

MY EXPERIENCES ON RTI & JUDICIARY

by

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Preamble of 'Right-To-Information (RTI) Act' suggests it an Act for being a tool to effectively check corruption in our democratic system which comprises of three wings namely judiciary, legislature and bureaucracy. If legislature and bureaucracy are subjected to RTI provisions, then why create unnecessary controversy on including non-judicial aspects of judicial administration under RTI Act? After all judges also come from the same human society which consists of both honest and dishonest persons. How Chief Justice of India, mentioned as Competent Authority, escape from being in purview of RTI Act when other concerned public-authorities respond to communications addressed to competent authorities like President of India and Chief Information Commissioner? Even Supreme Court registry itself responded to my very first RTI petition filed in Supreme Court just after RTI Act was introduced in October 2005, though in a vague manner, which related to my query on action taken on my complaint addressed to Chief Justice of India against a High Court judge. It is also to be observed that views of retired and present Chief Justices of India differ on the issue. Can implementation of an Act affecting consumers of justice be changed with change of guards? Does post of Chief Justice of India represent just an individual and not the institution? Leave aside aspect of Competent Authorities, any thin line if drawn between department-heads and others working under them, will then find an easy escape-route for ministers, secretaries and heads of all public-authorities from RTI provisions. Eminent jurists and legal luminaries have unanimous views on the issue. Speaker of Lok Sabha having passed RTI bill and its panel have echoed likewise.

Any controversy on issue of Chief Justice of India being under purview of RTI Act is an afterthought at Supreme Court. Why judiciary is so much scare from being transparent by even having suggested that Registrar General of Supreme Court and not Central Information Commission may be the second Appellate Authority for Supreme Court in RTI Act! Suggested amendment to RTI Act also seeks that nominees of Chief Justice of India may be exempted from RTI Act without clarifying who will be nominees of Chief Justice of India. Transparency in Judicial Administration is a must rather in interest of Indian judiciary to save its fine image where a handful of wrong elements are tarnishing image of other honest judges. Even the then Chief Justice of India Mr Justice SP Bharucha and a Supreme Court Judge during regime of Mr Justice YK Sabharwal as Chief Justice of India are on record to confess about 20-percent judges of higher courts to be corrupt, an aspect experienced by affected judicial victims like me. Five-member bench of Supreme Court headed by the then Chief Justice of India Mr Justice PN Bhagwati in the matter 'SP Gupta vs

Union of India, (1981) Supp SCC 87' had opined to disclose opinions of members of Supreme Court collegium constituted for appointment, promotion and transfer of judges of higher courts even much before RTI Act came into existence. Even though this particular aspect has never been over-ruled by later judgments on appointments of judges, opinion of members of Supreme Court collegium are not being made public despite esteemed verdict by central Information Commission (CIC).

Interestingly, file-notings on my RTI petition filed in Supreme Court regarding resolution by all Supreme Court judges on wealth-declaration by judges reveals that reply of Central Public Information Officer (CPIO) was got approved by Chief Justice of India and the Appellate Authority also. On the other side, CPIO at Supreme Court says information relating to Chief Justice of India is not available with him! Does Appellate Authority's endorsement on CPIO's reply not make decisive authority and appellate authority colliding thereby nullifying any role of being the first Appellate Authority?

My own experience is that RTI Act has been instrumental in exposing misconduct in judicial administration including appointments in higher judiciary. Chief Information Commissioner even allowed copy of appointment-file of a controversial appointment. But our Department of Justice which acts as **Department of Injustice** for Consumers of Justice approached Courts to get a stay on the CIC order always getting adjournments on the matter for last more than a year. General practice of Union Government to obtain stay from courts on not only CIC orders but now even on CIC proceedings in itself speaks of government-attitude towards shielding wrong practices prevailing in the system.

It seems that (CPIO) at Department of Justice has to reply under pressure. It always avoids replies on petty and meaningless excuses like date of newspaper-clipping etc. Even file-notings are being refused. Wrong and vague replies are quite common. On being asked about eligibility of persons being politically affiliated and having contested elections for being judges, both the CPIO and the Appellate Authority were evasive for reasons best understood. CPIO's reply was wrong when it said that government had no competence to act against retired judges of higher courts because case of Mr Justice Shamit Mukherji is before all. A telephonic call from Central Bureau of Investigation (CBI) in response to my RTI petition confirmed that a case was pending at CBI against a judge of Higher Court. President's Secretariat, Prime Minister's Office and Department of Justice are shifting responsibility to respond to my query about authenticity of an NDTV report on recent appointment of a Chief Justice in a state. There is a war of letters between Supreme Court and Department of Justice on replying to my another RTI petition on matter concerning foreign-travel of Supreme Court judges with their wives.

It will not be out of place to mention that Department of Justice denied having acknowledged important papers by Union Minister for Law & Justice relating to my another RTI petition forwarded by both Lok Sabha Secretariat and Central Information Commission on directions of Chief information Commissioner despite both these public-authorities having produced acknowledgement by office of the Minister!

Even National Human rights Commission (NHRC) is evasive on matters concerning violation of human rights by corruption and misconduct in higher judiciary. In response to my RTI petition seeking information on the issue on a letter addressed to the then NHRC Chairperson Dr Justice AS Anand, NHRC confessed that the important letter was 'missing' from NHRC files.

Once I asked about Disciplinary Authority for Chief Justice of India. Unfortunately even the concerned Information Commissioner also disapproved my query earlier evaded by Department of Justice. But that question gained significance later when serious allegations were leveled against a retired Chief Justice of India.

Writer is Guinness Record Holder for most letters in newspapers