

## **Resolution of the National Public Hearing on Information Commissions held on October 11, 2012**

At the public hearing organized on October 11, 2012 by the National Campaign for People's Right to Information (NCPRI) in collaboration with other civil society organizations, the following resolutions were adopted to strengthen the RTI Act without making any amendments to the Act:

1. To deal with the increasing pendency in Information Commissions, norms and standards of functioning should be adopted and a time-bound mechanism for disposal of appeals and complaints should be evolved. There must be norms for disposal of cases by individual Commissioners also, with accountability for failures to meet norms and standards. The number of Commissioners appointed in the Commission should be determined in relation to pendency levels so that cases may be disposed of in a timely manner. Commissioners must be given adequate and competent support staff.

2. We welcome the Government's move to seek a review of the Supreme Court judgement of September 13, 2012 in the Namit Sharma case since:

i. the judgement requires the Commissions to function in two member benches thereby effectively halving the number of benches in each Commission. We believe that two-member benches will only slow down the work of Information Commissions and are not necessary. This requirement will greatly increase the already unacceptable levels of pendency in the Commissions and render the RTI Act ineffective and impede people's fundamental right to information.

ii. the judgement will, in our opinion, reduce the diversity in the information commissions. It was Parliament's intent to keep the Commissions multidisciplinary and have Information Commissioners from diverse backgrounds and experience. We believe that diversity in the composition of Information Commissions is key for ensuring effective realisation of people's fundamental right to information.

iii. the judgement will reduce the informality and people friendliness of procedure of disposal of cases in the Information Commissions. It must be ensured that the procedure of submitting appeals and complaints to the commissions is simple and people friendly and there is no insistence on lawyers for arguing on behalf of the appellant. The RTI Act is most widely used by common people for accessing their fundamental rights and entitlements from the government and any formalisation/complexities in the procedures of the information commission would hinder people's abilities to use the RTI Act.

iv. the judgement is ambiguous on the status of existing Information Commissions and whether these can continue to function till such time that the stipulated number of judicial members are appointed as Information Commissioners. The result is that several Information Commissions are not functioning since the judgement thereby totally impeding people's right to information.

v. there is no justification in restricting the position of Chief Information Commissioners to only a person who is, or has been, a Chief Justice of the High Court or a judge of the Supreme Court of India, as laid down in the SC judgement. We feel that the eligibility criteria for the Chief Information Commissioners should be widened, as provided for in the RTI Act.

3. We call upon the government to urgently issue detailed rules to ensure that the process of selecting Information Commissioners is transparent and participatory.

4. We urge all Information Commissions to evolve mechanisms for ensuring compliance with section 4 of the RTI Act. All Information Commissions must evolve a template/model for section 4 disclosures, through their websites and also through other means of communication and adopt these at the earliest. We urge the Information Commissions to become model public authorities and adopt the highest standards of transparency in keeping with the letter and spirit of the RTI Act 2005.

A proper system for displaying the list of appeals and complaints made in Commissions and pending cases must be made proactively made available through the website and the telephone by each Information Commission in the country.

We urge the Information Commissions to adopt a system for uploading all the orders issued by them on their website. Further, a single website linking and providing access to orders by all the Information Commissions should be evolved. We urge the government to provide necessary funds in this regard.

5. There must be time limits for disposal of cases in which show cause notices are issued by the Information Commissions. In cases where show cause notices are served, the case should not be disposed and closed in the Commissions until either a penalty is levied and recovered or a satisfactory response is given by the PIO to the show cause notice. In either case, complete information to the appellant must be provided. Information Commissioners should ensure that penalties imposed by them are recovered and are entered into the ACR/service record of the concerned official.

The annual report of each Information Commission, including details on penalties imposed and recovered, should be placed in the public domain.

6. We urge the Commissions to form platforms and councils so that experts and citizens from diverse backgrounds having knowledge of transparency-related issues can participate and partner with the Commission in creating a regime and culture of transparency.

7. We urge the state Information Commissions to adopt mechanisms to hold hearings across the state and not just at one location within the Commission. We urge Commissioners to go out amongst people, as far as possible, and hold appeals and complaints disposal camps.

8. It is the responsibility of the government to protect RTI activists and users, and take swift legal action against the attackers. It is also the obligation of governments and Information Commissions to ensure that, if a RTI user is attacked, the information that was being sought by the assaulted user is urgently and on a priority basis, put in the public domain and followed up. We welcome the resolution of the CIC in this regard and urge other commissions to adopt similar measures.

9. For implementation of Section 4 of the RTI Act, state/central governments should undertake periodic audits and Information Commissions should take *suomotu* cognizance of violations of section 4 and issue appropriate orders after holding open sittings.

10. We are deeply suspicious of any PPP that does not make it explicitly clear that it will be covered under the purview of the RTI Act. We are also disappointed by judgement of the courts in which indefinite stays have been granted in cases related to transparency of PPPs and private bodies performing public functions. We urge the Commissions to ensure that all private bodies providing public functions are transparent in their functioning and are treated as being within the purview of the RTI Act.

11. We urge all public authorities to adopt mechanisms for uploading all RTI applications and their responses on their website.

12. Illegal exemptions given under Section 24 to government agencies are irrational and contrary to national interest, these must be immediately reviewed and exemptions must be withdrawn.

13. Central and state RTI rules which do not follow a single standard, many of which are *ultra vires* of the Act itself and which generally make it difficult for people to use the Act, must be immediately modified. DOPT should urgently undertake a review of the rules and persuade the state governments to appropriately modify the rules.