

PRESS RELEASE FOR 4th NOVEMBER, 2008

The First Technical Session on **RTI and Protection of Individual Privacy** on second day started sharply at 10 AM. This session was chaired by Retd., Chief Justice of India Shri JS Verma, Supreme Court. The other speakers of this session were Shri F S Nariman, Senior Advocate, Supreme Court, Shri Prashant Bhushan, Advocate, Supreme Court and Shri B K Chakraborty, State Chief Information Commissioner, Tripura.

While opening the session Justice Verma stated that the “Right to Information Act is meant for disclosure of the information by the Public Authorities. No Rights, including Right to Freedom of Speech, are absolute. Article 19 of the Constitution of India is relating to Right to freedom of speech. There are reasonable restrictions imposed on every Right. If there is any confusion in the law, the parent law should be consulted.”

Justice Verma further elaborated that there has to be a vast difference in the treatment of personal information of a ‘private person’ and a ‘public servant’. The exemption available to a private person may not be available to a public servant. Public Servant can not take shelter behind the right to privacy as are available to a common citizen. For example, if a private person is not physically or mentally fit, it can be his personal information, disclosure of which can be invasion of his privacy; but in case of a government official not mentally or physically fit that can’t be kept out of public domain his personal information. With regard to a individual, he stated that we have to strike a balance in which serves the public interest.

“When you are discussing the Right to Information and the Right to Privacy it may be useful to know that under the provisions of Article 19 of the ICCPR (International Convention on Civil and Political Rights) which India has signed and ratified, provision is made—in paragraph (2) of Article 19 of the ICCPR that everyone shall have the right to freedom expression which is defined to include “the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.” Said Shri Fali Nariman.

He further observed that “privacy” is notoriously difficult to define –it is widely defined as right to be left alone and narrowly as a right to control information about one’s self. We are taking this in the latter sense. A possible compromise could be along with the following lines: viz. that intrusion in “privacy” is regarded as an unwarranted and unreasonable intrusion into activity that society recognizes as belonging to the realm of

individual autonomy". The sphere of individual autonomy is the field of action that does not touch upon the liberty of others.

Shri Prashant Bhushan while addressing the gathering observed that we all value our privacy. However it must not obstruct the flow of information if under laws that piece of information is required to be submitted to a public authority. He gave an example of income tax return which is filed by an individual to the Income Tax Department under a statute. In his opinion is no longer a private information and therefore cannot be exempted on grounds of privacy. He further clarified that medical information which are required to be provided for proving someone's fitness in the Government cannot therefore be restricted under Section 8(1)(j). However he made it clear that in personal capacity if one goes for medical examination that can be treated as private as the same has been supplied in a fiduciary capacity. He further elaborated that a police officer while conducting some investigation may happen to acquire some information of a personal nature about a citizen that surely may not be disclosed unless its nexus with public interest is apparent.

He concluded that RTI is one of the most powerful Act and therefore any information which resides with any public authority as a consequence of compliance of any act/any other statute should be accessible to a citizen.

The last speaker of the Session was Shri B.K. Chakroborthy. While expressing his opinion Shri Chakroborthy said that the meaning of privacy is freedom from intrusion by the public. He reiterated the view point of Justice Verma in respect of the fact that no rights including the Right to Privacy are absolute rights. He concluded by saying that the question what is of true import is the proviso, which sets out that the information which cannot be denied to Parliament or a State Legislature should not be denied to a citizen.

The Session was concluded by Justice Verma by saying that transparency and accountability are for good governance. If there is no transparency, accountability cannot be fixed. There should be maximum disclosure and minimum confidentiality. If the candidates contesting elections are required to furnish the statement of their assets and even of criminal cases pending against them; there are no reasons as to why the information regarding Judges should not filing their property returns be in the public domain. He also opined that the post-retirement service of public servants should also be in the public domain.

The second Session of the day was on Media, Civil Society and RTI chaired by Shri Pranoy Roy, CMD, NDTV. As expected this session was

full of enthusiasm and raised the maximum participation by the delegates present in the hall. The theme of this session was to make an assessment of the role and responsibility of the media and the civil society in the implementation of the RTI Act. Dr. Roy invited the gathering to suggest innovative ideas such that they may prepare a programme on the RTI Act in the most meaningful manner. The house was of the opinion that though the RTI Act has been phenomenal in providing the information to the citizens its role ends there without taking this to a conclusive end. It is here that the role of media and civil society begins so that right to information gets converted in grievances being redressed and public policy for meeting accountability.

Whereas there has been quite significant coverage given to the RTI Act both by the print and the electronic media, the issues raised by the citizens successfully are not getting enough attention by the media. In absence of this, the information being collected by the people remains meaningless and may even dampen the enthusiasm for lack of concrete outcomes. One of the delegates suggested that since there has been quite an insignificant participation by the females in making use of RTI Act, NDTV may dovetail its reach and interact live with the female RTI seekers across the country. One of the participants however went to the extent of saying that the media should organize programmes for popularizing RTI and training across the length and breadth of the country.

Dr. Pranoy Roy intervened that the challenge lies in creating interesting products which meant the commercial parameter of TRP and also of enhancing RTI. Quite a few delegates pointed out the lack of depth and dampening of interest RTI of the print media especially in coming it for policy related investigating journalism.

The third session of the day was on “RTI in South Asia – an Overview”. The delegates from SAARC countries said that they will look forward to have experiences from India to strengthen their Freedom of Information Act in their respective countries.

The fourth and final session of the day was on “Current Assessment of RTI”, in which the presentations were made both by the Civil Society and the Government. Both the studies concluded that the Public Authorities are making their best efforts in providing the information slowly but steadily.

The valedictory address was given by Shri Somnath Chatterjee, Hon’ble Speaker, Lok Sabha, in which he has complimented Shri Wajahat Habibullah, his colleagues and his officers in Central Information Commission for doing a commendable job in making the RTI initiative a success inspite of the many problems connected with it.