

# DOPT's consultation with Information Commissioners

DOPT had invited the Information Commissioners from the Central and the State Commissions for a consultation for 'Strengthening RTI' on 14 October 2009.

Secretary, DOPT had promised to send the minutes of the meeting to all the Information Commissioners. This has not been done though over three months have passed. My colleague, Mr. Satyananad Mishra and I had given reminders to the Secretary in this matter.

It is disrespectful to the Institution of the Information Commissions if a consultation with over 50% of the Information Commissioners across the Country were to be treated casually and go unrecorded.

I am therefore sending the minutes of the meeting which had deliberated on a very important matter during which DOPT had sought the views of the Information Commissioners on amending the RTI Act. In the spirit of transparency I am putting these these minutes in the public domain.

Minutes of the Consultative Meeting held by DOPT  
with Central and State Information Commissioners on 14 October 2009

DOPT had called a meeting for consultation with the Information Commissioners across the Country on 14 October 2009 on ways of strengthening the RTI Act. Around 60 Central and State Information Commissioners were present for this meeting.

Mr. Prithiviraj Chavan , Minister DOPT outlined the Government's thinking that there was a need to strengthen the RTI Act by amending it. The papers circulated at the start of the meeting gave an idea of the amendments which the Government had in mind. Mr. Wajahat Habibullah Chief Information Commissioner who spoke next, very lucidly explained his view that there was no need to amend the RTI Act presently. After this the DOPT officers gave a point by point presentation of the amendments they were proposing to the Commissioners. They outlined seven amendments. The Information Commissioners almost unanimously pointed out that the first five points needed no amendments. The seven proposals had five which needed no amendments and two which would dilute the RTI Act and would need an amendment to the Act :

1) Constitution of benches: DoPT held that the present constitution of benches, where cases are heard by a single Information Commissioner, is not legal. The Commissioners pointed out that this was not the correct position, and the Central Information Commission had already ruled on this matter. Even if the DOPT's argument was accepted, only a change of rules would be required. DOPT was proposing that all benches should be two member benches, which would increase the expenditure per case by nearly 100%, and most Commissions would be overwhelmed by the cases, since they would not be able to cope.

2) Removal of 9 exempted public authorities from the list in Schedule 2.: There is no need for an amendment, as a few public authorities have already been included and deleted through a notification as per Section 24(2) of the RTI Act.

3) Include Citizens Charter in Section 4 declarations of each public authority.: Here again, there is no need to amend, as it can be included under Sec 4(1)(b)(xvii), which says, 'Such other information as may be prescribed'.

4) Defining what is meant by 'substantially financed' under 2(h)(d)(ii).: This already being judicially defined by Information Commissioners.

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5) Facilitate Indians abroad to use RTI Act through embassies.: This can be done very easily by making appropriate rules.

The two proposals which needed an amendment to the Act proposed by DOPT:

6) Adding 'frivolous & vexatious requests' to the list of Section 8 exemptions. Commissioners pointed out that the decision of what constitutes 'vexatious' or 'frivolous' would have to left to the PIOs.

This would result in large-scale rejections by PIOs and would go against the present principle that no purpose needs to be given by applicants. Most Commissioners spoke against such an amendment, while two stated that it was necessary.

7)Excluding discussions / consultations that take place before arriving at governmental decisions; in other words, exclusion of file-notings, which would render the working of the government completely opaque to citizens. This would mean that Citizens will know the reasons for taking decisions only after the decisions have been taken and never know why certain decisions in their benefit were not taken.

All the Information Commissioners who spoke gave their verdict that for the first five objectives there was no need to amend the RTI Act. On point 6 two Commissioners spoke in favour of amending the Act to prevent frivolous and vexatious RTI queries, whereas over half a dozen opposed these. On point 7 also the Commissioners expressed a clear view that no amendment was desirable. Some Commissioners pointed out that any change in the RTI Act would lead to unnecessary confusion in implementation and the minds of Citizens and PIOs.

The Information Commissioners had almost unanimously given their clear and unequivocal stand, that no amendments were necessary to the RTI Act.

Shailesh Gandhi

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