

*FILES
Of
The Ministry of Personnel, Public
Grievances, and Pensions
Department of Personnel and
Training
Government of India*

*Pertaining to the evolution of the
Right to Information Act and
other related matters
2001-2005*

*File 1
2001 - 04*

Pages 1 to 71

*File 2
2004 - 05*

Pages 72 to 126

File 1

(1)

S.No. 74(2)

(60)

MOST IMMEDIATE

No.34011/1(s)/97-Estt.(B)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

.....

New Delhi, dated the 9th May, 2001

To

9 MAY 2001

Shri Tapan Chatterjee,
Director,
Rajya Sabha Secretariat,
Parliament House Annexe,
New Delhi-110001.

Subject:- Examination of the Freedom of Information Bill, 2000 by the
Department-related Parliamentary Standing Committee on Home
Affairs.

Sir,

I am directed to refer to your letter No. R.S.6(6)/2000-CS(HA) dated the 1st May, 2001 on the subject mentioned above and to say that in their depositions before the Department-related Parliamentary Standing Committee on Home Affairs, the concerned organisations/individuals have made a large number of suggestions on the various clauses of the 'Freedom of Information Bill, 2000'. Some of these comments/suggestions have far reaching implications and it would require a very careful and detailed examination for the Government to give its views thereon. In the circumstances, it is requested that the Committee may kindly be moved to grant extension of time upto 8th June, 2001 to enable us to finalise and furnish the Government's views.

2. This has the approval of Secretary(Personnel).

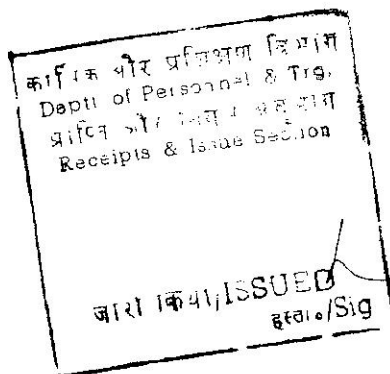
Yours faithfully,

(Signature)

(RAKESH MALHOTRA)

Under Secretary to the Govt. of India.

(Signature)



Sm. 2(I) 57

Most Immediate
SECRET

Department of Personnel and Training


Sub: Restructuring of Twenty Point Programme – Draft Cabinet Note regarding.

Administration Division may please refer to their Memo No.I-28011/1/2004-Ad.III dated the 19th July, 2004 on the above subject.

2. “Right to Information” has inter-alia been included as Item No.98 under the Heading XVII Kriyasheel Prashasan of the Twenty Point Programme – 2004. Prima-facie, the inclusion is *in order* as the same is consistent with and in furtherance of the Common Minimum Programme of the United Progressive Alliance which provides that the “Right to Information Act will be made more progressive, participatory and meaningful”.

3. Establishment Division has no other programme/scheme to suggest for inclusion in the Twenty Point Programme.

4. This has the approval of Joint Secretary(Establishment).

OK

(Rakesh Malhotra)
Under Secretary
Tel.No.23092313
9c


Administration Division {Shri N.K. Pushpakaran, DS(Coord.)}
DoPT ID No.34011/4 (s)/2004-Estt.(B) dated 19.07.2004

Im 3(R)

MOST IMMEDIATE

LOK SABHA SECRETARIAT
(Conference Branch)

Sub: 50th Commonwealth Parliamentary Conference to be held in Canada in September, 2004.

The 50th Commonwealth Parliamentary Conference would be held in Canada in September, 2004. A copy of the agenda of the Conference is enclosed.

2. An Indian delegation, led by the Hon. Speaker, Lok Sabha would be attending the Conference. A list of the delegates (as on date) is enclosed.
3. A briefing meeting of the delegates from India (Union) and State CPA Branches would be held on Tuesday, 3 August, 2004 at 1030 hours in Committee Room 'Main', Parliament House Annexe, New Delhi as per the programme enclosed.
4. It is requested that senior officers (not below the rank of Joint Secretary) concerned with the under mentioned subjects may kindly make it convenient to attend the said meeting on 3 August, 2004 to brief the delegates on the following subject :-

"PARLIAMENT AND THE RIGHT TO KNOW"

5. Briefs on the subject prepared / being prepared by the Research Division of this Secretariat will be forwarded in due course.
6. The name(s) of the Officer(s) who would be attending the meeting together with their complete official address and telephone numbers (official and residential), may kindly be intimated to this Secretariat by Monday, 26 July, 2004.

15/5/04 (E-4)/04
20/7

27/08/04 (E-1)/04
19/7/04

(HARDEV SINGH)
DEPUTY SECRETARY
PHONE: 23034329/23034342
FAX: 23015518

The Ministry of Personnel, Public Grievances & Pensions, Department of Personnel (Shri S. Chandrasekharan, Joint Secretary-Establishments 1)
L.S.S. U.O. No.12/1/2004/Con. dated 19 July, 2004

17/10/2004 (E-1)/04
20/7/04

20/7/04
USL (E-1) Dir (E-1)

3



50th Commonwealth Parliamentary Conference Program

September 1 to 9, 2004

QUEBEC CITY
Wednesday, September 1, 2004

Official arrival day

Overnight
Fairmont Le Château Frontenac or Hilton Quebec Hotel

19:00 – 21:30

Welcome Reception and Buffet Dinner
Hosted by Mr. Michel Bissonnet,
President of the National Assembly of Quebec
Legislative Council Room and Le Parlementaire,
Quebec National Assembly

Thursday, September 2, 2004
Pre-Conference Tour

06:00 – 08:00

Breakfast Buffet
Fairmont Le Château Frontenac and Hilton Quebec Hotel

08:00

Participants gather in hotel lobby
Fairmont Le Château Frontenac and Hilton Quebec Hotel

08:15

Departure by boat/bus for Charlevoix Region

12:00

Luncheon
Ballroom, Le Manoir Richelieu, Pointe-au-Pic

14:00

Departure by bus for Quebec City

17:00

Return to Quebec City

19:00

Departure from the Château Frontenac by bus for Centre des congrès de
Quebec
Lobby, Fairmont Le Château Frontenac

19:20

Departure by foot from the Hilton Quebec Hotel to Centre des congrès de
Quebec
Lobby, Hilton Quebec Hotel

19:30 – 22:30

Dinner and Performance showcasing Quebec culture
Hosted by the Quebec National Assembly
Room 200 C, Centre des congrès de Quebec

S No-91(A)



IND/99/545

26 August 2004

Dear Mr. Chandrasekaran,

**Discussion on scope and content of new programme on
Capacity Building for Access to Information
UNDP, New Delhi; 6 September 2004**

UNDP in partnership with the Department of Personnel and Training, Government of India has just embarked on the formulation of a new programme on Capacity Building for Access to Information. A Concept Note on the same, outlining the context, proposed issues to be addressed, and possible strategy is attached herewith.

As you might be aware, UNDP has supported some initiatives in the past for the promotion of access to information in the country. A note in this regard is also attached to this letter.

There would probably be unequivocal agreement that a lot more needs to be done to make access to information a reality. We would like the new programme to build on the progress already made, and to address the gaps that still remain in 'operationalising' access to information in the country.

It is in this connection that we are writing to request for your participation in a discussion on these issues in a meeting at UNDP, New Delhi, from 1430 to 1730 hrs on Monday, 6 September 2004. With your rich experience and interest in this area, we are certain your views and insights will greatly enhance the substantive content of the programme being formulated, and we look forward to receiving confirmation of your participation in the above meeting.

With regards,

Yours sincerely,

Pradeep Sharma

Assistant Resident Representative

Mr. S. Chandrasekaran
Joint Secretary (E)
Department of Personnel & Training
North Block
New Delhi

DISC(E)
30.8.2004
US(SHAB)
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30/8/04

Capacity Building for Access to Information

(Project Concept Paper)

The Context

Access to Information has been recognized as a key development issue, because it has the potential to empower the citizen in relation to the state, make administration more accountable and participatory, ensure greater transparency and act as a deterrent to the arbitrary exercise of official power.

Access to Information has an immense leveraging effect as it enables citizens to realise their rights, making it a powerful cross-cutting tool with a tremendous potential for applicability to a host of development issues.

As a signatory to the Universal Declaration of Human Rights and the International Covenant on Civil & Political Rights, India has taken major steps to ensure the right to seek, receive and impart information. Article 19 of the Indian Constitution guarantees right to freedom of speech and expression to all its citizens, which includes right to information. The Central Freedom of Information Act and the Right to Information Acts passed in several states in India bear testimony to the importance accorded to this issue.

India's Tenth Five Year Plan document places governance reform at the "centre-stage of development planning" – as a critical element in the optimum utilization of the vast quantum of resources being spent for development. The extensive reforms envisaged for this include "improved people's participation, effective decentralization of governance, involvement of civil society, especially voluntary organizations and the crucial Right to Information." Other allied steps envisaged include civil service reforms for improving transparency, accountability and efficiency; and procedural reforms for improved public-government inter-face.

The Tenth Plan recognizes Right to Information as key in achieving governance reform with the larger aim of meeting the objectives of the Plan. To quote from the document: "To a large extent, the task of the development administration would become easier if steps are taken to make available information, as a matter of right, to the citizens. The right to information has to be the starting point for much of the reforms proposed."

Similar emphasis on Right to Information priorities has been reflected in the National Common Minimum Programme, wherein it is stated that: "The Right to Information Act will be made more progressive, participatory and meaningful". It also pledges "to provide a government that is corruption-free, transparent and accountable at all times, to provide an administration that is responsible and responsive at all times."

approach in pursuit of increased access to information for improved governance, by addressing the challenges and capacity gaps.

A multi-pronged strategy for building the capacities of a range of information providers and seekers towards operationalising the Right to Information is required:

- Assess existing institutional capacity - at central, state and district level - to service the Right to Information; monitor and enforce its implementation, and deal with grievances.
- Training and sensitization of government officials at all levels will be undertaken by means of curriculum development, innovative training techniques, and development of a practitioners' network for sharing of ideas and 'best practices'.
- Business processes and information management systems will be reviewed and altered to facilitate sharing of information.

A platform will be provided for broad-based deliberations on rules under the FoI Act, to pave the way for smooth operationalisation of the legislation.

- Media campaigns would be launched to create and sustain awareness amongst the general public, and augment their capacities as seekers of information, of their right to information, which in turn holds the key to a range of rights and entitlements they would otherwise not be able to avail of. The Tenth Plan document explicitly recognizes the need to pursue empowerment of the marginal and the excluded to equip them to act as pressure groups to resist bad governance.
- Fora and processes will need to be designed for enhanced citizen-government interface, as well as an institutionalized mechanism for regularly taking into account and addressing citizens' views and feedback.

Partners

The project will be executed and implemented by Training Division, Department of Personnel & Training, in collaboration with other departments of the Government of India as well as state Governments, civil society/ activist groups, legal fraternity, academia and media working in the area of transparency and people's right to information in India.

Geographical Coverage

Project sites will be selected in consultation with the executing/ implementing agency. While the project will be national in nature (contributing to national capacity building) pilot initiatives will be particularly focused on the 8 districts covered under the Decentralized Planning initiative with the Planning Commission, so as to be able to demonstrate a concrete impact on poverty and human development.

Access to Information Initiatives

Gol-UNDP Access to Information Initiatives	
Sub-Programme on Improving Citizens' Access to Information (2001-2004)	US\$ 500,000
DGTTF 2002 on Improving Citizens' Access to Information	US\$ 150,000
DGTTF 2003 on Media & Citizens' Access to Information	US\$ 100,000

Collectively, these initiatives aimed to support accountable, transparent and participatory governance. Broadly, the objectives were to:

- Enhance capacity of civil servants and elected functionaries in local bodies to supply information
- Support a more systematic management of information that enables easier access, e.g. through use of ICT;
- Enhance awareness and capacity of the citizens to demand information; and facilitate the process through civil society organisations.
- Build perspectives of and provide a platform for interaction of a diverse set of stakeholders on the issue.
- Support strengthening of existing legal and policy framework in respect of access to information

The above objectives were sought to be achieved by means of:

Capacity Building of Civil Servants

UNDP is working with the Department of Personnel and Training in supporting preparation of training material to be used in training institutes for civil servants. The material will be such that it can be adapted to suit training needs of media colleges, state institutes of rural development for *panchayati raj* training, other training institutes and NGOs. The material will also be used for advocacy purposes.

With a view to provide first hand grassroots experience on the linkage between information and development, exposure visits were organised for senior civil servants from different states to the *jan sunwais* organised by MKSS on public distribution in rural Rajasthan and Parivartan on public works in Sudernagri, Delhi. These *jan sunwais* were an opportunity for every one - officials, traders, contractors - to share their points of view.

Under the CARE-India's right to information campaign, supported by UNDP, capacity building workshops were organised in cooperation with the Department of Administrative Reforms of Delhi, responsible for implementing right to information, and the State Council, responsible for monitoring it, who ensured participation of relevant Delhi Govt. functionaries through formal directives.

IT-based Information Kiosks

UNDP has also focussed on facilitating access to information through information technology. IT-based information kiosks have been set up in Jhalawar (a backward rural district in Rajasthan), Mandya (an urban district in Karnataka), Bhopal (capital city of Madhya Pradesh), Jorhat (a district in the Northeastern state of Assam with world's largest riverine island Majuli), Kalahandi (tribal district in Orissa), and Kutch and Panchmahals (in Gujarat, former heavily destroyed during earthquake).

These initiatives, preceded by information needs assessment surveys, followed simple 'business model' where citizen end of the kiosk is connected to a district server where

right to information legislation, present people's experience in using the acts in different states, for civil servants who have made innovative use of ICTs to provide people information to present their experience, and for media to introspect and remind themselves of their social responsibility towards 'development reporting' –all directed towards the common goal of improving citizens' access to information.

Documentation

The documentation material prepared under various projects provides rich capacity building and advocacy resource. Training modules prepared for civil servants, illustrated booklets and pamphlets in local language, user manuals for the community mobilisers and volunteers, audio-visual documentation of the capacity building workshops, and films on *jan sunwais* are all very useful material to be built upon for future work in this area. This is in addition to the survey on citizens' awareness and perception about right to information acts across states conducted by CERC, documentation on international laws by National Law School and a comprehensive paper on right to information in Rajasthan. A CD-ROM, under preparation, is expected to be a comprehensive multi-media tool which can be used for capacity building of diverse audiences.

United Nations Development Programme

14 September 2004



Dear Mr. Malhotra,

**Workshop on Human Development and Access to Information
for civil servants and media persons
Le Meridien, Jaipur, 27-29 September 2004**

UNDP, in association with the Department of Personnel & Training (Government of India), Indian Institute of Public Administration and Women's Feature Service, is organising a capacity-building workshop for civil servants and national and regional level media in northern India in Jaipur from September 27-29, 2004. Participants will be from the states of Rajasthan, Uttar Pradesh, Madhya Pradesh, Delhi and Punjab.

We would like to invite you to join our distinguished group of panelists for the Workshop. A draft agenda for the Workshop is enclosed. We would be delighted if you would agree to make a presentation during the session on **Right to Information: Concept, Legal and Institutional Framework** in the forenoon of **28 September 2004**.

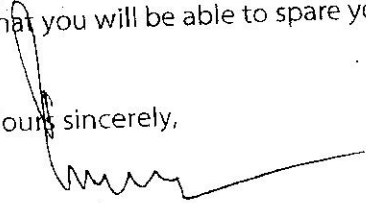
The rationale for organising this workshop is that the civil servants and media are uniquely placed to be the agents of change in society by making the development process more inclusive of the concerns and needs of the people, particularly the underprivileged. The Workshop will seek to sensitise Government officials, particularly at the cutting edge level, to better deal with human development issues, in areas such as 'Access to Information', and to equip them to play a pivotal role in advancing a development agenda that is equitable.

The media is a critical ally, not only as a vehicle of information-sharing, but also as a proactive and constructive contributor to the development discussion. In collaboration with a vibrant civil society, the media has the potential to make significant contributions by lending a voice to the voiceless, increasing awareness, generating debate, and evolving a consensus on development issues.

A concept note on the rationale for organizing the Workshop is attached to this letter. To optimize the benefits of the workshop, we expect all participants to remain for its full duration, at the workshop venue. **For logistics kindly refer the attached administrative note.**

At the Workshop we will be focusing on subjects like Human Development, the UN's Millennium Development Goals, Panchayati Raj, Right to Information and Development Reporting. The Workshop will provide an opportunity for a close interface between civil servants and media persons on critical development issues of our times. We do hope that you will be able to spare your time and perspectives on the themes of the Workshop.

Yours sincerely,


Pradeep Sharma
Assistant Resident Representative

Mr. Rakesh Malhotra
Under Secretary
Department of Personnel and Training
North Block
New Delhi

13

Concept Note

WORKSHOP ON HUMAN DEVELOPMENT AND ACCESS TO INFORMATION

Human development is a concept that extends beyond GDP and other economic indicators. Human development is about creating an environment in which people can develop their full potential and lead productive, creative lives. It means enhancing people's capabilities, expanding the choices available, and creating an opportunity for a participatory decision making process. Knowledge, awareness and the ability to participate are critical to development.

Access to information holds the key to citizens' awareness of, and ability to access their other rights. It also equips citizens to participate meaningfully in the development process, by understanding and raising concerns that ail their group or community, and enabling them to contribute to feasible and acceptable approaches and solutions.

Media and civil servants are uniquely and strategically placed to bring about a change in the lives of people, especially the marginalized, by empowering them with information, and making the development process more inclusive of the concerns and needs of the people, particularly the underprivileged.

Civil Servants & Media as Key Development Partners

Civil servants are responsible not only for programme and policy formulation and implementation, but also as custodians of key information, and for creation of systems that could allow for transparent, responsive and participatory governance. From the traditional 'top down' approach, government officials need to evolve into an information sharing mode and help foster democratic processes that take into account the concerns of all, especially the marginalized.

Government officials, particularly at the cutting edge level, need to be sensitized to deal with human development issues, particularly in areas such as 'Access to Information', and to equip them to play a pivotal role in advancing a development agenda that is equitable.

The media is a critical ally, not only as a watchdog of the democratic processes and as a vehicle of information-sharing, but also as a proactive and constructive contributor to development debates and discussions. The power of popular media to change stereotypes and encourage social change is enormous. While technology has opened up a whole new world of opportunities, a responsible media could contribute to furthering the flow, authenticity and quality of information.

An independent media, in collaboration with a vibrant civil society, has the potential to make significant contributions by lending a voice to the voiceless, increasing awareness, generating debate, and evolving a consensus on development issues.

WORKSHOP ON HUMAN DEVELOPMENT & CITIZENS' ACCESS TO INFORMATION
Le Meridien, JAIPUR: 27-29th SEPTEMBER, 2004

LEAD PARTNER:
 IN ASSOCIATION WITH:

TRAINING DIVISION, DOPT, GOVERNMENT OF INDIA
 INDIAN INSTITUTE OF PUBLIC ADMINISTRATION
 WOMEN'S FEATURE SERVICE

DAY 1
MONDAY, 27TH SEPTEMBER, 2004

TIME	SESSION	PRESENTER
SESSION I - PLENARY		
0900 - 0930	Registration	DoPT
0930 - 0945	Welcome Remarks	Maxine Olson, Resident Representative, UNDP
0945 - 1000	Inaugural Address	P.L. Sanjeev Reddy, Director, IIPA
1000 - 1015	Special Remarks	B.G. Verghese, Senior Columnist
1015 - 1030	Keynote Address	Angana Parekh, WFS
1030 - 1035	Vote of thanks	
TEA BREAK		
1035 - 1100		Lead by Facilitator
1100 - 1200	- Story Building Exercise - Scanning newspapers for development stories	
SESSION II: HUMAN DEVELOPMENT & THE MDG FRAMEWORK		
CHAIRPERSON - PRONAB SEN		
1200 - 1245	Human Development: Concept & Measurement	Audio-Visual Presentation Discussion: <ul style="list-style-type: none"> • Pronab Sen, Adviser, Planning Commission • Suraj Kumar, UNDP • B.G. Verghese, Senior Columnist • Vijay Vyas, Former Chairman, IDS
1245 - 1330	Millennium Declaration, MDGs & Links with Human Development	Audio-Visual Presentation Discussion: <ul style="list-style-type: none"> • Pronab Sen, Adviser, Planning Commission • A.K. Bhattacharya, Business Standard • Suraj Kumar, UNDP District Perspectives: <ul style="list-style-type: none"> • Gaurav Dwivedi, DC Korba
LUNCH BREAK		
1330 - 1430	Role & Impact of HDRs (Global, National, Sub-national) - Global - National - Sub-national - Impact	Discussion: <ul style="list-style-type: none"> • Pronab Sen, Adviser, Planning Commission • Paranjay Guhathakurta, Director, School of Convergence • Ramesh Chandra, Coordinator, Delhi HDR • M.L. Mehta, Former Chief Secretary, Govt. of Rajasthan
1430 - 1600		
TEA BREAK		
1600 - 1615		
SESSION III: MEDIA, CIVIL SERVICE PARTNERSHIPS FOR HUMAN DEVELOPMENT		
CHAIRPERSON - B G VERGHESE		
1615 - 1715	Policy Documents through the Human Development Lens	Presentation <ul style="list-style-type: none"> • A K Bhattacharya- Business Standard Discussion <ul style="list-style-type: none"> • B G Verghese - Senior Columnist • Paranjay Guhathakurta, Director, School of Convergence
1715 - 1800	Media and Civil Servants as Development Partners	Discussion <ul style="list-style-type: none"> • B G Verghese - Senior Columnist • Esther Kar, Director, PIB • Harivansh -Prabhat Khabar,

MOST IMMEDIATE

Department of Personnel & Training
JS (AT&A) office

Sr
H.E. Sudharshan Agarwal, Governor, Uttaranchal spoke to me on the phone and requested information on the following subjects. He requires this for a speech which he wishes to make tomorrow 29th September, 2004 at the Lok Ayukta Conference in Dehradun which is also being addressed by the PM.

1. Benami Law

Full name of the law and details of when enacted etc.

Have Rules been framed?

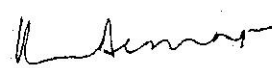
2. Lok Pal Bill

Current Status

3. Right to Information

Details of enactment, current status of Rules. Etc.

The Governor, Uttaranchal has requested that the information be sent to him by FAX (0135-2750014).


(Keshav Desiraju)
Joint Secretary (AT&A)
28th September, 2004

AS (S&V)

JS(E)

Dir(EE)

Note placed below duly approved by JS(E) has been handed over to JS

USC 884.B
MT

pmdhan
28-9-2004

Subject:- The Freedom of Information Act, 2002 – Status regarding

The Bill, as introduced in the Lok Sabha and pending therein, was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report thereon. The Standing Committee presented its Report to both the Houses of Parliament on July 25, 2001. The Bill, as reported by the Standing Committee, was taken into consideration and passed by the Lok Sabha on the 3rd December, 2002. It was subsequently passed by the Rajya Sabha on 16th December, 2002. The Bill received the assent of the President on 6th January, 2003 and 'The Freedom of Information Act, 2002' has been published on 7th January, 2003 for general information.

2. As the basic infrastructure required for operationalizing the Act is in the process of being set up, the Act has not yet been brought into force.

3. In pursuance of the provisions of the FOI Act, 2002, draft Freedom of Information Rules have been finalized in consultation with the concerned authorities. The Common Minimum Programme of the United Progressive Alliance inter-alia provides that

'The Right to Information Act will be made more progressive, participatory and meaningful.'

In order to make the rules participatory, the draft rules were placed on the website of DOP&T for inviting the comments of the people by 31.8.2004. Responses so received are being examined. In the meanwhile, suggestions have been received from National Advisory council for amending some provisions of the FOI Act in line with the promise made in the CMP. These amendments are being examined.

* * * * *

S. No-14(R)

No.5/4/2002-1AR

From

The Financial Commissioner & Principal Secretary to
Government, Haryana,
Administrative Reforms Department.

To

Ms. pretibha Mohan,
Director to Govt. of India,
Department of personnel and Training
Ministry of Personnel, public Grievances & pensions,
North Block,
New Delhi.

Dated Chandigarh, the 14-09-2004.

Subject:- Freedom of Information Act, 2002.

Madam,

I am directed to invite a reference to this department
d.o. letter No.5/4/2002-1AR, dated 11-08-2004, which is addressed
to Joint Secretary, Govt. of India, Department of personnel and
Training Ministry of personnel, public Grievances & pensions,
North Block, New Delhi on the subject noted above.

It is requested that the Hindi version of Freedom of
Information Act, 2002 and the copies of the draft rules in Hindi
& English version framed by your department may kindly be given
to the bearer of this letter.

Yours faithfully,

H.K. Thakral

Superintendent, Administrative Reforms
for Financial Commissioner & Principal Secretary to
Government, Haryana,
Administrative Reforms department.

B.S. [Signature]

2-720/2004-12114
28/9/04
Handed over
P. Mohan
15/9/2004
048844B
M

S-No-18(R)

प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE

PM-1924/S-18/2004
20-7-2004

नई दिल्ली-110 011
New Delhi-110 011

Please find enclosed for action as appropriate a letter dated 13.7.2004 addressed to the Prime Minister by Mrs. Maja Daruwala, Director, Commonwealth Human Rights Initiative, New Delhi regarding amendments to the Freedom of Information Act, 2002.



(Renuka Kumar)
Director

Pl process
Reply should go to PMO
JS/(E) 207
2/7

dir (E)

Secretary, Department of Personnel & Training

PMO UO No. 600/31/C/1/2004-ES.2

Dated: 19.7.2004

22.7.2004
JS (E) 207

1539/DIR (E) by
22/7



Commonwealth Human Rights Initiative

B-117, Sarvodaya Enclave, 1st Floor, New Delhi-110 017
Tel. : 91-11-2652 8152, 2685 0523, 2686 4678 Fax : 91-11-2686 4688
E-mail : chriall@nda.vsnl.net.in
Website : www.humanrightsinitiative.org

July 13, 2004

Executive Committee
B. G. Verghese
Chairperson

P. H. Parekh
Treasurer

Maja Daruwala
Director

Members

T. Ananthachari
Vasudha Dhagamwar
N. R. Madhava Menon
Ashis Nandy
P. P. Rao
Jagdish C. Sobti
R. V. Pillai

Dr. Manmohan Singh
Prime Minister of India
Room No. 152, South Block,
New Delhi - 110 001
Tel: Tel: 23012312, 23013149, 23019545

Dear Sir,

Re: Suggested amendments to the Central Freedom of Information Act 2002

It is encouraging that the newly elected United Progressive Alliance Government has put the issue of effective right to information legislation back on the policy agenda. The Government's Common Minimum Programme specifically states: "The Right to Information Act [sic] will be made more progressive, participatory and meaningful".

CHRI strongly supports the commitment to enact a more progressive right to information law. Recognising and implementing the right to access information held by the public bodies is a simple, but extremely useful step to open, effective and responsive governance and meaningful participatory development. For a relatively small cost and investment of time, the entrenchment of an effective access to information regime can empower people to more meaningfully engage in development and democratic processes. It also increases government transparency and reduces corruption, and thereby supports economic growth.

204
6/7
to DPT for n.g
11

22
FCRA Registration No. 231 650671; Registration No. S-24565 under Societies Registration Act; Registration No. D.I.T. (Exemption) /94-95/C-390/94/417 U/S 80-G

Supported by : Commonwealth Journalists Association, Commonwealth Trade Union Council, Commonwealth Lawyers Association, Commonwealth Legal Education Association, Commonwealth Medical Association, Commonwealth Parliamentary Association, Commonwealth Press Union, Commonwealth Broadcasting Association.

CHRI has undertaken a detailed analysis of the Freedom of Information Act 2002. We have attached our analysis for your consideration. Below is a summary of our recommendations:

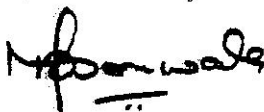
- Clarify the interaction between the central law on rights to information and state laws. Will the Central Act override all state laws or can center and state laws operate concurrently?
- Clarify that the Act applies to all arms of government - executive, legislature and judiciary;
- Extend the scope to cover "bodies which undertake public functions on behalf of the Government" and "private bodies where access is necessary for the exercise or protection of any right". This recognises the increasing impact of the private sector due to privatisation and outsourcing and the fact that private bodies should therefore not be beyond public scrutiny;
- Enable the Act to be utilised by non-citizens because it relates to a fundamental right;
- Clarify the constitutionality of the current exemptions taking into account the permissible limits on fundamental rights under the Constitution and, in the event that the current exemptions are constitutionally valid: (a) delete all exemptions for agencies/classes of documents and (b) review the remaining exemptions to ensure they: (i) protect a legitimate interest and (ii) adopt a sufficiently high threshold of harm to justify non-disclosure
- Include a new public interest override provision applicable to all exemptions which requires that information subject to an exemption must still be released if the public interest in disclosure outweighs the public interest non-disclosure
- Delete the requirement for two internal appeals. One internal appeal can serve as a cost-effective way for the government to verify its own decisions.
- Establish a dedicated Information Commission with a comprehensive mandate to review refusals to disclose information and other procedural matters, compel release and impose sanctions for non-compliance. The Information Commission should have full investigatory powers and their decisions should be binding.
- Remove the bar to appeals to the Courts;
- Include offences and penalty provisions for unreasonable delay in processing requests, unjustifiable withholding of information, obstruction of the appeals process, non-compliance with appeal decisions, destruction of records and knowing provision of incorrect information. Penalties must be sufficiently large to act as a deterrent and should be able to be imposed on individual officers, including heads of department, rather than just the organisation itself;
- Clarify that PIOs must be appointed at the panchayat, district, taluka and block levels;
- Clarify that applications can be made in any Indian language and that information can be accessed in official languages, at least where translation is considered in the public interest;
- Extend the suo moto disclosure provisions to require the proactive publication of a wider range of information of general relevance to the public and explicitly require that public bodies publish the required information to ensure maximum accessibility by the public;
- Make it explicit that no reason needs to be provided for requesting information;
- Reduce the time limits for disposing of applications to 15 days

- Amend the fees regime: (a) to require no fees to be paid for applications; (b) if any, to impose fees only to cover reproduction costs, up to a limit, and not for search time; and (c) to allow for fees to be waived in the public interest or where financial hardship would occur.
- Include a deeming provision so that where time limits are ignored, inaction is 'deemed' a refusal and appeals mechanisms can then be invoked;
- Amend the Official Secrets Act and other laws or civil services rules which entrench secrecy;
- Include a specific date for implementation, preferably immediately but no more than one year if additional time is genuinely needed to prepare the bureaucracy;
- Include provisions mandating a body to monitor implementation of the Act, to actively promote the concept of open governance and the right to information and to provide training and education to the bureaucracy and amongst the public.
- Include a provision providing for whistleblower protection.

While it is imperative that an improved right to information law be enacted and implemented as a matter of priority, nonetheless it remains important that the law-making process is participatory and inclusive. For right to information legislation to be effectively implemented and utilised, it needs to be respected and 'owned' by both the government and the public. Participation in the legislative development process requires that the Government proactively encourage the involvement of civil society groups and the public broadly. This can be done in a variety of ways, for example, by: inviting submissions from the public on the Act within a set timeframe; convening a representative group of stakeholders with expertise in the area to consider amendments; holding public consultations to discuss the Act; and by strategically and consistently using the media to raise awareness and keep the public up to date on progress.

If you would like to discuss this letter in person or would like any more information on right to information best practice, please do not hesitate to contact Ms Charmaine Rodrigues, who leads CHRI's Right to Information Programme at charmaine@humanrightsinitiative.org or me at maja@humanrightsinitiative.org.

Yours sincerely



Mrs. Maja Daruwala
Director



Commonwealth Human Rights Initiative

B-117, Sarvodaya Enclave, 1st Floor, New Delhi-110 017
Tel. : 91-11-2652 8152, 2685 0523, 2686 4678 Fax : 91-11-2686 4688
E-mail : chriall@nda.vsnl.net.in
Website : www.humanrightsinitiative.org

July 16th 2004

Executive Committee
B. G. Verghese
Chairperson

P. H. Parekh
Treasurer

Maja Daruwala
Director

Members
T. Ananthachari
Vasudha Dhagamwar
N. R. Madhava Menon
Ashis Nandy
P. P. Rao
Jagdish C. Sobti
R. V. Pillai

Dr. Manmohan Singh
Honorable Prime Minister of India
Government of India
Prime Minister's Office, South Block
New Delhi

Dear Hon. Prime Minister:

Last time we met it was in the context of our submissions to you as the Chair of the Commonwealth's Expert Group on Democracy and Development.

You had kindly accepted several of our suggestions, which found mention in the final report. I recall well that you had expressed the wish that they would be implemented early and go from paper to reality as the need for certain reforms was so self-evident and required only the political will to see them through. So, it is a particular pleasure and honour to now be writing to you not just as a member of the government, but also as the new Prime Minister of India. Your experience in reforms and your commitment to the principles of good governance will, I have no doubt, enable early and positive changes in the nation which will be felt for many years to come. All at the Commonwealth Human Rights Initiative would like to congratulate you, and look forward to engaging with the United Progressive Alliance Government towards putting in place effective structures and mechanisms for good governance.

We were particularly pleased to see your commitment to practical change reflected in the recommendations expressed in the Expert Group's Report and look forward to these being implemented in India. The Expert Group's report admirably gives prominence to ensuring that member countries put in place effective laws that guarantee the right to information, which also led to inclusion of the right to information in the Commonwealth Heads of Government's Aso Rock Declaration on *Development and Democracy: Partnership for Peace and Prosperity*.

It is therefore especially pleasing to note that progress is already being made in India toward fulfilling this commitment through the promise in the Common Minimum Programme that: "The Right to Information Act will be made more progressive, participatory and meaningful". We very

FCRA Registration No. 231 650671; Registration No. S-24565 under Societies
Registration Act; Registration No. D.I.T. (Exemption) /94-95/C-390/94/417 U/S 80-G

Supported by : Commonwealth Journalists Association, Commonwealth Trade Union Council,
Commonwealth Lawyers Association, Commonwealth Legal Education Association, Commonwealth Medical Association
Commonwealth Parliamentary Association, Commonwealth Press Union, Commonwealth Broadcasting Association.

much support the early implementation of a right to information law while also supporting amendments that will make the law more progressive. We would value being engaged with your government in his endeavour. As such allow me to offer our latest report, *Open Sesame: Looking for the Right to Information in the Commonwealth*, which was launched at CHOGM last year, as a resource. Drawing on our experience across the Commonwealth, we have analysed India's Act and have suggestions for improvement, which we would be happy to forward to you.

I would also like to draw your attention to other recommendations in the Expert Group's report, including:

- The anti-corruption measure: setting "core standards in respect of political party financing and codes of ethics and transparency regarding the interests of parliamentarians".
- The promotion of civil society participation in key areas: "budgetary processes that involve (particularly disadvantaged) citizens in consultation and participation on key issues."
- "A police force that responds to the law for its operations and the government for its administration".

These are admirable policy statements and we look forward to working with you toward their early implementation. I know that each would have a huge positive impact on governance and human rights across the country. As you may be aware, CHRI has been advocating reform of the police for several years now and we would urge that the government act urgently to restore public confidence in the police through substantial reform measures. I appreciate that this is an area that is under the control of individual states, however, we strongly urge that the Central Government take action to reform the para-military units and police forces in the union territories that are under its direct control. Such reform would provide an exemplary example to state agencies that are presently unwilling to initiate change.

Efforts to increase openness in government and bring about reform in policing will benefit India's image as a leader in the Commonwealth: especially so in light of your own recommendations that the Commonwealth Secretariat develop a framework for providing progress reports at CHOGMs in order to monitor progress toward implementing Commonwealth commitments. This very useful mechanism for accountability, which we have been advocating for some years, will I hope find renewed and strong support from India under your stewardship?

Thank you once again for the opportunities you gave to CHRI last year to engage with the Expert Group on Democracy and Development. We look forward to every opportunity to work with you to further good governance and the realisation of human rights across the Commonwealth and in India in particular.

With all good wishes for your continuing success,


Maja Daruwala
Director

PM-4098/Ser-AP/2004
22-11-2004.

प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE

नई दिल्ली-110 011
New Delhi-110 011

85/VIP/SSC/04
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23/11

dir(GP)
(Rm)

Please find enclosed for action as appropriate a letter dated 4.11.2004 addressed to the Prime Minister by Dr. Suman Sahai, Gene Campaign, New Delhi regarding Right to Information Act.


(Renuka Kumar)
Director

Secretary, Department of Personnel & Training.

PMO UO No. 600/31/C/1/2004-ES.2

Dated: 18.11.2004

Shri Manmohan Singh
Prime Minister of India
7 Race Course Road
New Delhi



04.11.2004

Dear Shri Manmohan Singh ji,

Gene Campaign has been working together with other groups to get an adequate Right to Information in India. I write to you to express my support for the amendments proposed by the National Advisory Council to the existing "Freedom of Information Act". The recommended amendments, as posted on the NAC website, rightly stress on the strengthening of the act, in keeping with the commitment made by the UPA government, in the Common Minimum Programme, that "The Right to Information Act will be made more progressive, participatory and meaningful".

Among other things, these proposed amendments are designed to make the penalty provisions of the act more stringent, especially introducing the notion of criminal culpability for deliberate and malafide distortion or destruction of information. The amendments also stress the need for an independent appeal mechanism in the form of information commissioners.

We at Gene Campaign are of the firm opinion that unless these two recommendations are fully accepted, the proposed right to information act would not be effective in providing access to the sorts of information that are most needed to be made public.

Therefore, we strongly urge you to urgently amend the existing Freedom of Information Act in accordance with the recommendations made by the NAC.

With kind regards,

Yours sincerely,

Suman Sahai

Dr. Suman Sahai

For personal file

Forwarded to D.O.P.T.

10th Anniversary
Gene Campaign

RELEASE THE DRAFT RTI ACT 2004 FOR NATION-WIDE DEBATE

RESOLUTION OF THE CONSULTATION MEET

HELD AT BHUBANESWAR ON 28TH OCTOBER 2004

To

Smt. Sonia Gandhi
Chairperson,
National Advisory Council (NAC)
Govt. of India, New Delhi.

The following persons including the representatives of various civil society groups and media assembled today in a small but compact consultation meet held at Bhubaneswar under the aegis of Regional Resource Center (RRC), Bhubaneswar to review the draft Right to Information Act 2004, recently approved by NAC (National Advisory Council) of Govt. of India and recommended to the Prime Minister for further action.

After a threadbare discussion into various provisions of the said draft Act, the members unanimously resolved as follows: -

सी० कार० से प्राप्त हुई
RECEIVED IN C. R.
कार्मिक और प्रशिक्षण विभाग
Deptt. of Personnel & Trg.

17 OCT

क्र० २०/C. R. No.....

Except a microscopic minority of hard-core RTI activists, many the civil society groups in the country including most of the media persons are in complete dark about the NAC-approved draft RTI Act 2004. Even though It was approved in the 3rd meeting of the National Advisory Council on the 14th August last and thereafter displayed on its website, there is an overwhelming feeling among the civil society groups across the country that such an outstanding draft legislation should have been widely publicized in various media, print and electronic and at the same time, the civil society groups encouraged to discuss and debate in depth to identify the omissions and commission of the draft Act, if any and help thereby the NAC sort them out before the draft Act is recommended to Government for its eventual presentation to the Parliament in the form of an Amendment Bill vis-à-vis the Freedom of Information Act 2002.

- 2) On a discrete analysis, it was found that the draft Act carried forward some critical shortcomings of the previous Freedom of Information Act 2002 and generated some fresh ones. If the draft Act in its present defective form is allowed to be enacted, the whole people/civil society of the country will be the prime loser, since the said lacunae do render the official information further inaccessible and shall completely nullify the

very sensible intentions that might have lain behind such a legislation for further strengthening of democracy in India.

- 3) To illustrate a few shortcomings and self-contradictions in the draft law, the write-up entitled "Some critical commissions and omissions in the NAC- approved draft RTI Act 2004", which was subject to an in depth analysis and discussion in the Consultation is being attached herewith for your kind perusal. Moreover, a concise version of the same published on the website of India Together (<http://www.indiatogether.org/2004/oct/rti-rtirefine.htm>) may kindly be seen for the purpose.
- 4) It is further urged that the Government of India in the Ministry of Personnel, Pension and Public Grievances should make it clear beyond any shade of doubt as to whether the Freedom of Information Act 2002 or the proposed NAC-approved Right to Information Act, 2004, is on priority of the Government agenda for implementation. At the same time, the Ministry should at the earliest inform the whole nation through media print and electronic, the very after-actions if any taken by them following the public response to the Draft Rules of Freedom of Information Act 2002 notified on Ministry's website in August last.
- 5) Under the circumstances, we request the NAC to release the draft RTI Act 2004 for a country-wide debate among the members of the civil society at large spanning at least 6 months in the very interest of plugging its loopholes and making it citizen-friendly in true sense of the term.

An acknowledgement of this Memorandum followed by an appropriate reply on the points raised above is what the civil society groups assembled in the above Consultation Meet expect most from your esteemed office.

CC: 1. **Mrs. Aruna Roy, Member MKSS, and NAC**

At- Devdungri, Post- Barar, District Rajsamand-313341, Rajasthan,
Tel: 91-2909-243254. Tele Fax: 91-2909-250180. Mobile: 09414007305.
E-Mail: arunaroy@jpl.dot.net.in, mkssrajasthan@yahoo.com.

2. **Mr. Jean Dreze, Member NAC**

Professor, Delhi School of Economics, University of Delhi, India

3. **Mr. Shekhar Singh,**

National Campaign for People's Right to Information

C-17A, Munirka, New Delhi-110067, Tel: 0091-11-26178048

Email: shekharsingh@vsnl.com, ncpri.india@gmail.com

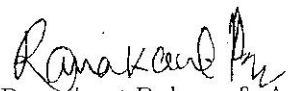

- 145
4. **Mr.Maja Daruwala, CHRI,**
B-117, Second Floor, Sarvodaya Enclave
New Delhi - 110 017
Tel: +91-11-2685-0523, 2652-8152, 2686-4678
Fax: +91-11-2686-4688
Email: chriall@nda.vsnl.net.in
 5. **Secretary, Ministry of Personnel, Pension and Public Grievances,**
Govt. of India, New Delhi
 6. **Dr.Manmohan Singh, Hon'ble Prime Minister, Govt. of India,**
New Delhi
 7. **Dr. A.P.J. Abdul Kalam, Hon'ble President of India, New Delhi**
presidentofindia@rb.nic.in
 8. **Hon'ble Chief Justice, Supreme Court of India, New Delhi.**

Encl: The document "Some critical commissions and omissions in the NAC-
approved draft RTI Act 2004" authored by Mr. Chitta Behera

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**The Participants of the Consultation Meet on draft Right to Information Act 2004, held on
28.10.2004 at Regional Resource Centre, Bhubaneswar, Orissa.**

- | | | |
|-----|-------------------------|---|
| 1. | Mrs.Nirjarani Rath | Ekta Parisad, Orissa |
| 2. | Mr.Hrushikesh Sarangi | The Humanity, Bolangir |
| 3. | Ms.Somika Basu | A Freelance Writer, Agrabamee |
| 4. | Ms.Tulia Machada | Researcher working on Tribal Rights in Orissa |
| 5. | Mr.Pradipta Naik | Orissa Vikash Manch, Bhubaneswar |
| 6. | Mr.Pradip Pradhan | The Humanity, Bolangir |
| 7. | Mr.Ramakanta Behera | RRC, Bhubaneswar |
| 8. | Mr.Amar Ku. Gauda | RRC, Bhubaneswar |
| 9. | Mr.A.C.Biswal | Senior Journalist The Sambad, Orissa |
| 10. | Mr.Gynaranjan Mohapatra | Paryabekhyak, Orissa |
| 11. | Mr.Monaranjan | Gramin Sambad, Orissa Edition |
| 12. | Journalist | Pratidin, Orissa |
| 13. | Mr.Mahesh Patra | Freelancer |
| 14. | Mr.Birabar Nayak | Journalist, Gramin Sambad |



Ramakant Behera & Amar Gouda
Regional Resource Center
A/4, Nilakantha Nagar (Nayapalli),
Bhubaneswar-751012
Telephone: 0674-3093411
Email: rrc_nipditorissa@yahoo.co.in
rrcorissa@rediffmail.com
(On behalf of all participants)



2-12-21/5/10/11
25/11

DHIRAJ SRIVASTAVA
OFFICER ON SPECIAL DUTY
Tel: 23018669

No. 1994 /D/OSD/NAC/2004
भारत सरकार

राष्ट्रीय सलाहकार परिषद
नई दिल्ली

GOVERNMENT OF INDIA
NATIONAL ADVISORY COUNCIL
NEW DELHI

26th November, 2004

My Dear Sir,

The National Advisory Council had considered the subject of Right to Information and forwarded recommendations/ views on the same to the Government of India.

2. The action taken and the latest status in the matter may kindly be forwarded (**as on 30th November, 2004**) to the undersigned at 2, Motilal Nehru Place, New Delhi-110 011.

3. This may please be treated as **Most Immediate**.

With kind regards,

Yours sincerely,

Dhiraj
(Dhiraj Srivastava)

Shri A.N. Tiwari,
Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
North Block, New Delhi.



सत्यमेव जयते

अरुण भटनागर

Arun Bhatnagar, IAS (Retd)

2263 / Dtr (ED) / 04 S No-21(R)
23/12

**IMMEDIATE / TIME LIMIT
BY SPECIAL MESSENGER**

सचिव

भारत सरकार

राष्ट्रीय सलाहकार परिषद

नई दिल्ली

SECRETARY

GOVERNMENT OF INDIA

NATIONAL ADVISORY COUNCIL

NEW DELHI

22nd December, 2004

4710/JS(E)/04
23/12/04
No. 602/S(NAC)/2004
Dear Shri Tiwari,

Enclosed herewith please find copy of Rajya Sabha Unstarred Question No. 693 (answered on 9th December, 2004) regarding the Recommendations made by the National Advisory Council.

2. Would you please update the Column relating to "Action Taken by the Government" in respect of the Item pertaining to your Ministry viz. Right to Information Act (so as to reflect the latest status) and communicate the same to the undersigned **by Thursday, 23rd December, 2004 positively ?**

* With kind regards,

Yours sincerely,

A R
(Arun Bhatnagar)

Encl. : as above.

Shri A.N. Tiwari,
Secretary, Ministry of Personnel, Public Grievances and Pensions,
North Block,
NEW DELHI-110 001.

GOVERNMENT OF INDIA
PRIME MINISTER'S OFFICE

RAJYA SABHA
UNSTARRED QUESTION NO.693
TO BE ANSWERED ON 9TH DECEMBER, 2004

RECOMMENDATIONS MADE BY
NATIONAL ADVISORY COUNCIL

693. SHRI YASHWANT SINHA:

Will the PRIME MINISTER be pleased to state:

- (a) the subject considered by the National Advisory Council headed by Smt. Sonia Gandhi so far,
- (b) the recommendations made by the National Advisory Council; and
- (c) the action taken by Government on these recommendations?

A N S W E R

MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE
(SHRI PRITHVIRAJ CHAVAN)

(a) The subjects which have so far been considered in the National Advisory Council pertain, inter alia, to Sarva Shiksha Abhiyan (including Education Cess) and Mid-Day Meal Scheme, Right to Information, the Health Sector, Draft National Rural Employment Guarantee Bill, the National Rural Roads Programme, Universalisation of the Integrated Child Development Services (ICDS) Scheme and the Board for Reconstruction of Public Sector Enterprises.

(b)&(c) The recommendations/views of the Council and the action taken by the Government on the recommendations is as under:-

	NAC RECOMMENDATIONS	ACTION TAKEN BY THE GOVERNMENT
1.	Sarva Shiksha Abhiyan(including Education Cess) and Mid-Day Meal Scheme.	A fund for primary education and Mid-Day Meals that is non-lapsable and dedicated and secures the entire receipts from the education cess has been set up.

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	<p>It was recommended that revenues from the Education Cess be earmarked exclusively for the Sarva Shiksha Abhiyan (SSA) and the cooked mid-day Meal Programme; the cess revenues should be paid into the dedicated non-lapsable Sarva Shiksha Abhiyan Kosh and the SSA should be organized and implemented in Mission mode.</p>	
2.	<p>In order to make the Freedom of Information Act, which is proposed to be entitled as Right to Information Act, more progressive, participatory and meaningful, the detailed proposals in this regard have been forwarded to the Government of India.</p>	<p>A draft Bill on the subject is being formulated/processed in the Ministry of Personnel, Public Grievances and Pensions.</p>
3.	<p>Health Sector.</p> <p>A detailed Paper outlining the Agenda for Action for the Health Sector has been formulated and forwarded to the Government of India.</p>	<p>The Ministry of Health and Family Welfare has conceptualized a Rural Healthcare Mission (RHM) for provision of comprehensive integrated health care services to the rural poor in all parts of the country.</p> <p>Suggestions received on the Health Sector will be suitably incorporated by the Ministry of Health & Family Welfare in the RHM.</p>
4.	<p>National Rural Employment Guarantee Bill.</p> <p>The National Employment Guarantee Act will provide a legal guarantee for least 100 days of employment, to begin with, asset-creating public works programmes every year at minimum wages for at least one able-bodied person in every poor rural/urban and lower middle class household. In the interim, a massive Food-for-work programme will be started.</p> <p>A draft Bill on the subject which specifically addresses the rural areas has been prepared and forwarded to the Government of India.</p>	<p>Suggestions given by the NAC on the Draft National Rural Employment Bill have been considered by the Government and appropriately incorporated in the Bill to be presented to the Parliament shortly.</p> <p>A food-for-work programme in <u>150</u> selected districts of the country has been launched.</p>

5.	<p>National Rural Roads Programme.</p> <p>The National Rural Roads Programme, being handled by the Ministry of Rural Development, requires higher quantum of funds either by increasing the budgetary allocation or by leveraging the Diesel Cess to raise funds</p>	<p>The recommendations are being examined.</p>
6	<p>Universalization of Integrated Child Development Services.</p> <p>With reference to Education and Health, the National Common Minimum Programme commits that the Integrated Child Development Services (ICDS) Scheme would be universalized to provide a functional Anganwadi in every settlement and ensure full coverage for all children.</p> <p>The requisite proposals have been forwarded to the Government of India.</p>	<p>The Government is in the process of formulating a proposal for expansion of ICDS scheme.</p>
7.	<p>Board for Reconstruction of Public Sector Enterprises.</p> <p>In order to devolve managerial and commercial autonomy to successful, profit making companies operating in a competitive environment, it has been suggested that the proposed Board's Terms of Reference should be such as to enable it to look into ways and means for strengthening the Public Sector Enterprises and making them more autonomous and professional, in addition to restructuring/advising on the closure or sale of Public Sector Enterprises.</p>	<p>A Board to address the issues pertaining to revival/restructuring of public sector undertakings has been set up.</p>

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GOVERNMENT OF INDIA
PRIME MINISTER'S OFFICE

RAJYA SABHA
UNSTARRED QUESTION NO. 693
TO BE ANSWERED ON 9TH DECEMBER, 2004

RECOMMENDATIONS MADE BY
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A N S W E R

MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE
(SHRI PRITHVIRAJ CHAVAN)

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<p>It was recommended that revenues from the Education Cess be earmarked exclusively for the Sarva Shiksha Abhiyan (SSA) and the cooked mid-day Meal Programme; the cess revenues should be paid into the dedicated non-lapsable Sarva Shiksha Abhiyan Kosh and the SSA should be organized and implemented in Mission mode.</p>	
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Draft Bill since
apprd. by the Cabinet
on 15.12.04. It is being
introduced in the Lok Sabha
on 23.12.04.

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5.	<p>National Rural Roads Programme. The National Rural Roads Programme, being handled by the Ministry of Rural Development, requires higher quantum of funds either by increasing the budgetary allocation or by leveraging the Diesel Cess to raise funds.</p>	<p>The recommendations are being examined.</p>
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MOST IMMEDIATE/BY FAX

सत्यमेव जयते

RAKESH MALHOTRA

Under Secretary

Tel.No.23092313

भारत सरकार

कार्मिक और प्रशिक्षण विभाग

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

नॉर्थ ब्लॉक, नई दिल्ली-110001

GOVERNMENT OF INDIA

DEPARTMENT OF PERSONNEL AND TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

NORTH BLOCK, NEW DELHI-110001

Dated the 5th January, 2005

D.O.No.34011/4(s)/2004-Estt.(B)

Dear Madam,

- 5 JAN 2005

Apropos our discussions on phone this morning.

2. According to available information, the following Acts on 'Right to Information' have been enacted by the respective State Government/UT:-

- (1) The Goa Right to Information Act, 1997
- (2) Tamil Nadu Right to Information Act, 1997
- (3) The Rajasthan Right to Information Act, 2000
- (4) The Karnataka Right to Information Act, 2000
- (5) The Delhi Right to Information Act, 2001
- (6) The Maharashtra Right to Information Act, 2002
- (7) The Jammu & Kashmir Right to Information Act, 2004

It is informally learnt that legislations on the subject have also been enacted by the Governments of Assam and Madhya Pradesh as under:-

- (1) The Assam Right to Information Act, 2002
- (2) The Madhya Pradesh Right to Information Act, 2003

The last two enactments are, however, not available with us as there has been no response to our request to these Governments for furnishing a copy thereof.

With regards,

Yours sincerely,

(RAKESH MALHOTRA)

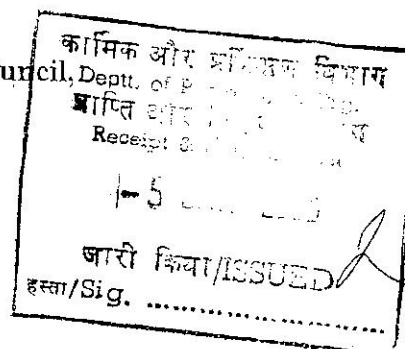
Ms. Jayanthi Ravi,

Deputy Secretary,

National Advisory Council,

New Delhi.

(Fax No.23018646)



Please issue.
5/1/05

RBI

S No-24(R)



Ranjit Bannerji
Joint Secretary (FB)
Tel: 2309 2387

Government of India
Ministry of Finance
Department of Economic Affairs

DO No. 2/1/2003-FB.II

New Delhi, February 12, 2004

Dear Shri Desiraju,

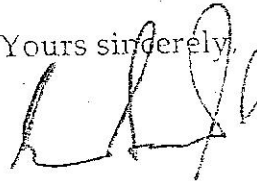
The World Bank assesses the performance of each of its borrowing countries in economic and social development and provides for indicators, which are known as Country Policy and Institutional Assessment (CPIA). The CPIA indicators are used to determine individual country IDA allocations, although in case of India, these are over-ridden by the India-specific allocation process.

The CPIA assesses the quality of a country's present policy and institutional framework. A copy of the assessment questionnaire explaining the ratings is enclosed for perusal.

CPIA ratings for 2003 for the following items along with the requisite explanation for awarding the same by the World Bank are enclosed. I shall be grateful for your comments/ views on each of these by end of this month.

- (a) Property Rights and Rule-based Governance
- (b) Quality of Public Administration
- (c) Transparency, Accountability and Corruption in the Public Sector

Regards,

Yours sincerely,

(Ranjit Bannerji)

Shri Kesav Desiraju
Joint Secretary
Ministry of Personnel, Public Grievances and Pensions
North Block
New Delhi

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Please put up in new
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Country Policy and Institutional Assessment (CPIA)

INDIA

	INDIA		Average IDA Borrowers
	2002	2003	2003
CPIA Cluster A : Economic Management			
1. Management of Inflation and Macroeconomic Imbalances	4.0	4.0	3.6
2. Fiscal Policy	3.0	3.0	3.3
3. Management of Public Debt (External and Domestic)	4.5	4.5	3.4
4. Management and Sustainability of the Development Program	4.5	4.5	3.3
Average	4.0	4.0	3.4
CPIA Cluster B : Structural Policies			
5. Trade Policy and Foreign Exchange Regime	3.5	3.5	3.8
6. Financial Stability	3.5	3.5	3.1
7. Financial Sector Depth, Efficiency and Resource Mobilization	3.5	3.5	3.1
8. Competitive Environment for the Private Sector	4.0	4.0	3.4
9. Goods and Factor Markets	4.0	3.5	3.5
10. Policies and Institutions for Environmental Sustainability	3.5	3.5	3.0
Average	3.7	3.6	3.3
CPIA Cluster C : Policies for Social Inclusion/Equity			
11. Gender	3.0	3.0	3.4
12. Equity of Public Resource Use	3.5	3.5	3.3
13. Building Human Resources	3.5	3.5	3.4
14. Social Protection and Labor	3.0	3.5	3.1
15. Monitoring and Analysis of Poverty Outcomes and Impacts	4.0	4.5	3.4
Average	3.4	3.6	3.3
CPIA Cluster D : Public Sector Management and Institutions			
16. Property Rights and Rule-based Governance	3.5	3.5	2.8
17. Quality of Budgetary and Financial Management	4.5	4.0	3.2
18. Efficiency of Revenue Mobilization	3.5	3.5	3.3
19. Quality of Public Administration	3.5	3.5	2.9
20. Transparency, Accountability and Corruption in the Public Sector	3.5	3.5	3.0
Average	3.7	3.6	3.0
Overall CPIA 1/	3.7	3.7	3.3

1/ Arithmetic average of 1 through 20 criteria above.

CPIA 2003 : COUNTRY WORKSHEET
INDIA

No.	Question	CPIA 2002	CPIA 2003	Explanation
1	Mgt. of inflat. & macro-imbalance.	4.0	4.0	<p>Good management of inflation, exchange rate, and external balances, but limited efforts to address large fiscal imbalances.</p> <p>Inflation has been low for the past three years, though has now risen slightly to about 5%.</p> <p>Strong external position mitigates the risk of fiscal imbalances spilling over to external sector. High inflows of remittances (now over 12 months of import cover) and acceleration in exports.</p> <p>Fiscal deficit (general government) remains around 11% of the GDP. The fiscal deficit is almost entirely financed by an excess of domestic private savings over investment. Sustained high fiscal deficits continue to translate into a growing stock of public (domestic) debt, with debt-to-GDP ratio now at over 90%. Current low interest rate regime has reduced interest burden of the debt stock, but also the incentives for fiscal adjustment.</p> <p>Economic growth slowed in 2002-03 (Indian FY basis), to an estimated 4.4%.</p>
2	Fiscal policy	3.0	3.0	<p>Fiscal policy remains India's main macroeconomic challenge.</p> <p>Limited efforts to reduce the large fiscal imbalances or improve composition of public expenditures.</p> <p>Main source of fiscal imbalances remains insufficient efforts to improve revenue mobilization, resulting in a structural mismatch between revenues and expenditures. Public expenditure composition generally favors recurrent expenditure (civil service wages, pensions, and interest). There are also quasi-fiscal pressures arising from the power and financial sectors which have yet to be fully addressed.</p> <p>There are some positive reform initiatives, at the center and in some states, but these efforts have not been consistent and have had limited success at the aggregate level.</p>
3	Mgt. of public debt (external & domestic)	4.5	4.5	<p>At around 90% of GDP, public domestic debt remains high and the fiscal outlook does not signal a slowdown in the rate of debt stock accumulation. There are also accumulated contingent liabilities at the state level that may add to the stock of debt.</p> <p>There are no arrears on external debt. There is no expectation of defaults on central government debt obligations, at least in the short run. However, a few state governments find it difficult to meet their domestic debt obligations, esp. guaranteed off-budget debt.</p> <p>In the short run, the decline in domestic interest rates over the past 18 months to historical lows has lessened the burden of debt. Over the medium run, however, if the economic slowdown persists, debt dynamics could deteriorate further.</p> <p>The stock of external debt has declined and is relatively low.</p>
4	Mgt. & sustain. of devel. prog.	4.5	4.5	<p>India's national economic management is technically competent. State-level economic management is weaker, specially in some states. The main national centers of economic management are the Ministry of Finance, the</p>

				<p>Reserve Bank of India (RBI) and the Planning Commission (PC). The staff of these institutions and the staff of the International Financial Institutions (IFIs) hold similar views on the danger of high fiscal deficits, the importance of opening the economy and domestic deregulation. However, for political economy reasons, the speed of reform has been slow over the past 5 years.</p> <p>India has a highly developed democratic system. There is high degree of participation in decision making and economic-political decisions are scrutinized by government bodies and civil society.</p>
Aver.	A. Econ. mgt.	4.0	4.0	
5	Trade policy & forex regime	3.5	3.5	<ul style="list-style-type: none"> Peak tariff for non-agricultural goods has been reduced for the second consecutive year, from 35% in 2001 to 30% in 2002, and now to 25% in 2003. However, the average tariff has fallen by only two percentage points from 30% in 2002 to 28% currently, and 17% of tariff lines exceed the 25% standard peak. India continues to use non-tariff barriers like anti-dumping duty to restrict market access. Quantitative restrictions cover only a very small percentage of imports. Export restrictions limited largely to agriculture, and being reduced. Complex system of duty exemptions in place. Foreign exchange convertible for current account purposes. Some of the capital account restrictions have also been eased in recent years. The custom clearance process is cumbersome and time-consuming, though a recent GoI committee has suggested significant trade facilitation reforms, and implementation has begun in the budget.
6	Financ. stability	3.5	3.5	<p>Overall, the Indian financial system remains a complex medley of financial institutions dominated by the public sector. The financial position of some of the government owned regional rural banks and credit cooperatives is fragile and many of them have been subject to deposit 'runs' in the last few years. However, these runs have been contained (typically through government-led packages to bail out depositors) and have not led to a systemic banking crisis. Nevertheless, the stability of India's financial system remains fragile, given the financial sector's large volume of nonperforming loans, its weak credit culture and poor risk assessment. Other factors affecting stability include poor regulation of what is a highly politicized banking system and inefficient management of banks exacerbated by the lack of commercial incentives.</p> <ul style="list-style-type: none"> In recent years, the ratio of non-performing assets to total loans has come down. In part, this reflects strong efforts by banks to restructure or collect on bad loans. The recently enacted securitization bill to help banks recover loans from purposeful defaulters has been passed, seems to be working well, and will further assist banks to reduce their NPA ratios. Outdated bankruptcy procedures and ineffective laws have, in the past, made it almost impossible to restructure banks' bad assets (sick industries). This may change, once the recently enacted amendments to the Companies Act, which provide a new framework for liquidating firms outside the court process, are put into effect; however, repeal of the Sick Industries Companies Act is essential for the new bankruptcy framework to become effective. Notwithstanding recent strengthening of bank supervision, weaknesses remain in the regulatory and supervisory framework underpinning the banking system (and as of March 2001 the commercial banks' ratio of gross non-performing assets (NPAs) to total loans remained at 7.13 percent before provisioning). Some prudential regulations (e.g., on loan classification and provisioning) are not yet fully in line with international best practices. Moreover, the effectiveness of supervisory

				<p>hampered by the regular application of forbearance for public sector financial institutions resulting in a weakening of market discipline. The overlap among multiple regulatory agencies is also a concern, it has led to problems of accountability and raised the risk of regulatory arbitrage. Of particular concern is the overlap between the role of RBI and MOF in regulating the public sector banks. Sufficient emphasis is not placed on strengthening risk management in banks and other financial institutions.</p> <ul style="list-style-type: none"> The Indian Parliament passed an anti-money laundering bill in December 2002. The infrastructure needed for effective implementation of such legislation is however not fully developed yet, especially the judicial system.
7	Financ. sector depth, effic. & resource mobil	3.5	3.5	<p>Resource Mobilization and Depth: India's wide network (over 67,000) of commercial bank branches across the country, not to speak of the regional rural banks and thousands of cooperative banks and mutual fund sellers, have helped mobilize financial resources. India's financial system is quite large, with financial assets of about US\$430 billion, in nominal terms, compared to less than US\$330 billion in Malaysia, or US\$386 billion in Mexico, despite India's significantly lower per capita income. The share of total financial assets in GDP in India is about 93%, compared to 68% in Mexico. The largest mutual fund, a public sector enterprise, has been successfully restructured and a part of it is expected to be privatized soon, and this should also help resource mobilization.</p> <p>Equity market capitalization in India is estimated at about 34% of GDP, lower than in emerging markets such as Brazil, China and Malaysia, but equity value traded on the Indian markets is estimated at 105% of GDP, higher than in Brazil, China, and Malaysia.</p> <p>Government bond markets are well-developed and deep, but the private corporate bond market lack depth (bond market liquidity is concentrated in the government bond market; 98 percent of all trades in the secondary bond market are executed in government bonds).</p> <p>Efficiency: Financial institutions in India, however, have been relatively unsuccessful in allocating resources efficiently to the private sector, as indicated by the relatively low ratio of private credit (from deposit money banks and other financial institutions) to GDP (about 37%). Other indicators that measure the efficiency with which banks allocate capital to productive investments, include the net interest spread and cost to income ratio; both indicate that the performance of banks in India, and of the public sector banks, in particular falls far behind their counterparts in more advanced economies. These inefficiencies are rooted in a number of factors, notably:</p> <ol style="list-style-type: none"> 1. The government's domination of the financial system (with the 27 public sector banks accounting for about 80 percent of commercial banking assets) has resulted in weak governance and management, absence of appropriate incentives, lack of a credit culture based on commercial principles (banks have traditionally been required to make priority lending which is not strictly based on business considerations), and poor risk assessment and management. 2. High fiscal deficits and the pattern of deficit financing have, in the past, led to a large proportion of banking sector resources being diverted to investments in government securities (G-Secs). Reflecting the history of high deficits, about 47% of bank deposits are currently invested in government paper, about the same as prior to liberalization and a figure that has risen in the last three years, despite a reduction in the statutory liquidity ratio (which requires

				<p>banks to invest 25% of their net demand and time deposits in government paper). Insurance companies and provident funds are also required to hold a large part of their portfolios in government debt, which represents more than half of the investments of these companies. High borrowing by Government has crowded out lending to the private sector in the past, and may again in the future, but at the current time interest rates have fallen to an all time low, reflecting high savings and limited demand from the private sector.</p> <p>3. Weaknesses in the supervisory, regulatory and legal framework governing financial institutions and markets impede the efficient functioning, orderly development and growth of the financial system. Some improvements in bank efficiency, as a result of greater competition, are expected as a result of the recent policy to raise FDI limits in the banking sector to 74% (from 49%) with commensurate shareholder voting rights (until now voting rights restricted to 10% of equity regardless of holding). This is expected to significantly reduce entry barriers for foreign banks into India.</p>
8	Comp. environ. for private sect.	4.0	4.0	<p>Licensing requirements have been significantly streamlined both at the Centre as well as the sub-national level. Many states now have constituted single window clearance mechanism for approval of new industrial undertakings.</p> <ul style="list-style-type: none"> A new Competition Bill has been enacted in the Parliament, which has replaced the highly restrictive and inflexible Monopoly and Restrictive Trade Practice Act. A number of restrictions of movement of agricultural goods have been removed and FDI regime has been made considerably more liberal. The elimination of quantitative restrictions and the lowering of tariffs pursued as a condition for membership in the World Trade Organization has been an effective incentive to reduce resistance to domestic deregulation. For instance, the opening of the economy has been particularly effective to gradually reduce the number of sectors covered by the Small Scale Reservation. But it still takes an unduly long time to set-up business in India. There are widespread administrative and regulatory barriers and corruption.
9	Goods and factor markets	4.0	3.5	<p>a) Goods markets = 3.5 b) Factor markets for labor and land = 3.5</p> <p>Explain both dimensions below:</p> <p>Goods market (4): There is some direct state intervention, through controls and/or subsidies, in particular restrictions on movement of agricultural goods (though many have been lifted), subsidies on agricultural inputs (e.g. fertilizer), restrictions on entry (small scale industry reservations, being slowly pruned). There are some market imperfections but a Competition Act has been passed which may help remedy this.</p> <p>Labor and land (3): There are distortionary job security provisions in formal labor markets, though this employs a minority of employees. Rural labour markets, the largest, are unregulated in practice. An extensive land titling system exists, but legal challenges over land are common, and there are extensive urban land regulations, which have been cited as a deterrent for new investment in retail.</p>
10	Pol. & institut. for environ. sustain	3.5	3.5	<p>Laws and policies concerning pollution and natural resources are basically sound. However, sector-specific environmental policies and regulations need to be strengthened to improve implementation. Capacity to implement and enforce policies and regulations remains weak. India is now starting to: (i) introduce improved environmental monitoring and information management at the state level, (ii) analyze environmental situation at the state level in order to better design of state and national level policies and (iii) link</p>

				capacity and performance of pollution control boards in some states.
Aver.	B. Struct. pol.	3.7	3.6	
11	Gender	3.0	3.0	<p>Some existing laws, policies and institutions provide equal economic and social rights and opportunities to females and males. Government policies and institutions aim to provide equal rights and opportunities in a wide range of areas, including education and health, access to assets and employment, and constitutional and legal rights. However, there are wide inequalities in literacy, labor force participation and earnings. Sixty-seven percent of the male population is literate against 41 percent of the female population. The gap has been narrowing in the past two decades, yet it is still high. Also, male labor force participation rates, 44 percent, are higher than females' -- 32 percent.</p> <p>Females endure much lower returns to education than men. The male-female earnings gap is explained only to a small extent by women's inferior years of education (than men), but to a much larger extent by the differential way the labor market appears to reward education for the two genders.</p>
12	Equity of public resource use	3.5	3.5	<p>Only some public expenditures for economic and social services benefit the poor more than the better off. Education spending is progressive, but much health spending is regressive, as is spending on economic subsidies (power, irrigation subsidies (3)).</p> <p>The government has identified individuals, groups or localities that are poor, vulnerable, or have unequal access to services and opportunities, and has programs for these people. However, their effectiveness varies greatly. Spending on economic services targeted to the poor is inadequate due to crowding out from inequitable subsidies (3.5)</p> <p>The overall incidence of revenues is progressive. However, evasion is widespread so that many rich pay much less by way of tax than they should. (4).</p>
13	Building human resources	3.5	3.5	<p>Health (3) Policies and programs, and the roles and responsibilities of the various levels of government and of the private and non-government/voluntary sectors to a limited extent ensure access to health and nutrition services. There is little health insurance (though a new scheme is proposed in the latest budget). There is access to free hospital care funded by government, but coverage is low though increasing.</p> <p>Education (3.5) Policies and programs, and the roles and responsibilities of the various levels of government and of the private and non-government/voluntary sectors are generally appropriate for improving literacy and access to good quality education and training. However, more funding is needed for school education, measures need to be taken to address systemic issues such as those related to teacher accountability and management, teacher attendance needs to be greatly improved, and teachers' professional development needs more focussed attention. In addition, there is scope for building more public-private partnerships to improve access and quality at all levels of education. There has been a rapid improvement in literacy rates for males and females over the past two decades. Even so, average schooling attainment is still very low (2.4 years</p>

				<p>for people aged 25 and above) due to a high drop out rate and low enrollment rate.</p> <p>AIDS/communicable diseases (3.5) There are widespread activities for prevention of HIV/AIDS and other communicable diseases. They are not widespread enough in some cases, and not effective in some cases. They tend to be focused in health rather than multisectoral, though there is also a push on rural water supply and sanitation.</p>
14	Social protection & labor	3.0	3.5	<p>Out of the 5 sub-criteria provided, India's record is as follows:</p> <p>Government policies and programs are in place to support the poor communities own development initiatives (e.g. allocation of resources to communities and their local governments for building infrastructure, providing services, or supporting other development initiatives). This is achieved through various Govt programs implemented by local governments. However, many of the programs do not work very well. (<i>Partial achievement</i>)</p> <p>Labor codes and/or government policies and programs promote reduction of discrimination in the labor market. (<i>Achievement</i>)</p> <p>Government policy and programs work toward the elimination of harmful child labor, including appropriate incentives for children to remain in school. Government policy encourages civil society and local government involvement in projects to reduce child labor. (<i>Achievement</i>. However, note that not all programs are successful, and there is still a lot of child labor in India.)</p> <p>Government policies and programs are in place which, in combination with private systems, are designed to protect chronically poor and vulnerable, including the elderly. India has a well-developed safety net, including old-age pensions for the poor and subsidized food distribution. However, there are still many who slip through (<i>Partial achievement</i>)</p> <p>Labor market regulation, including the application of core labor standards, promotes broad access to employment and reflects a balance between social protection and job creation objectives in accordance with the economic circumstances and values of the country. Labour market regulation is considered an obstacle to the creation of employment in the formal sector. (<i>Non-achievement</i>)</p> <p>Note: changed from last year in relation to re-examination of sub-criteria, where achievement of 2 and partial achievement of 2 out of the 5 would seem to warrant 3.5 relative to the guidelines, though no exact guidance is given for this case (3 corresponds to achievement of 2 or partial achievement of 4, 3.5 to achievement of 3; 4 to achievement of 4 or 5 plus partial achievement of 2).</p>
15	Monitor & analyze of poverty outcomes & impacts	4.0	4.5	<p>Key poverty and welfare indicators are well defined and monitored regularly. The impact of key policies is assessed by domestic institutions. The monitoring and evaluation system includes regular nationally representative household surveys covering consumption/income, social indicators, etc as well as more frequent assessments of access to and use of services through administrative systems, beneficiary/user surveys and participatory monitoring. Data are timely and disaggregated by gender and socio-economic group, but not widely accessible. Capacity for data analysis is at least in line with overall country capacity. Results are sometimes used to inform policy decisions and program design. Steps are being taken to strengthen the poverty monitoring system, especially at the state level. There is a dispute on the rate of poverty reduction, due to non-comparability of data, has been largely resolved, and we are hopeful that this will</p>

				repeated.
				This indicator has been raised from last year since it is felt (a) that it was too low compared to India's performance, and the guidance provided and (b) India has made progress in resolving the poverty trends debate.
Aver.	C. Pol. for social inclusion/equity	3.4	3.6	
16	Property rights & governance	3.5	3.5	India performs reasonably well in persevering the rule of law and its higher judiciary is respected for its integrity and sagacity. In general, property rights are protected, but there are serious delays in the administration of justice. Currently, the Indian judiciary has the capacity of disposing about 15 million cases per year, which is roughly comparable to the number of new cases flowing into the system annually. At the moment, there are an estimated 23.5 million cases pending, and a typical court is overburdened with more than double the number of cases it can dispose of. On average it can take up to twenty years for a civil case to be resolved. A number of tribunals, ranging from debt recovery to civil service related issues to consumer affairs, have been established to get around delays in the legal system. But with generous appeals provisions and the absence of structural reform of the judiciary, the effectiveness of the justice delivery system has been modest.
17	Quality of budgetary & financial mgt.	4.5	4.0	<p>a) Budget links to policy priorities and poverty reduction strategy = 4.0 b) Financial management systems = 4.0 c) Fiscal reporting = 4.0 d) Expenditure and revenue assignments = 4.0 Explain all four dimensions below:</p> <p>Policies and priorities are broadly reflected in the budget, which has a heavy poverty focus but which also reflects deep vested interests. Some elements of forward budget planning are in place, but mainly in some states not at the central level. The budget is prepared in consultation with spending ministries. The budget classification system is comprehensive but different from international standards. Nearly all donor funds are reported in the budget. Contingent liabilities are analyzed, but there is a problem that some off-budget liabilities, counted as contingent, are actually actual. Budget monitoring and control systems exist, but there are some deficiencies. Actual expenditures deviate from the amounts budgeted by more than 5% on many broad budget categories. Public accounts and audit are typically in the public domain in less than a year. However, few meaningful actions are taken on budget reports or audit findings. The assignment of revenues between GoI and the states is clear, but may be skewed in favour of the centre. The assignment to local governments is still at an early stage.</p>
18	Efficiency of revenue mobiliz.	3.5	3.5	Indirect taxes are the dominant source of revenue. There is a VAT, but only up to the factory level. Very complex indirect tax system with both central and state level imposing indirect taxes. Import tariffs are high and there are too many rates. Income tax and corporate tax are less important but have been growing. Tax administration is weak, but tax laws are not inordinately complex, and information systems are functioning (e.g., unique taxpayer identification numbers used). Capacity issues are being addressed, and tax administration reforms attempted.
19	Quality of public administration	3.5	3.5	<p>a) Policy coordination and responsiveness = 4.0 b) Service delivery and operational responsiveness = 3.0 c) Merits and ethics = 3.5 d) Pay adequacy and management of wage bill = 3.5 Explain all four dimensions below:</p> <p>The quality of public administration varies tremendously across India, making broad generalizations almost impossible. The caliber of officers in the All India Services are among the highest in the world, and in some areas (such as e-governance) India is approximating global best practice. Southern</p>

				states such as Kerala have attained enviable social indicators. Other states, such as Karnataka and Andhra Pradesh, are making impressive progress in managing their wage bill effectively, improving the quality of service delivery and enhancing integrity within the civil service. On the other hand, many states in the north and northeast are struggling to provide even basic services to their citizens under the burden of excessive wage bills, fragmented administrative structures and weak coordination, limited service ethos, widespread corruption, and chronic political interference and instability.
20	Transparency, accountability & corruption, in public sector	3.5	3.5	With the passage of Freedom of Information legislation in March 2003, the GoI has followed in the path of some leading states and taken a significant step forward in improving the legal framework for transparency, and this increase in rating reflects that. The effective implementation of this act will remain a major challenge during the next several years, as will be the Court-mandated extension of FOI to cover the disclosure of financial information and criminal backgrounds for political candidates. Corruption remains a significant problem. India ranked 71 out of 102 in Transparency International's 2002 Corruption Perceptions Index, below Sri Lanka (No. 52) but better than several other countries in the region. Last year, both the GoI and several large states, such as Uttar Pradesh, were racked by a series of major scandals. India has several important anticorruption agencies, such as the Vigilance Commission and Central Bureau of Investigation. But disciplinary procedures are long and ponderous, and it is rare to see senior government officials successfully prosecuted for corruption.
Aver.	D. Public sector mgt. & institut.	3.7	3.6	
	Overall CPIA	3.7	3.7	

Note: The rating scale is as follows: 1=Unsatisfactory for an extended period, 2=Unsatisfactory, 3=Moderately Unsatisfactory, 4=Moderately Satisfactory, 5=Good, 6=Good for an extended period. Half point increments are allowed between 2 and 5 (2.5, 3.5 and 4.5). All scores of 5 or more for three years in a row have been reclassified to 6 by OPCS. Similarly, at the other end, all scores of 2 or less for the three year period have been reclassified to 1 by OPCS.

COUNTRY POLICY AND INSTITUTIONAL ASSESSMENT 2003

ASSESSMENT QUESTIONNAIRE

The Country Policy and Institutional Assessment assesses the quality of a country's present policy and institutional framework. "Quality" means how conducive that framework is to fostering poverty reduction, sustainable growth and the effective use of development assistance.

There are 20 items to be assessed, each with a 5% weight in the overall rating. They are grouped into four categories, as shown in the summary table below, although the distinctions between categories are not rigid. Each aspect of policy should be considered in light of its impact on poverty reduction.

Summary of Ratings

A. Economic Management

1. Management of Inflation and Macroeconomic Imbalances
2. Fiscal Policy
3. Management of Public Debt (External and Domestic)
4. Management and Sustainability of the Development Program

B. Structural Policies

5. Trade Policy and Foreign Exchange Regime
6. Financial Stability
7. Financial Sector Depth, Efficiency and Resource Mobilization
8. Competitive Environment for the Private Sector
9. Goods and Factor Markets
10. Policies and Institutions for Environmental Sustainability

C. Policies for Social Inclusion/Equity

11. Gender
12. Equity of Public Resource Use
13. Building Human Resources
14. Social Protection and Labor
15. Monitoring and Analysis of Poverty Outcomes and Impacts

D. Public Sector Management and Institutions

16. Property Rights and Rule-based Governance
17. Quality of Budgetary and Financial Management
18. Efficiency of Revenue Mobilization
19. Quality of Public Administration
20. Transparency, Accountability and Corruption in the Public Sector

Countries should be rated on their current status in relation to these guidelines and to the benchmark countries in each region, for which the agreed ratings have been provided to the staff. Please assess countries on the basis of their currently observable policies, and *not* on the amount of improvement since last year *nor* on intentions for future change, unless the latter

...and, therefore, a "3" rating corresponds to a state that is good today but likely to be unsatisfactory in a year or more years; a "4" is awarded, signifying a problem that is not too serious today, but likely to become more serious in the future; a "5" rating signifies that the low level has persisted for three years, and therefore that the existing problems are likely to be more entrenched and intransigent.

Ratings Scale: 1 (low) through 6 (high)	
1	Unsatisfactory for an extended period
2	Unsatisfactory
3	Moderately Unsatisfactory
4	Moderately Satisfactory
5	Good
6	Good for an extended period

Intermediate scores of 2.5, 3.5 and 4.5 may also be given.
Scores of 1.5 and 5.5 may not be given.

Factual indicators of economic outcomes should be used to inform judgments about the effectiveness of the relevant policies and institutions, and to foster comparisons among countries. The PREM17EC indicators for each country (available as part of the On-the-Fly tables on the IFMA website) show where each country's outcomes appear to be significantly below relevant cross-country reference values. Additional guideposts are also suggested to assist you in answering particular questions.

16 Property Rights and Rule-based Governance

This item assesses the extent to which private economic activity is facilitated by an effective legal system and rule-based governance structure in which property and contract rights are reliably respected and enforced.

Guidepost:

PRMPS Governance Indicators (after opening the below link, click on CPIA Guidepost Data and see Guideposts for CPIA Question #16):

<http://www.cpiaworldbank.org/cpiaweb/prmps/publicsector/indicators.htm>

- 2 Enforcement of contracts and recognition of property rights depends almost entirely on informal mechanisms. Laws and regulations are applied selectively or changed unpredictably, for example through frequent and unpublicized executive decrees. Judicial decisions are not publicly available. Favoritism rather than equal treatment pervades dealings with the state. Obtaining a business license can take an inordinate time and require numerous "unofficial payments." Crime and violence substantially increases the cost of doing business.
- 3 The law protects property rights in theory, but in fact registries and other institutions required to make this protection effective function poorly, making the protection of private property uncertain. Judicial decisions are sometimes publicly available. Rules are not changed arbitrarily but may not be publicly available. Those without connections can secure a business license, but the process is overly bureaucratic and prone to delays. The state is able to provide a modicum of protection against crime and violence.
- 4 Property rights are protected in practice as well as theory. Property registries are reasonably current and non-corrupt. Rules are publicly available and a mechanism exists to resolve conflicts of rules. Courts may be costly to use but judicial decisions are publicly available. Obtaining necessary licenses is a small share of the cost of doing business. The state is able to protect most citizens most of the time from crime and violence.
- 5 A rule-based governance structure governs interactions between all citizens and their government. The legal system is highly predictable. Laws and regulations affecting businesses and individuals are transparent and uniformly applied; changes in them are publicly announced and occur only after public hearings and deliberation. A well-functioning and accountable police force protects citizens from crime and violence.

1. Unsatisfactory for an extended period	3. Moderately unsatisfactory	5. Good
2. Unsatisfactory	4. Moderately Satisfactory	6. Good for an extended period

54

19. Quality of Public Administration

This item measures the extent to which civilian central government staffs (such as teachers, health workers and police) are structured to design and implement government policy and deliver services effectively. Civilian central government staffs include the central executive together with all other ministries and administrative departments, including autonomous agencies. It excludes the armed forces, state-owned enterprises and subnational government.

The key dimensions for assessment are:

- Policy coordination and responsiveness
- Service delivery and operational efficiency
- Merit and ethics
- Pay adequacy and management of the wage bill.

Generally these areas are highly correlated. However, each of these four dimensions should be rated separately. For the overall rating for this criterion, these four dimensions should receive equal weighting.

Note: As a criterion with multi-dimensions, a rating for each dimension should be provided in the write-up along with its justification.

Guideposts:

- Civil service wages and employment database at <http://www1.worldbank.org/publicsector/civilservice/developmental.htm>
- Civil Service website at <http://www1.worldbank.org/publicsector/civilservice>
- PRMPS Governance Indicators (after opening the below link, click on CIL, Guidepost Data and see Guidepost for CPIA Question #19):

1 Unsatisfactory (from extended period)	4 Moderately Unsatisfactory	5 Good
2 Unsatisfactory	4 Moderately Satisfactory	6 Good (from extended period)

- 2 a. Mechanisms for coordination are weak or non-existent.
- b. Administrative structures are highly fragmented, with overlapping responsibilities. Business processes are extremely complex involving multiple decision layers.
- c. Hiring and promotion not based on merit. Public employees serve at the pleasure of the current government and rent seeking is normal behavior.
- d. Public employment as a share of total employment is far higher than needed. The wage bill as a share of GDP is unsustainably large, crowding out spending essential for delivery of public services. Pay and benefit levels, particularly at upper levels, are far below comparable private sector levels, but benefits (housing, car, utilities, servants) for senior civil servants may be high and there are other complex and opaque forms of compensation. "Ghost" employees are on the payroll.
- 3 a. Administrative structures are fragmented, and coordination mechanisms may not be adequate to overcome parochial bureaucratic interests.
- b. Business processes can be overly complex and cause unnecessary delays.
- c. Hiring and promotion formally merit-based, but there is extensive patronage in practice in several parts of government. Corruption appears entrenched.
- d. Public employment as a share of total employment is higher than needed and unsustainable if adequate wages were paid. The wage bill represents an excessively large proportion of total government expenditure. Some sectors are overstaffed (particularly health and education). Pay and benefit levels are generally inadequate and there are major difficulties in attracting and retaining staff in key technical areas.
- 4 a. Mechanisms for policy coordination generally function effectively.
- b. Administrative structures are generally well designed, although gaps or areas of overlap may exist. Initial efforts have been made to redesign business processes in selected areas.
- c. Hiring and promotion merit-based but emphasize seniority unduly. Corruption occurs but is not systemic.
- d. Public employment as a share of total employment is somewhat higher than needed and the wage bill represents a large proportion of government spending. Pay and benefit levels are low but not unattractive when benefits and job security are factored in. Some sectors are overstaffed (particularly health and education) and there are some difficulties in attracting and retaining staff in key technical areas.
- 5 a. Effective coordination mechanisms ensure a high degree of policy consistency across departmental boundaries.
- b. Organizational structures are along functional lines with little duplication. Business processes are regularly reviewed to ensure efficient decision making and implementation.
- c. Hiring and promotion are based on merit and performance and ethical standards prevail.
- d. The wage bill is sustainable and does not crowd out spending required for public services. Pay and benefit levels do not deter talented people from entering the public sector. There is flexibility (that is not abused) in paying more attractive wages in hard to fill positions (e.g. rural teachers, technical specialists).

1. Unsatisfactory for an extended period	3. Moderately Unsatisfactory	5. Good
2. Unsatisfactory	4. Moderately Satisfactory	6. Good for an extended period

20. Transparency, Accountability and Corruption in the Public Sector

This item assesses the extent to which (i) the executive can be held accountable for the use of funds and the results of its actions by the electorate and by the legislature and judiciary, and (ii) public employees within the executive are required to account for the use of resources, administrative decisions and results obtained. Both levels of accountability are enhanced by transparency in decision-making, public audit institutions, access to relevant and timely information, and public and media scrutiny. A high degree of accountability and transparency discourages corruption, or the abuse of public office for private gain. National and sub-national governments should be appropriately weighted.

Guidepost:

PRMPS Governance Indicators (after opening the below link, click on CPIA Guidepost Data and see Guideposts for CPIA Question #20):

<http://www.worldbank.org/primps/publicsector/indicators.htm>

- 2 There are no effective audit or other checks and balances on executive power. Boundaries between the public and private sector are ill-defined, and conflicts of interest abound. Responsibilities are not clearly defined across levels of government and the reasons for and costs of decisions by public officials and the judiciary are not made clear or are not based on legal rules or procedures. Laws and policies are biased towards narrow private interests. Implementation of laws and policies is distorted by corruption and resources budgeted for public services are diverted to private gain. The media are not independent of government or powerful business interests. Public officials are not sanctioned for failures in service delivery or for receiving bribes. The general public has little voice or participation in public activities.
- 3 Elected and other public officials often have private interests that conflict with their professional duties. Decision making is generally not transparent. External accountability mechanisms such as inspector-general, ombudsman or independent audit may exist, but have inadequate resources or authority. Restrictions on the media limit its potential for information-gathering and scrutiny, and civil society is weak.
- 4 External accountability mechanisms limit somewhat the degree to which special interests can divert resources or influence policy making through illicit and non-transparent means. Media publicity is an effective deterrent against unethical behavior. Risks and opportunities for corruption within the executive are reduced through adequate monitoring and reporting lines. Conflict of interest and ethics rules exist and the prospect of sanctions has some effect on the extent to which public officials shape policies to further their own private interests. Administrative corruption is low.
- 5 Responsibilities are clearly defined across levels of government. Accountability for decisions is ensured through a strong public service ethic reinforced by audits, inspections, and adverse publicity for performance failures. The judiciary is impartial and independent of other branches of government. The reasons for decisions, and their results and costs, are clear and communicated to the general public. Citizens can obtain government documents at nominal cost. Conflict of interest and ethics rules for public servants are observed and enforced. Top government officials are required to disclose income and assets, and are not immune from prosecution under the law for malfeasance. Authorities monitor the prevalence of corruption and implement sanctions transparently.

1 Unsatisfactory, for an extended period	3 Moderately Unsatisfactory	5 Good
2 Unsatisfactory	4 Moderately Satisfactory	6 Good for an extended period

Item No. 16 – Property Rights and Governance

Comments of the Department of Personnel

This Ministry has no specific observation on the CPIA views that there are serious delays in the administration of justice and that there has been no serious structural reform of the judiciary. However, there is a reference to Civil Service related Tribunals. As correctly observed the Central Administrative Tribunal was established to provide quick and inexpensive legal redress to serving and retired officers. With all its shortcomings the CAT, which functions through 17 benches, has achieved a very substantial record of disposal of cases. Since its inception from 1985 upto 31.03.04, it has disposed of 93 % of the nearly 4.25 lakh cases registered.

Item No. 19. Quality of Public Administration.

Several issues have been raised by the CPIA, none of which can be seriously contested. In addition, it must be recognized that Government employees in India enjoy various kinds of protection which makes removal on grounds of non-performance almost impossible. However, the CPIA observations need to be discussed further. For instance, it is easy to say that there is excessive political interference, but we need to be clear on what exactly is perceived as political interference. The distinctions between the responsibilities of the political leadership and of the civil service, as laid out in the pure text book model, are increasingly being disregarded. While it can certainly be said that there is political interference in executive functions, and unreasonable pressure on civil servants, it cannot be denied that a politicization of the civil service is also taking place. In recent years a surprisingly large number of officers have entered into active politics after retiring from service. While there is no bar on civil servants entering politics after service, it is clear when this happens that the officer has held strong political convictions even during his civil service career. In this sense it would be wrong to say political interference is solely a top down process.

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Issues relating to tenure, protection of civil servants from harassment etc. are receiving attention, though it has to be admitted that in India's federal structure responsibility for ensuring wholesome practices in civil service management rest both with the Central and State Governments. In practice there are numerous tensions arising out of the administration of the All India Services Regulation.

On the issue of corruption and deterrent action against corrupt officials the situation is unclear. Perceptions regarding corruption tend to vary and few Governments have been able to take strong and effective action even in cases of proven offences.

Item No. 20 Transparency, Accountability & Corruption in public sector.

With regard to the Freedom of Information Act, it may be noted that effective implementation of the Act has not yet taken place as the necessary rules have not yet been framed. However, in some states like Rajasthan, it has been possible for the public to access information using the provisions of the local Act.

On the subject of transparency, the CPIA has noted the International 2002 Corruption Perception Index which has ranked India at No. 71 out of the 102 countries surveyed. We do not have any alternate assessment of the extent of corruption in public services in India, though it must be admitted that the general perception, and one which is frequently expressed in the media, is similar to that of the Corruption Perception Index. Clearly a complete overhauling of the machinery is required to tackle this problem.



सत्यमेव जयते

केशव देसिराजु

Keshav Desiraju

संयुक्त सचिव

Joint Secretary (AT & A)

Tel. No. : 23094010

Fax No. : 23092580

E-mail : jsa@dpt.delhi.nic.in

S/W6-25(1)

भारत सरकार

कार्मिक और प्रशिक्षण विभाग

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

नोर्थ ब्लॉक, नई दिल्ली-110001

GOVERNMENT OF INDIA

DEPARTMENT OF PERSONNEL & TRAINING

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

NORTH BLOCK, NEW DELHI-110001

D.O. No. 1155/JS(AT&A)/04

March 31, 2004

Dear Dr. Banerjee,

Please refer to your letter of 12th February, 2004 requesting comments on the CPIA ratings for 2003 developed by the World Bank.

Three items relate to the Ministry of Personnel, all of which are in the cluster relating to Public Sector Management and Institutions. Comments on the observations made by the CPIA are given in the statement enclosed. It does not appear possible to comment specifically on the numerical rating, which, as it happens, is 3.5 for all three items in both the years reviewed. This places India's performance on these items as somewhere between "Moderately Unsatisfactory" and "Moderately Satisfactory". I am not sure that we can quarrel with this.

Yours sincerely,

Keshav Desiraju

(Keshav Desiraju)

31/3/04

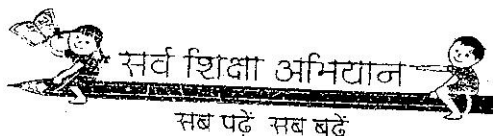
Dr. Ranjit Bannerji,
Joint Secretary (FB), Room No 67A
Ministry of Finance,
Department of Economic Affairs.

M. Aggarwal

18/3

[Signature]

31/3/04



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(2)

1.3004/79/600
-E

Department of Personnel & Training

Subject:- Modified plan for Action Plan for Good Governance based on inter-State Council Secretariat on Good Governance.

Reference is invited to the AIS Division's O.M. No. 11033/9/03-AIS(II) dated the 13th August, 2003 on the above subject and discussions thereon held today, viz. 14th August, 2003, by Secretary(Personnel).

2. Keeping in view the developments, it is suggested that para 40 of item 4.8 relating to 'right to information' may be revised to read as under:-

"40. This subject came up for discussion in the Conference of Chief Ministers held in May, 1997 to discuss an Action Plan for Effective and Responsive Government at the Central and State levels. In this Conference, Prime Minister emphasized that the people should have a Right to Information to combat undue secrecy in Government. It was decided that Government of India, in consultation with State Governments, shall take necessary steps to introduce in Parliament a legislation for Freedom of Information. As a sequel, Government had introduced the 'Freedom of Information Bill, 2000' in the Lok Sabha on July 25, 2000. The Bill, as passed by the Lok Sabha and the Rajya Sabha on 3rd December, 2002 and 16th December, 2002 respectively, received the assent of the President on 6th January, 2003 and 'The Freedom of Information Act, 2002' has been published in the Gazette of India on 7th January, 2003."

(RAKESH MALHOTRA)

Under Secretary

14.8.2003

Dir.(E-II)

JS(E)

JS(AT&A)

TIME BOUND
MEETING NOTICE

3715/JS(E)/03
13/8/03

No. 11033/9/03-AIS II
Government of India
Department of Personnel & Training

New Delhi, August 12, 2003

OFFICE MEMORANDUM

Sub: Modified plan for Action Plan for Good Governance based on Inter-State Council Secretariat on Good Governance.

The undersigned is directed to say that Secretary (Personnel) will hold a meeting at 11.30 a.m. on the 14th August 2003 to discuss the following items:

- i) Item No. 1 – Civil Service Reforms
- ii) Item No. 3 – Legal and Judicial Reforms and Lokpal machinery.
- iii) Item No. 4.8. – Right to information

2. Kindly make it convenient to attend the meeting.

1866/03 (F.D) 103
14/8

G.O. Pandey
Under Secretary to the Govt. of India

To

1. Additional Secretary (ARPG)
2. Additional Secretary (S&V)
3. Joint Secretary (AT&A)
4. Joint Secretary (Estt)

Copy for information to PPS to [Secretary (P)]

G.O. Pandey
Under Secretary to the Govt. of India

Department of Personnel & Trg.

The modified plan for Action Plan for Good Governance based on Inter State Council Secretariat on Good Governance circulated in August, 2003 is placed at Annexure-1

Item 1 relates to Civil Service Reforms

- 1.1 Creation of institutional arrangements in the state governments to facilitate objective and transparent decisions on postings, transfers, promotions, etc. of the officials.
- 1.2 Functional autonomy to the civil-services so as to improve the comfort level of good and honest officials.
- 1.3 Capacity building and training for improving efficiency and effectiveness.

Item 3 Legal and Judicial Reforms also Lokpal Machinery to be put in position without delay.

This relates to Vigilance Division and we may ask for inputs.

Item 4.8 relates to right to information.

We may forward a copy of the brief (Item No. 5 – Implementation Report on Decisions taken by Inter-State Council on the recommendations of of Sarkaria Commission) & Item No.6 – Good Governance – An Action Plan to the Establishment Division and Training Division for necessary inputs. A copy of the Good Governance Action Plan Agenda item No. 6 has already been forwarded to AS(AR&PG).

+ Ravi
Cont.
(4)

We may also inform them about the meeting being taken by Secretary (Personnel) on the issue at 11.30 tomorrow.

6
FA (S.A.)

(Sangeeta Singh)
Director(S)
13.8.03
Inter State Council

JS(AT&A)

Copy to :

Director (V.I)/DS(S.III)/US(Cadre)/DO(Pay)

15 (E)
Hardway for Information
to Sec (P)

P.N. GULATI

51/13, Old Rajinder Nagar,
New Delhi-60 (TEL:2578-9844)

The Joint Secretary,
(Shri S. Chandersekharan),
Ministry of Personnel & Training,
North Block,
New Delhi.

INFORMATION ACT, 2002 - IMPLIMENTATION OF

Sir,

/ I write this with reference to my letter dated
18th August, 2003 (copy enclosed).

/ I shall be most obliged to be informed whether
the aforesaid Act (copy enclosed), has come into force
and if so, the number and date of the relevant notifi-
cation and the date of its publication in the Gazette
of India.

Thanking you, Sir,

Yours faithfully,

P.N. Gulati
(P.N. Gulati)

Section Officer, M/EA (Retd.)

Encl:aa

E 2 H/B) See

Shri P.N. Gulati spoke to me on
phone and the status on the enforcement
of the FOI Act was duly explained to him.
Shri Gulati has also represented to the MEA
in the matter separately. Based on the advice
give to the Ministry on its file, the MEA would
be sending him a suitable reply.

No further action on my part is called for.

14 Aug
18. 10. 2003

August 18, 2003

Hon'ble Minister of Law & Justice,
Government of India,
New Delhi.

Hon'ble Minister of External Affairs,
Government of India,
New Delhi.

The Foreign Secretary,
Ministry of External Affairs,
New Delhi.

THE INFORMATION ACT - WHAT SHOULD A COMMON MAN DO
WHEN CONCERNED MINISTRY DOES NOT RESPOND?

Hon'ble Sir,

From day one, when the seed for Information Act was sown on 5.10.1998 (Annex.I) by the then Urban Minister, Hon'ble Shri Ram Jethmalani, I have been following its progress: when it was approved by the Parliament on 15.12.02 and when it got President's assent on 6.1.2003 and finally, when it became available in the market on 18.1.2003. (Annex. I to III).

2. Not having had a word from MEA for over one month to my request dated 16.7.03 (copy enclosed), I am at a loss as to what more I should do. I do not know whether any other similar case of non-compliance by the authorities concerned, would have come to the Law Ministry's notice for further guidance or not, at least this case is, humbly, submitted to you, Sir. I submit a 'Brief' along with some other relevant documents which will clarify this 40 years old case.

3. While thanking your honour, I will be much obliged for any further advice/guidance in the matter.

Respectfully yours,

P.N. Gulati

(P.N. Gulati)

Section Officer, MEA (Retd.)

Encl:aa

R&I
Issue F.C.
RF
4/11

No. 34011/7(s)/2003-Estt.(B)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

...
New Delhi, dated the November, 2003.

To
Shri V.K.Mathur,
18/1, Sanjay Complex ext.II,
South T.T. Nagar,
BHOPAL - 462003

Sub:- Non-compliance of the provisions of the 'Freedom of Information Act, 2002'.

Sir,

I am directed to refer to your letter dated 9th June, 2003 to the Minister of Law & Justice on the subject mentioned above and to say that sub- section 3 of Section 1 of the 'Freedom of Information Act, 2002' lays down that it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. The Central Government has not issued any notification in this regard and, as such, the Act has not yet come into force. In this view of the matter, the question of non-compliance by an officer of the provisions of the Act does not arise.

Yours faithfully,

RF

(RAKESH MALHOTRA)

Under Secretary to the Government of India

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CONSUMER EDUCATION AND RESEARCH CENTRE

"SURAKSHA SANKOOL", THALTEJ, AHMEDABAD-GANDHINAGAR HIGHWAY, AHMEDABAD - 380 054. (INDIA)

Phone: 079-7489945-46, 7450528, 7451097 Fax: 079-7489947

Email: cerc@wilnetonline.net Website: www.cercindia.org

FACSIMILE TRANSMISSION

To: Shri A.K. Agarwal, IAS, Secretary (P&T), Min. of Personnel,
Public Grievances and Pension, Govt. of India, New Delhi

From: Prof. Manubhai Shah, Chairman-Emeritus, CERC, Ahmedabad

Date: 11 September 2003

Fax No. 011 2301 2432

In view of uncertainty, kindly let us know if you have received _____ pages

Ref. : ER/RTI/644/dB

Dear Shri Agarwalji,

Greetings from Consumer Education and Research Centre (CERC), Ahmedabad,

It is a matter of pride for India that it has eventually enacted a Freedom of Information Act though it has yet to be notified, pending the formulation of Rules.

CERC has long been involved in the campaign for access to and freedom of information. In fact, CERC's draft Bill on the issue was also submitted to the Joint Select Committee of Parliament before the enactment.

In December 2002 the United Nations Development Programme (UNDP) had entrusted CERC with a literature and field Survey of the States where the State-level Right to Information Act had been enacted. The Survey focused on people's awareness and use of the Act, their comments, suggestions and conclusions. CERC submitted the Report in June 2003.

The Report also made a study of the Freedom of Information Act 2002 and suggested amendments to it and enactment of Whistle Blowers Protection Act.

.....2

- 2 -

A Note on the amendments is enclosed for your consideration and comments.

We look forward to hearing from you.

Thanking you and with kind regards,

Yours sincerely,



Manubhai Shah
Chairman- Emeritus

Encl : Amendment Suggested (by CERC) for the Freedom of Information Bill, 2002

Cc. Mr. Pradeep Sharma Fax : 011 2462 7612
Email : <pradeep.sharma@uncp.org>

12 November 2003



India

Dear Mr. Chandrasekaran,

**Consultation on "Access to Information, ICTs and
Cross Media Partnerships - The Empowerment Agenda"
15-16 December 2003, Fort Aguada Beach Resort, Goa**

We would like to invite you to participate in a two day workshop on "Access to Information, ICTs and Cross Media Partnerships - The Empowerment Agenda" in Goa on the 15-16 December, 2003. This Workshop will seek to explore future steps for the Government of India - UNDP supported Access to Information initiative in India. Another objective will be to make recommendations for a national media strategy in support of Information and Communications Technologies (ICTs) for grassroots development.

Our lead partner for the Access to Information Initiative is the Department of Personnel and Training (DOPT), Training Division, Government of India. For the ICTs and Cross Media Partnerships Initiative, our key partner is the Indian Institute of Management, Bangalore. The Workshop is being organized together with both partners. The focus of the workshop will be on the following issues:

- Access to Information: Legal and Policy Context
- ICTs and Access to Information
- Civil Society and Civil Service: The Response
- Cross Media Partnerships
- Development and Social Change - Media Priorities

Partners from the Government of India, State Governments, community based organizations, the corporate sector and the media will participate in the Workshop. We would be delighted if you could join us as a panelist and share your views on the theme **"The Freedom of Information Act: An Overview"** in the session on **"Access to Information: Legal and Policy Context"**.

I look forward to the confirmation of your participation in this Workshop. We would be grateful if you could share your presentation with us by 30th November, 2003. I attach the draft agenda for your consideration.

For further information regarding the Workshop please feel free to contact my colleagues Ms. Archana Bhardwaj (archana.bhardwaj@undp.org) or Ms. Radhika Kaul Batra (e-mail: radhika.batra@undp.org). They may be contacted at 011-2462 8877.

With best regards,

Yours sincerely,

Maurice Dewulf
Senior Deputy Resident Representative

Mr. S. Chandrasekaran
Joint Secretary (Establishment)
Dept. of Personnel & Training
Ministry of Personnel, Public Grievances & Pensions
Room No.111, North Block
New Delhi 110 001
Fax: 2309 2432

DRAFT AGENDA**"Access to Information, ICTs and Cross Media Partnerships - The Empowerment Agenda"**

DATES: 15TH - 16TH DECEMBER, 2003
 VENUE: GOA
 LEAD PARTNER: TRAINING DIVISION, DOPT, GOVERNMENT OF INDIA
 IN ASSOCIATION WITH: IIM, BANGALORE

MONDAY, 15TH DECEMBER, 2003

TIME	SESSION	PRESENTER
SESSION 1 – PLENARY		
8.30 – 9.30 am	Registration	
9.30 – 9.45 am	Welcome Remarks	
9.45 – 10.00 am	Opening Remarks	O P Agarwal, Joint Secretary (Trg)
10.00 – 10.15 am	Special Remarks	Maxine Olson, Resident Representative, UNDP
10.15 – 10.35 am	Keynote Address	Arun Bhatnagar, Secretary, DOPT
10.35 – 10.40 am	Note of Thanks	Arun Shourie, Minister for Disinvestment
10.40 – 11.00 am		Gita Sen, Director CPP, IIMB
TEA BREAK		
SESSION 2 – ACCESS TO INFORMATION: LEGAL AND POLICY CONTEXT		
CHAIRPERSON – SOLI SORABJEE		
11.00 – 11.20 am	Indian State Laws: A Comparative Assessment	Manubhai Shah, CERC, Ahmedabad
11.20 – 11.40 am	The Rajasthan Experience	Nikhil Dey, MKSS
11.40 – 12 noon	The Maharashtra Experience	Madhav Godbole
12.00 – 12.20 pm	The Freedom of Information Act: An Overview	S. Chandrasekaran, Jt. Secretary (Establishment), DOPT
12.20 – 01.00 pm	Group Interaction	
01.00 – 02.00 pm	LUNCH BREAK	
SESSION 3 – ICTs AND ACCESS TO INFORMATION		
CHAIRPERSON – R CHANDRASHEKHAR, JT. SECRETARY, IT		
2.00 – 2.20 pm	ICTs and Access to Information: An Overview	O P Agarwal, Jt. Secretary, DOPT
2.20 – 2.40 pm	Binding the Information Drive-e-Setu	Ravi Kota, DM, Jorhat
2.40 – 3.00 pm	The Access to Information : Administrative Response	Praveen Gupta District Collector – Jhalawar (Rajasthan)
3.00 – 3.20 pm	The Experience of Panchmahals	Jayanti Ravi, Commissioner, School & Mid-day Meal, Gandhinagar (Gujarat)
3.20 – 3.40 pm	ICTs and Disaster Preparedness	Saroj Jha, ARR, UNDP
3.40 – 4.15 pm	Group Interaction	
4.15– 4.30 pm	TEA BREAK	
SESSION 4 – CIVIL SOCIETY AND CIVIL SERVICE: THE RESPONSE		
CHAIRPERSON – MADHAV GODBOLE		
4.30 – 4.40 pm	Sharing of Experiences: The Rural Context	Aruna Roy, MKSS
4.20 – 4.30 pm	The Rajasthan Government Experience	M. K. Khanna, Secretary, Panchayati Raj, Rajasthan
4.30 – 4.40 pm	Sharing of Experiences: The Urban Context	Arvind Kejriwal, Parivartan
4.40 – 4.50 pm	The Delhi Government Experience	Prakash Kumar, Delhi Government
4.50 – 5.10 pm	The Public Private Partnership Model	Ramesh Ramanathan, PROOF
5.10 – 5.20 pm	Delhi: The Bhagidari Experience	S. Regunathan, Principal Secretary to CM & IT, Govt. of NCT of Delhi
5.20 – 5.45 pm	Group Interaction	

DAY 2
TUESDAY, 16TH DECEMBER, 2003

SESSION 5 – MEDIA AND DEVELOPMENT

CHAIRPERSON - PAWAN CHOPRA, Secretary, Ministry of Information and Broadcasting

TIME	SESSION	PRESENTER
9.30 – 9.45 am	Lead Presentation – Development and the Media	Pawan Chopra, Secretary, Ministry of Information and Broadcasting
09.45 – 10.00 am	Media and Access to Information: The Goa Experience	Goa journalists
10.10 – 10.15 am	Presentation of the Media Monitoring Report	Angana Parekh, Director, Women's Feature Service
10.15 – 10.30 am	What determines priorities?	V G Jindal, Member of the Board, Times Group
10.30 – 10.45 am	Is Development News Commercially Viable?	Harivansh, Prabhat Khabar, Jharkhand
10.45 – 11.00 am	Social Change: The Power of Electronic Media	G Krishnan, Aaj Tak
11.00 – 11.15 am	Role of Radio: Cross-Media Linkages for Community Communications	Ashish Sen, Voices
11.15 – 11.30 am	Presentation on ICT for Development Project	Surekha Subarwal, ARR, UNDP
11.30 – 12.00 noon	Group Interaction	
12.00 – 12.15 am		

TEA BREAK

SESSION 6 – VALEDICTORY SESSION – THE POLICY FRAMEWORK AND THE WAY FORWARD

12.15 – 12.30 pm	Mainstreaming of Development Issues in the Media	B G Verghese
12.30 – 12.45 pm	The Potential of the Electronic Media	
12.45 – 1.00 pm	Keynote Address: Access to Information	K. S. Sarma, CEO, Prasar Bharati
1.00 – 1.15 pm	Keynote Address: Media Policy Framework and the Way Forward	Harin Pathak, MOS for Personnel, Public Grievances and Pensions
1.15 – 1.30 pm	Concluding Remarks	Ravi Shankar Prasad, Hon'ble Minister of State, Ministry of Information and Broadcasting
1.30 – 1.40 pm	Vote of Thanks	Manohar Parrikar, Chief Minister, Goa
1.40 pm		UNDESA

LUNCH



INDIA

CONSULTATION ON "ACCESS TO INFORMATION, ICTS AND CROSS MEDIA PARTNERSHIPS"

GOA, 15-16 DECEMBER 2003

ADMINISTRATIVE ARRANGEMENTS NOTE FOR OUTSTATION INVITEES

Venue of the Seminar

The seminar will be held at Fort Aguada Beach Resort, Goa. The accommodation for the participants is made at Hotel Taj Holiday Village, Goa. Both the hotels are adjacent to each other.

Information on Accommodation

We have made reservations for you at the Hotel Taj Holiday Village, Sinquerim, Bardez, Goa. Tel: +0832-2479 123; Fax: 0832-2479 300. Kindly note that UNDP will only pay for your meals and accommodation (up to 3 nights) at Hotel Taj Holiday Village. All bills for bar, laundry, snacks, STD/ Local telephone calls and other services must be settled personally and will not be reimbursed. As per the arrangements we are making, you will be checking-in on Sunday (evening) 14th December 2003 and checking-out on 16th evening, or latest by early hours of 17 December 2003. (Please Note: Checkout Time on 17th December is 12:00 noon.)

Duration of Workshop

The Workshop will commence with the Registration of participants on the morning of Monday 15th December and ends on Tuesday 16th December with lunch. Please refer to the workshop programme for details.

Information on Travel/Transportation

Participants wishing to get their travel arrangements made through UNDP may kindly send us their firm travel plans at the earliest and not later than 25 November 2003. Thereafter, participants will have to make their own arrangements for travel and transport to and from Goa.

Hotel will provide airport transfers for each participant. Therefore, all the participants are advised to send their travel details to hotel with a copy to our office at the earliest to enable arrangements for pick-up/drop.

Remuneration

The cost of this travel by the most direct route (Air-Economy, Rail or Road) will be reimbursed on production of the ticket(s) / invoice(s) as applicable.

In addition, participants staying at the venue for the full duration of the workshop will be offered a one-time, ad hoc allowance of Rs 1000/- to cover other incidental expenses (eg. local conveyance in your hometown, etc.).

Circulation of papers

Since photocopying facilities at the workshop venue will be expensive we would request so those wishing to circulate papers not specifically commissioned by the organisers to make their own arrangements to bring 50 copies of each document.

Through FAX No.23092432.

No.PER(AR)F(7)-2/98.VOL.1
Government of Himachal Pradesh
Administrative Reforms Organisation.

From

The Principal Secretary (AR) to the
Government of Himachal Pradesh.

To

~~Adt.~~ Shri P.I.Suvrathan
Secretary Govt.of India,
Ministry of Personnel,
Public Grievances & Pensions,
New Delhi-110001.

Dated: Shimla-2, the

Subject:-

" Freedom of Information Act.2002"

Sir,

I am directed to refer to the correspondence resting with this department letter of even number dated 21-03-2003 and your letter No.34011/2(s)/2003-Estt.(B) dated the 8-4-2003 on the subject cited above and to request you to kindly intimate whether the rules have been framed under the Act or not? It may also be intimated whether the Act has been enforced, if so from which date? A copy of the rules and Notification regarding Commencement of the Act may kindly be sent through speed post as these informations are urgently required in connection with filing of reply to the CWP in the Hon'ble High Court of Himachal Pradesh.

Yours faithfully,

Sury Kumar
Principal Secretary(AR) to the
Government of Himachal Pradesh.

Ms Jaya PA

No. 34011/7(s)/2003-Estt.(B)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

.....

New Delhi, dated the February, 2004

To

The Secretary,
Government of Himachal Pradesh
Administrative Reforms Organisation
SHIMLA

Subject:- "Freedom of Information Act, 2002".

Sir,

I am directed to refer to your letter No. PER(AR)F(7)-2/98.Vol.1 dated the 3rd February, 2004 on the subject mentioned above and to say that sub-section 3 of section 1 of the 'Freedom of Information Act, 2002' lays down that it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. The Central Government has not issued any notification in this regard and, as such, the Act has not yet come into force. Incidentally, it may be added that a proposal to make rules for carrying out the provisions of the Act, is presently, under consideration.

Yours faithfully,

P. Mohan
(Mrs. Pratibha Mohan)
Director

14

DILEA PRASAD RAY
FORMER MEMBER OF PARLIAMENT
(RAJYA SABHA)



सत्यमेव जयते

10 Bha. Vee Singh Marg,
Gole Market, New Delhi - 110 001
Ph: 3360970, 3346316

November 20, 2003

6340/IS(E)/03
21/11/03

Dear Mr. Chandra Sekharan,

A Nation-wide campaign has been launched by some eminent social activists like Sundar Lal Bahuguna, Ms. Nirmala Despande, Mr. Surendra Mohan, Ms. Aruna Roy etc. to achieve the right to information which is a precondition to ensure good governance at grass-root level.

So far, eight states have responded favourably and finally the Parliament has also passed 'Freedom of Information' bill in December, 2002 paving the way for the entire country to take advantage of the same right in the matter of having access to such information that concern the general masses.

While it is anticipated that with the notification of the Central Act, citizens belonging to all parts of the country will have the benefit of this right, experience shows that this has remained a non-starter in some of those states even after the said right has been granted to the people because of lack of awareness in relation to the said issue.

It is, therefore, important to create awareness amongst the masses about the same right so that this access may be effectively harnessed by the people in general to ensure transparency in public life.

Based on this experience, AICURD has initiated a campaign to educate the masses through Seminars and Symposia, about this issue and as a beginning of the same process, district level Seminars are planned to be held in Bengal after a state level Seminar was successfully held in Kolkata on 5th July, 2003.

To disseminate information about the status of the same act in those states which have already passed respective bills in this regard, we seek your kind cooperation to provide to us whatever information you have at your disposal with regard to the functioning of this act in these eight states.

In view of the fact that the information to be collected will form part of the CD to be prepared for onward display in the Seminars to be held on 6th and 7th December, 2003 in Bengal, the sooner we get them, the better it is.

Hope you will very kindly respond to this request and stand by us in our effort to spread a message that the Government of India would also like us to disseminate in the wake of the enactment of "Freedom of Information Bill" in Parliament in December, 2002.

With deep regards,

Sincerely yours,

(D.P. Ray)

Shri S. Chandra Sekharan,

Joint Secretary,
Dept. of Government and Industries.

Letter received
late. No reply
called for at this
stage. R. Ray
4.12.2003

Div (E.I.)

24/11/03
C.S. (S.H.3)
m

2400/2008-BK(S)
4/12/03

File 2

(7)
SECRET/MOST IMMEDIATE

P.C. RAWAL,
Secretary (Coordination),
Tele : 2301 7075

D.O. No. 32/CM/2004

13.12.2004
13.12.2004
CABINET SECRETARIAT
13.12.2004

December 16, 2004

Dear Shri Tiwari,

The Cabinet at its meeting held on 15th December, 2004, considered the note dated 13.12.2004 from the Ministry of Personnel, Public Grievance and Pensions, Department of Personnel & Training regarding "Proposal for repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004' ", and

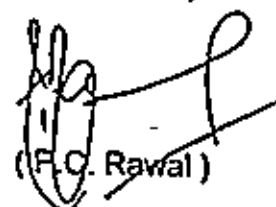
(i) approved the proposals contained in paragraph 12 thereof with the modification that as far as creation of post is concerned, the issue will be examined in consultation with the Ministry of Finance; and

(ii) Directed that a Group of Ministers may be set up to consider the Government amendments that may need to be made in the Bill.

2. The minutes of the meeting will be issued in due course. In the meanwhile, this letter may be treated as an authority to take further action in the matter.

With regards,

Yours sincerely,


(P.C. Rawal)

Shri A.N. Tiwari,
Secretary,
Department of Personnel & Training,
New Delhi.

SECRET

129 / 4
COPY NO. 7

No. 32/CM/2004

CABINET SECRETARIAT

EXTRACTS FROM THE MINUTES OF THE
MEETING OF THE CABINET HELD AT 1700
HOURS, ON WEDNESDAY, THE 15TH DECEMBER,
2004, IN PANCHVATI, 7, RACE COURSE ROAD,
NEW DELHI.

Case No. 273/32/2004

Item 9

Proposal for repeal of the 'Freedom of
Information Act, 2002' and legislation of the
'Right to Information Act, 2004'.

The Cabinet considered the note dated 13.12.2004 from the Ministry of Personnel, Public Grievances and Pensions (Karmik, Lok Shikayat tatha Pension Mantralaya), Department of Personnel and Training (Karmik aur Prashikshan Vibhag) and

(i) approved the proposals contained in paragraph 12 thereof with the modification that as far as creation of posts is concerned, the issue will be examined in consultation with the Ministry of Finance; and

(ii) Directed that a Group of Ministers may be set up to consider the Government amendments that may need to be made in the Bill.

SECRET

ANV

7 Copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the Council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.

144 (6)

SECRET

MOST IMMEDIATE
Copy No. 25

No. 483/3/2004-Cab.
GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
RASHTRAPATI BHAVAN

New Delhi, the 5th January, 2005
15 Pausa, 1926 (S)

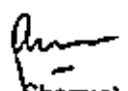
Subject Constitution of a Group of Ministers to consider amendments in the proposed legislation regarding 'Repeal of the Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004'.

The Cabinet, in its meeting held on 15th December, 2004, considered the note dated 13.12.2004 from the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training regarding Repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004' and *inter-alia* directed that a Group of Ministers may be set up to consider the Government amendments that may need to be made in the Bill.

2. It has, accordingly been decided, with the approval of the Prime Minister, to constitute a Group of Ministers (GoM) with the following composition :-

Shri Pranab Mukherjee,
Minister of Defence.
Shri Sharad Pawar,
Minister of Agriculture and Minister of Consumer Affairs,
Food and Public Distribution.
Shri Shivraj V. Patil,
Minister of Home Affairs.
Shri S. Jaipal Reddy,
Minister of Information & Broadcasting and Minister of Culture.
Shri P. Chidambaram,
Minister of Finance.
Shri H.R. Bhardwaj,
Minister of Law & Justice.
Shri Dayanidhi Maran,
Minister of Communications and Information Technology.
Shri Suresh Pachauri,
Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Parliamentary Affairs.

3. The Group of Ministers will be serviced by the Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pensions.


(K.L. Sharma)
for Cabinet Secretary
Tele: 301 5802

To

Shri Pranab Mukherjee, Minister of Defence.
Shri Sharad Pawar, Minister of Agriculture and Minister of Consumer Affairs,
Food and Public Distribution.
Shri Shivraj V. Patil, Minister of Home Affairs.

SECRET

* SKB *
33 Copies.

3

.....21

12/7

SECRET

- 2 -

Shri S. Jaipal Reddy, Minister of Information & Broadcasting and Minister of Culture.
Shri P. Chidambaram, Minister of Finance.
Shri H.R. Bhargava, Minister of Law & Justice.
Shri Dayanidhi Maran, Minister of Communications and Information Technology.
Shri Suresh Pachauri, Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Parliamentary Affairs.

Copy forwarded for information to :-

Secretary to the President.
Secretary to the Vice-President.


(K.L. Sharma)
Deputy Secretary (Cabinet)

Copy also forwarded for information to the Principal Secretary to the Prime Minister.


(K.L. Sharma)
Deputy Secretary (Cabinet)

Copy also forwarded, for information to :-

Secretary, Department of Personnel & Training.
Secretary, Department of Legal Affairs.
Secretary, Department of Expenditure.
Secretary, Legislative Department.
Secretary, Ministry of Parliamentary Affairs.


(K.L. Sharma)
Deputy Secretary (Cabinet)

* SKB *
33 Copies.

**ESSENTIAL POINTS TO BE KEPT IN VIEW BY
THE MINISTRY/DEPARTMENT WHILE SERVICING
THE MEETINGS OF GROUP OF MINISTERS
(GOM).**

- 1) The GOM should be chaired by the first named Minister in terms of the constitution of the GOM and the meetings of the GOM may be convened after ascertaining his convenience. The minutes may also be got approved by him before issue. The minutes should, inter alia, indicate the list of participants, date, time and venue of the meeting.
- 2) Notes constituting the agenda for the meeting may be prepared in accordance with the existing instructions governing the preparation of notes for the Cabinet and its Committees, spell out in the Cabinet Sectl. d.o. letter No.1/16/1/2000-Cab., dated 15.4.2002 (also available in Cabinet Secretariat web-site "<http://cabsec.nic.in>").
- 3) Only senior officers shall be in attendance in the meetings of the GOM. In case any other Minister or a special invitee including officers of PSU or autonomous organisations are to be invited to the meetings of the GOM, prior permission of the Minister chairing the GOM may be obtained.
- 4) Invitation for the meetings of the GOM may be extended to Cabinet Secretary who may attend these meetings or depute his representative to be present in the meetings. A copy of the minutes of the meeting shall also be endorsed to Cabinet Secretary for his information.

SKB



12/1/2005

SECRET/MOST IMMEDIATE

Shatrughna Singh
Joint Secretary
Tele: 2301 5861

25/1/2005

मंत्रिमण्डल सचिवालय
राष्ट्रपति भवन, नई दिल्ली-110004
CABINET SECRETARIAT
RASHTRAPATI BHAVAN
NEW DELHI-110004

D.O. No. 483/3/3/2004-Cab.

January 7, 2005

Dear Sir,

9/1/05

JSC(E)

This has reference to the Cabinet Secretariat Memo. of even number dated 5.1.2005 constituting a Group of Ministers to consider amendments in the proposed legislation regarding 'Repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004'. The Group of Ministers will be serviced by the Department of Personnel & Training. (Copy of memo. is enclosed for ready reference).

9/1/05
Dy. (E-1)

2. As you are aware, the Group of Ministers is an ad-hoc Committee of the Cabinet, and in terms of established conventions, the Rules of Procedure applicable to the proceedings of the Cabinet are followed in the case of Group of Ministers also. The essential points to be kept in view while servicing the meetings of the Group of Ministers may kindly be seen at Annex.

3. Further necessary action in the matter may kindly be taken.

With regards,

Yours sincerely,

12.1.05

US (E-1 B-M)


(Shatrughna Singh)

Shri A.N. Tiwari,
Secretary,
Department of Personnel & Training,
New Delhi.

CONFIDENTIAL

PRIME MINISTER'S OFFICE

Subject: Right to Information Bill, 2004

Reference is invited to Secretary(Personnel)'s Note No.34011/10(S)/2004-Estt(B) dated 29.12.2004 on the above subject.

2. The Prime Minister has directed that the following specific issues be examined by DoPT and submitted to the Group of Ministers for considering the possibility of moving Government amendments to the Bill on these issues:

- (a) Competence or otherwise of the Central Government to legislate an Act to cover State Governments and local bodies.
- (b) Penalty provisions – Suggestions have been received that the Information Commissioner should be vested with powers to impose financial penalties for every day of delay in providing of information. Such powers already exist in some of the State Right to Information Act, e.g. Maharashtra, Madhya Pradesh.
- (c) Fixing of reasonable fees under the Right to Information Act so that they are payable by the common person.

3. The GOM may be requested to convene to consider these issues before the commencement of the Budget Session of Parliament.

4. A copy each of the following letters are also enclosed for reference:

- (a) Letter dated 14.1.2005 from Smt. Sonia Gandhi, Chairperson, NAC
- (b) Letter dated 18.1.2005 from Ms. Aruna Roy; and
- (c) E-mail dated 18.1.2005 from Ms. Aruna Roy


[Renuka Kumar]
Director

Secretary, Department of Personnel & Training

PMO ID No.

Dated : 27.01.2005



January 14, 2005

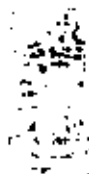
Dear Prime Minister,

The National Common Minimum Programme, as you are aware, pledges "to provide a government that is corruption-free, transparent and accountable at all times". Towards this end, the National Advisory Council had examined the Freedom of Information Act, 2002 with the objective of making it more progressive, participatory and meaningful. I had forwarded the recommendations of the Council on 16th August, 2004.

2. Subsequently, after close examination of the Right to Information Bill, 2004 (as introduced in the Lok Sabha on 24th December, 2004), the NAC have unanimously felt that this Bill overlooks certain crucial recommendations that makes the law less effective than it was intended to be.

3. The Right to Information Bill, 2004 proposes to cover only the Offices of the Central Government and the Union Territories, leaving most public authorities and matters of relevance to common citizens such as State and District Authorities and Local Self-Government, outside the ambit of the Bill. I am informed that there is conflicting legal opinion about whether the Central Act can legislate for the officers and authorities under the State Governments and local bodies and if so, what would be the status of the Right to Information Acts already existing in several States. The NAC would like to suggest that the possibility of treating the Right to Information Bill, 2004 as an enactment under entry 97 of List I of the VIIth Schedule to the Constitution may be speedily examined by the Group of Ministers set up for this purpose. The Group of Ministers could look into this matter immediately and not wait for the tabling of amendments during the discussion of the Bill in Parliament. If the option suggested above is found to be feasible and legally tenable, it could be moved as a Government amendment to the existing Bill.

Contd.....2



: 2 :

4. It is also found that the penalty provisions have been significantly diluted with the prescription of a procedure which restricts the effectiveness of the office and institution of the Information Commission. It is felt that the Information Commissioner should at least be given powers to prosecute and file charges against offending officials.

5. The National Advisory Council's draft had also suggested that in order to make the Right to Information accessible to the common citizens, the fees for procuring information should be reasonable. The Right to Information Bill, 2004, however, allows the Government to prescribe the fees at any level. It is felt that an appropriate amendment in this clause is necessary.

6. I would request you to kindly have these issues looked into, on priority basis, so that amendments to the existing Bill could be prepared before the Bill is taken up for discussion and passing in the Lok Sabha.

With regards,

Yours sincerely,

Dr. Manmohan Singh
Prime Minister of India
South Block
New Delhi



मजदूर किसान शक्ति संगठन

देवडुंगरी, पो. बरार, जिला राजसमन्द (राज.) 313341

MAZDOOR KISAN SHAKTI SANGATHAN

Village Devdungri, Post Barar, District Rajasamand, Rajasthan-313341

Tel : (02951) 243254, (01463) 288246, Tel Fax (02951) 250180

Email : mkssrajasthan@yahoo.com, web : www.mkss.org

Shri Pulok Chatterji
Joint Secretary
NAC and P.M.O

Fax - 011-23016557

18th January 03

Dear Pulok,

This is with reference to our discussion yesterday. I am enclosing a draft amendment to the penalty clause, in the context of Mrs. Gandhi's letter to the PM from the NAC regarding the RTI Bill in parliament. We had no time to examine the draft in the meeting on the 12th December and a very important point needs to be clarified.

I would like to draw your attention to point 4 in the letter where it is stated that the Information Commissioner, "should at least be given powers to prosecute and file charges against offending officials." The correction in principle would have been included if we had inserted these words after prosecute... "impose financial penalties for everyday of delay in providing of information". The enclosure deals with the proposed amendment in regard to imposition of fines and prosecution.

The arguments for the inclusion :

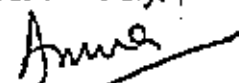
1. To levy a penalty for delay in providing information without reasonable cause.

This is critical for the efficient working of the Act and similar provisions for financial penalties being imposed by appellate authorities for each day's delay, exist in the State Acts of Goa (Rs 100), Delhi (Rs50). In Maharashtra there is a provision for a penalty of Rs 250 for each day's delay and fine up to Rs 2000 for incorrect information. In Karnataka and Madhya Pradesh there is a penalty up to Rs 2000.

2. The Information Commissioner may file a charge sheet in a court of competent jurisdiction for the trial of the offender for an offence committed is also enlisted in the enclosure and has already been mentioned in the letter.

By amending the penalty clause in this manner, the Information Commissioner would retain the powers to enable the efficient working of the Act by imposing financial penalties, and those offences which attract criminal liability would go through a trial in a competent court of law. The amended draft provision is enclosed in the context of the Bill in Parliament.

With warm wishes
Your sincerely,


Aruna Roy

sb

"aruna roy" <arunaro@gmail.com>
 "Pulok Chatterjee" <pmosb@nic.in>
 Tuesday, January 18, 2005 12:09 PM
 Subject: Letter re penalty provision in RTI Bill 2004

Pulok Chatterji 18th January 05

Secretary
 and P.M.O.

Dear Sir,

With reference to our discussion yesterday, I am enclosing a
 amendment to the penalty clause, in the context of Mrs. Gandhi's
 the PM from the NAC, regarding the RTI Bill in parliament.
 no time to examine the draft in the meeting on the 14th
 and a very important point needs to be clarified.

I like to draw your attention to point 4 in the letter where it
 that the Information Commissioner, "should at least be given
 to prosecute and file charges against offending officials." The
 in principle would have been included if we had inserted
 words after prosecute... "impose financial penalties for everyday
 in providing of information". The enclosure deals with the
 amendment in regard to imposition of fines and prosecution.

Comments for the inclusion :

by a penalty for delay in providing information without
 sole cause.

critical for the efficient working of the Act and similar
 for financial penalties being imposed by appellate
 for each day's delay, exist in the State Acts of Goa (Rs
 500). In Maharashtra there is a provision for a
 of Rs 250 for each day's delay and fine up to Rs 2000 for
 information. In Karnataka and Madhya Pradesh there is a
 up to Rs 2000.

Information Commissioner may file a charge sheet in a court of
 jurisdiction for the trial of the offender for an offence
 is also enlisted in the enclosure and has already been
 in the letter.

Adding the penalty clause in this manner, the Information
 Commissioner would retain the powers to enable the efficient working
 by imposing financial penalties, and those offences which
 criminal liability would go through a trial in a competent
 court. The amended draft provision is enclosed in the context
 of the Bill in Parliament.

Sincerely,

1/18/2005

p.mosb

From: "aruna roy" <arunaroym@gmail.com>
 To: "Pulok Chatterjee" <pmosb@nic.in>
 Sent: Tuesday, January 18, 2005 12:09 PM
 Subject: Letter re penalty provision in RTI Bill 2004

Shri Pulok Chatterji 18th January 05
 Joint Secretary
 NAC and P.M.O.

Dear Pulok,

This is with reference to our discussion yesterday. I am enclosing a draft amendment to the penalty clause, in the context of Mrs. Gandhi's letter to the PM from the NAC, regarding the RTI Bill in parliament. We had no time to examine the draft in the meeting on the 14th December and a very important point needs to be clarified.

I would like to draw your attention to point 4 in the letter where it is stated that the Information Commissioner, "should at least be given powers to prosecute and file charges against offending officials." The correction in principle would have been included if we had inserted these words after prosecute... "impose financial penalties for everyday of delay in providing of information". The enclosure deals with the proposed amendment in regard to imposition of fines and prosecution.

The arguments for the inclusion :

1. To levy a penalty for delay in providing information without reasonable cause.

This is critical for the efficient working of the Act and similar provisions for financial penalties being imposed by appellate authorities for each day's delay, exist in the State Acts of Goa (Rs 100), Delhi (Rs50). In Maharashtra there is a provision for a penalty of Rs 250 for each day's delay and fine up to Rs 2000 for incorrect information. In Karnataka and Madhya Pradesh there is a penalty up to Rs 2000.

2. The Information Commissioner may file a charge sheet in a court of competent jurisdiction for the trial of the offender for an offence committed is also enlisted in the enclosure and has already been mentioned in the letter.

By amending the penalty clause in this manner, the Information Commissioner would retain the powers to enable the efficient working of the Act by imposing financial penalties, and those offences which attract criminal liability would go through a trial in a competent court of law. The amended draft provision is enclosed in the context of the Bill in Parliament.

Your sincerely,

1/18/2005

12

Aruna Roy

Enclosure

Suggested Amendment to the RTI Bill 2004

S/ 17 Penalties

(1) Subject to sub-section (3), where any Public Information Officer, or any other officer who holds or is responsible for holding the information, as the case may be, has, without any reasonable cause, failed to supply the information sought, within the period specified under section 7(1), the Information Commissioner shall, on appeal, impose a penalty of rupees two hundred fifty, for each day's delay in furnishing the information, after giving such Public Information Officer or the other officer, as the case may be, a reasonable opportunity of being heard

(2) Where it is found in appeal that any Public Information Officer has –

- (i) Refused to receive an application for information;
- (ii) Mala fide denied a request for information;
- (iii) Knowingly given incorrect or misleading information,
- (iv) Knowingly given wrong or incomplete information,
- (v) Destroyed information subject to a request; or
- (vi) Obstructed the activities of a Public Information Officer, any Information Commission or the courts;

he/she would have committed an offence and will be liable upon summary conviction to a fine of not less than rupees two thousand, and imprisonment of up to five years, or both.

(3) Where the Commission comes to the prima facie conclusion that an offence under subsection (2) has been committed, the Commission shall get charges filed against the offending officer in a court of competent jurisdiction.

1/18/2005

प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE

नई दिल्ली-110 011
New Delhi-110 011

Please find enclosed for examination and appropriate follow up action a copy of an extract from the letter of Chairperson, NAC addressed to the Prime Minister.

It is requested that action taken in the matter may kindly be intimated to this office.

(Renuka Kumar)
Director

Secretary, Department of Personnel & Training

PMO UO No. 600 31 C 4 2005-ES.2

Dated: 20.1.2005

27.1.05

US (B+B-M)

4. Legislation on two recommendations - The Right to Information and the Rural Employment Guarantee Bill - has been introduced in Parliament and the Bills are under examination in the concerned Standing Committees. It is our hope that the Bills will be considered and passed in the forthcoming Budget session. The NAC reiterates that the two Bills complement each other. An Employment Guarantee Act without an effective Right to Information Act would not serve much social purpose. It may be pointed out that the Bill on the Right to Information (as tabled) needs to be re-examined in some crucial aspects. I have written separately to you in this behalf and trust that the Group of Ministers which has been constituted will consider our suggestions. //



सत्यमेव जयते

प्रदीप गुप्ता
निदेशक

PRADEEP GUPTA

DIRECTOR- OSD to RM

TEL : 23019030, 23012285, 23011456-

FAX : 23015403

S.No. 4 (R)

D.O.No. J322-067/RM/2005

रक्षा मंत्री का कार्यालय

रक्षा मंत्रालय, साउथ ब्लॉक,

नई दिल्ली - 110 011

Office of Minister of Defence

Ministry of Defence, South Block

New Delhi - 110 011

2nd March, 2005

Dear Sir

Dir (E-II)

us (Shrimadhu)

A Group of Minister has been constituted under Chairmanship of Shri Pranab Mukherjee, Hon'ble Minister of Defence to consider amendments in the proposed legislation regarding 'Repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004'. It has been desired by the Hon'ble Defence Minister that the note for GOM please be submitted so the meeting of GOM can be held.

1104/ef/35(E)/05
3/3/05

With kind regards.

(Pradeep Gupta)
OSD to RM

Shri T. Jacob
Jt. Secretary (E)/DOP&T
New Delhi

9

D2V 2 E II



प्रदीप गुप्ता
PRADEEP GUPTA
Tel. : 23019030, 23012286

D.O. No. 1639-FLIPK/2005

विशेष कार्य अधिकारी
रक्षा मंत्री

रक्षा मंत्रालय, साउथ ब्लॉक
नई दिल्ली - 110 011

Officer On Special Duty to
Minister of Defence

Ministry of Defence, South Block
New Delhi - 110 011

S-49/JS(E)/05
20/4/05

SECRET

20th April, 2005

01/05-11
✓

Dear Sir,

I am writing this letter to intimate you the venue for the meeting of GOM on Right to Information Act scheduled on 25th April, 2005 at 1530 hours. The venue for the meeting will be Room No. 9, Parliament House. This is for your kind information and necessary action please.

9
20.4.05

with kind regards

US(E)HB-M)

Shri T. Jacob
JS (E)
DOP&T
North Block
New Delhi

(Pradeep Gupta)
OSD to RM

OPINION

Sub: *Legislative competence of the Parliament to enact a law on the subject of "Right to Information" even regarding subjects pertaining to the State Government and its agencies.*

The Freedom of Information Act, 2002 (Act 5 of 2003) received the assent of the President on January 6, 2003. Section 3 of the said Act provides that subject to the provisions of the Act, all citizens shall have freedom of information. The Act contemplates freedom to every citizen to secure access to information under the control of public authorities. A 'public authority' has been defined under Section 2(f) of the said Act as under:-

"2(f) "public authority" means any authority or body established or constituted:-

- (i) by or under the Constitution;
- (ii) by any law made by the appropriate Government,

and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government."

'Appropriate government' has been defined by Section 2(a) of the Act as under:-

"2(a) "appropriate Government" means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled-

- (i) by the Central Government, the Central Government;
- (ii) by the State Government, the State Government;
- (iii) by the Union territory, the Central Government;"

Thus, the aforesaid Act covers public authorities, both of the Central and the State Government. Section 5 of the said Act deals with appointment of Public Information Officers, who are to be appointed by every public authority. Thus, the State Government could appoint

officers and so could the Central Government, in their respective spheres.

It transpires from the record that there was a doubt as to whether Parliament had competence to enact a law dealing with freedom of information with regard to records in the custody of the State Government or authorities under its control. The then Attorney General for India had opined that a legislation dealing with freedom of information would be covered by Entry 97 of List-I and Parliament alone would be competent to enact a law dealing with freedom to information *qua* 'State Information'. The legal sequitor of this view is that the State would have no power to legislate on the subject of freedom of information even in relation to records in the custody of the State or public authorities under control of the State.

It appears that the Government piloted the Freedom of Information Act, 2002 in view of the aforesaid opinion. Though Presidential Assent has been received on 02/01/2003, under Section 1 of the Act, it was to come into force on such date as the Central Government may, by Notification in the Official Gazette, appoint. So far, there has been no Notification and the Act has not come into force.

The developments in the present matter took place with a Bill which was introduced in Parliament on 23.12.2004 being Bill No.107 of 2004 i.e. the Right to Information Bill, 2004. The Statement of Object and Reasons of the Bill declares that the Bill proposes to make the right to information more progressive, participatory and meaningful. Important changes have been incorporated in the new Bill to ensure smoother and greater access to information. The proposed Bill seeks to repeal the Freedom of Information Act, 2002.

The Right to Information Bill, 2004 introduced by the present Government, provides only for access to the information held by the Central Government. This was in conformity with the views of the Department of Legal Affairs.

It is to be noted that there have been great debates in the Supreme Court about the scope and effect of the residuary Entry 97 of List I of the Seventh Schedule of the Constitution. In fact, in the well known case of *Union of India v Dhillon Harbhajan Singh*, AIR 1972 SC 1021 [equivalent to (1971) 2 SCC 779], a very strong Bench of the Supreme Court divided almost half way in deciding the applicability of Entry 97 List I relating to wealth tax.

The majority opinion of the Court has been plainly spelt out by Chief Justice Sikri in the said *Dhillon's* case :-

".....At any rate, whatever doubt there may be on the interpretation of Entry 97, List I is removed by the wide terms of Article 248. It is framed in the widest possible terms. On its terms the only question to be asked is: Is the matter sought to be legislated or included in List II or in List III or is the tax sought to be levied mentioned in List II or in List III: No question has to be asked about List I. If the answer is in the negative then it follows that Parliament has power to make laws with respect to that matter or tax." [See (1971) 2 SCC 779, para 21, page 792]

There has been a division of opinion between the officials of the Law Ministry and the view of my learned predecessor on the scope of Entry 97 on this question. The view of my learned predecessor, I now find, is supported by another leading senior counsel.

In order to take recourse to Entry 97, one has to rule out that the subject concerned is not governed by any of the Entries in List II. Certainly, no Entry uses the expression "information". What perhaps was in consideration of the officials of the Law Ministry was that there

may be difficulties in gaining access to the State records not by the Central Government, but by a third party. However, difficulties should not stand in the way of an interpretation. The previous Act which was obviously relied was referable to Entry 97 and was passed by Parliament and received Presidential Assent without challenge.

For the aforesaid reasons, I am of the view that a legislation can be enacted by Parliament in terms of Entry 97 to include State information as well and I concur with the views of my learned predecessor and the former Law Minister.

Milon Banerji
[Milon K. Banerji]
Attorney General for India

New Delhi
04th March, 2005.

Confidential

MOST IMMEDIATE

D.O.No.34012/1(s)/2005-Estt.(B)

Secretary(P)

Dear

As you may be aware, the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice has presented the Third Report on the 'Right to Information Bill, 2004' to the Rajya Sabha on 21st March, 2005 and laid this on the Table of the Lok Sabha the same day. A copy of the Report is enclosed.

2. We have received directions from the Prime Minister that ^{the dept. should ensure} efforts should be made ^{to get the Bill passed} to get the Bill passed by the Parliament during the ongoing Budget session. In pursuance thereto, a meeting of the Group of Ministers is being convened to consider the Government amendments that need be made to the Bill, including the amendments recommended by the Standing Committee. As the time left for is short, I shall be grateful if you could kindly arrange to get the 'Notice of Amendments', based on the Standing Committee's recommendations drafted by your Ministry so that the matter could be taken to the Cabinet promptly after the Group of Ministers has finalized the amendments.

With regards,

Issued
Vide
P.B. No. 5(s)/2003-Estt(B)
R.L.
8/4

Shri T.K. Vishwanathan,
Secretary,
Legislative Department,
Ministry of Law and Justice,
New Delhi.

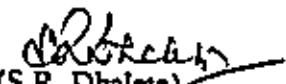
Yours sincerely,

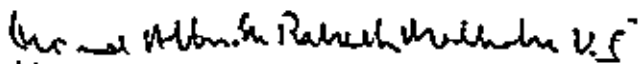
Q.4
Secretary(P)

Ministry of Law and Justice
Legislative Department

The Ministry of Personnel, Public Grievances and Pensions may refer to their D.O. No. 34012/1(s)/2005-Estt(B), dated the 8th March, 2005 vide which the third Report of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, on the Right to Information Bill, 2004 was forwarded to this Department.

2 In the first instance the Ministry of Personnel, Public Grievances and Pensions may take a decision at the appropriate administrative level to accept or not to accept the recommendations of the Committee in respect of each clause/sub-clause of the Bill and only after that it may be possible for this Department to draft the Official Amendments.


(S.R. Dhaleja)
Additional Legislative Counsel
12th April, 2005


Department of Personnel and Training (Sd/- B. V. R. Ramesh)
M/o Law & Justice, Legislative Department, U.O. No.1(85)/2004-Leg.I,
dated the 12th April, 2005.

70/CS/2005-5/HCB)
13/7/2005



जेड. एस. नेगी
अपर सचिव
Z. S. NEGI
Additional Secretary

भारत सरकार
विधि और न्याय मंत्रालय
विधायी विभाग
शास्त्री भवन
नई दिल्ली-110001
GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
LEGISLATIVE DEPARTMENT
SHASTRI BHAWAN
NEW DELHI-110001

D.O. No.1 (85)/04-LI

Dear Shri Tiwari,

April 15, 2005

With reference to your d.o. letter No. 34012/1(s)/2005-Estt.(B) dated the 8th March, 2005 (received on 8th April, 2005) requiring the Legislative Department to draft notice of amendments based on the Standing Committee's recommendations on the Right to Information Bill, 2004, it is observed that for the purpose of drafting notice of amendments based on the recommendations of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, the Legislative Department may like to have the views of the administrative Ministry as to whether the entire recommendations of the said Committee are acceptable to the Government. If the answer is in affirmative, then the Legislative Department will go ahead with drafting of notice of amendments. It may, however, further be observed that in view of the large number of recommendations to modify different clauses of the Bill, it may be advisable that the administrative Ministry may consider for withdrawal of the pending Bill and introduce a fresh revised Bill in its place so that passage of the Bill could be smooth. The Legislative Department will take further action only after hearing from you in these regards.

2. This Department's U.O. of even number dated 12th April, 2005 may be treated as cancelled.

With warm regards,

Yours sincerely,

(Z.S. Negi)

Shri A.N. Tiwari,
Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel and Training,
North Block,
New Delhi.



भारत सरकार
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
नई दिल्ली-110001
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NEW DELHI-110001

सचिव
SECRETARY

Tel. 23094848
Fax 23092432 O.No.34012/1(S)/2005-Estt(B)

Dated the 21st April, 2005

Dear Sri Vishwanathan

Please refer to D.O.letter No.1(85)/04-LI dated the 15th April, 2005 (copy enclosed) regarding the 'Notice of Amendments' based on the recommendations of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice in its Third Report on the 'Right to Information Bill, 2004'.

2. The recommendations made by the Parliamentary Standing Committee as approved by the Prime Minister, are to be placed before the Group of Ministers, to finalise the proposed amendments to the Bill. The GOM is scheduled to meet on 25th April, 2005 at 1530 hrs. Further, it may not be feasible, at this stage, to withdraw the pending Bill and introduce a fresh revised Bill, as suggested/ advised by the Legislative Department. As per the directions from the PMO, the Bill is required to be passed during the ongoing Budget Session itself.

3. A copy of the Amendments proposed (Annexures V&VI) is sent herewith for the purpose of drafting the 'Notice of Amendments' by the Legislative Department. This may kindly be accorded Top Priority to facilitate prompt passage of the Bill during the ongoing Budget Session.

With regards, and best wishes

Yours Sincerely,

(A.N. TIWARI)

Shri T.K. Vishwanathan,
Secretary,
Legislative Department,
Ministry of Law and Justice,
Shastri Bhawan,
New Delhi-110011.

ENCL: [Copies of Annexures V&VI]

SECRET

Copy No.

No. 34012/1(s)/2005-Estt.(B)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training
.....

New Delhi, dated the 3rd May, 2005

Minutes of the meetings of Group of Ministers held on 26th April, 2005 at 6.30 P.M. in Parliament House (Room.No. 9) and on 30th April, 2005 at 2.00 PM in South Block, New Delhi.

Present

- | | |
|--------------------------|--|
| 1. Shri Pranab Mukherjee | Minister of Defence. CHAIRMAN |
| 2. Shri Shivraj V. Patil | Minister of Home Affairs |
| 3. Shri S. Jaipal Reddy | Minister of Information & Broadcasting and Minister of Culture |
| 4. Shri P. Chidambaram | Minister of Finance |
| 5. Shri H.R. Bhardwaj | Minister of Law & Justice |
| 6. Shri Dayanidhi Maran | Minister of Communications and Information Technology |
| 7. Shri Suresh Pachouri | Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Parliamentary Affairs. |

202

In Attendance

1. Shri A.N. Tiwari Secretary, Ministry of Personnel, PG & Pensions
2. Shri T.K. Vishwanathan Secretary, Legislative Department,
Ministry of Law & Justice
3. Shri Z.S. Negi Additional Secretary, Legislative Department
Ministry of Law & Justice
4. Shri K.D. Singh Additional Secretary, Department of Legal Affairs
Ministry of Law & Justice
5. Shri Badal.K. Das Establishment Officer & Addl. Secretary,
Department of Personnel & Training
6. Shri R.S. Koli Joint Secretary & LA, Department of Legal Affairs
7. Shri T. Jacob Joint Secretary, Department of Personnel &
Training
8. Shri S.R. Dhaleta Addl. Legal Adviser, Legislative Department
Ministry of Law and Justice

15

Subject:- Proposal for repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004'.

The Cabinet, in its meeting held on 15th December, 2004, while approving the proposal to introduce the 'Right to Information Bill, 2004', also directed that the Bill may be looked into by a Group of Ministers to consider the Government amendments that need to be made therein.

2. The Defence Minister took a meeting of the Group of Ministers on 26th April, 2005 at 6.30 PM. in Parliament House (Room.No.9) followed by another meeting on 30th April, 2005 at 2.00 PM in South Block (Room.No. 102). The Group of Ministers considered the Note dated 21st April, 2005 of the Department of Personnel and Training and examined the 'Right to Information Bill, 2004' in the light of the comparative position given in the Table provided in Annexure -VIII thereto.

3. Taking into consideration the various constitutional, administrative and implementative aspects, the Group of Ministers inter-alia made following recommendations:-

(i) The Group of Ministers were of the view that the Parliament has the legislative competence to enact a Law on Right to Information in respect of all public authorities under the Central Government or the State Government (clause-2).

(ii) The Group also approved the proposal of the Department of Personnel and Training to insert in sub-clause after clause 7(3)(a) so as to provide that

(a) the fee shall be reasonable; and

7

(b) 'Below Poverty Line' families shall be provided information free of cost.

(iii) In respect of categories of information exempt from disclosure under the bill (clause 8), the GOM recommended to retain the formulations made by National Advisory Council subject to security related information and Cabinet papers retaining an all time exemption from disclosure.

(iv) The composition of selection committee for recommending members of the Central Information Commission provided (Clause 12) in the Bill, is as under :-

- | | |
|---------------------------------------|------------|
| i) Prime Minister | : Chairman |
| ii) Leader of Opposition in Lok Sabha | : Member |
| iii) Chief Justice of India | : Member |

The GOM, however, recommended that a Minister nominated by the Prime Minister should be the third Member of the Committee in place of the 'Chief Justice of India'.

(v) As regards the penalty provisions (Clause 17 of the Bill), the Group approved the revised formulation as under:-

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal, finds that the Central or the State Public Information Officer, as the case may be, has failed to provide information without any reasonable cause within the period specified under sub-section (1) of section 7, the burden of proving that he acted reasonably and diligently shall be upon him and the Central Information Commission or the State Information Commission, may impose a fine of Rs.250/- for each day's delay in furnishing the information, subject to a maximum of Rs.25000/-, after giving the Central or State Public Information Officer, as the case may be, a reasonable opportunity of being heard.

(2) Notwithstanding anything contained in Section 20, where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central or State Information Officer, is persistently guilty of any misconduct under Sub-section (3) of this

clause. he shall file a complaint before a Judicial Magistrate of First Class. after giving the Central or State Public Information Officer, a reasonable opportunity of being heard.

(3) Where it is found by a Judicial Magistrate of First Class that any Central or State Public Information Officer has

- (i) Persistently failed to provide information without a reasonable cause within the period specified under sub-section (1) of section 7
- (ii) Refused to receive an application for information;
- (iii) Mala-fide denied a request for information;
- (iv) Knowingly given incorrect or misleading information;
- (v) Knowingly given wrong or incomplete information;
- (vi) Destroyed information subject to a request; or
- (vii) Obstructed the activities of a Public Information Officer, any Information Commissioner or the Courts;

he would be guilty of misconduct under this sub-section and will be liable upon summary conviction to a fine of not less than rupees two thousand and not more than Rs.25000/- and an imprisonment upto one year or both.

(4) Without prejudice to the sub-sections (1), (2) and (3), the Central Information Commission or the State Information Commission, as the case may be, may recommend for disciplinary action against the Central or State Public Information Officer, as the case may be, under the Service Rules applicable to him.

(vi) Security and intelligence agencies are exempted (Clause 21) under the Bill from providing any information except in case of allegations of corruption. The GOM, however, recommended as under:-

(a) The security and intelligence agencies should not be exempted from providing the information pertaining to the allegations of corruption and human rights violations;

(b) In case of allegations of violation of human rights, information shall be given with the approval of the concerned Information Commissioner and notwithstanding anything contained in Section 7, such information shall be provided within 45 days of the receipt of request.



4. The provisions formulated by Parliamentary Standing Committee in respect of other clauses of the Bill were also approved by the Group of Ministers with some modifications. A tabular statement of all recommendations of the Group of Ministers as regards each clause of the Right to Information Bill, 2004 is annexed.



(PRANAB MUKHERJEE)
Chairman

No. 34012/1(S)2005- Estt.(B)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, dated the 3rd May, 2005

NOTE FOR THE CABINET

Subject:- Proposal for repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004'.

With a view to make the legislation on 'Right to Information' more progressive, participatory and meaningful, Government had, with the approval of the Cabinet, introduced the 'Right to Information Bill, 2004' in the Lok Sabha on 23rd December, 2004. A copy of the Bill is at Annexure-I (pages 8 - 31). The Bill seeks to repeal the existing 'Freedom of Information Act, 2002' and enact a new legislation in its place entitled the 'Right to Information Act, 2004'.

2. The 'Right to Information Bill, 2004', as introduced in the Lok Sabha and pending therein, was referred on 31st December, 2004 to the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report. The Standing Committee presented its Third Report on this Bill to the Rajya Sabha on 21st March, 2005 and laid this Report in the Lok Sabha on the same day. The Committee has recommended a number of amendments to the various clauses in the Right to Information Bill, 2004 and a copy of the clause by clause recommendations of the Committee, together with the Bill drafted by

it after incorporating its recommendations, is at Annexure II (Pages 32 -).

3. In its meeting held on 15th December, 2004, the Cabinet, while approving the proposal to introduce the 'Right to Information Bill, 2004' in the Lok Sabha, also directed that the Bill may be looked into by a Group of Ministers to consider the Government amendments that need to be made in the Bill. In pursuance thereto, the amendments to the Bill recommended by the Parliamentary Standing Committee were placed before the Group of Ministers for its consideration. The proposal also included certain amendments to the provisions of clause 12 as formulated by the Ministry of Personnel, Public Grievances & Pensions.

4. The Group of Ministers met on 26th April, 2005, and again on 30th April, 2005, to examine the 'Right to Information Bill, 2004' with a view to consider amendments, as are necessary, thereto. Taking into consideration the various constitutional, administrative and implementative aspects, the Group has made a number of recommendations to amend the Bill. Based on the recommendations of the Parliamentary Standing Committee and the further recommendations made by the Group of Ministers, it is now proposed to make the following amendments to the Bill, namely

- (i) the applicability of the contemplated enactment may be expanded to cover the State Public authorities as also the non-Government organizations who are substantially funded by the Government;
- (ii) amend clause 6 to provide that a request for information can be made in Hindi also;

- (iii) amend clause 7 to provide the fee to be charged for providing information shall be reasonable and that 'Below Poverty Line' families shall be provided information free of cost;
- (iv) in respect of categories of information exempted from disclosure, the formulation made by the National Advisory Council in its draft Bill recommended to the Government for consideration, shall be adopted subject to the modification that information pertaining to security, Cabinet papers, etc. as given in sub clause 1(a) and (i) of the formulation, shall have an all time exemption from disclosure;
- (v) that the Central Information Commissioner and the Central Deputy Information Commissioner shall be redesignated as Chief Information Commissioner and Information Commissioner who will have a single tenure of 5 years till they attain the age of 65 years, whichever is earlier, with no extensions thereof;
- (vi) that the salaries and allowances of Chief Information Commissioner and Information Commissioner shall be same as those of Chief Election Commissioner and Election Commissioner respectively;
- (vii) that the third member of the Committee to make selection of Chief Information Commissioner and Information Commissioner shall be a Minister nominated by the Prime Minister instead of the Chief Justice of India;
- (viii) the clause making the Chief Information Commissioner and Information Commissioner ineligible to take up future employment to an office under the Government or any Constitutional appointment, etc. should be deleted;
- (ix) subject to the contemplated enactment being made applicable to State Public authorities, analogous provisions may be made in the Bill for setting up State Information Commissions and appointing State Chief Information Commissioner and State Information Commissioner with further recommendations that

- (a) the salaries and allowances of a State Chief Information Commissioner and State Information Commissioner shall be the same as those of an Election Commissioner and Chief Secretary to the State Government respectively; and
- (b) the third Member of the Committee to select the State Chief Information Commissioner and State Information Commissioner shall be a Minister to be nominated by the Chief Minister in place of the Chief Justice of the High Court;
- (x) to empower the Central Information Commission or State Information Commission to impose on the Public Information Officer a fine of Rs.250 for each day's delay in furnishing the information subject to a maximum of Rs.25000;
- (xi) to empower the Central Information Commission or State Information Commission with direct powers to file before the Judicial Magistrate of First Class a complaint against the defaulting Public Information Officer;
- (xii) that persistent failure to provide information within the prescribed time, refusal to receive an application for information, mala fide denial of a request for information, knowingly giving incorrect, misleading, wrong or incomplete information, destroying information subject to a request, obstructing the activities of Public Information Officer, any Information Commissioner or the Courts shall, on summary conviction, make the Public Information Officer liable to a fine of not less than rupees two thousand and not more than rupees twenty five thousand and imprisonment upto one year or both;
- (xiii) that the departmental disciplinary action shall be without prejudice to the penalties enumerated above;
- (xiv) that, apart from matters related to allegations of corruption, the security and intelligence organizations as are exempted from the purview of the Act shall, subject to the approval of the Information Commission, have the additional obligation to provide information in matters relating to violation of human rights and that the response time for such requests shall be 45 days.

The details of the amendments as summarized above, together with the other amendments as are proposed to be made in the Bill, are given in the comparative Table as in Annexure-III.

5. The proposed amendments to the Bill also envisage the setting up of Information Commissions in States and Union Territories to be headed by the State Chief Information Commissioner who will be assisted by such number of State Information Commissioners, not exceeding 10, as are required to meet the functional needs. Beside the State Chief Information Commissioner and the State Information Commissioners, additional man power shall have to be sanctioned for the Commissionerate in order to provide the necessary administrative support. It is proposed that to begin with, the Commissions may be provided with not more than five State Information Commissioners and on that basis, the expenditure involved in creation of these posts is estimated to be rupees 65 crore per annum. In addition, funds shall have to be provided for accommodation, office equipment, vehicles and other ancillary needs of the Commission as per the prescribed norms. The Commissions are proposed to set up immediately after the enactment is notified.


6. In view of the paucity of time, the Ministry of Finance(Department of Expenditure) and the Ministry of Law and Justice have been requested to furnish their views in the Cabinet meeting. The amendment notice will be drafted and finalized in consultation with the Legislative Department subject to such drafting or consequential changes as may be required or directed by the Cabinet.

7. The Prime Minister, as Minister-in-charge of the Ministry of Personnel, Public Grievances and Pensions, has approved of this Note for the Cabinet.

8. Approval of the Cabinet is accordingly solicited for the following:-

- (i) to approve the amendments to the 'The Right to Information Bill, 2004' as recommended by the Group of Ministers and for the introduction of a 'Notice of Amendment' in this regard in the Lok Sabha; and
- (ii) setting up the Information Commissions in the States/Union Territories, and creation of posts therefor, as proposed in para-5 of this Note.

9. The Statement of Implementation Schedule in respect of the above proposals has been given in Appendix to the Note.


(A.N. TIWARI)
SECRETARY TO THE GOVERNMENT OF INDIA



P.C. RAWAL

SECRET/MOST IMMEDIATE

सचिव (समन्वय एवं लोक शिकायत)

मंत्रिमंडल सचिवालय

उपद्रष्टा भवन, नई दिल्ली

SECRETARY (COORD. & PG)

CABINET SECRETARIAT

RASHTRAPATI BHAWAN

NEW DELHI-110004

D.O. No. 21/CM/2005

May 5, 2005

The Cabinet at its meeting held on 4th May, 2005, considered the note dated 03.05.2005 from the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training regarding "Proposal for repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004' and approved the proposals contained in paragraph 3 thereof with the modification that the words 'ten years' figuring in clause 8(4) and proviso thereto will be replaced by 'twenty years'.

2. The minutes of the meeting will be issued in due course. In the meanwhile, this letter may be treated as an authority to take further action in the matter.

3. I am also endorsing a copy of this letter to Secretary to the President, Secretary, Department of Legal Affairs and Secretary, Legislative Department.

Yours sincerely,

Sd/-

(P.C. RAWAL)

SHRI A.N. TIWARI,
Secretary,
Department of Personnel & Training,
New Delhi.

Copy to :-

RTI
5/5/05

1) Secretary to the President.
2) Secretary, Department of Legal Affairs.
3) Secretary, Legislative Department.

(P.C. RAWAL)
Secretary, Coordination

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(23)

FOR KIND PERUSAL OF SHRI PULOK CHATTERJI, JS, PMO

Clauses 17 and 21 of the Bill, subject to drafting changes, would read as under

17 (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal, finds that the Central or the State Public Information Officer, as the case may be, has failed to provide information without any reasonable cause, the burden of proving that he acted reasonably and diligently shall be upon him, within the period specified under sub-section (1) of Section 7. (The Central Commission or the State Commission, may impose a fine of Rs.250/- for each day's delay in furnishing the information, subject to a maximum of Rs.25000/-, after giving the PIO a reasonable opportunity of being heard.) and

(2) Notwithstanding anything contained in Section 20, where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central or State Information Officer, as the case may be, is guilty of any misconduct under Sub-section (3) of this clause, he shall file a complaint before a Judicial Magistrate of First Class, after giving the PIO a reasonable opportunity of being heard. persistently

(3) Where it is found by a Judicial Magistrate of First Class that any Public Information Officer has

- (i) persistently failed to provide information without a reasonable cause within the period specified under Sub-section (1) of Section 7
 - (ii) Refused to receive an application for information;
 - (iii) Mala fide denied a request for information;
 - (iv) Knowingly given incorrect or misleading information;
 - (v) Knowingly given wrong or incomplete information;
 - (vi) Destroyed information subject to a request; or
 - (vii) Obstructed the activities of a Public Information Officer, any Information Commissioner or the Courts;
- he would be guilty of misconduct under this sub-section and will be liable upon summary conviction to a fine of not less than rupees two thousand and not more than 25000/- and an imprisonment upto one year or both.

(4) Without prejudice to the sub-sections (1), (2) and (3), the Central Commission or the State Commission, as the case may be, may recommend for disciplinary action against the Central or State Information Officer, as the case may be, under the Service Rules applicable to him. Offer

For kind Attn. of:

Shri Jaykumar

Fr. 23792057

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21 (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government.

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section;

Provided further ^{that} in case of allegations of violation of human rights, information shall only be given with the approval of the concerned Information Commissioner and notwithstanding anything contained in Section 7, such information shall be provided within 45 days of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament ~~or the State Assembly as the case may be~~.

Shri Jaykumar
TAX 23013495

No 1(85) 2004, Leg-I, Vol. II
Government of India
Ministry of Law and Justice
Legislative Department

As desired by the Secretary, Department of Personnel and Training, a draft of Official Amendments to the Right to Information Bill, 2004 has been prepared in consultation with the officers of the Department of Personnel and Training and a copy of the same is enclosed.

The Department of Personnel and Training may confirm that the contents of the draft of Official Amendments are in accordance with the approval of the Cabinet and the same adequately meet with their requirements.


(S. R. Dhale)
Additional Legislative Counsel
6th May, 2005

Department of Personnel and Training
(Attn. Shri T. Jacob, Joint Secretary)



P.C. RAWAL

SECRET/MOST IMMEDIATE

S- 82/HR(E-II)AS
615

सचिव (समन्वय एवं लोक शिफायत)
मंत्रिमंडल सचिवालय
राष्ट्रपति भवन, नई दिल्ली
SECRETARY (COORD. & PG)
CABINET SECRETARIAT
RASHTRAPATI BHAWAN
NEW DELHI-110004

D.O. No. 21/CM/2005

May 5, 2005

Dear A. N.

The Cabinet at its meeting held on 4th May, 2005, considered the note dated 03.05.2005 from the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training regarding "Proposal for repeal of the 'Freedom of Information Act, 2002' and legislation of the 'Right to Information Act, 2004' and approved the proposals contained in paragraph 8 thereof with the modification that the words 'ten years' figuring in clause 8(4) and proviso thereto will be replaced by 'twenty years'.

2. The minutes of the meeting will be issued in due course. In the meanwhile, this letter may be treated as an authority to take further action in the matter.

3. I am also endorsing a copy of this letter to Secretary to the President, Secretary, Department of Legal Affairs and Secretary, Legislative Department.

With Best Wishes

Yours sincerely,


(P.C. RAWAL)

SHRI A.N. TIWARI,
Secretary,
Department of Personnel & Training,
New Delhi.



सुरेश पचौरी
SURESH PACHOURI

D.O. No.34012/1(S)/2005-Estt(B)

राज्य मंत्री
कार्मिक, लोक शिकायत एवं
पेंशन तथा संसदीय कार्य
भारत सरकार

MINISTER OF STATE FOR
PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
AND PARLIAMENTARY AFFAIRS
GOVT. OF INDIA

Dated the 5th May, 2005.

Notice for consideration and passing of the 'Right to Information Bill,
2004

To,

The Secretary General
Lok Sabha,
New Delhi

Subject: The Right to Information Bill, 2004.

Sir,

I give notice of my intention to move the following motion during the
current Session, 2005 of the Lok Sabha:-

- (i) The Right to Information Bill, 2004, be taken into consideration; and
- (ii) that the Bill be passed.

Yours faithfully,

Suresh Pachouri

(SURESH PACHOURI)

No. 34012/1(SY2005-Estt. (B)

Dated the 5th May, 2005

Copy to:

1. Ministry of Parliamentary Affairs (Shri K.K. Thakur, Deputy Secretary), 86-B, Parliament House, New Delhi.
2. Legislative Department (Shri S.R. Dhaletia, Additional Legislative Counsel), Shastri Bhawan, New Delhi.
3. Parliament Section, Department of Personnel & Training, New Delhi.

O/C


(Hari Kumar)
Director

1/90 67
SECRET
MOST IMMEDIATE

No. 34011/6(S)/2004-Est.(B)
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

**SUBJECT : PROPOSAL FOR AMENDMENT TO THE RIGHT TO
INFORMATION BILL, 2004.**

✓ F/A
President of India was pleased to recommend the introduction in and consideration by the Lok Sabha of the Right to Information Bill, 2004, under Clauses (1) and (3) of Article 117 of the Constitution (copy enclosed)

2. The 'Right to Information Bill, 2004', as introduced in the Lok Sabha on 23rd December, 2004 and pending therein, was referred on 31st December, 2004 to the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report. The Standing Committee presented its Third Report on this Bill to the Rajya Sabha on 21st March, 2005 and laid this Report in the Lok Sabha on the same day. The Committee has recommended a number of amendments to the various clauses in the Right to Information Bill, 2004.

3. Keeping in view the recommendations made by the Standing Committee and the Group of Ministers, the Government proposes to make a number of amendments in the Right to Information Bill, 2004. These amendments, inter alia, include:

- a) Expansion of applicability of the enactment to cover State Public authorities as also the non-Government organizations, which are substantially funded by the Government.
- b) Setting up of State Information Commissions and appointing State Chief Information Commissioner and State Information Commissioner.
- c) To empower the Central Information Commission or State Information Commission to impose on the Public Information Officer a fine of Rs.250/- for each day's delay in furnishing the information subject to a maximum of Rs.25000/- and,
- d) On summary conviction, make the Public Information Officer liable to a fine of not less than rupees two thousand and not more than rupees twenty five thousand and imprisonment upto one year

for file

✓ F/B
✓ S/C

4. The Cabinet, in its meeting held on 4th May, 2005 approved the proposal for amendments in the Right to Information Bill, 2004. A copy of the Note considered by the Cabinet is placed at flag 'B'. A copy of the letter of authority dated the 5th May, 2005 issued by the Cabinet Secretariat for taking further necessary action in the matter is enclosed.

5. The proposed amendments may involve expenditure to be charged on the Consolidated Fund of India. The proposed amendment, therefore, attracts sub-clause (e) of clause (1) of Article 110 of the Constitution of India and thus, requires recommendation of the President for introduction in Parliament as provided under Article 117 (1) of the Constitution, and under Article 117 (3) for its consideration by the Parliament.

6. Recommendation of the President is accordingly solicited under Clause (1) and Clause (3) of the Article 117 of the Constitution for introduction and consideration by the Lok Sabha of the afore-mentioned Amendments.



(SURESH PACHOURI)
MINISTER OF STATE IN THE MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES & PENSIONS AND
MINISTER OF STATE IN THE MINISTRY OF
PARLIAMENTARY AFFAIRS.

PRIME MINISTER

7

PRESIDENT

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DR. V.K. AGNIHOTRI, IAS

सचिव
संसदीय कार्य मंत्रालय
8, संसद भवन
नई दिल्ली-110 001

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SECRETARY
MINISTRY OF PARLIAMENTARY AFFAIRS
8, PARLIAMENT HOUSE
NEW DELHI-110 001

D.O.No.66(3)/2005-Leg.I

May 6, 2005

My dear Anurag,

We are now going to enter expectedly the last week of the Budget Session of Parliament. Consequent to a large number of Bills maturing for consideration and passage, there is a lot of pressure on scheduling them in the two Houses of Parliament. In order to accommodate all the Legislative Business available at present, a very tight schedule has been drawn up for the purpose. As per the tentative programme drawn up, the following Bill pertaining to your Ministry is scheduled in the two Houses during next week:-

S.No.	Name of the Bill	Day and Date in Lok Sabha	Day and Date in Rajya Sabha
1.	The Right to Information Bill, 2004	Tuesday, 10.05.05	Thursday, 12.05.05

You are, therefore, requested to take steps to complete all necessary formalities in order to ensure that the slot allotted for the Bill of your Ministry is utilised. Since a large number of Bills have been already scheduled during the next week, it would not be possible to give another slot to you if, for any reason, the slot allotted to you is not utilised.

Looking forward to your fullest cooperation,

With warm regards

Yours sincerely,

(V.K. Agnihotri)

Shri A.N. Tiwari,
Secretary,
Ministry of Personnel, Public Grievances
& Pensions,
North Block,
New Delhi-110001.

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RESPONSIVE ADMINISTRATION

1. The crisis in administration calls for a redefinition of the role of government and its functions and its real focus to serve the public effectively as much as to ensure efficient and cost-effective administration. Accountability, transparency and cleansing public services are all interconnected issues, for ensuring a clean and responsive administration. It is necessary to converge the efforts of various public agencies for the delivery of basic services in rural and urban areas and for single level dealings with the public. This calls for steps to reorganize work procedures, for delegation down the line and an effective management information system accessible to all. Simultaneous steps to address the rightsizing of public services, value for money on public expenditure, restoring effective audit, monitoring and evaluation and good financial management systems etc. are needed

2. It is necessary to introduce greater transparency and openness in the functioning of Government and public bodies. This would cover, for example, movement towards a Right to Information Act, transparent and well publicised procedures for approvals by the general public and entrepreneurs under various statutes and regulations; for the allotment of land and immovable property; systems of assessment, levy and collection of various taxes and charges; the award of work tenders for construction and provision of services; procurement of goods and services; and

various arrangements for the involvement of the private sector in contracting of services and infrastructure projects by suitable amendment of relevant laws. The aim should be to move towards a ^{citizen}~~people~~ centred administration.

3. The citizens in urban and rural areas should be provided with widespread and easy access, through the media, posters and various forms of neighbourhood level communications, to all information relating to Government operations and reverse the undue emphasis on secrecy, details of various Government and local schemes, information on award of tenders and procurement, procedures for identification of beneficiaries under various Government schemes, and for the receipt of benefits thereunder, publication of scores for all cases of admission to colleges and for recruitment, the delivery of various civic services etc. The progressive computerisation of information on public operations and work procedures will be of benefit to the government and the people.

4. Accountability should be interpreted in a larger sense in relation to public satisfaction and responsive delivery of services. We may consider the phased introduction of Citizens' Charter for as many service institutions, as possible by way of citizens' entitlement to public services, the collaboration of consumer organisations and citizen groups; the wide publicity to standards of performance, quality, timeliness, cost etc. for public services, and the provision for periodic and independent

scrutiny of performance of the agencies against the standards.

5. Immediate measures are needed for strengthening the machinery for grievance redressal at all levels, increased thrust on the needs of disadvantaged and vulnerable sections, attention to systemic reforms, meaningful efforts to reach the unserved public spirited citizen panels to assess service organisations, gender sensitise approached at all levels, and well understood systems of filing complaints relating to poor services and malfeasance and prompt action thereon; accompanied by close monitoring of delays and punishment of the delinquent while devising ways to filter the frivolous complaints. The good examples in different states should be widely publicised and scaled up alongwith due recognition for innovation and citizen friendly attitudes.

6. The fullest possible decentralisation of service delivery and the administration of income-support schemes, and effective utilisation of available resources, through the elected urban and rural local bodies, accompanied by the required devolution of powers and resources.

7. Encouragement to the widest possible awareness and participation of citizens and various representative groups in local decision making, and the implementation of schemes affecting their livelihood and quality of life. The media has an important role to play in this regard.

8. Urgent steps for legal reform, for the access of the citizens to quick and cheap justice, while initiating steps for amendment and simplification of the concerned laws and obsolete legislation for introducing simple and speedy procedures. A number of laws and regulations militating against the interest of the poor need to be quickly amended.

CLEANSING THE CIVIL SERVICE

1. It is recognised that responsive administration depends on reforms in civil service at all levels, adherence to ethical standards, and basic principles of the Constitution, and a clear understanding of the relationship regulating the civil servants and the politicians. It has to be clearly appreciated that the political executive should concentrate on policy formulation while implementation is left to public services at various levels.

2. The approach to the elimination of corruption in the public service needs to address prevention, surveillance and deterrent prosecution, and deal ruthlessly with the nexus with criminals and unscrupulous elements. It requires the concerted efforts of politicians, public services and all stakeholders in civic society. The existing procedures for departmental enquiries and vigilance proceedings should be revamped. The rules and legal provisions should be amended to enable immediate and

exemplary prosecution and removal of corrupt officers without giving them recourse to any political protection. It is necessary to remove the scope for any interference in the prompt prosecution and punishment of corrupt officials. It is necessary to devise systems to break the nexus between politicians, bureaucrats and criminals which has developed in a number of places.

3. The various service and conduct rules should be reviewed in order to arrange for the review of the integrity and efficiency of officers at any stage during the career, and the compulsory retirement of officers of doubtful integrity.

4. Simultaneous with the above, the preventive steps would include not only regulatory reforms to reduce the scope for discretion and secrecy at all levels, but would make public disclosure mandatory for all developmental schemes and approvals.

5. Other in-built steps should include improvement in service conditions and rightsizing public services improving the system of performance appraisal and promotions through transparent procedures, recognised systems of rewards and penalties, consistent action of senior management to support the subordinates in the sincere performance of duty according to law and procedures, and in resisting illegal directions. Equal attention is needed for review of recruitment procedures, training at induction and subsequent levels, and the development of personnel at the operating levels.

COMMITMENT TO PRINCIPLES OF THE CONSTITUTION

1. The Government of India and State Governments should draw up a Charter of Ethics and Civil Service Code for the civil service which is based on the fundamental principles of the Indian Constitution such as secularism, equality, impartiality, social justice, attention to the needs of the weaker sections, rule of law, etc. This code should regulate the role of the legislators and the relationship between civil servants and politicians.
2. It should be agreed that the loyalty of public servants should be only to the service for the public and the rule of law. This is particularly relevant in the context of the permanent character of civil service.
3. The State Governments will be requested to devise suitable mechanisms including a high powered Civil Service Board, and amend relevant rules for transparent decisions on postings, promotions and transfers of senior officials on the lines of Central Government. Similar Boards should be set up to govern functionaries at lower levels and in elected local bodies. These Boards could be strengthened in their apolitical functioning by the appointment of a Civil Services Ombudsman to deal with the grievances of officials. It should be recognised that the public suffer equally from frequent transfers of heads of departments. Appropriate legislation may be considered to incorporate some of these suggestions.

B. TASKS AS MAY BE TAKEN UP AFTER THE ACT COMES INTO FORCE

Clause 26 of the Bill lays down that the State Government may, to the extent of availability of financial and other resources, prepare programmes for the development of the information regime. In particular, sub-clause (2) lays down that within 18 months from the commencement of the Act, the State Government shall compile in its official language a guide containing such information as would be helpful to citizens who wish to exercise any right specified in the Act. After the Act comes into force, action may be initiated to prepare necessary programmes as also publish a guide for the users.