

Welcome Address V Annual Convention

RTI: Challenges & Opportunities

Hon'ble Minister for Law & Justice Dr Veerappa Moily, my colleague Ms Sushma Singh, guests and friends,

RTI has captured the imagination of the Indian people like no other legislation since Independence-Hon'ble PM, in his Independence Day speech 2010 acknowledged this fact: In listing the achievements of his UPA Govt. RTI found pride of place at No.1.

The principal actors in this achievement have been many; employees of the government have ofcourse been in the forefront, both in disseminating information and being among the foremost seekers. These are followed by the public authorities, but most of all the public, expressing itself through and the NGOs and the media. It is noteworthy that it is the first Act of its kind that has enabled the public to directly demand accountability from those once equated with 'rulers', and to question authority

Bureaucracies all over the world treat their control over information as power. The RTI now forces authority to share power with the people. The former Secretary General of the UN Shri Kofi Annan eloquently summed up this power:

"The great democratising power of information has given us all the chance to effect change and alleviate poverty in ways we cannot even imagine today. Our task, your task ... is to make that change real for those in need, wherever they may be. With information on our side, with knowledge of a potential for all, the path to poverty can be reversed".

The most visible aspect of the RTI-regime is inevitably the Central Information Commission and the State Information Commissions. The powers of these Commissions as defined by the statute are limited, but people's impression

has been that these are the final arbiters of information and grievance redress. The Commissions are essentially a second appellate body with power to hear complaints about delays in giving information, obstruction in giving information, providing false information and so on. But, people expect this role to be extended much beyond this, and for the Commissions to deliver them justice. This sometimes becomes difficult within the limits of the Act. But grievances are indeed often resolved with disclosure. So, in some ways, Commissions have been able to live up to these expectations. Attestation to this fact lies in the mounting appeals and complaints before the Central Information Commission.

The last five years can then be described as epoch-making, but at the same time, they have been trying. On the one hand, there was this escalating expectation of the people and on the other, the sensitivity of government and the public authorities. A balance needed to be struck at all times lest the functioning of the RTI Act brought governance to a stand-still. It might be noted that Tony Blair, the former Prime Minister of the UK, has in his recently published memoir termed himself “nincompoop,” a description that some might agree with, but not for the reasons ascribed by him, for having adopted the UK’s Freedom of Information Act, a law much milder on government than India’s RTI Act of 2005. The Preamble to our RTI Act has hinted at the need for such balance to be maintained at all times.

The initial two years were specially challenging for the Commission. There was acute shortage of staff; even accommodation was inadequate, with furniture and regular access to ordinary stationery also becoming a problem. There were NGOs that set up stalls at our door to encourage public criticism and recrimination. But the Commission commenced functioning within a very short time of its establishment, and sought to discharge its statutory duties in spite of these limitations. Beginning with 5 Commissioners, including the Chief Commissioner, now the Commission has 8 Commissioners and 1 Chief Commissioner. Disposal of cases is going up, although we are faced with a dilemma: the need for higher disposal, set against the need to maintain the

quality of disposal. The Commission has been able to strike a balance between the need for quantity as well as quality, which has been acknowledged by all those who know the Commission's functioning.

It is a happy augury that the High Courts and the Supreme Court of India have extended to the Commission valuable and substantive support. This has helped guide us on legal nuances in interpretation-a premier example is in the interpretation of exemption from disclosure u/s 8(1). Around 500 Writs have been filed in various High Courts against the decisions of the Commission, of which around 200 cases stand disposed of by the Courts, mostly in favour of the Central Information Commission. Six Special Leave Petitions have been taken before the apex court, of which one has been decided, upholding the Commission's decision.

Civil society has played own role not only in promoting public awareness, but in sensitizing the Commission about the aspirations of the people as well as the direction in which the Commission must proceed.

But the most discernible change after the advent of the RTI Act has been the visible change in the mindset of public servants. They have, after first resenting and resisting RTI Act and its reach, have now accepted it as an important element of good governance. The fixation with secrecy in official conduct and documentation is slowly but surely giving way to awareness that transparency was not a bad thing after all. The Supreme Court of India, which had taken the lead in seeking to be kept exempt from an application of the Act, today has the most informative website of all, a point noted in a Decision arrived at in an appeal from SC Agrawal, also present amongst us today.

Since its inception, the Commission has received 65000 complaints and appeals and disposed of around 55000 of these. We have imposed penalties worth Rupees 50 Lakh (Rs. 5 million) in 400 cases. A penalty amount worth Rupees 25 Lakh (Rs. 2.5 million) has been recovered, which has been credited

to the public exchequer In addition, we have awarded compensation worth Rs. 25 Lakh (Rs. 2.5 million)

Around a million requests for information have been received by the Public Authorities of the Central Government since the RTI Act, 2005 came into force in October 2005. Both the receipt of appeals and complaints before the Commission and requests for information to public authorities has seen a steadily increasing trend in the last five years. However although the receipt of appeals and complaints before the Commission has witnessed increasing trend, together with an increasing rate of disposal, the receipt of requests for information before the CPIOs has, although witness to an increasing trend, this has been so with a decreasing rate of increase.

Among decisions of the Central Information Commission that I might claim are landmark I there a few that have made lasting impact. So today it is possible for an Indian citizen to access much Information that was once inaccessible:

- i) Draft Cabinet papers are no more out of reach of the public up to a certain time. Hopefully this will encourage public discussion as has been the case in the recent Whistleblowers' draft Bill.
- ii) Information on activities of MPs, particularly on the investment under MPLADS
- iii) Property statements of Judges Supreme Court of India and of the High Courts, with the latest being from J&K, which has its own law, are now in the public domain
- iv) IT Returns of political parties are similarly accessible
- v) Even though the RTI Act, 2005 does not apply to the State of J&K, access of those in Central Govt. Departments that are located in J&K including Armed Forces, is established.

These then are the opportunities that have been opened. What in consequence are the challenges? What is the path to the future? This is the subject today, which I urge all of you to see in the context of attacks on RTI

activists. This is the lowering threat to the very right to information, to us all. I will mention two challenges specifically:

1. Operationalising Sec 4. We therefore have a special session on UID
2. Extending the outreach of the law into the rural sector. Studies have shown that the present reach is limited whereas the citizens of our villages are the principal clientele of the law. This can be used through judicious operation of Common Service Centres, soon to cover every district in India. And in activating Panchayats both as a means of keeping government the rural public informed as in the operation of NREGA, and in providing a means to the public of accessing information, depending on the degree of application of with Sec 4 in the working both of state and central governments on the one hand, and the Panchayats on the other.

The last 5 years, the achievements of those 5 years as well as the mistakes of those 5 years, should provide for us the roadmap for the future.

Jai Hind!
