

**MINUTES OF THE 4<sup>th</sup> MEETING OF THE 'SUB-COMMITTEE ON RTI ACT'  
Date – 22.08.2009, Venue –: Dr. MCR HRD Institute, Hyderabad.**

**List of Participants:**

1. **Shri C. D. Arha**, Chief Information Commissioner, Andhra Pradesh (AP) & Convener, Sub-Committee;
2. **Prof M. M. Ansari**, Information Commissioner, Central IC;
3. **Shri P.S. Rana**, Chief Information Commissioner, Himachal Pradesh;
4. **Dr. Mohd. Shakeel Ahmed**, State Information Commissioner, Bihar;
5. **Shri Suresh V. Joshi**, State Chief Information Commissioner, Maharashtra;
6. **Shri K. K. Mishra**, State Chief Information Commissioner, Karnataka;
7. **Shri A. Subba Rao**, Information Commissioner, AP
8. **Shri R. Dileep Reddy**, Information Commissioner, AP
9. **Shri K. Sudhakar Rao**, Information Commissioner, AP
10. **Dr. Rajiv Sharma**, Director General, CGG, Hyderabad;
11. **Shri K. R. W. Yesudas**, IAS (Retd), OSD & Secretary (FAC), APIC, Hyderabad.
12. **Smt. Anita Gupta**, Additional Secretary, Central IC & Nodal Officer, Sub-Committee;
13. **Shri A. Mohan Krishnaiah**, Secretary (Law), APIC, Hyderabad.
14. **Shri Vardhaman Vaidya**, Coordinator, RTI Cell, CGG, Hyderabad and other CGG team members.

***Address by the Convener***

**Shri Arha**, CIC, AP and Convener, Sub-Committee welcomed all the members of the Sub-Committee and also Special Guests **Dr. Jayaprakash Narayan**, MLA & President Lok Satta party and **Shri Kingshuk Nag**, Editor, Times of India. He mentioned that before starting the discussions on ToRs of the Sub-Committee, he thought it fit to have the benefit of the views of the Special Guests on the strengths and weaknesses in the implementation of the RTI Act and also to provide a road map ahead and requested them to give their valuable views.

**Dr Jayaprakash Narayan** mentioned that he along with **Ms. Aruna Roy** had drafted the RTI Act which was vetted by the NAC. He also mentioned that he tried to make amends to certain inadequacies in the Act through the recommendations in the first report of the Administrative Reforms Commission of which he was a Member. He felt that he was disappointed as nothing concreted had come out on those recommendations. He hoped that the Information Commissions would, in due course of time, like the Election Commission and Supreme Court lay down the Case Law and formulate procedures, Rules and Regulations for the smooth and efficient implementation of the RTI Act.

He was strongly of the view that the Information Commissions should have been empowered on the same lines as the Election Commission under Article 324 of the Constitution of India. He also mentioned that the Administrative Reforms Commission had recommended an amendment to the Evidence Act to dispel any doubts about the supremacy of RTI Act visa-vis the Evidence Act. He wanted that the approach of the Commissions should be proactive to disclose information and not create hurdles. He wanted that there should be impartiality in dispensing the law and handing over justice to the citizens instead of antagonising them.

He hoped that Sec. 30 of the RTI Act would help remove difficulties if any in the implementation of RTI Act. He felt that there is need for an All India Agency of Information Commissions to evolve uniform procedures, identify the bottlenecks and formulate effective mechanisms for speedy and effective implementation of the provisions of the Act. He felt that Record keeping is the weakest link in the Country and gave his own experience that after visiting several offices he observed that most of the officials are not conversant with the Act. He advocated the need for creation of a Public Records Authority as recommended by the Administrative Reforms Commission.

He complimented **Dr. Rajiv Sharma**, DG of the CGG on his efforts in Andhra Pradesh and elsewhere in the Country. He stressed the need for **training** and wanted that every State Government official must be trained to achieve better results. He also wanted that there should be an inventory of Public Authorities / Public Information Officers and a Nodal agency at district level to enforce the law and also function as a grievances redressal wing. He wanted that every agency getting public money should be brought under the purview of the RTI Act. He mentioned that agencies like Air Port Authorities/ Electricity/ Water Supply/ Garbage agencies and other service oriented agencies are actually doing governmental / public service-related work and therefore must come under the purview of RTI. He deprecated the vexatious and frivolous requests and opined that they should be discouraged and excluded from the RTI as was done in the United Kingdom and South Africa, to prevent misuse of the Act.

He suggested that the Information Commissions may sit with Civil Society Organisations and Media representatives for consultation and sort out the difficulties, if any, and make the Act more citizens centered and serve the citizens who are the masters. He mentioned that even lowliest official holding a public office in our Country is very powerful and is capable of harassing public. He cited that in one case an applicant Mr. Veeresh, a Lok Satta worker who sought information under RTI was harassed and jailed.

This he felt was because of the scope for discretion left to officials. He wanted that the Sub-Committee may identify such problems and determine the core things so that ipso fact all the decisions are in public domain. He opined that Media and Professionals have not adequately utilized the Act to make the State Accountable and stressed the need for their greater interaction.

**Shri Kingshuk Nag** felt that the RTI was not able to deliver information quickly. He mentioned that he was able to get the information very quickly through other channels. As an example he mentioned that in one case, he had sought information on 5<sup>th</sup> August through an RTI application from the DGP and got insufficient reply on 17<sup>th</sup> August from the DGP where as he could get the required information through other sources. He also stated that on the other hand there are officers who were willing to leak certain information, if somebody asks for information, irrespective of the RTI Act.

He felt that the procedure for payment of fee along with RTI application was cumbersome and questioned why Cash or Postal Order are not being accepted. He observed that majority of Chairmen of the Information Commissions are retired IAS officers and questioned as to why journalists are not selected. He felt that retired IAS officers will have sympathy and empathy to the Administrators. He opined that RTI is being effectively implemented in Gujarat and that employees undergoing any training, have been engaged for sessions pertaining to training on RTI.

**Shri C.D. Arha**, CIC, APIC profusely thanked the two guests for their frank and forthright views and also expressed his gratitude for sparing their valuable time. He informed that after coming into force of the RTI Act, the APIC is very clear that there is no matter which can be treated as confidential unless it is exempted under Sec. 8, 9, 11 or 24 of the RTI Act. He agreed that there is urgent need for providing training to officials; and that the Govt., have been requested to ensure training to all PIOs and Appellate Authorities. He however, informed that because of inadequate budget it is impossible to train the large number of PIOs. He added that to provide training to 1,80,000 PIOs and over 75,000 Appellate Authorities the costs involved are transportation charges and equip them with copies of the Act, a small scribbling pad each and a pen and provide a small lunch and this alone comes to crores of rupees. However, efforts are underway to have a higher allocation for the Training Component.

He wanted that each department must earmark a percentage of its budget allocated for this training under RTI. He informed that in A.P., the Collectors have been notified as Co-ordinating officers and the DROs as Nodal Officers at the district level. He also informed that attempts have been made to put on website the details of PIOs and Appellate Authorities. He informed that the recommendations are reflected in the Annual Reports of the Commission sent to the Govt. He conceded that there is need to check vexatious and frivolous applications. He agreed that there is need for interface with NGOs, Media and also other stake-holders.

He clarified that the State Govt., made Rules permitting payment of fee by way of cash, court fee stamps and also Postal Orders. He stated that even if a 10 rupee note is enclosed to the applications, they are being accepted. He conceded that disclosure under 4(1)(c) about policy frame work was woefully poor. He mentioned that the APIC took up suo-motu cognizance of a news item that an RTI applicant was threatened, and the Commission ensured protection by issuing instructions to the SP and Collector, Nizamabad. He promised to look into the specific case of harassment if details are given. He mentioned that a complaint against the GMR for not furnishing information was admitted and though initially the agency had tried to claim that they do not come under RTI, when the Commission pointed out that the Sate Govt., as well as the Air Ports Authority of India have a stake in the Air Port, they conceded the applicably of RTI and have provided information and also reported compliance to the Commission.

**Shri K. K. Misra**, CIC, Karnataka stated that the Courts call for the presence of Secretaries to Govt., whereas it is the Ministers concerned that take the decisions. He said that if the Chief Justice of the High Court of the State concerned is a members of the selection Committee, then there can be more Judges on the Commissions. Information Commissioners with IAS background have not done badly. He mentioned that the Commissions are tolerating even difficult questions and are encountering obstacles with reasoning. He opined that RTI will be useful for investigative journalism.

He mentioned that the gaps in the Act are being filled by case law. He stated that financial assistance of even Re.1 from the Govt., is being treated as substantial funding of private institutions. He also stated that in Tamilnadu High Court has ordered that all Cooperatives are treated as Public Authorities. He mentioned that Andhra Pradesh is really doing well in the implementation of RTI Act. He stated that based on one of the ToRs of the Sub-Committee; efforts are being made for the constitution of a Federation of Information Commissions in India to achieve coordinated and concerted efforts and to evolve uniform systems and procedures.

He mentioned that a journalist of USA said that they use this Act to get information which the Govt., does not want to provide and that they can get any other information over the phone.

**Prof M. M. Ansari**, Central Information Commissioner observed that the Central Information Commission and State Information Commissions are in some areas, duplicating the work. He observed that common man is today able to knowing his entitlements under various welfare schemes such as health, housing, public distribution and is getting authentic information within 30 days through RTI.

He stated that with the help of the Commissions, the details of licensing systems of LPG, Telecom, Transport etc., are now accessible to people and that peoples' confidence in the RTI is improving. He mentioned that the RTI is getting adequate support of NGOs and Judiciary and that because of the RTI, the people have become so powerful that the Commissions are forced to impose penalties besides pursuing effective action on the implementation of welfare programmes.

**Dr Suresh V Joshi**, CIC, Maharashtra stated they have received one million applications and that of them 30,000 were disposed. He stated that almost 80% of applicants under RTI are not interested in information on democratic processes; and that 75% are able to get information because the 30 days limit prescribed in the Act is hanging like a sword on the neck of the PIO. He stated that in many cases citizens are using the information obtained under the RTI Act to get their files moved. He wanted that a redressal mechanism must be in place to make RTI really effective.

**Shri R. Dileep Reddy**, SIC, APIC stated that some political parties are using RTI to settle their old scores. He also stated that the view of Mr.Nag that RTI is not useful is not correct. It may not be useful to Media for creating sensational news but RTI is providing authenticated information. He pointed that one IAS officer got three promotions using RTI. He also mentioned that one Telugu daily, which claims 10 lakhs readership, is utilizing RTI and publishing information thus obtained. He mentioned that there are number of stories in Times of India on RTI.

**Shri C.D.Arha**, Convener and CIC of APIC thanked the Special Guests for their participation and valuable suggestions.

After the departure of the Special Guests, the Sub-Committee took up discussion on ToRs.

**ToR (1):- To assess the extent to which the recommendations made by the Commissions, under section 25 of the RTI Act, have been implemented; and, to identify the major reasons, if any, for non-implementation of Commissions' recommendations;**

The Members of the Sub Committee stated that they have studied the latest draft supplied based on the recommendations of the various Commissions in their Annual Reports and also the other inputs given by the various Commissions and agreed to adopt the same.

**ToR(2):- To prepare a comprehensive status report in respect of the major themes of Annual Convention of 2008, namely RTI and good governance, RTI and democracy, RTI and poverty alleviation, RTI and protection of individual privacy, and RTI revolution in SAARC;**

The Members of the Sub Committee stated that they have studied the draft material and agreed to adopt it. Later Prof Ansari suggested to the CGG team an outline which could be adopted for each of the studies (especially on ToR - I) to the extent possible.

**ToR(3):- To assess the adequacy of facilitation process for accessing public held information, mainly in terms of compliance of various provisions of the Act for promotion of maximum disclosure of information.**

The Members of the Sub-Committee agreed to accept the draft prepared and adopt the same.

**ToR(4):- To identify the best practices in implementation of RTI Act to promote open Government and to outline an action plan for adoption/adaptation by public authorities;**

The Committee Members felt that the draft circulated is by and large adequate. Regarding Citizen's charter, it was agreed that there is need for uniformity of procedures and norms for each department right from State, District, Division and Sub-Division levels in terms of time taken to provide each service, replicating it for various levels to the extent possible (this of course is a question for the Department concerned to address).

Members discussed on 'Jankari' of Bihar model, advocated by **Mr. Kejriwal** of Parivartan. **Sri Rana**, CIC, Himachal Pradesh stated that the scheme is good but shortage of staff and failure of phones are the main draw backs in the scheme. He also wanted that staff should be given proper training. **Sri K. K. Misra**, CIC, Karnataka stated that the scheme is good but performance is defective. He opined that overall efficiency could be improved if committed staff is available and a network of uninterrupted phone facility is provided. After detailed discussions it was agreed to recommend the **Jankari Scheme** subject to taking steps to prevent the pitfalls and deficiencies.

Regarding definition of 'Public Authority', **Shri C. D. Arha**, CIC, Andhra Pradesh stated that he had discussed the matter with the CIC, Tamilnadu and gave the views. After discussions, it was agreed that the definition of a Public Authority may be left to be decided by each State depending upon the prevailing situation, although it would be ideal to define every office maintaining public records as a Public Authority.

**Shri K. K. Misra**, CIC, Karnataka cautioned that having too many Public Authorities may affect the efficiency of the Commissions. He mentioned that if the reports of Public Authorities are not received, the preparation of Annual Reports would become difficult. **Shri Rana**, CIC, Himachal Pradesh stated that the Annual Reports are not being discussed in the Legislature.

**Shri C.D.Arha**, Convener stated that any good work done is not reflected in the media. He wanted that the Commissions must discharge the statutory responsibility of sending Annual Reports to the Government. He suggested that the proforma of the quarterly reports A,B,C,D etc., may be adopted and a degree of responsibility be fixed on the Secretaries of the Departments concerned to submit them in time to the Commissions to facilitate timely compilation of Annual Reports.

**Shri R. Dileep Reddy**, SIC of APIC stated that the recent initiative to prepare Digital Directory of Public Authorities of every department is good and may be included as one of the best practices. **Dr Rajiv Sharma**, DG, CGG explained the salient features of the proposed Digital Directory and informed that a workshop was held at Mahaboobnagar and that one more is proposed to be held on 25-08-2009 in Krishna District. He stated that once this Directory is ready by mere mention of a key word, the PIO concerned could be identified. It is still very early days, however, for the implementation of this initiative.

**Shri Rana**, CIC, Himachal Pradesh stated that some Public Authorities are not preparing 4(1)(b) data stating that they have no staff. He wanted that some sort of 4(1)(b) format be prepared for each department at District, Divisional and village levels.

**Shri K. K. Misra**, CIC, Karnataka stated that u/s 19 of the Act, Commission has power to direct field inspections.

**Prof. M. M. Ansari**, Central Information Commissioner stated that Video / Audio coverage at the time of inspection of records could be provided. He stated that in some cases the CIC sent observers for perusal of records in their presence. Even after showing the records, which in some cases were as old as 15 years, the appellants were not satisfied. He felt that in spite of good intentions, the applicants were not satisfied and are raising issues.

**Shri K. K. Misra**, CIC, Karnataka wanted to know from **Prof. M. M. Ansari**, IC, CIC whether they are keeping the appeals pending until compliance is reported. **Prof. Ansari**, IC, CIC informed that they close the appeal after giving decision and that it is only if an Appellant complains that the decision of the Central Information Commission has not been implemented they reopen the case and examine whether there was denial of information. He observed that in many cases there was no denial of information but there were cases of incomplete information. He stated that as these were complaints that Police instead of sending information by post are calling applicants to the Police Stations, he issued orders that applicants should not be called to the Police Stations and Police men should not visit the houses of applicants.

**Shri C. D. Arha, Convener** informed that in the orders of the A P Information Commission, directions are being given to the Respondents / Public Authorities to furnish information within 30 days and that they are being honoured in almost all cases except probably in less than 5%, and in those cases, on receipt of complaints of non-compliance of information, they are being looked in to. He felt that keeping the files open till receipts of compliance report will only increase pendency.

**Shri C. D. Arha**, CIC, APIC wanted to know whether each appeal has to be heard by all the members of the Commission. **Ms. Anita Gupta**, Addl. Secretary, Central Information Commission stated that so far no one raised this issue and that the decisions of the Central Information Commission were challenged only on the merits of the decisions. Members of the Sub Committee felt that it is not desirable for all the Commission Members to hear each and every appeal or complaint as it would only increase the pendency.

**ToR(5):- To evolve an approach and suggest a methodology for assessing and grading public authorities in terms of greater transparency and accountability and least corruption; and**

The Members of the Sub-Committee stated that they have studied the material circulated and agreed that the same may be adopted.

**ToR(6):- To suggest modalities for creation of a permanent broad-based body for the purpose of coordination of various activities of CIC and SICs.**

Shri K.K. Mishra initiated the discussions on the modalities for creation of a permanent broad based body for the purpose of co.ordination of various activities of CIC and SICs. He elaborated at length the aims and objectives of the proposed Federation (1-17), along with its Memorandum of Associations including 4 certifications to be done and a declaration to be made, rules and regulations (1-28), Bye-laws, functions of the Executive Committee and office bearers (1-7) as well as certain draft declarations and affidavits that will have to be signed. He dilated on the composition of the General Body and the procedures for calling of meetings and conduct of its proceedings. The powers and functions of the President as well as the constitution of the committees and sub-committees were also elaborated. In special circumstances, the procedure for convening special meetings or calling for special invitees was also explained. He also graphically explained the composition of the Board of Governors which will administer, manager and control the Federation. Powers and functions of the Board of Governors were explained at length including the frequency of its meetings. A nucleus staff headed by an Executive Secretary was also explained along with the details of functions and powers of the Executive Secretary. Inter-alia issues connected with operation of Bank Accounts, legal proceedings, indemnity, validation of Acts, Annual List of Board of Governors and the limited liability aspect was also explained. The procedure for amendment of Memorandum of Association and rules was also explained. He also explained the rotation formula that will be adopted so as to maximize participation from all the constituents.

Prof. M.M. Ansari fully supported the concept paper as presented and stated that this is in harmony with the recommendations made by the Administrative Reforms Commission chaired by Mr. Veerappa Moily. He also informed that approval has also been obtained of the proposed Federation from the Chief Information Commissioner, Central Information Commission, Shri Wajahat Habeebullah who has already appended his signature as a token of acceptance of the proposals made.

Shri Suresh Joshi, CIC, Maharashtra and Dr. Mohd. Shakeel Ahmed also expressed their support for setting up the Federation.

CIC, Himachal Pradesh, Shri Rana circulated a hand written note expressing some concerns on certain aspects. He was of the view that preferably the Federation should be registered in Delhi under the Central Act rather than the State Act as it will have pan Indian applicability. Secondly, he was of the view that the term "Executive Committee" should be substituted for the term "Board of Governors" as it has a better acceptability. Lastly, he also suggested certain changes in the composition of the Executive Committee in as much as there should be a provision for re-constitution of the Executive Committee on yearly basis.

Responding to the legal implication, Shri Rajeev Sharma, responded that legal opinion has been obtained from Advocate and Additional Senior Counsel for Central Government who has opined as follows:

*"Sub: Legal Opinion regarding registration of National Level Information Commission – Reg.*

\* \* \*

*This is in response to the query regarding the registration of a society of multi-state representation being formed under the aegis of the Central Information Commission for the purpose of coordination of activities of the State Commissions & Central Commission.*

*The matter regarding the registration of proposed "National Federation of Information Commissions" as a society has been examined. The following points emerged from the back ground material given to me:*

*This federation is intended to be registered as a society and not as a co-operative society. There is a provision under the Multi-State Cooperative Societies Act that a cooperative society operating in different states has to be registered only in Delhi, the registration being done under Sec.6 & 7 of the said Act. Since the intent is to register this federation as a society and not as a cooperative society, we cannot resort to registration under Multi State Cooperative Societies Act, 2002.*

- 1. As far as the Society Registration Act 1860, which is the Central Act, is concerned, it stands repealed with the enactment of A.P. Societies Registration Act, 2001, the repeal clause being clearly given under Sec.32 of the Act. Therefore, a Society having its office in Hyderabad has to be necessarily registered under the A.P. Societies Registration Act. There is no bar for such a society to operate on all India basis even though it might have been registered in Andhra Pradesh with office in Hyderabad.*
- 2. There is a provision under the Society's Registration Act 1860, as adopted by NCT of Delhi, that a society of national (multi-state) character with all India territorial jurisdiction can be registered in Delhi only when it necessarily has its office in Delhi. In addition, another requirement is that it should have a minimum 8 different members from 8 different states of the country. Since the office of the proposed federation is going to be located in Hyderabad, this society cannot be registered under this provision in Delhi.*

*Therefore, it is suggested that the National Federation of Information Commissions in India with its proposed registered office at Hyderabad should be registered under A.P. Societies Registration Act 2001.*

After receiving this clarification, Shri Rana conceded that though there is no legal impediment in having the Registration done at Hyderabad yet he was of the view that there should be no unseemly haste in Registration. His suggestion was to first obtain the opinion of all the 38 State Information Commissions and State Governments as well as the Central Information Commission and only thereafter have the Registration done. At his personal level he explained that he cannot be a party to a decision without first consulting his other colleagues in the Himachal Pradesh Commission as also in the absence of obtaining the views of the State Government.

Shri K.K. Mishra, Prof. M.M. Ansari as well as Shri C.D. Arha tried to impress upon Shri Rana that in as much as there are no legal impediments in registration, the balance of convenience would be to go ahead and have it registered. Setting up of federation will be in conformity with the recommendations made by the Kashyap Committee as well as the recommendations made by the Administrative Reforms Commission. Subjecting the registration to prior consultations and feed back to be obtained from all the State Information Commissions/Governments concerned will be extremely dilatory, time consuming and userfructury. In any way, joining or not joining is a voluntary decision to be taken by the respective Commission. There is no coercive mandate for becoming a member and it is open to individual decisions of the Commissions concerned. As to Shri Rana's suggestion of altering the designation from "Board of Governors" to "Executive Committee", this was accepted and keeping in view his suggestion it was recorded in Document 2 (Bye-laws) under item 12 "the Board of Governors will be the Executive Committee of the Society". Even after Kashyap Committee's recommendation as well as ARC's recommendations and even after a near unanimous acceptance of the proposal it was agreed that the balance of convenience would be to proceed ahead and adopt the sub-committee recommendations on setting up of permanent broad based body for the purpose of co-ordination of various activities of CIC and SICs and have it registered. In this eventuality, atleast there will be one firm concrete and tangible object achieved. In the end it was concluded that Registration can be proceeded with and simultaneously efforts will continue to convince Shri Rana of the merits of the case.

**Prof.M.M. Ansari**, IC, CIC informed that the Annual Convention of 2009 will be held at Delhi on 12<sup>th</sup> and 13<sup>th</sup> of October, 2009 and will be inaugurated by the Hon'ble President of India and the valedictory address will be by the Hon'ble Vice President of India. He mentioned that the theme would be "Strengthening of RTI". He suggested that the final report of the Sub-Committee may be presented to the Central Chief Information Commissioner by 15-09-2009 to enable him to present it to the Hon'ble President on 12-10-2009.

After consultations it was agreed to hold the meeting of the Sub-Committee on 17-09-2009 at the A.P. Bhavan, New Delhi and finalise the report for presentation to the Chief Information Commissioner, Central Information Commission. The meeting ended with a vote of thanks by **Ms. Anita Gupta**, Additional Secretary, Central Information Commission.

**C.D.ARHA**  
**Chief Information Commissioner,**  
**APIC & Convener**