be converted into a turning point for ushering a better style of politics in our country.

Three points were highlighted by the trust vote exercise:

Democracy involves a lot of money and there is a close interplay between money power and political power. Equally important is the display of inefficiency and impotence of the government agencies, especially those connected with tax collections, that have allowed a free flow of unaccounted black money in the system. The support from criminals who were elected MPs and who were released from jail to participate in the vote.

But merely taking note of these points is not enough. Can anything be done to change the situation? If so, by whom?

Let us begin with the money power. Technically, in every democracy, money plays a vital role. Funds are needed to run political parties and fight elections. For this, donors are sought after by every party. Instead of denying this reality, we can move to bring greater transparency into the system insofar as fund-raising by parties is concerned.

Let us remove all restrictions on individuals and corporates on donation of funds to political

parties. The only condition must be that both the donors and recipients must account for this in their records and disclose the same to the tax authorities. As of now, only contributions by individuals to political parties are tax free. The same concession may be extended to corporate donations also. We could try to reproduce the system of political fund-raising as in the US, though that system too is not perfect. The very transparency will bring about more accountability in the conduct of political leaders.

One suggestion is that funding for political parties may be done by the Government, from public funds. This practice prevails in some countries. This may help parties that are financially weak but ultimately lead to abuse. In Germany, there is a public funding system for political parties. However, there were instances where political parties resorted to illegal additional fund-raising. This resulted in the former chancellor, Mr Helmut Kohl, who helped unite Germany, leaving office under shameful circumstances.

Accounting of funds of political parties should be accurate, audited and placed before the Election Commission. But who will initiate this change? The Election Commission may make a suggestion regarding the rules under the Representation of Peoples Act. If this is challenged the issue can be decided by the Supreme Court.

In the interest of conducting free and fair elections, the Election Commission can take the lead, using its powers. NGOs can help mobilise public opinion, as happened in the case of candidates declaring their wealth and criminal records.

We may next consider the problem of black money. The money power in politics, highlighted by the trust vote, shows the relative slackness

and lack of interest of our tax authorities in checking black money. I had a sad experience of this as Central Vigilance Commissioner when, on March 13, 2001, a *tehelka.com* sting operation was telecast on many TV channels. A contractor, Mr Jain, was shown claiming that he had made a profit of Rs 1 crore on a Defence contract.

On March 15, 2001, I wrote a letter to the Revenue Secretary and the Chairman, Central Board of Direct Taxes, asking them whether this profit amount was declared in the tax return of Mr Jain and, if not, was any raid on him contemplated. I was shocked that neither of the two dignitaries responded to my letter and the matter was given a quiet burial.

The recent display on TV channels of currency notes worth Rs 1 crore being held up in Parliament should have alerted the tax authorities to study how such a large amount of money was mobilised and check if it was legally accounted income or black money. So far, there is no report of such action.

In fact, the excessive growth of black money is standing proof of the sense of helplessness or the lack of commitment on the part of the Revenue authorities entrusted with the task of tackling the black money issue effectively.

Although the Government passed the Benami Transaction Prohibition Act 1989, the rules for implementing the Act and seizure of Benami properties are yet to be framed, even after 19 years.

The trust vote can be a turning point for better governance if the authorities redouble their efforts to unearth black money and follow the audit trail sincerely. The forest of exemptions in the

Income-Tax Act must be removed. There must be no income-tax on individual income up to Rs 5 lakh per annum. Any amount above Rs 5 lakh should be taxed at a uniform rate of 20 per cent. This will check black money generation and increase the government's tax revenue.

The Benami Transaction Prohibition Act, with the necessary rules in place, must be implemented. The Prevention of Money Laundering Act 2003 must be amended to include Income Tax, Sales Tax, Excise and Customs, and so on. These measures, if implemented seriously, will curb the growth of black money.

Now, the issue of criminalisation of politics. One simple method to check this is to amend the Representation of People Act in such a way that any candidate against whom a criminal charge-sheet is framed in a court of law should not be permitted to contest the election till his name is cleared by the court.

Unfortunately, the inordinate delay in the disposal of criminal cases enables the tainted candidates to contest and become MPs or MLAs. Law-breaking criminals enter politics to gain power and use the

same power to protect themselves.

To remedy the situation, the suggested amendments to the criminal law to bar candidates who are facing criminal charge-sheets in courts of law from contesting elections would be really effective.

If the bar is introduced, the very criminal candidates will ensure that their cases are decided faster and that the judicial system moves faster. The delay in the criminal justice process helps only the criminals.

All the three negatives of our system can be the turning point for initiating change and moving towards a better, cleaner political system.



*(The following are excerpts from an article by Mr Era Sezhyian, a former member of Parliament, who points to the fast erosion of morality in politics and the growing influence of money and wheeling-dealing)*

## DEFEAT OF MORALITY

ERA SEZHIYAN

The success of the United Progressive Alliance (UPA) in getting a majority in the confidence vote on July 22 has come as a respite for Prime Minister Manmohan Singh personally and for his government politically. This is a pyrrhic victory for the ruling party; it has won a battle but may lose the war in the coming four to eight months.

When a cauldron is stirred, dirty sediments from the bottom come floating to the surface. If it were not for the cross-voting by 15 Members of Parliament and the abstentions of 10, the government motion could have been defeated. Most of the MPs and leaders who took quick decisions to support or oppose the government were motivated not by any issue of public importance, but on the localised demands of the party concerned or the personal aspirations of its leader. The numbers game revealed the alarming deterioration in the political norms of morality.

The practice of members and leaders changing parties on principle or on the basis of personal equations has been there all along in

India. Regarding defections in the State legislatures, there were 542 cases in the first 15 years of independent India and 438 in 1967-68 alone during the infamous saga of Aya Rams and Gaya Rams. In this peak year, the numbers game affected the major political parties more; the Congress gained 139 defecting members and lost 175 while the Jan Sangh got three and lost 16. The burst of defections was politically legitimised when Prime Minister Indira Gandhi called for "voting according to conscience" in 1969 to defeat the very presidential candidate set up by the Congress party and nominated by herself.

Whatever has been the result of the division on July 22 in the government motion, it is obvious that in the process of winning the numbers game by blatant offers of money bags and ministerial postings and purchasing accomplishments, both sides effectively combined to defeat the norms of political morality.

Bribery and criminality are increasingly becoming part of the political activities in the country. There is a growing tendency in major parties to allot the ticket and offer ministerial berths to persons well known

for their corrupt and criminal records. In the appeal "For Eradication of Corruption and Criminality from Indian Politics" submitted on November 9, 2005, to the President, the Prime Minister and others in high offices, the veteran Gandhian S.D. Sharma of the Lok Sevak Sangh, New Delhi, was stated thus: "In the 13th Lok Sabha, the newspapers had reported that there were about 40 tainted MPs; in the 14th Lok Sabha, there are about 100 tainted MPs and

about 7 tainted Ministers. We call them tainted, not because the Opposition says so, but because they themselves have admitted in their sworn affidavits filed with their nomination papers listing serious criminal cases pending against them in various courts."

The Prime Minister and his Ministers reeled out prepared statements on the achievements of the government in the growth of gross domestic product (GDP), flow of foreign investment, schemes and allotments initiated, and so on. But they were not concerned about the disgusting moral bankruptcy that



**Bundles of currency notes being displayed by a member of Lok Sabha**

is corroding the country over the economic prosperity at the macro level.

What is criminal according to law has become politically acceptable and honourable. Previously political parties used money power and ministerial power to bribe voters during election times; now they purchase elected members in groups. The former was retail trade in corruption while the latter is wholesale trade in corruption.

In India, the people are losing confidence in Parliament owing to its disorderly functioning. There is inaction on the part of MPs in the matter of focusing the attention of the government and the people through purposeful debates in the House. There is every danger that the people may not only lose faith in the functioning of the members of legislative bodies and the legislatures themselves but eventually throw out the entire system of parliamentary democracy itself.

The Indian National Congress has a great historical tradition of fighting for the freedom of the country under the great leadership of Mahatma Gandhi and several other eminent leaders who were all keen that India after attaining political freedom should further strive to win economic, social and moral freedom. On this point, Gandhiji observed: "Indian National Congress, which is the oldest national political organisation and which has after many battles fought her non-violent way to freedom, cannot be allowed to die. It can only die with the nation. A living organism ever grows or it dies. The Congress has won political freedom, but it has yet to win economic free-

*(Courtesy: Frontline)*

## ROBS TRAIN TO FIGHT ELECTIONS

The Government Railway Police (GRP) claimed it had solved the had solved the Oct 1 train robbery by arresting two suspects from Etawah district of Uttar Pradesh.

On questioning, they allegedly said they committed the crime to fight union elections. Rajnish Yadav and Ashok Yadav, the duo, along with about a dozen others, looted passengers of the Kalka-Howrah Mail, the police said.

'We caught the two through mobile surveillance and during interrogation it was revealed that both were

*(Courtesy:IANS)*

dom, social and moral freedom. These freedoms are harder than the political, if only because they are constructive, less exciting and not spectacular. All-embracing constructive work evokes the energy of all the units of the million. The Congress has got the preliminary and necessary part of her freedom. The hardest has yet to come. In its difficult ascent to democracy, it has inevitably created rotten boroughs leading to corruption and creation of institutions, popular and democratic only in name. How to get out of the weedy and unwieldy growth?"

In the end of the short note, he was apprehensive of the Congress party being lost in the lust for power, and stated: "If it [Congress] engages in the ungainly skirmish for power, it will find one fine morning that it is no more. Thank God, it is now no longer in sole possession of the field. I have only opened to view the distant scene. If I have the time and health, I hope to discuss in these columns what the servants of the nation can do to raise themselves in the estimation of their masters, the whole of the adult population, male and female."

This note by Gandhiji got published in Harijan on February 1, 1948, and unfortunately, by that time he was no more.

India needs another Mahatma Gandhi and another kind of Congress party to win economic, social and moral freedom. This may be a difficult task as the political freedom won by India is itself tottering, following the decline of political morality. Still, let us strive and hope for a brave new generation to emerge and to free India and its people in all respects.

students of the Karm Kshetra Degree College,' inspector A.K. Singh of the GRP said.

Ashok was an aspirant in the upcoming student union election of the college and had installed a number of glow signs and posters throughout the city to gather support, the police. The arrested were students of a degree college who, according to the police, had committed officer said.

'We have gathered vital clues about the other youths who accompanied them in the robbery and have also recovered some of the booty,' Singh said.

*Expressing his views at the recent Lok Sabha Speaker's Roundtable discussion on "Strengthening Parliamentary Democracy", Dr N. Bhaskar Rao, Chairman of CMS, pointed to the fast-spreading disease of buying votes and how this perpetuates corruption in governance*

## **HOBBLED POLITICAL RACE**

**N. Bhaskar Rao**

**F**our issues to do with our electoral procedures/practices need to be addressed urgently. These are campaign expenditure, the extent money is paid to influence voters, the way the news media cover the polls and representative character of our elected MPs, MLAs and the Governments. A new wave of democracy in the country could be ushered in only by addressing these issues.

Despite some initiatives of Election Commission, poll eve campaign expenditure is sky rocketing election after election. Unless we understand the linkage of this phenomena with the larger malice that this expenditure implies to good governance and the very the democratic system, we will be talking more about symptoms. Consider, for example, CMS's latest study on corruption, involved in citizen availing basic government services and the extent political parties pay cash to voters. The countrywide studies in 2007 and 2008, brings out that phenomena of "paying for votes" is widespread. In some States, more than one-third of voters were paid for their vote on poll-eve in the last 10 years.

What does this mean?. I call this "Mother of all Corruption" as this practice sets perpetuates corruption in governance. This trend is expected to increase further in 2009 as if it has become a "necessary condition" to give a fight in the election. That being the case, can we strengthen our democracy without addressing this phenomena. Means no longer matter in our electoral process, winning at any cost is. That cannot be the core of competitive politics. Citizen is not realizing that by "accepting" money for vote once in five years or so, he/she is falling into a vicious trap of having to pay as bribe several times more, and every year, for availing basic public services that they are entitled otherwise. Hence the urgency to understand seriousness of the phenomena of paying for votes.

The turnout has not been increasing despite more educated voters, mounting campaign expenditure and proliferation of news channels and their coverage of the electoral process. The Election Commission spends about Rs.100 crores to educate voters and another Rs 700 crores for conducting the polls. Parties and candidates spend more than ten times that, about Rs.10,000 crores, for one round of Lok Sabha and one round of Assembly polls. Most of this money is not accounted. Going by what is allowed today as election expenditure by candidates, total expenditure should not be more than Rs.3000 crores (even assuming 4 - 5 candidates seriously contest on an average per constituency).

Theoretically, all this should improve voter turnout and the quality of elected representatives. But that has not been the trend. On the contrary instead of interesting and involving more in electoral process, mounting campaign expenditure and the kind of coverage television channels engage, apparently keeps voters away from polling booths. Some could even say that poll surveys, in particular, are pre-empting the process. As all such programmes tend to promote "drawing room democracy". A prominent political analyst who worked with Gallop Agency in US for long concluded in his book recently that "democracy is endangered by the way the news media uses public opinion polls" on the eve of elections.

Perhaps the kind of coverage that channels are doing requires a relook - in terms of their format, structure, participation, and the extent of repeat and more-of-the-same" kind of coverage TV channels are engaged in. The coverage should motivate voting and help voters discriminate between candidates. on their virtues. And, more importantly, the coverage should reflect needs and aspirations of communities rather than the greed and glamour of political das. The punditary aspects in the coverage should give way to participation.

# ALARMING TREND OF PURCHASING VOTES

That money is paid to voter for their vote is known to those who are familiar with grassroot politics of India. But neither the extent of voters nor the money involved in this menace is known. The recent Assembly elections in Karnataka in 2008 have set a new benchmark in this regard. We do not have any data indicating the magnitude of the problem except occasional newspaper reports of political leaders distributing cash or being chased by the Apposition

CMS used a perception, experience and estimation method to arrive at its conclusions. "Not many will admit they have been bribed to cast their vote," he said. "But, in confidence, they would let you know if they knew someone who has taken money."

CMS analysis brings out the link between the menace of voter being paid for his vote and the extent of corruption affecting citizens even for availing public services that they are entitled to as a right. That is how CMS went about with the first ever-empirical study on cash for vote phenomena in 2008. This data is based on a sample of 18000

voter from 19 States, further validated with micro level survey in individual constituencies. The highlights of the survey are presented here. The tables are from two different surveys on in 2007 among 23000 BPL households and the other in 2008 among 18000 voters in 19 States. The study did not cover other inducements or freebies like liquor or in kind. Only Assembly and Lok Sabha elections have been covered

As this CMS study shows, money for votes is not limited to the poor or rural voters but a national phenomena spread across rural - urban, rich-poor, difference age groups and irrespective of educational levels. In the menace was found lower in the Left Front ruled States of Kerala, Tripura and West Bengal than in other States. And it was higher in Tamil Nadu, Karnataka and Andhra Pradesh, where more than 40 percent of voters had received cash for their vote in the polls held in the last 10 years. Even in Delhi, 25 percent of voters received money for their vote. CMS intend to take the study forward in the coming general elections.

State	Percentage of Voters (2008)	Percentage of BPL hh (2007)
Karnataka	47	73
Tamil Nadu	34	78
Madhya Pradesh	33	29
Andhra Pradesh	31	94
Bihar	31	23
Orissa	27	50
Delhi	25	24
Gujarat	24	32
Chhattisgarh	22	73
Uttaranchal	20	33
Uttar Pradesh	18	32
Assam	14	56
Rajasthan	14	41
Maharashtra	13	32
Harayana	8	40
Jharkhand	7	21
Tripura	-	3
Himachal Pradesh	-	4
Kerala	13	8
West Bengal	4	18
<b>National</b>	<b>22</b>	<b>37</b>
<b>Sample Size</b>	<b>18,000</b>	<b>23,000</b>

**Those who had taken money or was given money for casting vote by Location (in the last 10 Years)**

	<b>Percentage of BPL hh (2007)</b>	<b>Percentage of Electorate (2008)</b>
Urban	30	23
Rural	40	21
Male	38	23
Female	34	18
"Opinion maker" voters	-	25
Other voters	-	20
<b>every State</b>	<b>all</b>	<b>19</b>

**Those who had taken money or was given money for casting vote by Party in Power (in the last 10 years)**

	<b>Percentage of Electorate (2008)</b>
Voters in BJP MP constituency	25
Voters in Congress MP constituency	19
Voters in other party MP constituency	21
Voters in NDA ruled States	27
Voters in UPA ruled States	21
Voters in Others ruled States (Left, BSP,..)	13
<b>Total Electorate</b>	<b>22</b>

**Those who had taken money or was given money for casting vote by Age, Education (in the last 10 years)**

<b>Demographics</b>	<b>Percentage of BPL hh (2007)</b>	<b>Percentage of Electorate (2008)</b>
18 - 25 Years	38	22
26 - 35 Years	38	22
36 - 50 Years	36	20
No School/ Illiterate	36	19
Upto 12th Class	37	22
Graduate & above	44	24

**Those who had taken money or was given money for casting vote by Occupation,  
Social Group (in the last 10 years)**

<b>Demographics</b>	<b>Percentage of BPL hh (2007)</b>	<b>Percentage of Electorate (2008)</b>
<b>Occupation:</b>		
Agriculture Labour	48	19
Small farmer	40	25
Non Agri Labour	34	20
Unemployed	36	22
Student	34	22
<b>Social Group:</b>		
SC	35	20
ST	41	22
OBC	41	21
Muslim	-	20
Jat	-	10
Maratha	-	9

**Money as a factor in luring voters ?**

<i>(percentage)</i>		
<b>Assembly Constituency - (Karnataka) Where winner defected to ruling</b>	<b>Percentage of voters who had received or was paid money for vote in the recent Assembly election</b>	<b>Which party gave money to more people</b>
Hukeri	35	JD (S); Congress; BJP
Arabhavi	16	BJP; Congress; JD(S)
Devadurga (ST)	39	BJP; Congress; JD(S)
Karwar	43	JD (S); Congress; BJP
Turuvekere	38	Congress/BJP; JD(S)
Madhugiri	29	Congress/BJP; JD(S)
Dod Ballapur	57	JD (S); Congress; BJP

Source: CMS

# PARTY FUNDS' SOURCE HIDDEN

India Today invoked the Right to Information (RTI) Act to get details of funds collected by political parties. Cutting across party and ideological divides, one fact stands out: almost all political parties still get a large chunk of their funds from undisclosed sources.

The seven recognised national parties—Congress, Bharatiya Janata Party (BJP), Bahujan Samaj Party (BSP), Communist Party of India (CPI), Communist Party of India-Marxist (CPI-M), Rashtriya Janata Dal (RJD) and Nationalist Congress Party (NCP)—collected over Rs 309 crore from donations, voluntary contributions, election funds and sale of coupons during 2006-07 (The figures available for the NCP and RJD are for 2005-06).

Surprisingly, the source of funding has been disclosed only for Rs 15 crore. Similarly, nine regional parties—Telugu Desam, Lok Janshakti Party, Dravida Munnetra Kazhagam (DMK), Biju Janata Dal, Shiv Sena, Rashtriya Lok Dal (RLD), Janata Dal-United (JD-U), Shiromani Akali Dal and Samajwadi Party—collected over Rs 94 crore from voluntary contributions, election funds and coupon sales but have disclosed the sourcing for a piffling Rs 15 lakh.

Put together, 16 of the largest political parties in the country collected over Rs 400 crore of which less than Rs 16 crore was attributed to known sources. RTI applications sent in May this year regarding the returns filed by parties like the AIADMK, National Conference, Indian National Lok Dal, People's Democratic Party (PDP), Janata Dal-Secular and Asom Gana Parishad (AGP) remain unaddressed.

A close scrutiny of the tax returns of parties show that most do not take income tax provisions seriously. A number of parties file returns much past the deadline, do not file them in the required format, and do not bother to attach the prescribed documents.

Hand it to the Congress. India's grand old party has led the way in filling its coffers. Though headquartered in Delhi, the Congress accounts are audited by

a Kanpur-based chartered accountant. In 2006-07, the Congress collected Rs 34.64 crore as donation and Rs 123 crore from the sale of coupons. Yet the party has only disclosed a list of 102 donors who each paid more than Rs 20,000, the contributions totalling Rs 12 crore. The party also claims it spent Rs 48.76 crore on elections though it gives no details of such expenses

The lotus seems parched in comparison. India's main opposition party has shown a loss of Rs 1.01 crore for 2006-07. The BJP, which once claimed to be the party with a difference, has kept up its difference in one way at least: it is the only political outfit to have secured bank loans worth Rs 8.08 crore.

It earned Rs 55.61 crore through voluntary contributions during 2006-07 but disclosed the names of only 107 donors for a total contribution of Rs 2.95 crore. Like the Congress, the BJP too filed its ITR for 2007-08 on March 31, 2008, six months after the deadline of October 31, 2007.

Unlike the BJP, Mayawati's BSP seems to have no need for loans. The party took a donation in excess of Rs 20,000 in 2004-05, which it disclosed in its return: it received Rs 19 lakh from ITC Limited.

In other years, Mayawati has enclosed an affidavit which says the party "has not received any single voluntary contribution in excess of Rs 20,000 during the year".

The BSP collected Rs 45.05 crore during 2006-07 as against Rs 2.55 crore a year earlier. According to its tax return, the party purchased five properties in Lucknow for Rs 1.46 crore between January and May 2005.

Strangely, it sold them a few months later for Rs 1.36 crore, a time when land prices were skyrocketing. The Samajwadi Party is no newbie to this great game. It collected Rs 80.47 crore during 2006-07, but disclosed sources for only Rs 6.57 lakh of this amount.

***(Extracts from a recent article in India Today)***

# PARTIES VIOLATING TAX LAWS

**Ruhi Tewari & Teena Jain**

**T**he Nationalist Congress Party (NCP) has been claiming the income tax (I-T) exemption that political parties are eligible for provided they meet one criterion-without doing so.

The condition involves submitting to the Election Commission (EC) a list of donors who contributed at least Rs20,000 to the party, or certifying that there are no such donors.

It isn't just the NCP; the returns filed by several other parties, including the Communist Party of India (Marxist), or CPM, and the Bahujan Samaj Party (BSP) show discrepancies.

These findings are based on a Mint analysis of information on tax filings of seven parties between 2001-02 and 2005-06 provided by the I-T department in response to a Right To Information application filed last year by the Association for Democratic Reforms, an Ahmedabad-based non-political group which aims at bringing about government and electoral reforms.

The NCP, part of the ruling United Progressive Alliance government, "has never submitted a contribution report", said a senior official at EC, a statutory body that conducts elections in India.

The official, who did not want to be named added that the party "submitted one earlier this year for the first time, pertaining to fiscal year 2006-07, but even that was done after the due date and hence, is of no use."

According to the Representation of the People Act, political parties are to submit a contribution report for every financial year ending March to EC on or before the deadline for filing I-T returns for that year. EC issues a certificate to political parties that submit these reports, and this certificate has to be attached to the parties' I-T filings.

Mint couldn't independently ascertain whether the NCP failed to submit the report to EC or submitted it directly to the I-T department.

It also isn't clear how the company could have filed

its tax returns without a certificate from EC.

Y.P. Trivedi, treasurer, NCP, claimed that the party had been satisfying all required norms. "We have not received any complaints from the EC nor has there been any assessment order against us. All our accounts are properly audited."

"If they (NCP) have not filed the contribution report with the Election Commission their exemption can be withdrawn. The Election Commission should have informed the income tax department," said an official in the tax department who did not wish to be named.

EC and the I-T department, however, do not share information. Election commissioner S.Y. Quraishi said that the only consequence of a party not filing a report on contributions with it was that the party would not get any tax relief. "It is up to the I-T department to check that (whether they have filed a contributory report or not)."

Any party that fails to "file the contribution report for that financial year" would not "be eligible for exemption, in which case all contributions they have collected that year or any other income will get fully taxable", said Amitabh Singh, partner, at audit and consulting firm Ernst and Young.

Yet, NCP's filings for the years 2001-02 to 2005-06 show no tax payments.

If NCP's tax returns show that it paid no tax while it should have, CPM's return for 2005-06 were filed with a balance sheet that didn't balance. The asset side of the sheet showed Rs107.88 crore, while the liabilities side showed Rs107.68 crore-a gap of Rs20 lakh. This wasn't a printing error as the aggregates added up to these numbers. The balance sheet bears the stamp and signature of the auditor BM Sharma and Associates, and has been countersigned by senior party officials.

"The basic rule of a balance sheet is that its assets and liabilities sides should match. This is an instance of utmost carelessness and there is no

reason why it should happen," said a senior tax and audit expert who did not want to be named. The party, however, claimed this was merely a "clerical mistake".

"It is a mistake on the liabilities side. It would have been worrying if there was a problem on the assets side," said Sitaram Yechury, politbureau member of the CPM.

"Some figures had been wrongly punched while typing. It is not as if the balance sheet is not actually tallying. Even in the next balance sheet, there is no problem, which goes to show that this particular problem is merely a typographical error," said Sharma.

The I-T department, which usually returns erroneous filings, seems to have missed this one. "We have not received any notice from the I-T department regarding this balance sheet," Sharma added. The I-T department also seems to have missed some unusual transactions in BSP's tax returns.

The party's return for 2005-06 shows that it bought and sold properties the same year at a loss. Three

*(Courtesy: Live Mint)*

## LESSONS ON FREE AND FAIR ELECTIONS

Concerned over the growing criminalisation of politics and the role of money in elections, K.J. Rao, who as a vigilant election commission observer made a mark in the Bihar elections of 2005, is writing a book on how to conduct clean elections.

The book, slated for release before the next Lok Sabha elections, is based on Rao's experiences during the Bihar elections that was largely violence-free and rid of booth capturing that had characterised earlier elections.

"The book will primarily focus on steps needed to ensure that criminal elements are weeded out from the electoral process," Rao said.

"The book will contain details about how free and fair polls were conducted in Bihar. It will throw light on poll reforms and how elections can be conducted in a well organised manner besides vetting criminal elements," he said.

The 66-year-old Rao, who is giving finishing touches to the book before the general elections scheduled for 2009, will also answer an important question that

properties in the New Civil Lines area in Lucknow were sold at a loss the same year they were bought, as was another property in another neighbourhood. According to real estate consultants who do not want to be named because a political party is involved, this seems inexplicable given that property prices have only been on the rise and the BSP has enough of a bank balance to not need liquid cash urgently to the extent of selling prime properties at a loss. "I am not sure which properties these are. I must check the market price at that time," said BSP's treasurer Rajan, who uses only one name.

"2005-06 was one of the best years for the Indian real estate market, with property prices witnessing a boom. Since then, the market has been good and it is impossible that property bought in a posh locality (or any locality) could have been sold at a loss. In fact, nobody sells property at a loss, unless in dire need of liquid cash," said an executive at a real estate advisory who did not want to be named.

BSP auditor Ajay Shekhar declined to comment on the issue, claiming it was "confidential information" and that speaking about it was against his "code of conduct".

has puzzled many - why did he turn down the offer for an extension after the Bihar poll?

"Finally the dust will settle on my surprise decision to end the decade-long association with the Election Commission in 2006," said Rao, who is currently a member of the Supreme Court-appointed monitoring committee overlooking the sealing of illegal shops in residential areas of the national capital.

In addition to his present job, Rao has also set up an NGO called Foundation for Advanced Management of Elections (FAME) with former chief election commissioner JM Lyngdoh.

On the request of Congress general secretary Rahul Gandhi, FAME has agreed to help conduct organisational elections of the Indian Youth Congress (IYC) in Punjab this month.

"Rahul got in touch with Lyngdoh four months ago to streamline the organisational polls in the IYC and the National Students Union of India (NSUI), the two organisations under his charge. But I was in turn asked to help," Rao said.



## A LONG WAY TO GO, SAYS PM

(Transparency Bureau)



The third annual stock-taking of the Right to Information Act's implementation held early in November, provided the occasion for the Prime Minister, Dr Manmohan Singh, to go over the benefits that have so far accrued from it to the common man as also underline the hesitation of most public authorities to change their earlier "secrecy" mindset. "Public authorities in our country have still to go a long distance in pro-active disclosures," he said, while inaugurating the Convention. This was an acknowledgement of the oft-repeated complaint of activists over bureaucratic stone-walling.

The theme of this year's conclave, attended by all State Information Commissioners, social activists, some eminent personalities, besides invitees from South Asia, was "RTI and its ramifications for good governance." The various technical sessions were each assigned particular issues to enable a free and frank discussion. The issues, all obviously revolving around RTI, related to "Good Governance", Need for Strategy Specific to Rural Area," Poverty Alleviation," "Protection of Individual Freedom," "Media, Civil Society and RTI in South Asia" and "An Overview and Current Assessment of RTI".

Everyone of the speakers underscored how the Act had become an effective weapon for the ordinary citizen to get his grievances redressed - like getting a ration card or an electricity connection by the simple process of an application under the RTI. The Prime Minister saw in this "a gradual but steady progress towards building a more accountable, transparent and citizen-friendly government."

At the same time Dr Singh conceded the difficulties in the implementation of the Act that ought to be removed as in filing applications because of procedural bottlenecks, limited modes of payment of fees,

inadequately trained personnel, absence of modernized records management systems and limited publicity of the provisions of the Act.

Another aspect that struck the Prime Minister was the nature of information demanded which at times did not take into account the limited resources available with the public authorities and the paucity of time. "Vexatious demands should not be allowed to deprive genuine information-seekers of their legitimate claims on limited public resources," he said



This was a point which also engaged the attention of the Speaker of the Lok Sabha, Mr Somnath Chatterjee, during his valedictory address to the Convention. "We need to be on guard" against people who may use it as an instrument to unsettle some well-established norms of governmental functioning, to pursue private or personal agenda in the garb of public interest, or as a short-cut to easy fame and cheap publicity, or as a means to earn their livelihood in the cover of social activism or even as a weapon to discredit people's institutions and reputations".

In this context, he referred to the huge arrears of applications pending with the State and Central Information Commissions which needed attention. "The pendency of nearly 7,000 cases with the Central Information Commission, as in June 2008, speaks not only about volumes about people's desire for information but also of institutional inadequacy in dealing with them. The piling up of cases, as in the judiciary, will defeat the very purpose of this well-meaning measure," he pointed out.

He referred to the growing number of RTI applications in the Lok Sabha secretariat, from a mere 20 in 2005 to 6-until October this year on various aspects of the functioning of various ministries, the local area development scheme, interruptions and disturbances,

privilege matters, members' attendance and money spent on them. "I am glad to acknowledge that the varied nature of information being sought by the people on the working of the Lok Sabha and its members itself as an evidence of the interest shown by the citizens in parliamentary activities, which is vital to keep the faith of the common man alive in the country's organic institutions and also to ensure the accountability of the elected representatives to the people in a more effective manner and how the RTI Act is being utilized in this regard."

Aruna Roy, one of the moving forces behind the RTI Act complained that the State Governments were not doing enough to enable the panchayats to disclose information to the people. Emphasizing the importance of Section 4 of the Act dealing with disclosure of information, she cited the example of a panchayat where the people could know that the work done under the rural employment guarantee scheme was bogus only because the panchayat had posted the list of works supposed to be done under the scheme

## NOW A COMMON MAN'S TOOL

**Vidya Subrahmaniam**

An interim assessment of the Right to Information Act, 2005, undertaken independently, has concluded that more and more people are now using it in previously unknown ways, disproving the propaganda that RTI is an instrument concentrated in the hands of select social activists.

The first of its kind, the comprehensive study, conducted jointly by the National Campaign for People's Right to Information (NCPRI) and the Right to Information Assessment and Analysis Group (RaaG), has been billed as a people's initiative to assess who is using the Act and to what purpose. The study covered 10 States, besides Delhi.

In their report, "The People's RTI Assessment 2008," the NCPRI and RaaG pointed out that so far all information on RTI was either anecdotal or derived primarily from government data. Nor was there any evaluation of how the Act impacted societal actors such as the media, courts, the corporate sector and non-governmental organisations.

The NCPRI and RaaG conducted separate rural and urban surveys and also collected about 5,000 case studies from across the country, culled from the Hindi and English print media and downloaded from websites and blogs. A perusal of the cases showed that more and more people were invoking the Act, and for a variety of reasons.

*(Courtesy: The Hindu)*

In many cases, the applicants went beyond securing answers to their questions. They closed down polluting factories, fought corruption, and formed themselves into a larger group to support one another. Internet users formed their own online support groups, and helped applicants fill applications.

Specific examples of enlarging RTI: People in rural Karnataka combined campaigns for the Right to Information and the Right to Food to fight hunger. An 86-year-old Dalit farmer in Maharashtra used the RTI data to prevent his strawberry fields from drying up. In Uttar Pradesh, over 14,000 residents in a cluster of eight villages, 60 km from Banda, used RTI to fight for their right to have roads, bridges and electricity.

The surveys showed that an overwhelming majority of rural residents saw information as the key to solving village problems. More than two-thirds of rural respondents said they had received a response to their applications and nearly one-third said their problems had been solved though they had received no information or received only partial information.

Among urban respondents, nearly three-fourths said they had received responses though they were slow in coming. Only a third of respondents said they had received responses within the stipulated one month.

# STILL TO SPREAD TO VILLAGES

**K.P. Narayana Kumar**



Three years after India enacted a transparency law, it is still not effectively used by villagers at a time government spending in rural projects is not properly accounted for, say activists and policymakers.

"There is a need more than ever for the RTI (Right to Information Act) to become a success in rural areas," said T.R. Raghunandan, joint secretary in the panchayati raj ministry, which oversees local governance. "About 70% of the money spent on Central government schemes routed through panchayats (village councils) are not accounted for properly."

The government has spent at least Rs1.2 trillion in four years, Raghunandan told participants of a seminar that discussed the progress of the legislation here this week. Some 26,500 panchayats spent Rs30-40 lakh each in the last fiscal year to March, he pointed out.

Aruna Roy, Magasaysay award winner and a founder of the RTI movement in India, said when it comes to transparency and accountability, villages are neglected by the Centre.

"The government has not bothered to even publicize the Act through media campaigns," she said, adding that the government must set up a governing council to implement the RTI Act on the lines of the supervisory body set up for its flagship welfare programme, National Rural Employment Guarantee Scheme that ensures 100 days of work a

year for the rural poor.

"There has to be a team of eminent people who will go to the field and ensure that the panchayats and other local bodies at the lower tiers are disseminating information," she said.

"Applications are not maintained in any other office (such as panchayats and block development offices) except for the district collector's (office) and the people designated to handle these are untrained," Raghunandan said.

The RTI Act requires all government departments to publish information under their purview on their websites. However, none of the panchayats have made any such disclosures, Roy said.

Dileep Reddy, a state information commissioner in Andhra Pradesh, stressed on the need to appoint qualified personnel to man the RTI units at panchayats.

"Village secretaries are also supposed to assume the role of information officers (in each panchayat) under the RTI Act," Reddy said. "But in Andhra Pradesh, we have noticed that in many villages, the sarpanchs (village headmen) have usurped the role of information officers, which is against the law."

India's chief information commissioner Wajahat Habibullah said the commission is planning to work with the information and communications ministries to improve online filing of information by panchayats. "We will definitely work towards full disclosures by all government bodies including panchayats as stipulated by the Act," he said.

*(Courtesy: Live Mint)*

# VIDEO MEET TO CLEAR BACKLOG

**Mayank Aggarwal**

Decentralising the Central Information Commission (CIC) is not the way to clear the pending backlog of appeals and complaints, says India's Right to Information (RTI) chief.

"I don't think decentralizing is the answer. Video conferencing is a better option and will work far better," Chief Information Commissioner Wajahat Habibullah told IANS.

"If we decentralize, we will have to set up offices, arrange accommodation and other facilities like transport for the information commissioners and for that also a huge amount of money will have to be spent," he added.

The Right To Information Act was passed by parliament in 2005 for promoting transparency and accountability in the system.

According to Habibullah, "decentralization would also lead to breakdown of coordination between Public Information officers."

"The RTI Act emphasises the use of electronic means, and video conferencing is a revolutionary system of information technology. For RTI, the next step at CIC is the introduction of video conferencing, which is inexpensive and quite efficient," he said.

"Earlier we were using the video conferencing facility at the National Informatics Centre. But it was not always available due to which a lot of our hearings were cancelled," Habibullah explained.

He said that video conferencing facility was available now at one of the CIC offices.

"We have divided time between all information commissioners at the office to use that facility. I am slowly looking towards all information commissioners having their own video conferencing facility so that they don't even have to use it by turn," Habibullah added.

He further stated that whenever there is a huge backlog of cases at a particular place, the information commissioners travel to those places for a few days and hold hearings.

*(Courtesy: IANS)*

"Chandigarh and Puducherry are just some of the examples," Habibullah added.

"The future step could be installation of video conferencing at all ministry offices so that they don't even have to come to the office and instead they can attend the hearing while sitting in their offices."

"In fact, the commission has already recommended to the government to provide video conferencing facility to all secretaries in their ministries which would save both time and resources," another CIC official said.

Asked about applicants coming from faraway places to attend a hearing at the CIC office here, Habibullah said: "We have also taken care of that and asked them to attend hearings through video conferencing available at the district level".

Agreeing with Habibullah's views, Magsaysay award winner and RTI activist Arvind Kejriwal said: "I agree with Habibullah's view about using technology for RTI in the country. However, video conferencing would still have its limitations, as infrastructure would be needed.

"Instead audio conferencing will ensure that public money is saved and it would also be easier for the appellants. Information commissioners like O.P. Kejriwal have started using audio conferencing."

"In the case of video conferencing, applicants still have to travel to the nearby district headquarters. However, in case of audio conferencing they will have to just go to the nearby telephone booth," Arvind Kejriwal said.

However, some RTI activists still feel that decentralization of CIC will help.

Pune-based RTI activist Vijay Kumbhar told IANS: "Definitely, decentralisation will help. There is a lot of problems in video conferencing, as rural areas don't have any such facility."

Kumbhar did not think that there would be any financial burden on the government.(in opening CICI officers at other place)"

## JUDGES' QUALIFICATIONS

The answers to a new query put under the Right to Information (RTI) act has shocked everyone. The application under RTI sought to know 'How learned are our Supreme Court and High Court Judges?' These shocking details have been revealed in an RTI application filed by RTI activist Debashis Bhattacharya.

The RTI activist alleges that no one seems to have any record of the educational qualifications of the judges, neither the Supreme Court nor the Law Ministry.

Recently, there have been a few alleged instances of individual corruption and also a few reportedly shocking lapses of the entire judiciary. The judges are the men to give the verdict literally, every day.

If the RTI activist is to be believed, no one seems to have any record of the educational qualifications of the judges serving in the High Courts or in the Supreme Courts of India.

*(Courtesy: CNN-IBN)*

## BUREAUCRACY SHAKEN OVER SIC DIRECTIVE

The beauracracy in Uttar Pradesh finds itself in a spot over an order of the State Information Commission (SIC) under the Right To Information (RTI) which directed the Mayawati government to make public the income and assets of all the IAS and IPS officials within next six weeks.

"It will be a good move in order to ensure transparency in the governance and the state government is studying the modalities in this regard," an official spokesman told UNI here this morning.

The decision, however, has shaken a section of officers as from time to time charges were being levelled against certain bureaucrats for amassing assets disproportionate to their income.

The SIC order was passed by acting chief information commissioner Gyenendra Sharma yesterday on an application of one Brijesh Mishra, seeking details of the movable and immovable assets of nine IAS officials under RTI.

Significantly, the senior officials against whom the RTI application was moved included chief secretary

*(Courtesy: UNI)*

It is said that there is no updated data available, no certificates or mark-sheets, no details of marks obtained from matriculation to their mandatory degree in Law.

Allegedly, the Supreme Court has no record, the Delhi High Court has no record and shockingly even the Ministry of Law and justice has no record. Bhattacharya also feels it might lead to a scam. "All this has happened despite Law Minister Hansraj Bharadwaj's written reply in the Parliament in March this year that judges are selected on several parameters, first of which was their education qualification," said Bhattacharya.

While questions have already been raised whether judges are appointed on the basis of their political affiliations, the search for their educational certificates could prove to more embarrassing for the government than an already embattled judiciary.

Atul Kumar Gupta, secretary (Home) Mahesh Gupta and senior IAS officers Dev Dutt, Lalit Srivastava, Rajan Shukla and Chandra Prakash.

The acting chief information commissioner has asked the state appointments department to publish property details of all the officials made available to it from 2005-06 onwards within six weeks.

The applicant moved the application under the RTI when the UP government refused to give him the details sought on the assets of these officials.

The commission in his order said that under section 4 of the RTI Act, it is obligatory on the Public Information Officer to make these information public. "When MPs, MLAs, could give details of their assets, why cannot the IAS and IPS", he observed.

In the recent past, UP had earned a bad name on the disproportionate assets case when several officials including two ex-chief secretaries-- Akhand Pratap Singh and Neera Yadav- were chargesheeted by the CBI in similar cases.

# ACT ELUDES NRIs

Over a year after information officers were appointed at Indian embassies and high commissions, access to information still eludes non-resident Indians. The Indian diaspora has not had much luck in getting information through the Right To Information Act as the mode of payment to public authorities and the scope of work continues to be vague.

One of the major obstacles that NRIs face is that embassies and high commissions accept only applications related to them and not to other public authorities. According to United States-based Association for India's Development (AID), the Indian embassy-appointed PIOs and appellate authorities only accepted RTI applications related to them. "Applications addressed to other public authorities in India were returned," Arun Gopalan, AID volunteer based in Washington D.C. said.

The other problem that NRIs face is lack of provision to pay the application fee. "Even after three years, the government has not specified any procedure for remitting of the fees in rupees," Commodore Lokesh Batra (retd), RTI activist

*(Courtesy: The Times of India)*

currently in Boston, said. Applicants have pointed out that getting treasury challans or postage stamps is a difficult task.

In addition, NRIs have found it cumbersome to get acknowledgments to RTI applications filed with various central and state public authorities. Gopalan, who has filed several RTI applications to public authorities in India through the Indian embassy in Washington D.C., is still waiting for a hearing on his complaint filed under section 18 in December 2007. "I hope the Central Information Commission will instruct the Indian embassy to forward applications to other public authorities," he said.

Software engineer in Los Angeles Vishal Kudchadkar had filed an RTI application requesting information regarding the decision of the embassy not to forward applications not pertaining to them. He received evasive replies from the PIO and has filed a complaint under section 18 with the CIC and is also awaiting a hearing. The result: even after three years NRIs are unable to participate in the transparency and accountability movement that promises to improve governance in India.

## DELHI POLICE HAS NUMBER OF TAINTED COPS

More than 100 officers and men of Delhi Police have come under departmental scanner this year for alleged irregularities while performing their duties.

Replying to a RTI application, Delhi Police has accepted that Departmental Enquiry (DE) was initiated against its 124 officers ranking Inspector and below in the first six months of this year.

Among them, 26 are inspectors including three women, 21 sub-inspectors and assistant sub inspectors, 27 head constables and 29 constables.

Official sources say that a number of senior officers like ACPs were also facing departmental probe for alleged dereliction of duties. But the exact number of such personnel was not revealed by the Department.

Most of the policemen facing DEs are field officers, the sources said.

*(Courtesy:DNA)*

A senior officer said action was being taken against the erring officers. "Administration is aware of all these things. We take necessary action after analysing individual cases," the officer said.

The punishment, if proven guilty, ranges from losing increment, demotion to even suspension, he said.

In 2007, as many as 192 personnel faced departmental enquiries for not performing their duties properly. It included 24 inspectors, 21 cases against sub inspectors and assistant sub-inspectors each, 27 head constables and 29 constables, the RTI reply said.

The number of DEs initiated in 2004 was 220 as against 216 in 2003. Figures stood highest in 2005 and 2006 with the number of DEs figuring 285 and 287 respectively, the RTI reply said.

Most of them were accused of accepting and bribe. refusing to join new postings.

## HIGH-TECH TO SAVE TIME

Right to Information (RTI) appeals before the information commissioner will now be heard through video-conferencing. The technology that will save time and money and accelerate the disposal rate of cases in appeal, was installed on Monday in coordination with the state information technology department and state information commission.

"Earlier, for appeals coming before the appellate authority, the officer related to the query and the applicant had to be present for the hearing, but this will not be the case once appeals are heard through video-conferencing," said Kshatrapati Shivaji, secretary, IT.

According to the new system, the officer and the appellate can go to the nearest district collector's office, exchange their queries and get the issue resolved, Shivaji added.

For the period starting from January 1, 2007, to December 31, 2007, Maharashtra received 3.16 lakh applications under RTI. Of these, applicants who were unhappy with the information provided to them went in appeal to the information commissioner. Such appeals will now be heard using the new technology.

*(Courtesy: The Times of India)*

"This system will save the energy and time of the government employee who earlier had to travel all the way to the venue fixed for hearing the appeal," said Suresh Joshi, the state information commissioner.

If the system is successful, the full-fledged use of this technology will start after Diwali, he added.

Recently addressing the media at Mantralaya, Joshi had said, "I am happy with the job done by the information officer, but not with the first appellate and I have registered my complaint with chief minister Vilasrao Deshmukh."

According to the state information commission, the number of RTI applications received by the state is much higher than the application received by the Central Information office. The maximum of the RTI applications demand information related to the state urban development department followed by housing department, reveals the statistics of the SIC.

The Act came into existence in the state on October 12, 2005, and to ensure that more awareness about RTI across the state, the SIC has suggested inclusion of a chapter on RTI for secondary level students.

## AIIMS' CONDITIONAL DISCLOSURE

In violation of the RTI Act, premier medical institute AIIMS has asked an applicant to seek permission from the institute's director before sharing with media information given to him under a query.

In response to the information sought by NGO Uday foundation, whose RTI query had led to the disclosure of the infant deaths during clinical trial at AIIMS, the institute said the information is being provided for "personal consumption" as the media might misrepresent facts.

The NGO had sought information from the Newborn Nursery at AIIMS regarding the number of babies admitted since January 2008, patient-nurse ratio, mortality rates, top five infections and top reasons of death.

"We have provided this information for your personal consumption. You are advised to take written permission from the director AIIMS before sharing

the information with the media," wrote A K Deorari of the department of Neonatal Intensive Care Unit to Rahul Verma of the Uday Foundation in a covering letter to the RTI response.

Verma, who is yet to approach the AIIMS director, has threatened to question the World Health Organisation (WHO), which funds the medical institute, in protest against the gag.

"Once we address an RTI query to the Public Information Officer (PIO), the information is meant to become public and placing a gag like this one violates the entire purpose of the RTI Act," said Verma.

"We plan to question WHO and the Health Minister in this regard," Verma said.

Meanwhile a leading RTI activist termed the stand taken by AIIMS as "illegal".

*(Courtesy: The Hindu)*

## **POLITICAL CLAMOUR LEADS TO KILLING WRONG TIGER**

Wildlife conservationists may be trying hard to save tigers in India but local politics sometimes throw a dampener in their efforts - as in Maharashtra where the wrong tiger was killed by the forest department, which allegedly acted in haste because of political pressure.

The case in point is of Bramhapuri forest in Chandrapur district of Maharashtra where a tiger, mistaken to be a man-eater, was killed by forest department officials under alleged political pressure last year.

This came to light in an RTI reply where it was mentioned that forest department had made a mistake by killing a male tiger instead of the man-eating menace which is a tigress.

As per the pug mark report given in the RTI reply, the pug marks of the man-eater did not match

*(Courtesy: The Hindu)*

with the pug mark of the tiger that was killed. People living around Tadoba-Andhari Tiger Reserve in October 2007 complained of a tigress who was killing villagers in the area.

Repeated complaints in November 2007 prompted the forest department to start the hunt for the tigress which had killed several people and cattle last year. But the forest department failed to capture the man-eater.

Meanwhile, local politicians started putting pressure on the department to kill or capture the animal.

Replying to an RTI query by a Mumbai resident, Ajay Madhusudhan Marathe, who asked whether the action (of killing the tiger) was a result of any political pressure, forest department referred to letters from local politicians who had threatened to start agitation and even kill the tiger themselves.

## **DELHI AND RAJASTHAN'S PERFORMANCE VERY POOR**

Meghalaya is the most RTI friendly state while Delhi and Rajasthan have fared the worst in a study undertaken by the National Campaign for People's Right to Information (NCPRI) and Right to Information Assessment and Analysis Group (RaaG).

Amongst public authorities, the Delhi police has the dubious distinction of the poorest record. Not only does it reject the most number of RTI applications but it also demands exorbitant payments for giving the information in the form, the study found. Elaborating on the performance of the Delhi police with respect to RTI, NCPRI member Shekhar Singh said, "The licensing authority in the Delhi police asked the organisation for Rs 41,832 for essentially a list of applications."

The Railways and the ministry of environment and forests have the best performance amongst Central public authorities with 90% and 74% responses respectively. The study interviewed 311 applicants

in 192 villages spread over 10 states. The interim findings of the report — expected to be completed in December — were that one-fourth applicants had school education while 20% of them were from scheduled castes and 28% were OBCs. A profile of the applicants showed that an overwhelming number (90%) were male.

Judiciary also did not pass the close scrutiny of the research. According to the interim findings, HCs of Karnataka, Chhattisgarh, Gujarat, Punjab and Haryana, and Delhi have provisions that seek to exempt information from public over and above the exemptions specified in the law. In fact, the HCs of Delhi, Calcutta and Gujarat have specified the quantum of penalty that is much lower than in the state. The results of judging awareness levels amongst PIOs brought out disappointing statistics. About 50% PIOs didn't even have a copy of the RTI Act while 37% lacked training and 27% pleaded unfamiliarity with the legislation.

*(Courtesy: The Times of India)*

## RTI SYSTEM PRE-CONDITION FOR FUNDS SAYS, CIC

In a full-bench hearing chaired by Chief Information Commissioner Wajahat Habibullah the commission said "Government should direct the NGOs to set up the RTI system while sanctioning the funds. Before releasing any funds, it should be ensured that the system is in place."

Under the RTI Act, any NGO which gets funding from Government is considered a Public Authority and is supposed to have proper RTI infrastructure in place including a Central Public Information Officer, an appellate authority and complaint redressal system.

The three-member commission was hearing a plea filed by Suman Bakshi, an employee of Family Planning Association of India an NGO funded by the Delhi government.

Bakshi had filed the plea with the Delhi government and FPAI regarding the alleged discrepancies in payment made to her by the NGO.

"The FPAI is funded by the government and we are given payments on government employees scale. The association did not pay me arrears for the fourth pay

*(Courtesy: DNA Doordarshan)*

commission. I wanted to know from Delhi Government and the organisation about that," said Suman Bakshi while speaking to news agency over phone.

An ailing Bakshi could not attend the hearing as she recently underwent surgery for a spine ailment. "I had requested the CIC to call both the respondents Delhi

government and FPAI to provide me the details but they are calling only Delhi government," she said.

"We got information from FPAI and forwarded it to Bakshi. We get funds from the Union Ministry of Health and forward it to NGOs. We do not have any say in their internal administrative matters," said a representative of the Delhi Government before the Commission.

When the Commission asked about the RTI infrastructure at FPAI, he could not confirm whether the NGO has a Central Public Information Officer to answer queries directed at it.

"Government should be directed to release the funds only after ensuring that an RTI system in place at any NGO," observed the CIC.

## ORDERS NOT FOLLOWED

In a shocking finding during an RTI inspection of the orders passed by the State Information Commission (SIC) on the appeals made to it, activists found that in 30% of cases the Right to Information Act was not being adhered to and its spirit was being diluted.

Eight RTI activists inspected 55 orders passed by the SIC on Monday. The activists were Mohammad Afzal, Gaurang Vora, Krishnaraj Rao, Sandeep Jalan, Navin Pandya, Nagendra Pandey, Erol D'Souza and Radhkrishnan.

The inspection was conducted following the SIC's written promise to the activists to inspect the files. On October 24, as reported by DNA, the commission did not follow the RTI Act in its true spirit and left the activists dejected.

Speaking to DNA after the inspection, activist Gaurang Vora said, "On inspection we realised that there was a big flaw in the SIC order. It should have adhered to the RTI Act. The public information officers (PIOs) are given undue leverage despite not

*(Courtesy: DNA)*

giving information on time. Instead of being fined in some cases, they are given extra time."

Activists were also upset with the upkeep of the records at the SIC office. They suggested that the system of filing RTI papers, which leads to the final order, needed to be streamlined further. "In several cases, we found that the files were incomplete, papers were not in order and at some places the main RTI application was missing," said Mohammad Afzal.

"There was a system of having a scrutiny sheet being maintained till recently. The sheet gave a gist of the case in a page to the SIC. It also included the delays and the PIOs' adherence to the Act. However, the practice has been discontinued," said Krishnaraj Rao.

The activists now plan to draft a letter to suggest certain improvements. "We will suggest that the panel has a tabulated, self explanatory order that is based on objectivity of the previous orders passed by the appellate authority. Right now orders are vague," said Vora.

# TRANSPARENCY STUDIES

The Right to Information Act 2005 represents a historic breakthrough in recognising the citizen's democratic rights to monitor measures affecting the public good. Following adoption of the Act by the Parliament of India, the CMS has set up a Transparency Studies wing to document, examine and publicise the interrelation between governance and society in all its aspects. It facilitates dissemination of relevant material, confers with experts and field workers and networks with the media to promote implementation and awareness.

## ***The functions of Transparency Studies include:***

- Publishing and distribution by electronic mail of Transparency Review, a journal designed to publicise news, articles and documentation concerning developments in Right to Information and the overall interface between governance and society. Priority is given to right to education, especially of children; right to work; right to justice and associated human and social rights, especially at the grassroots.
- Operating Transparency Features to disseminate articles and information on the above.
- Linking with civil society groups to further common objectives like exposing corruption, monitoring elections, improving civic services.
- Arranging discussions on emerging issues and problems between specialists and mediapersons.

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