

## **News on Right to Information**

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**1<sup>st</sup> January, 2010**

### **26/11 vest notices to eight IPS officers**

*The Telegraph*

Mumbai: The Maharashtra government has asked eight senior IPS officers to explain the disappearance of a file containing purchase details of bullet-proof vests used while combating terrorists on the night of 26/11.

The file disappeared a few days after November 26 when questions were raised about the quality of the jackets. Allegations had surfaced that Hemant Karkare, the anti-terrorism squad chief, died because the jackets were substandard and could not stop the bullets.

The file later mysteriously reappeared in the police commissioner's office but without several pages.

The showcause notices were issued after an assurance by state home minister R.R Patil to the Assembly that responsibility for the loss of the file would be fixed and action taken. The officers have to reply to the notices within a month.

The officers have mostly handled administrative duties since 2002 when the purchase of the bullet-proof jackets began.

"They have been asked to clarify how the file relating to the purchase of the jackets between 2002 and 2004 went missing. They have to reply within a month," Patil said. Replies have been sought from principal secretary P.K. Jain; additional DGP Subhash Awate; joint commissioner of police Bhagwant More; deputy inspector-

general Rajnish Seth; special branch additional commissioner Ashutosh Dumbre and deputy commissioners Vijay Jadhav, Sanjay Apranti and S.R. Paraskar.

Jain and Awate had worked as joint commissioner between 2003 and 2007, while Seth, Dumbre, Paraskar and Apranti had worked as deputy commissioners during this period. Those in these two posts are responsible for purchasing equipment required by the force.

The disappearance of the file came to light when an application was filed under the Right to Information law.

**1<sup>st</sup> January 2010**

**CIC order for making PDS system transparent**

*The Times of India*

NEW DELHI: In a far reaching ruling that will inject much-needed transparency in the functioning of fair price shops, the Central Information Commission (CIC) has issued directions to the food secretary and 10 assistant commissioners of Delhi. All such shops will have to display information such as entitlement of essential commodities for all types of ration cards, stock of essential items received during the month and opening and closing stock of essential commodities, etc.

Chief information commissioner Shailesh Gandhi issued the order on December 21 after Rajiv Kumar of Pardarshita, a transparency advocacy group, filed a complaint with the CIC that fair price shops in Delhi were not complying with the government order. The order has to be implemented by January 31 and a compliance report has to be filed before the commission before February 5.

According to the PDS Control Order 2001 and Right to Information Act 2005, it is mandatory for the food and supplies department to make available information public. However, in past few years it had come to notice that people were harassed when they enquired about their ration cards or about their entitlement of essential commodities available in such shops.

CIC directed that 10 types of information including retail price of each essential commodity for all types of ration cards, working hours of such shops, name, designation and contact numbers of officials for redressal of grievances with respect to quality and quantity of essential commodities be displayed at such shops.

These shops will also have to display daily updation of stock position information and information about inspection of records by any citizen every Saturday except for second Saturday. They will have to display samples of food grains being supplied through these outlets.

The commission also said that citizens should have access to daily sale register and stock register under suo motu disclosure of RTI Act and that these shops must display the date of the next vigilance committee meeting and names of the members of the committee.

The CIC passed the order after a discussion with assistant commissioners, department PIOs and the food commissioner.

**2<sup>nd</sup> January, 2010**

### **Free distribution of RTI Act and rules**

*The Times of India*

The Goa State Information Commission has made arrangement for free distribution of RTI Act and rules through the municipal councils, village panchayats and its office at Patto, Panaji to the citizens for the propagation of right to information. Any citizen can collect a copy of the same from the office of the Commission at Shrama Shakti Bhavan, Patto, Panaji or from the respective municipal councils or village panchayats free of cost after filling in the required details in the register kept in the above mentioned offices for record.

Yuva Pratibha Puraskar contest: The department of art and culture has announced the presentation of 'Yuva Pratibha Puraskar' for the youths in the age group of 18 to 30 from the field of traditional Goan folk music, folk dances, folk songs, folk theatre and folk instrumental etc. The programme will be organized in joint collaboration with West Zone Cultural Centre, Udaipur. The competitions for Yuva Pratibha Puraskar will be organized in five different categories at individual level in Goa which include folk songs, folk dances, folk music (percussion), folk music (non percussion) and folk theatre. The winners at state level will be presented with Yuva Pratibha Puraskar and cash prize of Rs 10,000 and a certificate in each category. Interested applicants may collect and submit their application forms with detailed bio-data at the directorate of art and culture, Shrama Shakti Bhavan, fifth floor, Patto, Panaji on or before January 6.

Churchill to inaugurate Nuvem subway: PWD minister Churchill Alemao will inaugurate the Nuvem subway near Rosary Convent High School Belloy, Nuvem on NH-17 on January 4 at 10am. The subway has been constructed by national highway division, PWD. Power minister Aleixo Sequeira will also be present on the occasion.

Pilar kids celebrate Christmas with orphans: The students of Fr Agnel Central School, Pilar celebrated Christmas with gifts to the orphans of Fr Agnel Niketan. Fr Anthony D' Silva, principal of the Fr Agnel Central School along with the teachers

accompanied the children to the grounds. Fr Frank Mendes, director of Fr Agnel Niketan welcomed the teachers and the students.

The Niketan boys sang carols and entertained the children with games. At the end of the programme, the children offered gifts to each Niketan boy and the boys in turn offered to each child a Christmas party bag. Fr Frank thanked the principal and staff for their thoughtfulness towards orphans at the Niketan.

2<sup>nd</sup> Jan 2010

### **RTI clinics. So that you can keep a tab on babus**

*The Indian Express*

BANGALORE: In a bid to increase awareness on the Right to Information Act, the South India Cell for Human Rights Education and Monitoring (SICHREM), a non government organisation will be conducting RTI clinics, every month. The human rights organisation, whose primary agenda is to monitor and take corrective action human rights issues, has taken up the task of educating the citizens of Bangalore on the Right to Information Act (RTI).

R Manohar, Head — Programs, SICHREM says that the purpose behind coming up with RTI Clinic is to create awareness, provide procedural guidance and assistance to the general public to obtain information from government bodies and redressing their grievances through the use of RTI Act and to assist the general public on how to fill the application, how to submit and the process involved, etc. “RTI Clinic will help to raise the question and clarification of the schemes and public undertakings regarding the individual and public. The clinic has benefited hundreds of people from all walks of life which is organised last saturday of the month since May 2009. The clinic also helps to know the pros and cons of the act and updates will also be dwelt upon,” Manohar added.

At the clinic, attendees are provided with relevant details on application availability, filing procedure including fees, stipulated response time, follow up process and discuss cases and get guidance from the RTI activists. Some of the main aims of the RTI Clinic are to create a platform to share success stories and to encourage citizens to use RTI.

The RTI Act came into force on October 13, 2005, and it relaxes information disclosure restricted by the Official Secrets Act 1923 and various other special laws. Under the provisions of the RTI Act, any citizen may request for information from a ‘public authority’, a body of Government or ‘instrumentality of State’ which is required to reply expeditiously or within 30 days.

**3<sup>rd</sup> January, 2010**

### **Ludhiana civic body officials penalized**

*The Times of India*

Ludhiana: In an unprecedented action, irked over the lax attitude of the zonal commissioners cum public information officers (PIO) of the municipal corporation (MC) in dealing with the applications related to Right To information (RTI) Act, the State Information Commission (SIC) has imposed a penalty of Rs 5,000 on all of them despite the fact that they had submitted unconditional apologies to the commission.

According to information, Rohit Sabharwal, the president of an NGO, Anti-Corruption and Crime Investigation Cell had filed an application under the RTI Act for getting information on the action being taken by the civic body regarding illegal encroachments in city.

However, when he was not given the information, the applicant filed an application in the SIC. Hearing the case on December 3, 2009, information commissioner Surinder Singh issued showcause notices to all the four PIOs of A,B,C & D Zones of MC, directing them to submit affidavits explaining reasons as to why penalty be not imposed upon them for the delay in supply of information.

Meanwhile, filing their reply, VK Sharda, MS Jaggi, AS Sekhon and PS Ghuman zonal commissioner-cum-PIO, Zone A, B, C and D respectively said that the requisite information was supplied to the appellant on December 1, 2009, notably, after a period of five months. Keeping in view the circumstances and facts narrated in the affidavits and other documents submitted by the PIOs, the commissioner in his orders issued on December 29 said the PIOs had not made any sincere efforts to supply the information to the appellant within stipulated period, adding that rather a casual approach has been adopted by them towards disposal of RTI applications.

He said that no solid reason has been put forth by the PIOs for the delay in supply of information, rather an effort has been made to pass on their responsibility to the APIOs. Taking a serious view of the laxity shown and casual approach adopted by

the PIOs in supply of information, the commissioner imposed a penalty of Rs 5,000 each on all the four PIOs, to be deposited in the treasury under the relevant head, within a period of 20 days.

**4<sup>th</sup> January, 2010**

**RTI Act being used to dislodge CIC himself**

*The Times of India*

MUMBAI: Ironically, the Right to Information (RTI) Act is being used to unseat Chief Information Commissioner (CIC) Wajahat Habibullah himself.

Using documents got using the Act, Mumbai-based RTI activist Girish Mittal on Monday served a legal notice on the Prime Minister's Office (PMO) and the Ministry of Personnel & Grievances (DoPT) saying that Habibullah, whose resignation is still hanging fire, is being accorded preferential treatment and that he should be relieved of his post immediately.

Mittal's contention is that the Section 13(4) of the RTI Act says that the resignation of the information commissioners, including the CIC, becomes effective the moment it is submitted to the President of India and it cannot be revoked under any circumstances. Documents procured by him using the RTI Act show that the Department of Legal Affairs concurred with this view in the case of central information commissioner Omita Paul.

"Habibullah's resignation is not being accorded the same legal treatment as that of Paul," said Mittal.

Paul was advisor to External Affairs minister Pranab Mukherji till general elections were declared in March 2009. She was selected as central information commissioner shortly before the Lok Sabha polls in April 2009. Paul took oath on May 13 last year and resigned on June 26, a month and a half after Mukherjee was appointed Finance minister. She was appointed as the FM's advisor on the very same day she resigned without waiting for the President's assent to her resignation as central information commissioner.

The documents cited in the legal notice are part of about 350 pages which Mittal got in late November 2009 in response an RTI plea to DoPT. In December 2008 DoPT had denied having such documents and Habibullah had upheld this denial.

In earlier years, PMO, DoPT and Habibullah had denied such information pertaining to appointment, retirement and resignation of Information Commissioners by citing the Official Secrets Act 1923.

### **Habibullah's woes**

After serving as CIC for four years, Habibullah tendered his resignation on October 20, 2009 in order to become chief State Information Commissioner of J & K. He would have been the first to hold this post.

However, on December 4, 2009, the Supreme Court served him a contempt notice for publishing on the CIC website a detailed reasoned order concerning the need for transparency in the elevation of high court judges to the SC. The SC said the order lowered the dignity of the court.

Ever since Habibullah tendered his resignation, RTI activists are having a running battle with the government over the need for transparency in the appointment of information commissioners.

### **What the legal notice says**

The legal notice urges the Union government to take three steps to set right the wrongs: Firstly, give effect to resignation of Habibullah as CIC retrospectively from the exact date and time that it was tendered to the Secretariat of President of India.

Secondly, recover the salary and other pecuniary benefits given to Habibullah in his capacity as CIC as it is public money.

Thirdly, declare as null and void, all decisions taken and orders pronounced by him in his capacity as CIC after tendering his resignation.

**5<sup>th</sup> January, 2010**

**2009 saw tug of war between CIC, SC over transparency**

*Business Standard*

The year gone by witnessed a tug of war between the Central Information Commission and Supreme Court, which saw its judges make public their assets for the first time, and a row over key amendments to the RTI Act even as the government remained indecisive on a new chief for the panel.

The Commission's directive to Supreme Court to disclose how many judges were declaring their asset details before the Chief Justice of India was upheld by the Delhi High Court which rejected the relief plea filed by the apex court.

In a landmark judgement, the High Court agreed with the information panel that the Chief Justice of India's office was very much covered under the Right to Information Act and necessary information should be provided whenever asked by the applicants as per provisions of the transparency law.

While the case was being debated in media, two Justices from Punjab and Haryana High Court and Karnataka High Court voluntarily put their asset details on their websites.

This was followed by the Chief Justice of India (CJI) and all the 20 Supreme Court judges who "voluntarily" furnished details of their assets which were later put on the official website of the apex court.

The disclosure, though voluntary in nature, was seen as a big victory for activist Subhash Chandra Agrawal who had filed a number of applications relating to transparency in judicial matters.

However, the Supreme Court again appealed against the order in a division bench of the High Court raising questions over implications of the single bench order on judicial functioning but could not manage a stay on the same.

Another application filed by Agrawal seeking details of the alleged interference of a Union minister, who had reportedly approached Justice R Raghupathi of Madras High Court regarding a sub-judice matter, also came before the CIC.

The transparency panel again agreed with the position of Agrawal that as CJI was being covered under the RTI Act there was no reason to deny the details without invoking confidentiality clauses, and allowed the disclosure of the information.

The Commission, while hearing a separate application of Agrawal, also asked the Supreme Court to give details why some senior judges were superseded while giving promotions.

The Supreme Court which failed to satisfy transparency panel with its arguments avoided Delhi High Court and filed a stay appeal before itself.

In one of the rarest moments of Indian judicial system, the apex court gave relief to itself and stayed the CIC order in both the matters.

But the year was not only about Supreme Court and CIC. The intention of the Government to amend the RTI Act by adding provisions for rejecting "vexatious and frivolous" RTI pleas came under fire from activists from across the country.

The controversy erupted when President Pratibha Patil during her inaugural address at the annual convention of the Central Information Commission mentioned about the amendments saying it would strengthen the Act.

It was followed by a meeting of all the Information Commissioners from across the country, convened by Minister of State for Personnel and Training Prithviraj Chavan, where he made clear the intentions of the Government to bring the amendments in the Act.

The proposal was strongly objected to by the gathering of Information Commissioners, who said there was no need to amend the Act and that concerns of the Government could be addressed by framing simple rules in this regard.

Social activists including Aruna Roy, Medha Patkar, Shekhar Singh, Arvind Kejariwal along with hundreds of other activists launched a campaign to oppose the proposed move forcing Government to clarify that any amendments would be introduced only after it is discussed in a public forum.

The campaign was followed by another one wherein activists demanded transparency in selecting the new CIC as incumbent Wajahat Habibullah had tendered his resignation and expressed keenness to head the newly-formed Information Commission in Jammu and Kashmir. The government remained indecisive on the new candidate after it could not agree with the Opposition on the matter.

The transparency law showed its worth by bringing into the public domain several so-called confidential details on the "operational lapses" by Mumbai police during 26/11.

Through her RTI pleas, Vinita Kamte -- wife of slain police officer Ashok Kamte -- found out that there were several "gaps" in the operation undertaken by Mumbai Police on November 26, 2008 when a group of 10 armed terrorists struck at different places in the metropolis.

Several other activists including Anuj Dhar's campaign seeking details of death of former prime minister Lal Bahadur Shastri, Chadrachur Ghose's attempt to seek details of Subhash Chandra Bose's death also grabbed media headlines in 2009.

A survey, commissioned by government and undertaken by Price WaterHouse Coopers, found that even after four years of its inception, there is a serious flaw in implementation of transparency law with only 13 per cent of the rural and 33 per cent of the urban population aware about it.

**5<sup>th</sup> Jan, 2010**

**Can't use RTI to question judge's verdict: SC**

New Delhi: The Supreme Court on Monday said the Right to Information Act would not be used to question the intention of a judge for giving a particular verdict.

A judge need not furnish reasons under the RTI on why he chose to give this verdict and not another, noted a Division Bench headed by Chief Justice of India K G Balakrishnan.

“He (a judge) cannot go on explaining his judgments. The judgment itself is the reason. No one has the right to ask for any further information under the RTI Act,” the court observed.

The apex court made these observations on a petition by 76-year-old agriculturist Khamaguram Gandaiah of Andhra Pradesh who had alleged “judicial dishonesty” against a Principal District Judge who had ordered injunction against him in a property dispute on an 8-acre land in 2006.

The septuagenarian had criticised the district judge's order against him as “patently erroneous” and filed an RTI application seeking an explanation from the judge on how he could rely on “fabricated” documents produced before him to arrive at his decision.

The judge in question is M Seetharama Murthy, who is currently Registrar General of the Andhra High Court.

“This petitioner did not even go for an appeal against the injunction order. Instead he filed an RTI application accusing the judge of dishonesty. When that too failed, he came straight to us. What is this?” the court noted, dismissing the petition.

**5<sup>th</sup> January, 2010**

### **Here's help for RTI applicants**

#### *Daily News Analysis*

If you plan to file a Right to Information (RTI) query, soon there will be help at hand. The Anti Corruption Cell of the Indian Merchants' Chamber (ACIMC) and the Public Concern for Governance Trust (PCGT) announced the commencement of a RTI clinic that will be functional from January 20.

The clinic, which will be conducted twice every month on the first and third Wednesdays, comes after the state chief information commissioner - Dr Suresh Joshi - said that more middle class and upper-middle class citizens should come forward in the new decade and use the RTI.

The clinic will be set up to guide applicants to draft applications and questions that can be asked to the concerned authorities. "People these days do not get the income tax and sales tax returns. This will help them get what they deserve," Julio Ribeiro, member of ACIMC, said. To begin with, the clinic will function with three experts - two activists and one advocate - who will help the applicants.

"The number of days, frequency and timings of the clinic will be increased as per the response from the people," Narayan Varma, managing trustee of PCGT, said.

"Many people in the government have turned pro-RTI. In fact, it is the only Act that penalises the bureaucrats for delaying delivery of information to citizens, which constantly keeps them on their toes."

The clinic will begin from January 20 at the Indian Merchants Chamber. Citizens can go to the clinic between 4-6pm. For appointment call 22046633 (Extn: 133/134)

**6<sup>th</sup> January, 2010**

**Counsel need not reveal opinion given to govt: HC**

*The Times of India*

CHENNAI: A public prosecutor representing the state in criminal cases need not divulge details of the legal opinion given to the government as it is privileged communication, the Madras High Court has ruled.

In a similar case, reported by TOI on Monday, the Supreme Court said that a judge could not be asked under the Right to Information (RTI) Act as to how and why he came to a particular conclusion in a judgment.

Upholding special government pleader M Dhandapani's submission that the relationship between the state and the public prosecutor (PP) was one of client-lawyer relationship, Justice K Chandru said: "The public prosecutor's office is perfectly right in contending that the information sought for by a RTI applicant is a privileged communication and they cannot disclose it without the express consent of their client — the state of Tamil Nadu."

Pointing out that the RTI applicant had sought the legal opinion given by the prosecutor, all letters and correspondence between the prosecutor's office and the government, the FIR and the file notings, the judge said: "Such information is completely privileged and disclosure of the same is barred by Section 126 of the Indian Evidence Act."

The present petition was filed by the office superintendent of the public prosecutor in the Madras High Court against summons issued by the Tamil Nadu Information Commission. The matter relates to an RTI application filed by M Sivaraj, who wanted the particulars of a case in Dharmapuri district along with the legal opinion given by the prosecutor. As the application was turned down by the PP's office, he approached the information panel, which said the information should be given to the applicant.

**6<sup>th</sup> Jan, 2010**

**A website to log the RTI success stories of Purulia villagers**

*The Indian Express*

Kolkata : On being asked his age, Kolebor Kalindi, a resident of Karru village in Baghmundi block of Purulia, fumbles for an answer. The 20-odd neighbours and relatives surrounding him do some loud thinking, and conclude that he cannot be more than 40. Kalindi, a farm labourer with a family of seven, looks older. His neighbours, Shombari Machchua, Gangadhar Hembram, Raghu Majhi, Bhojohori Kumar, don't seem to know their ages either. More occupied with trying to eke out a living as farm labourers, the community, mostly belonging Scheduled Castes, doesn't spare much thought to birth dates.

Yet, they are all familiar with the Right to Information (RTI) Act, thanks to the efforts of some students in the US who trace their origins to West Bengal and a local organisation called the Mandra Lions Club. The two groups joined forces to educate the people of the three blocks in Purulia — Baghmundi, Jhalda I, Jhalda II — about the importance of using RTI to gain information about the workings of government agencies in matters that directly affect their daily lives. This year they plan to launch a website which will feature these stories from the grassroots.

Like the story of Kalindi, who got an educated farmer, Basudeb Kumar, to file an RTI about the amount of ration a BPL card holder is entitled to under the public distribution system. The RTI, filed at the village panchayat office, also sought the list of people under the Annapurna and Antyodaya schemes.

“We are labourers. After a day's work of making cane baskets, I don't get more than Rs 50 to feed seven mouths. The ration shop would usually give us one or two kg of rice every week,” says Kalindi. But after the RTI, he found out that he was entitled to five kg of rice every week, at the rate of Rs 2 per kg.

What followed was a movement against PDS dealers, and the families now get more ration than before. “Earlier, they would threaten to beat us up, saying we were demanding more than what we deserved. We hardly ever got sugar. Now, they are

compelled to give us our due because we show them the official papers,” says Raghu Majhi, another villager.

While they are yet to get all that they are rightfully entitled to, the RTI awareness has made a significant change in their lives. In the last two months, the villagers have filed 100 RTI applications; more than half have got responses. Jagabandhu Kumar, 37, of Gobindopur village in Baghmundi block, filed an RTI at the panchayat office demanding information about the provisions under the Integrated Child Development Services (ICDS) scheme.

“My youngest daughter, five-year-old, goes to an ICDS centre. There were times when they were not given midday meals, or when the teachers didn’t take classes,” says Kumar, a farmer. Armed with the written reply from the panchayat secretary, Kumar took up the issue with the ICDS centre. He claims midday meals have now become regular, with better food quality.

Ashish Sinha, another labourer, filed an RTI about the number of days the local ration shop should remain open. “The ration shops only open once a week, when they are supposed to keep them open for five-and-a-half days in a week. Armed with the RTI reply, Sinha hauled up the nearest dealer. As the word spread, eight PDS dealers were questioned. The shops are now open four days in a week and the dealers have put up boards indicating the stocks they have and the prices,” says Tathagata Sengupta, 25, one of the students involved in the movement.

“We are mostly insulated to the realities of nearly 80 per cent of our country. We have the resources to bring about development, individually and also as a part of an organisation. There are lots of people willing to work, but they don’t know how to go about it,” he says.

The aim, eventually, is to get the website maintained and updated by the locals. “There are people around here who can write in Bengali. Their accounts can be translated later. We will facilitate that,” says Somnath Singha Roy of Mandra Lions Club.

There will be pages in both English and Bengali. The technology will be kept simple, so that the site's administration can be handed over to the local youth in Purulia. "We are using a Joomla website management system for the site. Anyone can edit it. You don't need to know HTML to operate it," says Sengupta.

7<sup>th</sup> Jan, 2010

## **Are our cities ready for e-governance?**

*The Economic Times*

The mid-term appraisal of the Eleventh Five-Year Plan (Eleventh Plan) is currently under way. The Planning Commission is assessing in detail the performance of the economy as well as the performance of individual sectors in relation to the targets set in the 11th Plan. Chapter 11 of the Eleventh Plan is on urban infrastructure, basic services and poverty alleviation. This chapter makes a case for e-governance, as specified in the Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

The key objectives of the JNNURM are to introduce e-governance in the municipalities to provide single-window services to the citizens, to increase efficiency and productivity of the urban local bodies (ULBs), and to provide timely and reliable management information. This chapter also emphasises the role of information technology in efficient governance and in provision and management of urban services.

We conducted a study to assess the state of e-governance and other related characteristics of India's 35 cities with million-plus population. While the findings from this study are still preliminary, they have a number of implications for e-governance in India's cities. With respect to e-governance, we categorised e-governance services of cities into two types: information-oriented and service-oriented.

In the area of information, we examined whether the budget of the city for the most-recent year was online, whether information for building sanctions and drainage/water connection were online, links to the Right to Information Act (RTI), and links to important locally-provided public services such as water supply, sanitation, sewerage, solid waste management, roads and street lighting. We examined whether the municipal corporation website has a map of the city and contacts for the city.

When we examined the scores on information attributes, we found Greater Mumbai was the only one with a perfect score. The closest score to this baseline was a

distant Vijayawada. When we looked at attributes, the most popular one receiving attention on city websites was the link to the RTI which most (23 out of 35) cities adhered to, followed by their contact information. The one attribute that municipal corporations were unable to manage online was the information on drainage/water connection for which the customers' physical presence seemed to be required. Only four out of the 35 cities could make this facility available online.

In the area of services, we considered the following six attributes: whether there is provision for online payment of property taxes, water charges, online registration of birth and death, online complaints registration, online feedback and whether provision existed for online tendering and auction. We found Greater Mumbai was again the one with a perfect score with all services considered being online, followed by Hyderabad.

When we examined scores across attributes, we found that the most popular one was the online registration of complaints, followed by online feedback. The one service on which most cities performed poorly was online payment of water charges, for which only four out of the 35 cities made a provision. This is a surprise because nearly 12 cities made provision for online payment of property tax.

However, this might be explained due to considerable variability in the institutional arrangement for water supply across cities. In Bangalore, for example, a utility, the Bangalore Water Supply and Sewerage Board (BWSSB), is entrusted with this responsibility, whereas in cities such as Pune, the municipal corporation itself has this responsibility. These expenditure responsibilities are mandated by the statute. Hence, the capacities of the service provider might help explain variability in online payment of water charges.

We found that cities with an information orientation on their websites were Greater Mumbai, Chennai, Vijayawada, Delhi, Kolkata, Hyderabad, Amritsar, Madurai, Bangalore, Patna and Ludhiana. We found that cities with a user-orientation, or service-focused, in their websites were Greater Mumbai, Hyderabad, Madurai, Pune, Indore, Chennai, Bangalore, Ahmedabad, Ludhiana, Allahabad and Varanasi.

Our findings indicated that the cities with both low information and low service-orientation websites were Lucknow, Agra, Kanpur, Asansol and Dhanbad.

Summarising, our findings indicated that the largest cities, especially those with more than 10 million inhabitants, fared relatively well in their preparedness towards becoming digital compared to smaller cities. Despite the variance in the adoption of e-governance across the large Indian cities, we should recognise that cities in the e-governance era are much more open to citizen complaints and grievances than they were earlier. Though Indian cities are still evolving in their digital status, governments, private organisations and citizens should take cognisance of the fact that connectivity and information-sharing are the stepping stones for transparency and accountability in governance.

7<sup>th</sup> January ,2010

### **HSRP tender was manipulated**

*The Times of India*

PANAJI: Alleging that there has been manipulation in the tendering of high security registration plates (HSRP), the BJP has threatened to commence a second phase of agitation if the government continues with the same contractor who has been awarded the tender and enforces the same price upon the people.

Addressing a press conference in Panaji on Wednesday, opposition leader Manohar Parrikar said that he had availed the tender documents on two occasions submitted by Shimnit Utsch India Private Limited through the Right to Information Act and found that both were dissimilar.

Producing the tender document he had procured earlier, Parrikar said that there was no note mentioned at the bottom of the paper.

"However, once this company was sure of getting the contract, they replaced their earlier tender bid with another one, but, this time they added a note that a premium of 48% will be charged on the prices for replacement of any of the items comprising the HSRP," Parrikar said.

"I have direct evidence that the tender price has been manipulated after the tender was opened," he added.

The opposition leader said that government officials involved in the case could also face criminal charges. "The HSRP should be made available at half the price. The BJP will launch a second phase of agitation if the government forces the same contractor and the same price upon the people," he said.

He also came down heavily upon the state's advocate general, Subodh Kantak, following the high court's interim order on Tuesday directing the Goa government to implement HSRP within a week.

"The proper position of the government is not being shown in the high court by its

advocates," said Parrikar, adding that the committee set up by the government to study the matter has to submit its report and that will be done only by January 31, which the state's advocate general had not informed the court.

A transport department official, requesting anonymity, said that Parrikar's allegations of tender manipulation had merit.

"We don't deny the fact that the tender could have been manipulated. The tender was awarded as per the bid document. However, the committee set up by the government to study the matter has to submit its report by January 31," the official said.

**7<sup>th</sup> Jan 2010**

### **RTI blow to Games panel**

*The Hindustan Times*

The Commonwealth Games Organising Committee (CGOC), racing against time to meet deadlines, will now also have to find time to cope with a flurry of Right To Information queries regarding its functioning and handling of funds.

The trigger is a Delhi High Court ruling on Thursday that the panel was a 'public authority' and therefore had to provide information to an applicant under the Right to Information Act. The court said it also applied to Indian Olympic Association that was another petitioner before it.

Dismissing appeals filed by the panels, Justice S. Ravindra Bhat granted them 30 days time to set up "appropriate mechanisms to enable access to information held and required to be held by them".

Expanding the ambit of Right to Information Act, the court said even non-government and autonomous organisations can come within the ambit of the law if it received funds from the government for "larger societal goals".

Justice Bhat said government's control over the organisation's functioning was not relevant to decide whether they were public authority or not.

The CGOC had challenged the Centre's decision to declare it as a public authority under the transparency law.

The Centre wanted the committee should make its accounts public while CGOC, headed by Suresh Kalmadi refused to divulge its financial data arguing it was an independent body.

CGOC said there was no direct or indirect control over it by the government and there was no funding by it to manage its day- to- day affairs or to run its office. The Centre, on the other hand, said the claims had no basis as the CGOC had received substantial funds from it and owed its birth to it.

**8<sup>th</sup> January, 2010**

**Admin difficulties can't be cited to deny info under RTI, says HC**

*The Times of India*

CHENNAI: Pronouncing a series of pro-transparency judgments on Thursday, the Madras high court held that administrative difficulties cannot be cited to deny information to applicants under the RTI Act.

Justice K Chandru, who delivered three judgments in all, said: "The right to information having been guaranteed by the law of Parliament, the administrative difficulties in providing information cannot be raised. Such pleas will defeat the very right of citizens to have access to information."

The first matter relates to an application made to the Tamil Nadu Archives for information relating to old maps, settlement records and title deeds. The archives authorities said they were only custodians of records and they were not bound to provide any information to anyone.

Noting that the archives had 65 lakh documents concerning 45 government departments, it said without the consent of the parent department the information sought cannot be furnished. Rejecting the submissions, Justice Chandru said Tamil Nadu Archives is a public authority and that since it is empowered to retain records, it cannot object to the disclosure of such information.

Arguments such as the archives is short of human resources cannot be raised to whittle down citizens' right to seek information. It is for the authorities to write to the government requesting additional staff depending upon the volume of requests, the judge said.

The second case was about an RTI application seeking the field inspection report of the ELCOT, which surveyed certain villages in Kancheepuram district to set up an IT park. The applicant, noting that officials had surveyed the area, sought to know the contents of the inspection report, while ELCOT said it could not be compelled to divulge a business secret. Justice Chandru rejected this submission, and said: "A

citizen, who survives on the existence of the land is entitled to know whether those lands are to be acquired by such authority, so that they can legitimately object to the acquisition.”

In his third order, Justice Chandru asked the Tamil Nadu Public Service Commission to furnish the mark sheets of Combined Engineering Services examination conducted by it, as the information is not exempted under Section 8 of the RTI Act.

In all the cases, the judge directed officials concerned to furnish the information sought for within a period of three weeks.

**8<sup>th</sup> January, 2010**

**After judges, babus' assets come under RTI**

*The Times of India*

MUMBAI: After politicians and judges of Supreme Court, now the assets of babus have been prised open to public scrutiny. In a landmark order, the Central Information Commission has said that disclosure of information such as assets of a public servant, routinely collected by the public authority, should be made available to the public under the Right to Information Act.

Passing the order in a case involving an officer with the Municipal Corporation of Delhi, information commissioner Shailesh Gandhi noted that such disclosure could not be construed as an invasion on the privacy of an individual and therefore, it should be made public under the Act.

With the ruling that disclosure of assets by a babu is no longer a matter just between him and his superiors, officers have been put on par with politicians as well as judges of Supreme Court who recently, bowing to pressure, agreed to let people peek into their material possessions.

The case came up for hearing with CIC after an RTI applicant's query asking for details of assets and liabilities of the deputy health officer of MCD was rejected by both the PIO and the appellate authority.

UP resident Rajbir Singh had asked for details of immovable property declared by Ashok Rawat, deputy health officer with MCD. He had also asked for details of assets which the officer had purchased for more than Rs 10,000 during his service with date of disclosure made to the department.

But both the PIO and first appellate authority rejected the query under Section 8(1)(j) of the RTI Act. Information can be exempted under this section if it relates to personal information and the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.

When the case came up for hearing, the CIC said that to qualify for this exemption, the information must be of a personal nature. "Various public authorities in performing their functions routinely ask for 'personal' information from citizens, and this is clearly a public activity. When a person applies for a job, or gives information about himself to a public authority as an employee, or asks for a permission, licence or authorization, all these are public activities. The information sought in this case by the appellant has certainly been obtained in the pursuit of a public activity," the order said.

The CIC said there will only be a few exceptions to this rule, possibly relating to information obtained by a public authority by using extraordinary powers such as through a raid or phone-tapping. "Any other exceptions would have to be specifically justified," the CIC order said.

The commission also quoted the Supreme Court order which had ruled that even people who aspire to be public servants by getting elected have to declare their property details. "If people who aspire to be public servants must declare their property details, it is only logical that the details of assets of those who are public servants should be disclosed. Hence, the exemption under Section 8(1)(j) cannot be applied in this case," Gandhi said.

City-based RTI activists welcomed the order. "This will usher in greater transparency and we hope citizens will use this as an opportunity to expose corruption in the system," said Bhaskar Prabhu, convener of Mahiti Adhikar Manch.

Sources said the order was prompted by the recognition that declarations of assets by officers was not serving much purpose since the superiors expected to vet the disclosures for unusual increases were not discharging their brief because of peer affinity. CIC reckons that putting the matter in public domain will help, and act as a deterrent.

**8<sup>th</sup> Jan 2010**

**TNPSC must give information under RTI Act: HC**

*The Indian Express*

CHENNAI: "So long as the information sought for (under the Right to Information Act) is available with the TN Public Service Commission (TNPSC) and the same is not exempted under Section 8 of the Act, the Commission is duty bound to provide such information," the Madras High Court has observed.

Justice K Chandru made the observation while dismissing a writ petition from the TNPSC to quash a showcause notice issued by the TN State Information Commission (TNSIC).

K Alagiriswami, an RTI applicant, had sought information regarding recruitment to the combined engineering service by the TNPSC for the PWD. He took up the matter with the Appellate Authority, alleging that the information furnished was incomplete. The Authority said the information relating to marks could not be furnished as it came under the exempted category of the Act. Alagiriswami then filed an appeal with the TNSIC, which said the information did not fall under the exempted category and issued a notice to the TNPSC in June 2009.

Hence, the present petition.

The judge also dismissed another writ petition from ELCOT challenging orders dated January 31, 2008 of the TNSIC. In this case, R Rajendran, who had been working in a salt plant in Tiruporur, sought information regarding the field inspection report of officers of ELCOT, which was proposing to acquire land in and around Tiruporur for certain projects.

ELCOT rejected the plea.

Rajendran went in appeal and the TNSIC directed ELCOT to furnish the information. ELCOT then moved the HC.

**Plea dismissed**

Dismissing a writ petition from the public information officer of the Archives and Historical Research, TN Archives, Justice Chandru said that the right to information, as guaranteed by the law of Parliament, could not be denied citing administrative difficulties.

The contention that the TN Archives were maintaining a large number of documents and were short of staff could not be grounds to deny a citizen's right to seek information, he said.

**8<sup>th</sup> January, 2010**

**Info panel slams state govt. for RTI mess**

*The Indian Express*

Kolkata : In a scathing indictment, the West Bengal Information Commission has lambasted the state government for allegedly harassing people seeking information from several departments under the Right to Information Act.

“There is little effort on the part of the public authority to intimate the citizens about the particulars of the State Public Information Officers (SPIOs) which results in undue harassment for those seeking information,” the Commission says in a report that makes a detailed assessment of the performance of various government departments in implementing the RTI Act.

The report also lists defaulter departments that failed to provide information sought under the RTI Act.

Several NGOs and individuals had alleged it was very difficult to trace public information officers in government offices. Several departments are yet to appoint SPIOs and as a result, many applications could not be filed.

“There are public authorities, especially autonomous and local bodies, which are yet to designate SPIOs. Some even say they do not have sufficient officers to be designated as SPIOs,” the report says.

The report, which assessed performance in the past three years since the inception of the State Information Commission, has highlighted the apathy of several departments in providing information within the 30-day deadline.

The report says during the nascent period, getting a response from SPIOs within a period of 30 days was rather an exception.

But things have improved during the course of time.

“Though the 30-day deadline has not yet been achieved to the level of satisfaction, there is a perceptible effort on the part of SPIOs trying to respond to the requests as early as possible. But the poor state of record-keeping at times renders furnishing of information nearly impossible,” says the report.

“Most of the government departments still run in an archaic fashion. The need to categorize and index the records and to computerize these is a far cry,” it adds.

“Till now, it is a big question about how far this information is updated on a regular basis,” the report says.

### **The defaulting departments**

- \* Administrative Training Institute
- \* DM, Hooghly
- \* DM, North 24-Parganas
- \* DM, South 24-Parganas
- \* Excise department
- \* Fire and Emergency Services
- \* Hooghly River Bridge Commissioner
- \* Housing Department
- \* Howrah Municipal Corporation
- \* Minorities Development and Welfare
- \* Madrasah Education department
- \* Refugee Relief and Rehabilitation department
- \* Siliguri Municipal Corporation
- \* Sports Department
- \* West Bengal Joint Entrance Examination Board
- \* West Bengal Valuation Board

**11<sup>th</sup> January, 2010**

**Your income tax details not out of bounds,**

*The Economic Times*

BANGALORE: Want to know how much income tax your neighbour pays? Just file an RTI. In a ruling that is bound to have ramifications, specially on big tax-payers, and in a move aimed at curbing tax evasion, the Central Information Commission has ruled that seeking information on income tax is not invasion of privacy.

Ruling out that disclosure of information would lead to unwarranted invasion of the privacy of the individual, CIC Shailesh Gandhi observed: "The concept of 'privacy' is a cultural notion, related to social norms, and different societies would look at these differently. Therefore, referring to laws of other countries to define 'privacy' cannot be considered a valid exercise to constrain the Citizen's fundamental Right to Information in India."

The CIC in his order said: "Parliament has not codified the right to privacy so far, hence, in balancing the Right to Information of Citizens and the individual's Right to Privacy, the Citizen's Right to Information would be given greater weightage."

While agreeing that the state has no right to invade the privacy of an individual, the CIC made it clear that there are some extraordinary situations where the state may be allowed to invade the privacy of a citizen. "Routine obtaining of information from citizens by the state will not be an intrusion on privacy."

The CIC's order came on an application filed by Rakesh Kumar Gupta of Delhi seeking all records available with the IT department including assessment records of all levels with regard to Escorts Limited including Escorts Heart Institute and Research Centre (Chandigarh and Delhi).

The CIC said as per Section 8 (1) (b) of the Act: There shall be no obligation to give any citizen, information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court."

“But since no evidence has been shown that the disclosure of the exemption has been expressly forbidden by any court of law or tribunal, there appears to be no ground for claiming exemption under Section 8 (1)( b).”

On arguments that revealing the information related to Escorts chief Dr Naresh Trehan is personal as it contains personal financial information of the assessee, including various assets, income and expenditure, and the disclosure of this information has no relationship with any public activity or interest.... ” the CIC observed: “Various public authorities in performing their functions routinely ask for ‘personal ’ information from citizens and this is clearly a public activity. When a person applies for a job, or gives information about himself as an employee , or asks for a permission, licence or authorization, all these are public activities. Also, when a citizen provides information in discharge of a statutory obligation, this too is a public activity.

“If the appellant is assisting the department by bringing instances of tax evasion to its notice, and if he is using information that he has received through RTI applications for this purpose , it cannot be considered to be misuse of information in any way, nor can it be considered an unwarranted invasion of privacy of the assessee. Hence the arguments raised by Dr Trehan that the RTI application is motivated by ill-will and malice, with the motive to harass and blackmail the assessee are unfounded because, as stated above, a public interest is served if tax evasion is curbed.”

With this, the CIC has directed the PIO to provide the inspection of the records and also the other information sought by the appellant before January 15, 2009.

**11<sup>th</sup> Jan, 2010**

## **Open Sesame**

*The Times of India*

The scope of the Right to Information (RTI) Act just got widened. Two orders, one by the Delhi high court and the other by the Central Information Commission (CIC), have made it clear that norms of transparency must get precedence over exceptions made under the claims of right of privacy if an individual comes under the definition of public authority or an autonomous body receives public funding.

This is how it ought to have been from the beginning though many public officials and institutions, as well as autonomous bodies receiving public funds seem to think that they can escape the ambit of the RTI Act by defining themselves as organisations functioning independent of the government or citing reasons of privacy.

The directives from the CIC and the high court are positive steps towards infusing more transparency in governance and the use of public funds. The CIC order came after an RTI application seeking a disclosure of assets owned by an employee of the Municipal Corporation of Delhi was dismissed on grounds that it was a private matter and hence need not be made public. The CIC found the argument flawed.

All public officials are needed to declare their assets and liabilities under the employee service rules. There is no reason why the disclosures must not be made public. Legislators and high-ranking public servants like Supreme Court judges already do so. Transparency at all levels of the bureaucracy is necessary to ensure that a high level of probity is maintained in the functioning of public institutions and the utilisation of public resources. Lower levels of bureaucracy are certainly not immune to corruption and any step that helps to reform its conduct and makes it accountable to citizens is welcome.

Similarly, the HC's directive to the Indian Olympic Association and the Commonwealth Games Organising Committee to make their functioning transparent

is in the spirit of the RTI Act. These bodies - and Delhi-based Sanskriti School mentioned in the HC order - receive substantial aid from the government.

There is no reason why such institutions should function as if they are private bodies and refuse public scrutiny. Most of our sports bodies are opaque institutions even though they are run on largesse from the government. If we produce successful sportspersons it is despite these bodies.

A first step to reforming the system is to make them account for the public funds they receive in the name of promoting sports. Accountability will follow if there is greater transparency in their functioning.

**11<sup>th</sup> January, 2010**

**11K cases pending with info officers**

*The Times of India*

MUMBAI: Even as the Right to Information Act (RTI) enters its fifth year, the information commissions across the state are struggling to clear the huge backlog of cases, which is apparently making applicants lose faith in the sunshine act.

According to the record, a whopping 11,355 second appeals were still pending with the seven information commissioners across the state till November, last year. A second appeal is filed by the RTI applicant after both the RTI query and the first appeal gets rejected.

An audit of the pendency of second appeals with various information commissions show that the information commission in Pune has the highest number of pending cases (3,723), followed by the Aurangabad commission with 2,667 cases. Amaravati and Mumbai division (including Nashik) come in the third and fourth rank with 1,762 and 1,126 cases.

State chief information commissioner Suresh Joshi told TOI that the information commissioners' had improved compared to what it was in 2008 and the pendency figures have now come down from more than 15,000 to 11,355 appeals. "But RTI activists obviously want a faster disposal rate of appeals. All the commissions, put together, have been disposing an average of 2,000 cases every month," Joshi said.

"Each of the information commissioners clear around 192 cases every month, but they should try to bring the figure up to around 350-400 cases every month if they are serious about clearing the backlog," said RTI activist Vihar Dhurve.

Concurs RTI activist Milind Mulay: "The information commissioner should impose penalties on the PIOs who are not complying with the orders. If strict action is not taken, then PIOs will not even bother to provide the data asked for. Moreover, the

appellate authority rarely passes strictures against the PIOs and they seem to be hand in glove with the PIOs for denying the information," said Mulay.

Bhaskar Prabhu, convener of Mahiti Adhikar Manch, said they have been fighting against the piling up of cases for the past two years. "We have been asking to increase their disposal rate to at least 20-25 every day. Chief information commissioner Shailesh Gandhi had shown the way by clearing more than 500 cases every month," Prabhu said.

According to Joshi, the steep rise in pendency was because for the initial period of one-and-a-half years, the state had only one commissioner. "But now, we have improved our disposal rate and are better than the CIC. This year, we hope to reduce the gap even further," Joshi added.

**11<sup>th</sup> Jan 2010**

**Sorry, you can catch this train only in 2011**

*DNA*

If you are wondering when the Bangalore Metro work on the Trinity Circle stretch is going to get over, here's a piece of bad news. Although the Bangalore Metro Rail Corporation Limited (BMRCL) has set a December 2010 deadline for the trial run of the metro rail's Reach 1 (Baiyappanahalli to Cricket Stadium), the slow pace of work at the Trinity Station will stretch it to 2011. Information procured by *DNA* through an RTI (right to information) application reveals that only 12 per cent of the work has been completed on the Trinity Station, while land acquisition for the completion of the MG Road Station or Plaza Theatre Station is still stuck with litigation. The court orders in this case have been reserved for over a year in the high court. "We cannot comment on this as the case is in the court," said a senior official of BMRCL.

The RTI details, on the status of work completion as of November 2009, at the other five stations on Reach 1 include Baiyappanahalli (27 per cent), Old Madras Road (31 per cent), CMH Road (31 per cent), Ulsoor (39 per cent) and MG Road (30 per cent). BMRCL's 2010 newsletter show that "the work at all the six stations has already commenced and is around 25 per cent."

While the 25 per cent is the average mentioned, work at Trinity Station is lagging behind and this delay is going to drag the overall works on Reach 1 of metro rail. The Trinity and MG Road station works have been awarded to Punj Lloyd at the cost of Rs87.22 crore. However, a senior official of BMRCL said they were positive about completing the work. "The work on Trinity station is on schedule. There is no delay in Reach 1. It won't take much time," said the official.

**12<sup>th</sup> January, 2010**

### **Cops gun for head, chest in encounters**

*The Times of India*

MUMBAI: While Mumbai police find themselves embroiled in yet another allegation of a fake encounter killing, a Right to Information (RTI) response reveals some interesting facts about encounters that have taken place over the past six years.

There have been 48 encounter killings from January 1, 2004, to August 31, 2009, which works out to around eight encounter deaths a year. Furthermore, in as many as 30 of these killings, those who were gunned down by the police were shot directly in the head and chest or just the chest. The RTI reply comes from the police department itself and says that in only one of the 30 killings was the suspect shot in the legs.

“The data clearly shows that the police are mainly aiming to kill rather than capture the suspect,” said Khar-based activist Yogacharya Anandji, who filed the RTI query. Encounter killings are believed to have been initiated in the mid-1990s as a way of eliminating underworld gangsters in Mumbai. However, the police were later accused of staging several fake encounters. Recently, dismissed encounter specialist Pradeep Sharma was arrested in connection with the November 11, 2006, killing of Ramnarayan Gupta.

The latest RTI response came after Anandji asked for details of how many people were shot in the arms, legs, shoulders, head and chest in encounters over the past few years. Former top cops and judges said that the police are vested with powers to fire at a criminal only if he is trying to overpower them or flee the scene of a crime.

“The intention should not be to shoot to kill. The police manual clearly says that the cops should open fire below the belt if an accused is fleeing. The powers should not be misused,” said Y P Singh, former IPS officer and now a lawyer.

According to Singh, many of the encounter killings needed to be re-examined and added that the fact that a majority of the alleged criminals were shot in the chest and

head could mean that the shooter was at close range. "It is shocking that only one person was shot in the leg. Also, the fact that none of the police officers died in these encounters or got seriously injured puts a question mark on the incidents," Singh said. He said ballistic reports of the encounters would reveal from what range the shots were taken.

The former cop maintained that senior police officers of every zone knew about the encounters in their jurisdiction. "The courts need to be told of every killing, and an independent inquiry needs to be conducted into every case," he said.

Former additional chief metropolitan magistrate Holambe Patil said, "The police have been vested with powers to use weapons in self-defence, but firing at a defenceless person can be treated as homicide under the law."

Some lawyers also question the powers given to the police to kill alleged criminals in encounters. "All these encounters should be subject to judicial scrutiny. It is shocking that the police do not even file an FIR but just file an inquest proceeding, which is a formality when an unnatural death occurs in the city," said activist-lawyer Yug Choudhary, who fought custodial death cases in the Bombay high court recently.

**12<sup>th</sup> January, 2010**

**RTI act most significant event of Indian democracy: Delhi high court**

*Daily News & Analysis*

Observing that democracy expects openness and transparency, the Delhi High Court today hailed the Right to Information Act as "the most significant event of Indian Democracy".

"After almost 55 years since the coming into force of the Constitution of India, a national law providing for the right to information was passed by both Houses of Parliament on 12/13th May, 2005. It is undoubtedly the most significant event in the life of Indian Democracy," a full bench headed by chief justice A P Shah said, while holding that the office of CJI comes within the ambit of the transparency law.

"Democracy expects openness and openness is concomitant of free society. Sunlight is the best disinfectant," the court said.

Giving a wider interpretation to the law, the court said that right to information was part of fundamental rights enshrined in Articles 14 (right to equality), 19(1)(a)(freedom of speech) and 21 (right to life) of the Constitution.

"In construing such a statute, the Court ought to give to it the widest operation which its language will permit. The Court will also not readily read words which are not there and introduction of which will restrict the rights of citizens for whose benefit the statute is intended," it said.

The bench, also comprising Justices Vikramajit Sen and S Muralidhar, said that right to know the facts about the administration of the country is thus one of the pillars of a democratic State.

"Information is currency that every citizen requires to participate in the life and governance of the society. In any democratic polity, greater the access, greater will be the responsiveness and greater the restrictions, greater the feeling of powerlessness and alienation," the court said.

Today's verdict came on an appeal filed by the apex court which challenged the order of a single judge of the high court on September 2 holding that the CJI is a public authority and his office came within the purview of the RTI Act.

13<sup>th</sup> Jan, 2010

### **CJI comes under RTI, rules Delhi HC.**

*The Economic Times, New Delhi:*

In a landmark verdict, the Delhi high court on Tuesday said the Chief Justice of India is a public authority and his office comes within the ambit of the RTI Act as the concept of judicial independence is not judge's personal privilege but responsibility cast on the person.

This is in sharp contrast to Chief Justice of India K G Balakrishnan's stand that his office was outside the ambit of the transparency law.

However, the high court added that notes, jottings and draft judgments of the CJI's office would not fall within the umbrella of the transparency law. But "if the judge turns in notes, along with the rest of his files to be maintained as a part of the record, the same may be disclosed," court said.

The apex court will now have to appeal to itself against the high court order . As soon as the court pronounced its verdict, counsel for the apex court sought the certificate copy of the HC order to file an appeal.

As a natural corollary of the high court verdict, the information pertaining to the assets of the apex court judges, the appointment of judges to the apex court furnished to the office of the CJI will come within the purview of the transparency law. The declaration of the assets by 25 judges of the Supreme Court, including the CJI and one retired judge (Justice B N Agrawal) which has been posted on the web site of the apex court, however , says, such declaration was purely voluntary.

A full bench of the high court headed by Chief Justice A P Shah, Justice Vikramajit Sen and Justice S Muralidhar dismissed the appeal of the apex court which had vehemently opposed bringing CJI's office within the purview of the act on the ground that it would encroach into its judicial independence.

"Judicial independence is not the personal privilege or prerogative of the individual

judge. It is the responsibility imposed on each judge to enable him or her to adjudicate a dispute honestly and impartially on the basis of the law and the evidence,” said the high court in its 88 page judgment.

The high court said, higher the judge is placed in the judicial hierarchy , greater was the standard of accountability and stricter the scrutiny. “If declaration of assets by a subordinate judicial officer is seen as essential to enforce accountability at that level, then the need for such declaration by judges of the constitutional courts is even greater,” it said turning down the plea that Supreme Court judges are not bound to declare their assets.

Giving a wider interpretation to the transparency law, which was hailed as “the most significant event in the life of Indian democracy” , the court said that right to information was part of Fundamental Rights enshrined in Articles 14 (right to equality), 19(1)( a)( freedom of speech) and 21 (right to life) of the Constitution.

“The source of right to information does not emanate from the Right to Information Act. It is a right that emerges from the constitutional guarantees under Article 19(1)( a) as held by the Supreme Court in a catena of decisions . The Right to Information Act is not repository of the right to information,” the court said.

The court said that the standards of judicial behaviour, both on and off the bench, were normally extremely high. “For a Judge, to deviate from such standards of honesty and impartiality is to betray the trust reposed to him... A judicial scandal has always been regarded as far more deplorable than a scandal involving either the executive or a member of the legislature. The slightest hint of irregularity or impropriety in the court is a cause for great anxiety and alarm,” said the bench in its unanimous judgment.

The high court said that the unanimous resolution of SC judges passed in 1997 on declaration of assets cannot be questioned now. The judges had then decided to put details of their assets in public domain. It also observed that the judges of the higher judiciary were not less accountable than the judicial magistrates legally bound to declare their assets.

The Supreme Court had appealed before the division bench of the high court challenging order passed by a single-judge bench of the high court. Justice S Ravindra Bhatt had said, "CJI is a public authority under the RTI Act and the CJI holds the information pertaining to assets declaration in his capacity as Chief Justice. That office is a public authority under the Act and is covered by its provisions." Realising the importance of the case, the division bench had referred the case to a full bench.

Advocate Atul Nanda, appearing for the apex court, contended the issue is of national importance and so it has to be decided by the apex court.

The high court order was welcomed by the legal fraternity. The government on its part, however, said, the verdict by which details of judges assets can be sought invoking RTI should not affect the "independence" of judiciary . "We must safeguard the independence of judiciary... We do not consider the verdict as an embarrassment ," law and justice minister Veerappa Moily said. Moily noted there are still avenues of appeal to the Supreme Court but did not want to comment further.

Advocate Prashant Bhushan, appearing for RTI activist Subash C Agarwal , who is behind the campaign for judges to declare their assets, said, "It is a very historic judgment by the high court which will certainly enhance the stature of judiciary in the country." Senior advocate and Congress spokesman A M Singhvi welcomed the verdict and hoped that the administrative side of the apex court would not go in appeal on the judicial side.

Former Chief Justice of India J S Verma, who was instrumental in getting the May 7, 1997, resolution passed unanimously pertaining to declaration of assets by the judges publicly opined that the assets of the Supreme Court judges were very much in the public domain.

**13<sup>th</sup> Jan, 2010**

**CJI comes under RTI, rules Delhi HC,**

*The Economic Times*

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The high court said, higher the judge is placed in the judicial hierarchy , greater was the standard of accountability and stricter the scrutiny. “If declaration of assets by a subordinate judicial officer is seen as essential to enforce accountability at that level, then the need for such declaration by judges of the constitutional courts is even greater,” it said turning down the plea that Supreme Court judges are not bound to declare their assets.

Giving a wider interpretation to the transparency law, which was hailed as “the most significant event in the life of Indian democracy” , the court said that right to information was part of Fundamental Rights enshrined in Articles 14 (right to equality), 19(1)( a)( freedom of speech) and 21 (right to life) of the Constitution.

“The source of right to information does not emanate from the Right to Information Act. It is a right that emerges from the constitutional guarantees under Article 19(1)( a) as held by the Supreme Court in a catena of decisions . The Right to Information Act is not repository of the right to information,” the court said.

The court said that the standards of judicial behaviour, both on and off the bench, were normally extremely high. “For a Judge, to deviate from such standards of honesty and impartiality is to betray the trust reposed to him... A judicial scandal has always been regarded as far more deplorable than a scandal involving either the executive or a member of the legislature. The slightest hint of irregularity or impropriety in the court is a cause for great anxiety and alarm,” said the bench in its unanimous judgment.

The high court said that the unanimous resolution of SC judges passed in 1997 on declaration of assets cannot be questioned now. The judges had then decided to put details of their assets in public domain. It also observed that the judges of the higher

judiciary were not less accountable than the judicial magistrates legally bound to declare their assets.

The Supreme Court had appealed before the division bench of the high court challenging order passed by a single-judge bench of the high court. Justice S Ravindra Bhatt had said, "CJI is a public authority under the RTI Act and the CJI holds the information pertaining to assets declaration in his capacity as Chief Justice. That office is a public authority under the Act and is covered by its provisions." Realising the importance of the case, the division bench had referred the case to a full bench.

Advocate Atul Nanda, appearing for the apex court, contended the issue is of national importance and so it has to be decided by the apex court.

The high court order was welcomed by the legal fraternity. The government on its part, however, said, the verdict by which details of judges assets can be sought invoking RTI should not affect the "independence" of judiciary . "We must safeguard the independence of judiciary... We do not consider the verdict as an embarrassment ," law and justice minister Veerappa Moily said. Moily noted there are still avenues of appeal to the Supreme Court but did not want to comment further.

Advocate Prashant Bhushan, appearing for RTI activist Subash C Agarwal , who is behind the campaign for judges to declare their assets, said, "It is a very historic judgment by the high court which will certainly enhance the stature of judiciary in the country." Senior advocate and Congress spokesman A M Singhvi welcomed the verdict and hoped that the administrative side of the apex court would not go in appeal on the judicial side.

Former Chief Justice of India J S Verma, who was instrumental in getting the May 7, 1997, resolution passed unanimously pertaining to declaration of assets by the judges publicly opined that the assets of the Supreme Court judges were very much in the public domain.

**13<sup>th</sup> Jan 2010**

**SC may appeal to itself, jurists hope it doesn't**

*The Indian Express*

New Delhi: If the Supreme Court decides to appeal against the Delhi High Court judgment bringing the office of the Chief Justice of India under the Right to Information Act, it would ironically do so before the apex court itself — something that could give rise to the issue of conflict of interest, the doctrine of necessity notwithstanding. The Court will wait to examine a certified copy of the judgment before taking a decision.

Within moments of the pronouncement of the judgment on Tuesday, advocate Atul Nanda, who appeared for the Supreme Court in the HC in the matter, moved an application asking the HC to issue a certificate to the effect that the issue under scrutiny involves a substantial question of law as to the interpretation of the Constitution, and hence should be decided by the apex court. The Bench immediately agreed and granted the certificate.

On its part, the Union Law Ministry said the HC judgment “should not affect the independence of judiciary” and that there were avenues of appeal open to the Supreme Court. “We must safeguard the independence of judiciary... We do not consider the verdict an embarrassment (for the judiciary),” Union Law Minister M Veerappa Moily said.

Nanda said after a certified copy of the judgment is received, the matter would be discussed with the Supreme Court Secretary General. “If we are instructed, we will file an appeal,” he told *The Indian Express*.

Sources in the apex court said the SC Registry would “most certainly” appeal against the judgment. “We will place the matter before the CJI and seek instructions. There is time. But it is a fit case for appeal,” a source said.

However, jurists and eminent lawyers have welcomed the HC verdict. “I am very happy... I wish this view had been taken without the need for a judicial verdict. As I

have said earlier, I hope they don't go for an appeal in this case, as one should not be a judge in one's own cause," former chief justice of India J S Verma said.

Another former CJI, V N Khare, asserted that fears that the RTI Act could be abused to get details of judges' assets were unfounded. "In case somebody abuses this RTI, the Supreme Court is strong enough to take action against them. So there is nothing wrong in your assets being in public domain," he said.

Senior Supreme Court lawyer Prashant Bhushan, who appeared for RTI activist Subhash Agarwal in the case, called the judgment "very historic". "It will certainly enhance the stature of judiciary in the country," he said.

Senior advocate and Congress spokesman A M Singhvi hoped the Supreme Court would not appeal against the verdict. "Perhaps one can go to the extent of adding that hopefully, the Supreme Court on its administrative side will decide not to appeal on its judicial side," Singhvi said.

Senior advocate K T S Tulsi said the decision was "a significant step in the journey towards transparency in the fun.

**14<sup>th</sup> January, 2010**

**HC fines NGO Rs 40L for frivolous PIL**

*The Times of India*

MUMBAI: Taking a strict view of “frivolous petitions” that flood the courts, the Bombay high court — in an unprecedented move — has ordered a city-based organisation, the Bhrastachar Nirmoolan Sanghatana, to pay Rs 40 lakh as legal costs after dismissing their public interest litigations against a super-luxury tower on Peddar Road.

Terming it as an “abuse of the process of law”, a division bench of acting Chief Justice J N Patel and Justice B R Gavai said that the tendency to file PIL on flimsy grounds needed to be curbed.

The court remarked that it had become a practice to obtain information under the Right To Information Act. A flood of such RTI-based PILs, many with sketchy details, had been filed, added the court. “The petitioners who drag people to court themselves do not have anything to lose,” said the court, adding that it caused harm not only to the finances of the respondents but also to their reputation.

**14<sup>th</sup> January, 2010**

**SC should not file appeal on the RTI order: Justice Rama Jois**

*DNA – Daily News and Analysis*

The Supreme Court should restrain from filing an appeal against the Delhi High Court judgment that the office of the chief justice of India came within the ambit of the Right to Information Act, former chief justice of Punjab and Haryana High Court M Rama Jois, said today.

"It would be better the Supreme Court restrains itself from filing an appeal against the judgement of the Delhi High Court to itself", Jois, a Rajya Sabha member and former governor of Jharkhand and Bihar, said in a statement here.

He said though the Delhi High Court's full bench judgement rejecting the contention of the apex court that the CJI office was beyond the ambit of RTI Act, was "undoubtedly the proof of independence of judiciary, the fact that such an occasion arose for the high court is unfortunate".

"In my humble opinion, any appeal by the Supreme Court to itself against the judgement of Delhi High Court, would be incongruous.....common man gets an impression that appeal against the order of High Court is being filed before the respondent himself and by filing an appeal Supreme Court would be exposing itself to criticism that it is no better than an ordinary litigant", he said.

In order to ensure that the principle laid down in the high court judgment may not be extended to other matters to which doctrine of privilege extends, it would be appropriate for Central government to make a clarificatory statement to the RTI Act or to make a reference regarding scope and ambit of RTI Act by the president to Supreme Court under Article 143 of the Constitution, Justice Jois said.

In the path-breaking judgement, a three judge Bench of the high court headed by chief justice AP Shah had held that the office of the CJI comes under the ambit of the RTI Act. The apex court has decided to appeal against the judgment.

CJI KG Balakrishnan yesterday said a full Court of the apex court would consider the implication of the high court verdict.

**15<sup>th</sup> January, 2010**

## **Right to privacy**

### *Business Standard*

Two recent rulings relating to the Right to Information (RTI) Act have favoured a broad interpretation of the ambit of the law. The ruling that has invited the most comment is by a full bench of the Delhi High Court, which has upheld the view taken by a single judge of the court that the office of the Chief Justice of India is covered by the RTI Act. The other ruling, a few days earlier, was by the Chief Information Commissioner who declared that individual income tax records can be sought under the RTI law, on the ground that it is not an invasion of privacy and that it will help curb tax evasion. Both rulings deserve comment.

The Delhi High Court ruling is entirely correct in its view, and has transparent logic to back it. It points out that public declaration of assets is already prevalent in the lower judiciary and, therefore, it is logical that it apply also to the higher judiciary. The Chief Justice of the Supreme Court had taken the position that resolutions adopted unanimously by Supreme Court judges, favouring such transparency, did not have the force of law and compliance was, therefore, voluntary. This view has been shot down twice, so it is a matter of regret that the Supreme Court has decided to go in appeal. Since Supreme Court judges will hear such an appeal, this creates an extraordinary situation where the court will appear before itself. Surely, such a situation should have been avoided. It does not call for too much on behalf of the Chief Justice to acknowledge that the overwhelming weight of judicial as well as public opinion is in favour of greater judicial transparency. Indeed, the Justice PD Dinakaran case underlines the importance of such transparency.

The other ruling, on making personal income tax records available to any RTI applicant, is less easy to defend. The commissioner in question has argued that Parliament has not codified the right to privacy, and that privacy is a culturally defined issue. That may be the case, but it does not follow that making tax records public is not an invasion of privacy. What then of bank records? Is every citizen obliged to make all his personal financial dealings public, merely because some individual somewhere asks for it? Those seeking to hold public office are already obliged to make a variety of declarations; that may not be sufficient, and greater

transparency might be called for. But when it comes to private citizens, the logic is faulty. If the issue is curbing tax evasion, what if no prima facie case has been made out concerning such evasion? Indeed, what if no public purpose is involved at all and the only objective is financial voyeurism? This provides a good opportunity to Parliament to correct the situation by codifying the right to privacy — especially since the project for issuing a unique identification number to all comers brings with it several privacy questions that also need to be addressed. The RTI Act must strike a balance between a commitment to transparent governance and to protection of a citizen's right to privacy.

**15<sup>th</sup> January, 2010**

**Shed Colonial Legacy, cops told**

*The Indian Express*

ROURKELA: Senior cops from three police districts in western range (WR) were sensitised on the Right To Information (RTI) Act for better accountability and transparency in actions of the force.

Officers from Rourkela, Sundargarh and Keonjhar police districts in the ranks of SPs, ASPs, DSPs and IICs manning 57 police stations attended the two-day workshop which concluded here recently under the aegis of the Orissa Information Commission.

They were impressed upon to shed the obsolete 'colonial police legacy' and distinction was drawn between the Freedom of Expression and the RTI in disseminating information with the latter entailing penal provisions on non-compliance.

Director of the Biju Patnaik State Police Academy and IGP (Training) Satyajit Mohanty elaborated on the jurisdictions of appellate bodies, RTI hierarchy, penal provisions on deliberate non-compliance and guidelines to be followed by Public Information Officers (PIOs) and Assistant IPOs.

Mohanty told this paper that India ranked far behind at 168 among transparent nations, hoping in the next one-and-half-decade the country would leapfrog into the list of 50.

He underlined transparency and accountability in police force as key proponents to good governance, adding that he saw no hiccups to implement the Act in true spirit excepting the need to discard the colonial mindset.

**15<sup>th</sup> January, 2010**

## **Right to privacy**

### *Business Standard*

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transparency might be called for. But when it comes to private citizens, the logic is faulty. If the issue is curbing tax evasion, what if no prima facie case has been made out concerning such evasion? Indeed, what if no public purpose is involved at all and the only objective is financial voyeurism? This provides a good opportunity to Parliament to correct the situation by codifying the right to privacy — especially since the project for issuing a unique identification number to all comers brings with it several privacy questions that also need to be addressed. The RTI Act must strike a balance between a commitment to transparent governance and to protection of a citizen's right to privacy.

**15<sup>th</sup> January, 2010**

**SC wants daily grant for CJI wife's trip**

*The Indian Express*

New Delhi : The Supreme Court wants the Justice Department to change the rulebook to give Chief Justice of India K G Balakrishnan's wife daily allowance for a six-day visit she made to Dublin and London from October 12-18, 2009, the Law Ministry has said in a Right to Information (RTI) reply.

The Secretary General of the Supreme Court, who heads the administrative side of the apex court, told the Department of Justice, Ministry of Law and Justice, that Indian Missions abroad paid her a daily allowance, and so the ministry could also incorporate the practice.

If the request is conceded, the public exchequer will have to bear additional expenses in the form of "daily allowance" to apex court judges' wives travelling abroad. Currently, the Justice Department pays for only the air passage of spouses who accompany Supreme Court judges, including the CJI, for official tours abroad.

"The Secretary General, Supreme Court of India, has recently requested to issue revised sanction allowing daily allowance to the spouse of Chief Justice of India for six days for visit to Dublin and London from October 12 to October 18, 2009, as she has been getting this from the Indian Missions abroad," said S K Shrivastava, Deputy Secretary to the Government of India and Central Public Information Officer, Justice Department, in a reply dated January 13, 2010, to an application by RTI applicant Subhash Chandra Agarwal.

The reply comes a day after the Delhi High Court declared the CJI and Supreme Court public authorities answerable to the private citizen under the RTI Act, 2005, on another plea filed by Agarwal.

Though the latest RTI plea concerns a two-month-old trip, the Justice Department official said the file for sanctioning a daily allowance was still pending with the government. "The matter is under examination in consultation with AS&FA (Law)/Ministry of Finance (Department of Expenditure)," Shrivastava wrote.

“In regard to foreign official visits of the Chief Justice of India and the judges of the Supreme Court, this department has sanctioned only air passages for the accompanying spouse. No other allowance has been sanctioned,” stated Shrivastava.

The reply admits that so far there are no specific rules to govern the foreign official travels of judges and their spouses. “Taking of a spouse by the Honourable Judge of the Supreme Court during his/her official visits abroad is only a matter of convention and is permitted at the expense of the Government of India on a case-to-case basis,” it says.

The department replied in the negative to a question asking if there was any law telling judges and their spouses to take the shortest air-route or any provision to insist that they pay back the government the airfare difference and stay costs if they did not go by the book.

To date, Shrivastava said, the Justice Department had not issued “separate instructions” on the financial conduct and expenses of Supreme Court judges travelling abroad, but said they were governed by instructions of the Ministry of Finance in this regard.

**15<sup>th</sup> January, 2010**

### **RTI activists want better protection**

*DNA*

Upset by the brutal murder of RTI activist Satish Shetty in Pune on Wednesday, citizens using the Right To Information Act in Mumbai say the authorities need to answer some questions urgently.

Bhaskar Prabhu, a prominent RTI activist, said, "Recent cases have put a question mark on people's security. In some cases they [government officials] are even revealing the names of whistle-blowers."

Activist Milind Mulay said, "Instead of taking action when we bring irregularities to light, they claim there is no irregularity and leak our names. People then come asking for us."

Mulay was shocked when two hawkers from his area came to his building to inquire about him. "They had come and met some people downstairs," he said.

Activist Vihar Dhurve said that as more of the corrupt are exposed, those doing the exposing will be targeted. "We hear people threatening even greats like Anna Hazare," he said.

"He is a big man, but what happens to people who are small and want to serve society? A witness protection programme or whistleblowers' act should be introduced."

Worried, the activists have dashed off letters and emails to chief minister Ashok Chavan, protesting against the threats and attacks. "We are circulating an online petition demanding greater safety for activists, including preemptive action by the police," said GR Vora.

But the activists do not have much hopes from the police. "No one will be caught and even if he is, they will have loopholes in the case and he will go free," said Dhurve.

Vijay Kuvlekar, Pune information commissioner, said "This is shocking and serious. Why it happened should be found and quick punishment meted out, else the spirit of the RTI Act will be hampered."

Central information commissioner Shailesh Gandhi said, "I am sure RTI activists around the country will pursue the exposure of those bleeding society with greater vigour. This would be the best tribute to Satish Shetty and an effective warning to those who expect to silence the voices of those who expose criminal actions which harm citizens."

**16<sup>th</sup> January, 2010**

**PU fails to practise what it preaches**

*The Indian Express*

Chandigarh : *Holds seminar on RTI Act, but still to put up boards displaying info on PIOs*

Panjab University today organised a seminar on the use of Right to Information Act as an empowerment tool, but forgot to first set its house in order. More than four years after the implementation of the Act, PU is still to put up boards displaying names and designations of public information officers (PIOs) and the appellate authority on the campus.

An authority is required to make these details public within 120 days of enactment of the Act. PU Registrar S S Bari told Newline that the boards were being prepared and would be put up soon. When told that he had given the same plea six months ago, he said the Senate and the Syndicate's permission was required to put up the boards. He, however, added that they have put up the information on the university website.

Bari fumbled for words when asked how would a person, especially if he is from out of station, locate the RTI cell or the PIO concerned if he has no access to the internet at that time.

Meanwhile, V-C R C Sobti, who was upset over the misuse of the Act, used the seminar to air his grievances. His anger was fuelled by details of his petrol bills that were made public by the information seeker. "It was a co-incidence that I had used the car for personal work in that month. The information-seeker told the media about the Rs 28,000-petrol bill, but did not reveal that I had paid back Rs 19,000. My work requires me to travel every alternate day, and this aspect should be taken into account," he said.

Visibly perturbed by the flurry of RTI applications, he unfolded a list of problems that the university faces.

He said sometimes an applicant asks 128 questions in one plea and it is not possible to collect, collate and give information from 75 departments, six regional centres and 188 colleges. To strike a balance, he also gave a low-down on the lax attitude of his staff. He added that the staff too needs an orientation course.

Coming to his rescue, Punjab State Information Commissioner Rupan Deol Bajaj gave a nugget of advice.

Prescribing a panacea to his problems, the SIC said she has asked the V-C to make the most effective person in every branch the PIO, and every official associated with the RTI work should read the Act properly.

“It is a small Act with 31 Sections, and is not difficult to understand,” she said. Urging the public to ask information in public interest and not to settle scores, she said, “Please don’t crowd out the genuine information seekers with a spate of applications.”

She later addressed the problems of the university PIOs. The seminar was organised by the Department of Life Long Learning and Extension.

**16<sup>th</sup> January, 2010**

## **SC stays HC order on Reliance discoms**

*The Financial Express*

New Delhi Whether private power distribution companies fall under the Right to Information Act and can be made accountable to the people, who can seek all the information about their working after filing an application?

The issue has reached the Supreme Court which on Friday stayed the Orissa High Court ruling that held Reliance Infrastructure-owned three discoms, engaged in the distribution and retail supply of electricity in Orissa, as public authorities in terms of Section 2(h) of the Right to Information Act, 2005.

The high court had upheld the Orissa government's decision declaring discoms as "public authorities." As per Chapter 2 of the RTI Act, "All the bodies owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate government" should be under the purview of the Act.

A Bench headed by Justice VS Sirpurkar while issuing notice to the state government also stayed the high court judgement that held that the distribution companies are discharging governmental functions of distribution and supply electricity to the state and this is an essential public duty. The three discoms—Western Electricity Supply Company of Orissa, North Eastern Electricity Supply Company of Orissa, and the Southern Electricity Supply Company of Orissa—in their petitions said they are not an authority or a body or institution of self-government and were registered under the Companies Act with majority shares held by Reliance Infrastructure with their group companies having management and control and right to appoint majority of directors including managing director on the board of directors.

Besides, they said they collect electricity duty akin to several private sector companies collecting VAT, TDS, sales tax etc and cannot be interpreted to mean that they are performing the essential public duties. Mere holding of 49% equity by Gridco (which included 10% equity of employees Trust) cannot be a criterion to draw a conclusion that they fall under the ambit of the RTI Act, the petitions stated.

17<sup>th</sup> January, 2010

## **I screamed for help, but no one stopped'**

*Pune Mirror*

Newspaper vendor Vandana Gajanand, first to witness Shetty's plight, begged passers-by and motorists for help to take him to the hospital just 100 feet away, but failed



**Shop in front of which  
Shetty collapsed**

The woman who was the first to witness Right to Information (RTI) Act activist, Satish Shetty's plight after his gruesome murder on the morning of January 13, is yet to recover from the shock and the trauma of the incident.

While the cold-blooded manner in which Shetty was hacked to death has rocked the city, the apathy of passers-by that fateful day is sure to haunt Vandana Gajanand for a long time to come.

Vandana is a resident of Talegaon and owner of the newspaper stall in Talegaon Dabhade near which Shetty had stopped for his daily dose of news when he was attacked.

### **'NO ONE STOPPED TO HELP'**

Recounting her harrowing experience, a shuddering and stammering Vandana told Pune Mirror, "Satish Shetty lay in a pool of blood in front of my shop, groaning with pain.

I sought help from motorists and rickshawallas passing by but nobody stopped and came to help."

### **'I COULD HEAR HIS SCREAMS'**

Vandana said, "Every morning Shetty would take a walk from his house till the highway. On his way back, he would stop at my newspaper stall and sit for about 30

minutes reading papers. Just behind the stall is the Hari OM shop owned by my husband, where I'd go while Shetty sat reading.

On January 13 too, Shetty was at my stall reading papers. I went inside the shop to boil milk. My husband was not around.

Suddenly, I heard screams and instinctively hid under the counter, fearing the worst. I could hear Shetty screaming in pain, but I was too scared to come out.

Finally, when I did, the attackers had left. I saw Shetty in a pool of blood in front of the shop. The two shops adjacent to ours had not opened yet since it was around 7 am.”

#### **‘HOSPITAL WAS JUST 100 FEET AWAY’**

“I ran to the road seeking help. I tried stopping motorists and the rickshawallas. Everyone here knew Shetty and despite seeing him lying badly injured, no one bothered to stop and take him to the Bhandari hospital, which was just 100 feet away across the road,” she said.

“For the next 15 minutes, I was running on the road, begging passers-by to stop and help me take him to the hospital, but in vain.

Finally, I managed to stop a motorist and begged him to at least inform Shetty's family, so that they could come and take him to the hospital. By the time, Shetty's brothers had arrived.

I had to be taken to the hospital as well since my blood pressure had increased. I was picked up by the police who interrogated me for hours.”

“I am still not able to sleep at night as Shetty's image continuously flashes before my eyes. He was a very good man who would not think twice before helping anyone.

It's really sad and shameful that no one stopped to help him!” rued Vandana.

**17<sup>th</sup> January, 2010**

**Punjab judge got Rs 15 lakh: Governor**

*The Hindustan Times*

Two weeks after the 'cash-at-judge's door' scandal rocked the Punjab and Haryana High Court in mid-2008, Punjab Governor and Chandigarh Administrator Gen S.F Rodrigues (retd) had concluded that Justice Nirmal Yadav, sitting High Court judge, had been paid Rs 15 lakh, records at Raj Bhawan reveal.

Gen Rodrigues drew this inference from the Interim Investigation Reports of the Chandigarh Police as well as "inputs from other sources" and had brought the same to the notice of the then Chief Justice Tirath Singh Thakur of Punjab and Haryana High Court, according to confidential official documents procured by *Hindustan Times* under the Right to Information Act.

On August 26, 2008 – the day the Governor wrote to the Central Bureau of Investigation to take over the case – he shot off a letter (No. PS-Gov-08/399) to Justice Thakur, informing him on "certain conclusions that can be arrived at, from the investigation conducted so far".

The communication, inter-alia, says: "Justice Nirmal Yadav has allegedly been paid Rs 15.00 lakhs. The motive has to be established."

"There have been some inputs, from sources other than the police, which involve members of the judiciary. I feel they can be easily verified to maintain the highest standards of integrity in the judiciary" says the letter.

The 'cash-at-judge's door' scandal had broken out on August 13, when it was reported to the Chandigarh Police that a parcel containing Rs 15 lakh had been handed over to Justice Nirmaljit Kaur, a judge at Punjab and Haryana High Court, by Prakash Ram, an assistant munshi with Sanjiv Bansal, former additional advocate general of Haryana. The Chandigarh Police registered an FIR (no. 250 dated August 18) under the Prevention of Corruption Act and 120-B of IPC at Sector 11 Police station.

Between August 18 and August 25, the Punjab Governor, who is also Union Territory Administrator, sent three status reports of police investigations headed by an IG-rank officer to the Chief Justice of the High Court.

On his part, Justice Thakur, in a two-page communique ( D.O. letter 23/Spl/CJS, dated August 25, 2008) to Raj Bhawan, made a strong case for transferring the investigation to the CBI. "There is an urgent need for a credible investigation into all the aspects relating to the episode. That apart, the sensitivities involved and the position which some of those likely to be affected by the investigation are holding in our system, would, in my opinion, justify handing over of further investigation" he said.

The very next day, Gen Rodrigues wrote to the CBI director asking the premier investigating agency to take up the investigation of the case immediately. In his communication to the Director, CBI, Governor said: "Due to the ramifications and sensitivities involved, this case can be best investigated now by the CBI. I feel that case has very wide ramifications and involves very highly placed individuals, but we have enough inputs to indicate it will be possible to expeditiously unravel the case."

Eight months later, the CBI corroborated and confirmed Gen Rodrigues' conclusion that Justice Nirmal Yadav had received Rs 15 lakh in return for having "favorably decided" a legal case of Bansal at the high court. Two weeks after the 'cash-at-judge's door' scandal rocked the Punjab and Haryana High Court in mid-2008, Punjab Governor and Chandigarh Administrator Gen S.F Rodrigues (retd) had concluded that Justice Nirmal Yadav, sitting High Court judge, had been paid Rs 15 lakh, records at Raj Bhawan reveal.

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The ‘cash-at-judge’s door’ scandal had broken out on August 13, when it was reported to the Chandigarh Police that a parcel containing Rs 15 lakh had been handed over to Justice Nirmaljit Kaur, a judge at Punjab and Haryana High Court, by Prakash Ram, an assistant munshi with Sanjiv Bansal, former additional advocate general of Haryana. The Chandigarh Police registered an FIR (no. 250 dated August 18) under the Prevention of Corruption Act and 120-B of IPC at Sector 11 Police station.

Between August 18 and August 25, the Punjab Governor, who is also Union Territory Administrator, sent three status reports of police investigations headed by an IG-rank officer to the Chief Justice of the High Court.

On his part, Justice Thakur, in a two-page communique ( D.O. letter 23/Spl/CJS, dated August 25, 2008) to Raj Bhawan, made a strong case for transferring the investigation to the CBI. “There is an urgent need for a credible investigation into all the aspects relating to the episode. That apart, the sensitivities involved and the position which some of those likely to be affected by the investigation are holding in our system, would, in my opinion, justify handing over of further investigation” he said.

The very next day, Gen Rodrigues wrote to the CBI director asking the premier investigating agency to take up the investigation of the case immediately. In his

communication to the Director, CBI, Governor said: "Due to the ramifications and sensitivities involved, this case can be best investigated now by the CBI. I feel that case has very wide ramifications and involves very highly placed individuals, but we have enough inputs to indicate it will be possible to expeditiously unravel the case."

Eight months later, the CBI corroborated and confirmed Gen Rodrigues' conclusion that Justice Nirmal Yadav had received Rs 15 lakh in return for having "favorably decided" a legal case of Bansal at the high court.

**17th January, 2010**

**Three sent to police custody in RTI activist murder case**

*The Hindu*, Staff Reporter

PUNE: Three persons were sent on Saturday to police custody till January 25 in connection with the murder of Right to Information (RTI) crusader Satish Shetty (39). The three were identified as Vijay Dabhade, Parshuram Telugu and Pramod Waghmore. "Dabhade is a lawyer, Waghmore is a clerk in his office, while Telugu was one of Dabhade's clients," Bhausahab Andhalkar, an officer of the Pune Rural police's local crime branch heading one of the five teams probing the case, told *The Hindu*.

They were produced before the Wadgaon Maval Judicial Magistrate First Class. Mr. Andhalkar said a tiff between Dabhade and Shetty dated back to 2002. In 2008, Dabhade was charged under Section 307 [of the Indian Penal Code] for attempting to murder Shetty.

Exposed irregularities

The victim's younger brother Sandeep said Shetty had exposed the irregularities in the construction of Dabhade's bungalow. Mr. Sandeep, however, told *The Hindu* that he did not think these people were involved in the murder. "The police have a theory, but they are yet to prove anything," he said.

**18<sup>th</sup> January, 2010**

**Many still unaware of NREGA in villages**

*The Times of India*

RANCHI: Stressing the need for education and literacy, especially among women, state labour commissioner Aradhana Patnaik said it is the most essential tool for women empowerment.

Several welfare schemes have been launched in the state like National Health Insurance Scheme and smart cards and women should take advantage of these schemes meant for them, added the official.

Patnaik was addressing the gathering of women on the second day of state-level congregation of women with judiciary for interaction and solution, organized by Rural Litigation and Entitlement Kendra (RLEK) at Shamimabad village at Itki.

She also expressed her concern over the rising incidents of flesh trade among women.

Additional chief information commissioner RV Gupta shed light on the Right to Information Act 2005 and said enactment of this act is the real freedom for people living in the country.

Gupta heard several complaints of women who said that they were aware of the National Rural Employment Guarantee Act (NREGA) and no government official have ever briefed them about it.

He insisted that they should right an application to respective deputy commissioners and seek information and if their problems are not resolved there they can approach the information commission office.

Over dozen women complained that they did not get jobs despite having job cards, while others complained of less payment of wages. One Bhuwneswari Devi of Hazaribagh said instead of Rs 100 they used to get only Rs 70 as minimum wage.

International Labour Organization (ILO) representative Supriya Rao said at the workplace there should not be any discrimination between male and females on minimum wages.

Jharkhand State Legal Service Authority (JHALSA) member secretary Navneet Kumar and others highlighted the used of legal aid given by the authority and different organizations.

**18<sup>th</sup> January, 2010**

**Activists form RTI council to safeguard information, whistleblowers**

*The Hindu, Siddhesh Inamdar*

PUNE: Right to Information (RTI) activists from Pune came together on Sunday and formed an RTI council to serve as a repository of information obtained by various activists.

“Once the information obtained by anyone under the RTI is available with a council, there will be less threat to an individual’s life,” said Vivek Velankar, an RTI activist, while speaking to journalists after a public meeting to demand justice for the murdered RTI crusader Satish Shetty.

“Satish was killed because he obtained valuable information, which, if put in the public domain, would have exposed the wrongdoings of influential people,” he said. “Applications requesting information and the information itself will henceforth be put up on a website so that it is not in the safekeeping of a single person, putting his life at risk.”

“Right now, there are 10 volunteers who have agreed to be a part of the council,” he said. “They are from Pune. But we are not opposed to opening up the council at the national level too.”

On the same lines, activists decided to demand the State government to chalk out a Whistleblower Protection Act. Activists also agreed that the most important thing now was to complete the cases Shetty was working on.

Mr. Kumbhar said, “We will also demand suitable amendments in the Indian Penal Code to ensure that contract killers and people who hire them are awarded the capital punishment.”

**18<sup>th</sup> January, 2010**

**People awakened by my address in Assembly: Jaya**

*The Indian Express*

CHENNAI: AIADMK general secretary J Jayalalitha on Sunday said that her recent participation in the proceedings of the State Assembly to expose the injustices of the DMK regime had led to an awakening among the people.

“Unable to digest the awakening among the people due to my debate, Karunanidhi has uttered lies. Though I don’t want to respond to all of it, it is my duty to react to some of it,” she said.

Referring to the chief minister’s statement that the Speaker of the House could not respond to the greetings of a member every time he or she enters the House, she said the presiding officer’s act of not responding to her greetings was deliberate. “I don’t disagree that the Speaker cannot notice and respond to the greetings of members every time. But the seat of the Leader of the Opposition is in the front row and the Speaker did notice my greetings and chose to not acknowledge it.” As regards Karunanidhi’s assertion that the Right to Information Act was enacted during his regime in the State, she said the 1997 legislation did not serve the purpose for which it was made. “After the Central RTI law, the State notified the rules and a Chief Information Commissioner and other officials were appointed during the AIADMK rule,” she pointed out.

Emphasising that she had gone to the Assembly on time during the AIADMK regime, she wondered how Karunanidhi could fault her for not coming to the House on time as he had never participated in the proceedings during 2001-06. As for the CM citing an article (it claimed that Jayalalitha was an unreliable person) that appeared in Maalai Murasu on January 1, 1989, she said the write up was part of the efforts to politically finish her off.

“It was written to satisfy someone and I would like to state that there is not an iota of truth in it. After MGR’s demise I have been the general secretary of the party for more than 22 years with the support of the cadre and the people. The AIADMK

government headed by me was in power for 10 years. This explains that the people did not believe the slanderous campaign against me.”

**18<sup>th</sup> January, 2010**

**Not opposed to RTI, says Chief Justice of India**

*The Hindustan times*

The Chief Justice of India, K.G. Balakrishnan, on Sunday said he was not opposed to the Right to Information (RTI) Act and did not want any exemptions from it. Also, the Supreme Court had not yet decided if it should challenge the Delhi High Court judgment on the issue.

In an interview to *HT*, Justice Balakrishnan said the judges were doing a fine job and he didn't agree with the perception that corruption in the judiciary is on the rise.

"We don't want exemption from the RTI Act. A lot of misinformation is being spread about what I've said and not said. We only have a limited problem about a particular kind of information sought from my office," he said. "The problem is that if I divulge information containing opinions about judges' appointments, it'll affect the judiciary's independence."

On last week's high court ruling, which put his office under RTI, the CJI said: "We haven't taken a decision on whether to appeal against the judgment. The full court meeting will not decide. We have many options."

He hinted the matter could be referred to Parliament to "solve the problem. We are not interested in a stay on proceedings or anything like that".

Asked about the options, Balakrishnan said: "The collegium (panel of top five SC judges) can decide, so can I. The issue is not within our control, it is for Parliament to do it."

On rising cases of corruption in the judiciary, the CJI said: "Look at the number of judges in the country, we have a vast institution. Corruption in judiciary is very less and everybody will have to accept this fact."

**18<sup>th</sup> January, 2010**

**To bring truth out, activists seek an RTI council**

*The Indian Express*

Pune: Five days after the murder of Satish Shetty, a 38-year-old activist who used the Right to Information Act (RTI) as a weapon to expose a number of frauds, the RTI activists in Pune and Pimpri-Chinchwad came together on Sunday and proposed an RTI council to bring such cases and information to the public domain, so that they do not remain hidden.

Nearly 100 activists came together on Sunday to discuss the issues related to Shetty's murder and the future course of action.

Civic activists Vivek Velankar of Sajag Nagrik Manch, Vijay Kumbhar of Surajya Sangharsha Samiti, social crusader Maruti Bhapkar from Pimpri-Chinchwad and others briefed the media after the meeting.

"After this brutal incident happened last week, we decided to come together to deliberate on what we should do to stop the evil forces from overpowering us and trying to petrify us."

"As many as five decisions were taken at the meeting. The idea of an RTI Council came up only then; and it was instantaneously agreed upon," Vivek Velankar said.

"Though the idea is still raw, what we are going to do first is that whatever RTI application we file and the responses that we receive to these applications would be put up on a web portal.

With this, even if something happens to a particular activist, the information remains there on the portal for everybody to access.

Therefore, the ultimate purpose will be served. Very soon, we would finalise things about this council."

The meeting also put forward a few demands.

“Like his family members, we also feel that the murder case should be handed over to the CBI. We will file an intervention application in this case in the high court. We also want any one found involved in contract killing to be hanged to death.

The laws should be amended in this regard. Only that would bring things under control,” Kumbhar said.

**‘Shetty’s murder a setback’**

Social crusader Anna Hazare expressed concern over Shetty’s murder on Saturday. “He was killed just because he used RTI to unearth corruption, and in the process, antagonised the vested interests of the powerful. The clear message that the killers want to send out is that nobody should dare to do what Satish did. This is frightening and can cause a serious setback to the RTI movement.”

**19<sup>th</sup> January, 2010**

**Security audit of 1,100 PCMC computers soon**

*The Indian Express – Indian express.com*

Pimpri-Chinchwad Municipal Corporation (PCMC) would soon do a security audit of a total of 1,100 computers installed in its various offices. Recently, the municipal corporation introduced several initiatives such as e-governance, online building permissions, e-tendering process and accepting complaints through e-mails.

PCMC officials said that various departments in the municipal corporation are being computerised and an emphasis is now laid on greater use of technology to increase work efficiency of the staff. Works like paying taxes, building permissions, tender process and birth and death registration are now being done with the help of computers and the internet. Information pertaining to environment status reports, various initiatives started by the different departments, information pertaining to Right to Information Act are all available on the website.

**19<sup>th</sup> January, 2010**

**Top PMC official living in reserved space: RTI reply**

*The Indian Express*

Pune: Additional Commissioner of Pune Municipal Corporation (PMC) M S Devanikar has been occupying the bungalow at Bavdhan close to Chandani Chowk that has been reserved as an amenity space.

This came to light after Sajag Nagrik Manch procured information under the Right to Information Act (RTI) filed by activist Vivek Velankar. The RTI said the additional commissioner has been living there for the last two-and-half years.

The civic administration is saying the land has been procured by PMC and until things shape up, this property will be used as the civic official's 'temporary residence'.

"The bungalow located at Bavdhan Khurd is an amenity space, which is still not in the custody of the civic body. However, despite that, the civic administration decided to use it as a residential place for its additional commissioner. While it is the duty of the civic body to keep a check on the amenity spaces, it is brazenly flouting the rules itself," said Velankar. "Not only this, but the civic body is even carrying out some construction work worth Rs 2.87 lakh. The Kothrud Ward office has already issued a work order to that effect," he said.

When asked, the civic body city engineer Prashant Waghmare said PMC had taken over this particular amenity space four years ago. "We took over this land as amenity space almost four years ago. Even though no specific decision has been taken about what the place should be used for, we are temporarily using it as an accommodation for the additional commissioner. The property is worth Rs 15 lakh to Rs 20 lakh and pulling it down would be a loss. Therefore, until further decision regarding this place is taken, it is being used by PMC," Waghmare said. He said PMC had collected Rs 2 lakh from the property owner for carrying out construction activity.

**20<sup>th</sup> January, 2010**

**CIC order puts External Affairs Ministry in a spot**

*The Hindu*

The Ministry of External Affairs (MEA) finds itself in a spot with the Central Information Commission (CIC) calling for the inspection of files related to the India-Pakistan joint statement issued on the sidelines of last year's Non-Aligned Movement (NAM) summit at Sharm-el-Sheikh in Egypt.

With India having a history of not permitting access to any foreign office file, no matter how old, the CIC decision has left the MEA scrambling. Officials said such an order was likely to discomfit even those countries which allowed the opening up of their records after 20 or 30 years.

The CIC came under fire from the former Foreign Secretaries, Muchkund Dubey and Lalit Mansingh, who have termed the order impractical.

**Notice to MEA**

Responding to a right to information (RTI) petition, Information Commissioner Annapurna Dixit, who is the wife of the former Foreign Secretary and National Security Adviser, J.N. Dixit, issued a show cause notice to the MEA for not complying with her earlier order on making public the notings in the files pertaining to the Sharm-el-Sheikh joint statement. Ms. Dixit had issued the notice after the MEA submitted a list of officials present in Egypt at the time and the text of the joint statement in response to her earlier directive of December 8, 2009 for providing the information within 30 days.

The joint statement's reference to Baluchistan had a section of the Indian strategic community up in arms with some arguing that Islamabad would now be able to allege Indian meddling in the restive Pakistani province. When the matter was raised in Parliament, Prime Minister Manmohan Singh said there was nothing wrong with the reference because India's "hands are clean."

According to MEA officials, compliance with the CIC's order would lead to innumerable difficulties. The first would be a sharp decline in the trust quotient with other countries if the contents of confidential talks at the heads of government level were revealed in real time. The practice in other countries was to let the dust settle down and the mantle passed on to the next generation of political and bureaucratic leadership before the archives were opened for the public.

**21<sup>st</sup> January, 2010**

**HC seeks info which slain RTI activist had obtained**

*Daily News Analysis*

The Bombay High Court today sought all the information which Talegaon-based social activist Satish Shetty -- who was killed on January 13 -- had obtained through Right to Information Act.

Last week the court took suo motu (on its own) notice of Shetty's murder, which was preceded by attack on social activist Naina Kathpalia's house in Mumbai a few days earlier.

Today, the division bench of justice FI Rebello and justice JH Bhatia referred to newspaper reports that Shetty's murder had connection with his crusade against illegal constructions, and said that "the court should pursue these matters".

Judges also appointed senior counsel D Madon as amicus curie to assist the court, and directed the government to provide him copies of the (documentary) information which Shetty had been given under RTI.

Meanwhile, in an affidavit filed before the court, acting director general of Police Anami Roy has said that names of six persons have come to light during probe into Shetty's murder, and three of them have been arrested.

In another affidavit, state home secretary Chandra Iyengar has stated that police have been given instructions to act promptly whenever any social activist complains of threat.

**21<sup>st</sup> January, 2010**

**Sharm-el-Sheikh statement: MEA can seek HC stay, says Habibullah**

New Delhi : Chief Information Commissioner Wajahat Habibullah on Wednesday said the Ministry of External Affairs (MEA) can “very well go to the High Court and get a stay” on the Central Information Commission (CIC) direction to the foreign office to disclose file notings on the drafting of Indo-Pak Joint Statement at Sharm-el-Sheikh in Egypt during the Non-Aligned Movement (NAM) summit held last year.

“There is a clear provision in the Right to Information (RTI) Act which says that the government need not disclose information given by a foreign country in confidence or if the data would affect the relationship with that nation. The MEA can of course go to the High Court under this provision,” Habibullah told The Indian Express on Wednesday.

Two specific clauses of Section 8 of the RTI Act deal with disclosure of documents relating to India’s relationship with foreign countries.

Not willing to comment on the order passed by fellow Information Commissioner Annapurna Dixit, the country’s top transparency panel chief said that information on the Sharm-el-Sheikh files was different from the information RTI applicants usually want from the MEA.

“MEA very often takes this stand (of non-disclosure). RTI applications involving the MEA is usually about administrative matters and not so much on foreign policy as it has happened in this case. This is very similar to the Jinnah House one,” he said. Habibullah in January 2008 had sought MEA correspondence on a plan to lease Jinnah House, a Mumbai property of Pakistan founder Mohammad Ali Jinnah, to Dina Wadia.

In the present case, Dixit declined an MEA plea that the “Joint Statement was drafted immediately during the PM-level meeting on the sidelines of the NAM summit” and “no file notings exist”.

No file notings exist pertaining to decisions taken with regard to the drafting of the text of the Joint Statement as issued after the meeting of the Prime Minister of India and Pakistan at Sharm-el-Sheikh. The said Joint Statement was drafted immediately at the PM-level meeting on the sidelines of the NAM summit,” said the MEA in a December 29, 2009 reply to the CIC.

The MEA had tended to ignore a CIC order during the hearing to produce before the Commission the foreign office file on the Joint Statement despite repeated reminders from Dixit’s office in December 2009.

**23<sup>rd</sup> January, 2010**

### **Are the people moving on the right track?**

*The Times of India*

Sixty years after the framing of the Constitution, the minimum set of fundamental rights laid down by the framers form a powerful weapon in the arsenal of people's movements, the courts their delivery mechanism. Senior Supreme Court lawyer, Prashant Bhushan, has frequently represented people's movements in court, including in the Narmada Bachao Andolan's petition against the Sardar Sarovar hydroelectric dam project. "When people's movements do not find the spaces in parliamentary representation, they move the courts," he says, adding the caveat that it is becoming increasingly difficult to get pro-poor judgments from the courts, the ongoing case on the rights of Delhi's rickshawpullers being one of the rare exceptions.

"The rights movement rose against the backdrop of state failure," says Pratap Bhanu Mehta, constitutional law expert and president of the Centre for Policy Research, an independent, non-partisan think-tank. "What people are groping for is different instruments through which the Constitution's objectives may be realized," he adds.

The campaign for the right to education is one of the best-known recent examples of a push towards a fundamental right on several parallel tracks. In 2002, the NDA government passed the 86th amendment to the Constitution to include Article 21(A) which states that "the State shall provide free and compulsory education to all children of the age of six to 14 years in such manner as the State may, by law, determine". When notified, the fundamental right to education will replace Directive Principle 45 which said that "[t]he State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years." While fundamental rights are enforceable in court, directive principles are not.

Then in August 2009, the Parliament passed the Right To Free and Compulsory Education Act, which lays down the specifics of how the goal of free and compulsory

education for all children from 6-14 years of age will be achieved. It is here, in the detail, that the devil may lie.

"The fundamental right to education for all children up to the age of 14 existed in the Constitution before the 86th amendment was passed," contends educationist Anil Sadgopal, former dean of Delhi University and a leading Right To Education campaigner. In the Supreme Court's landmark Unnikrishnan judgment in 1993, the court ruled that the right to life and liberty (Article 21) should be read with Directive Principle 45, thus making free and equitable education a fundamental right. "However, the new Act has laid down a system of schooling of varying quality as per the socioeconomic level of the children. This is taking us far, far away from the egalitarian spirit that the Constitution was imbued with," feels Sadgopal.

Yet, legislation laying out the specifics of a constitutional right has also been enabling . The transformative change brought about by the RTI, a new law and not a constitutional amendment, is a case in point. "The Right to Information may have existed as a right in the Constitution, but that didn't mean that the ordinary person could get information . Getting to court is not easy for the poor and then there are the whims of courts," says Nikhil Dey of Rajasthan's Mazdoor Kisan Shakti Sangathan (MKSS), which pioneered the RTI campaign. "The people who fought for RTI - the rural poor seeking information on such things as ration cards - hadn't read the Constitution. The movement came not from the conceptual view of rights, but from the point of view of a birthright," says Dey.

When the Delhi high court last week ruled that the chief justice of the Supreme Court comes under the purview of the RTI Act, the judgment represented not only a step towards greater judicial accountability, but also the power of constitutional rights. Going beyond the provisions of the RTI Act alone, the ruling refers to the right to information as a constitutional right, based not only on the right to freedom of expression - Article 19(i)( a) - but also on the right to equality and equal protection before the law (Article 14) and the right to life and personal liberty (Article 21).

The Delhi HC ruling shows that the framing of a law as wide and powerful as the RTI

has ensured that people seeking information are limited neither by law nor by the Constitution, says Dey.

Besides, the progress towards constitutional rights and nitty-gritty schemes don't move on parallel tracks. The ongoing case based on a petition filed in 2001 by the People's Union for Civil Liberties (Rajasthan ) in the Supreme Court on the need to uphold the right to food, which follows from the fundamental right to life (Article 21), has led to several key food security related measures being implemented on the basis of interim orders. These include the mandatory provision of a cooked mid-day meal in all primary schools.

Meanwhile, a proposed National Food Security Act is on the cards. "Fully realising the Right to Food would require fundamental changes in the economy, including for instance, changes in property rights," says development economist Jean Dreze who works with the Right to Food campaign. Such changes cannot be brought about simply through constitutional amendments, but are more in the domain of democratic politics.

Similarly, the NREGA, says Dreze, is only a small step towards the sort of legislation that would give expression to the right to work in the full sense of the term. "But it is a significant step, especially if we recognise it as an opportunity for unorganised workers to organise. Structural change requires this sort of organisational process, and in that respect NREGA is a meeting point between idealism and pragmatism," Dreze adds.

What sets the Constitution apart from any legislation is its idealism. "The executive may say it is bound by pragmatism, but judges need only be bound by the Constitution ," says independent law researcher Usha Ramanathan. "The danger is when judges also get pragmatic and the Constitution gets tutored to fit this view."

B R Ambedkar was well aware of this when he argued during the Constituent Assembly debates in 1948, "Obviously what is law, what is morality will be determined by the Executive of the day and when the Executive may take one view, another Executive may take another view and we do not know what exactly would be

the position with regard to fundamental rights, if this matter is left to the Executive of the day."

**25<sup>th</sup> January, 2010**

**Should SC go US way on corporates funding parties?**

*The Times of India*

It's a landmark judgment from the US Supreme Court that has left President Barack Obama and many like minded people fuming. On Thursday, the SC by a 5:4 majority overturned a 20-year-old ruling that prohibited corporations from opening their purse strings for presidential and congressional elections.

Writing for the majority, Justice Anthony Kennedy said the long-standing campaign against finance limits violated constitutional free-speech rights of the corporations. Without appearing to be critical of the SC judgment, Obama said, "The Supreme Court has given a green light to the new stampede of special interest money in our politics."

Imagine such a judgment coming from the Indian Supreme Court. Immediately, the knives would have been out against the judges and the rumour mills would have gone berserk circulating that the judges, who favoured open funding of candidates in elections, were bought over by corporate honchos.

The Supreme Court of India had mostly taken a traditional view of political funding as it has always laid a great deal of emphasis on the core value of democracy, be it the Mohinder Singh Gill vs Chief Election Commissioner [1978 (1) SCC 405] or Union of India vs Association for Democratic Reforms [2002 (5) SCC 294].

In both these cases, the common reference point was the common voter, identified as the little man by Winston Churchill, who had said, "At the bottom of all tributes paid to democracy is the little man, walking into a little booth, with a little pencil, making a little cross on a little bit of paper; no amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance of the point."

Keeping in mind this "overwhelming importance of the point", the SC had in 1996 examined the allegation that during elections, crores of rupees were spent by political parties without indicating the source of the money so spent.

Petitioner Common Cause through its president H D Shourie had said, "Elections in this country are fought with the help of money power which is gathered from black sources. Once elected to power, it becomes easy to collect tons of black money which is used for retaining power and for re-election. This vicious circle has totally polluted the basic democracy in the country."

Though the apex court did not lay down any law preventing use of "corporate donations" in elections by political parties, it put a rider -- all political parties must file return of income in respect of every assessment year as required under the Income Tax Act.

It lambasted the I-T authorities, saying they had been wholly remiss in the performance of their statutory duties under law. "The said authorities have for a long period failed to take appropriate action against the defaulter political parties," the SC had said in the April 4, 1996, judgment.

It had also asked the finance ministry to appoint an inquiring body "to find out why and in what circumstances the mandatory provisions of Income Tax Act regarding filing of return of income by political parties were not enforced."

There had been no case of a single political party been penalised for not furnishing proper income returns. Everything appears to have been normal and within law. If that is so, then in this era of right to information, will the political parties be pleased to answer this open RTI query: Which industrial house paid how much as political donation in a normal year and during the election year?"

**25<sup>th</sup> January, 2010**

**Shetty murder case: 1 more in police net**

*The Indian Express*

Pune : The Pune rural police produced Navnath Maruti Shelar (25) of Junnar, a suspect in Right to Information (RTI) activist Satish Shetty's murder case, before the Wadgaon Maval Court on Saturday.

Judicial Magistrate (first class) P H Bansode remanded him in police custody till January 30. Police had arrested Shelar on Friday for his alleged involvement in Shetty's murder. Police said Shelar is a history-sheeter and was one of the three assailants who attacked Shetty on January 13.

**25th January, 2010**

**Info chief wants RTI boards installed in all colleges**

*Daily News Analysis*

Mumbai: The chief information commissioner of Maharashtra has passed an order instructing all colleges under Mumbai University to compulsorily display Right to Information Act (RTI) boards with the name of the information officer and first appellate officer. Besides, the commissioner wants the colleges to implement section four of the RTI Act which mandates voluntary disclosure of information.

The objective of the recent order is to ensure that information is available to all students, faculty and the public at large while promoting transparency and accountability.

“RTI has been implemented in the state for the last four years, but some colleges have not acted upon it responsively. This is a very serious matter,” states the order.

Chief information commissioner Suresh Joshi passed the order after Mumbai University senate member Vaibhav Narawade complained that, despite existing orders, most colleges did not display the RTI boards.

“While Mumbai University has an RTI board, it has not seen to it that the colleges follow suit. During the question-answer session of a senate meeting, I had asked for information on the number of colleges that have the boards. As per university records, almost 90% of the colleges don’t have them. But the university has failed to take any action against these erring colleges,” said Narawade.

The order has instructed the higher education authorities to form a team comprising senior officials from the department and the university. “The team should personally visit all colleges and see to it that the boards are installed in their presence,” states the order. Besides, the team should also make sure that section four of the RTI Act is followed and see whether information disclosed by colleges is complete and effective.

The higher education department has been asked to initiate an inquiry and take action against officials who have failed to get the rules implemented.

“The higher education department has to submit a report to the commissioner on the work done by the team by mid-April. Disclosing information is in the larger interest of all and needs to be implemented on a fast-track basis,” said Narawade.

**25<sup>th</sup> January, 2010**

**Keep confidential info with CJI outside RTI ambit: Former CJI**

*The Times of India*

BANGALORE: Former CJI, Justice Rajendra Babu today said certain areas, such as confidential and sensitive information gathered by the CJI on the appointment of judges, should be kept outside the ambit of Right to Information (RTI) Act.

Justice Babu said as a public authority, the CJI discharges several functions including selection of judges after gathering information from various sources.

"When he gets all those information, can he disclose all the information (under RTI)?", he asked.

He recalled an incident during his tenure when he had asked a SC judge whether to appoint a particular person as a judge.

"You know what he told me? If you ask me in writing, I will say 'yes' and if you ask me orally, I will say 'no'"

"How do you deal with it? In a situation like that, if I am going to reveal it to the public, will anybody express himself (when one sought opinion on selection) fully? or with what confidence can they express ?".

"I am of the view that there are certain areas...it should not be made available to the general public. It's not necessary", Justice Babu, a former Chairman of the National Human Rights Commission, said.

He said information such as institutional decisions by CJI, taken after gathering inputs at different levels, should be kept out of the RTI purview, adding such revelation amounts to "throwing them to the wolves".

**26<sup>th</sup> January, 2010**

**Reply quickly to queries: Maharashtra CIC**

*Daily News Analysis*

Mumbai: Maharashtra's top information official has said public undertakings must answer queries posed by the public under the Right to Information (RTI) Act within seven to 15 days.

At his annual review meeting with secretaries, commissioners, and managing directors of public-sector undertakings, chief information commissioner Suresh Joshi said there was no need to wait for 30 days, the maximum limit specified under the act, to respond to an RTI query. "The RTI Act is like the chariot of Lord Jagannath," Joshi said. "It needs to be pulled purposefully by everyone."

Joshi said the act had "percolated" well in the state and there was no reason why information could not be shared in seven to 15 days. Maharashtra had the most RTI applications, 4.18 lakh, in 2008. The estimate for 2009 is 4.5 lakh.

The meeting was held in seven sittings spread over a fortnight ending January 15 to collect data for the annual RTI performance report to be submitted to the state legislature.

Among the suggestions at the meetings were an emphasis on presentation of information and the need for voluntary disclosure. "By now officials know what people are looking for," Joshi said.

The departments were told to adopt the proformas (style) in which applicants seek information in case their presentation was better. Heads of department were advised to vet the information before releasing it.

While section 4 of the RTI Act stipulates that there should be suo moto disclosure of information, the large number of applications is seen as proof that departments keep information under wraps. "I have asked secretaries and senior officers to vet the

information and put it on notice boards in a lucid and simple manner so that the number of applications is reduced,” Joshi said.

The info tsar was most disappointed with the functioning of the first appellate authority. “There is a need for people at the deputy collector and commissioner level who can give better reasoned orders suggesting fines,” he said.

**29<sup>th</sup> January, 2010**

**President's foreign trips cost much less than her domestic tours**

*The Times of India*

MUMBAI: Some of President Pratibha Patil's domestic trips have cost more than her overseas tours, going by the figures given by the President's Secretariat to an applicant under the Right to Information (RTI) Act.

For instance, the "tour expenses" of the President on a five-day visit to Assam and Meghalaya from October 19 to 24 last year are given as Rs 1,35,539 whereas the expenses under the same head on her 14-day trip of Latin America in April 2008 came to Rs 12,878.

Another fact that emerges from the reply is that Patil's overseas tour expenses are just a fraction of that of her predecessor, Abdul Kalam. Patil's four visits to eight countries till July 31 last year cost the exchequer Rs 1,95,251 cumulatively whereas each of President Kalam's overseas jaunts between 2004-'07 cost more than Rs one lakh.

These are figures culled from a reply given by the President's Secretariat to Chetan Kothari from Mumbai, who had in July last year asked for the expenditure incurred on each of the domestic and foreign trips of the President in the last five years. Of these, Abdul Kalam was the President for the first three years and Patil took over on July 25, 2007.

The President's Secretariat says Kalam made six overseas trips between July 01, 2004 and April 28, 2007 and the round figure of the collective tour expenses came to Rs 14 lakhs. This excludes his tour expenses to UAE from November 3-4, 2004, which are not given in the RTI reply.

In fact, the reply has raised several questions which have remained unanswered despite clarifications sought by this correspondent from the President's Secretariat. For instance, the Secretariat refused to explain what constitutes 'tour expenses' of the President. Archana Datta, officer on special duty in the Secretariat, said in

November last year that she would not be able to answer the questions raised by the RTI reply. In fact, the Secretariat stonewalled Kothari too when sought details from them.

The Secretariat had not answered Kothari's question about the number of people accompanying the President on trips abroad although they said that 30 to 35 people accompany the President on each domestic visit.

The RTI reply given by the President's Secretariat says that the expenses of the President's visits are borne by the respective state governments and by the Ministry of Defence/External Affairs. It also says that there is no cap on the expenditure on the visits. Aviation sources say the President flies abroad either in an Embraer aircraft flown by air force pilots or in a special Air India jumbo jet.

Earlier, in February 2009, Kothari asked for the expenses of the Prime Minister on foreign trips over the past five years and the PMO's reply is much more elaborate.

For instance, on a trip to USA, Germany and Switzerland from July 16-22, 2005, the PMO spent Rs 11.9 cr on hiring a charter aircraft from AI, Rs 33.9 lakhs on hotline communication facilities and Rs 68,476 on daily allowance, accommodation etc.

From November 11-14 in 2005, the PM visited Bangladesh and the cost of chartering an AI plane came to Rs 3.07 cr while the daily allowance, accommodation etc came to Rs 76,216. The expenditure on hotline is not mentioned as the ``bills had not been received so far".

``Family members have accompanied the PM on his foreign visits," says the reply of the PMO, adding that the government of India bears the expenditure on the foreign tours of the PM.

The grand total of the expenses incurred on the PM's 34 foreign excursions from July 29, 2004 to November 10, 2008, comes to Rs 230 crore. The figure would have been slightly higher but the expenses incurred in chartering planes for four trips between September 27 and November 10, 2008 have not been provided.

Mumbai RTI activist Krishnaraj Rao says evasive and incomplete replies are not expected from high government offices, least of all the President's Secretariat.

**29<sup>th</sup> January, 2010**

## **Kalam advised caution on Padma awards**

*The Hindu, Vidya Subrahmaniam*

In a 'secret note' he urged Vajpayee to be extra careful in deciding the awardees

New Delhi: A January 2004 "secret" note from President Abdul Kalam to Prime Minister Atal Bihari Vajpayee advised extra caution in the selection of Padma awardees "to ensure that no adverse reaction takes place in regard to conferring of these prestigious awards."

The note, accessed recently by Right to Information activist Subhash Chandra Agrawal, assumes relevance in the context of the controversial award of Padma Bhushan to American hotelier Sant Singh Chatwal. In his note, Mr. Kalam referred to "some criticism" at the time of the 2003 Padma awards, and emphasised the need to be "extra careful" in deciding "these prestigious awards."

Mr. Kalam laid down important criteria for the selection of Padma recipients. Among them: There should be "no adverse reports" against the selected candidates "from any of the investigation agencies/organisations," and no person should be selected for the award "except on the recommendation of the Awards Committee."

### **Cases against Chatwal**

The Union Home Ministry on Wednesday admitted that between 1992 and 1994, the CBI had registered five cases against Mr. Chatwal and some bank officials for "conniving with the intention to defraud Bank of Baroda and Bank of India." It, nonetheless, maintained that there was "nothing adverse on record" against Mr. Chatwal because of the five cases, three were closed by the CBI itself while the court discharged Mr. Chatwal in the other two.

Mr. Agarwal filed a batch of six RTI applications on Padma awards with the Home Ministry between June 2007 and January 2009. Dissatisfied with the response, he went in appeal to the Central Information Commission, and managed to lay his hands on a host of crucial documents. One of them was Mr. Kalam's note. Another

was the “secret” report of the K.R. Narayanan (then Vice-President) High Level Review Committee that examined the guidelines for the Padma awards.

### **Panel recommendation**

The committee, which met between July and October 1996, noted that Padma Bhushan was only to be awarded for “exceptional and distinguished service.” It was emphatic that “no Padma award should be conferred except on the recommendation of the Awards Committee.” It sought strict adherence to guidelines and advised that October 1 be observed as the deadline for receiving recommendations.

### **Final authority**

However, in its replies to Mr. Agarwal, the Home Ministry insisted that there was no fixed date for receiving recommendations. It admitted that some of the 2004 awardees had been finalised after the scheduled meetings of the Awards Committee, and that approval for these were taken on telephone. The Home Ministry also held the Prime Minister to be the final authority in deciding the awardees. It said he was entitled to delete the names approved by the Awards Committee.

**30<sup>th</sup> January, 2010**

**Feel the power of RTI at book fair**

*The The Indian Express*

Kolkata: With an attempt to drum out a campaign to sensitise people in West Bengal about the Right to Information (RTI) Act, the activists have set up a stall at the Kolkata Book fair to spread information on the same.

The unique stall — tathyer adhikar (Right to Information) — set up at the book fair stall number 552 aims to sensitise people on the potentialities of the RTI.

On the death anniversary of Mahatma Gandhi on Saturday, RTI activists are expected to be joined in by officials of the West Bengal Information Commission.

The campaign, however, has had to face its share of challenges. “Despite poor infrastructure and no electricity for the first two days, we have tried to reach as many people as possible. We will observe January 30 as RTI day where various activists from the state will assemble,” said Amitava Chowdhury , an RTI activist.

On what the activists are offering, RTI activist Sabir Ahmed said: “The most important step is to follow up the case when information is denied. Questions on how to file the first appeal and take up the matter with commission have been taken up.”

**30<sup>th</sup> January, 2010**

**BMC ordered to computerise all land lease data in 21 days**

*Daily News Analysis*

Mumbai: The chief information commissioner of Maharashtra, Suresh Joshi, has directed the Brihanmumbai Municipal Corporation (BMC) and the city's two collectors to computerise all land lease data within 21 days. This follows the collector's and the BMC's inability to produce information on lease data sought under the Right to Information Act (RTI).

The order, passed on January 21, is considered a landmark since it is the first to take on the administration for the way it collects and holds data that can be sought under the RTI Act. Section 4 (a) of the act, which talks about suo motu declaration of information, says that public authorities covered by the act have to maintain information in such a way as to make it easy to share it with the public.

"Every public authority should maintain all its records duly catalogued and indexed in a manner and form which facilitates the right to information," the act specifies.

The RTI applicant, SK Nangia, had demanded information on the total number of plots whose leases had expired. In Mumbai, large tracts of land have been given on lease for extended periods such as 99 and 999 years, and more recently for 30 years, on meagre rentals.

Even though many leases have expired, the government has taken no decision on them. The CIC's order states that such indecision could be leading to losses worth crores of rupees to the municipal corporation and the state government.

When Nangia filed the application, he did not receive the data as per his requirement. While the suburban collector provided some information, the city collector's office did not. The information provided was on the total plots on lease. The BMC did not even do that. It merely stated that it had files on 4,176 such plots and that the applicant could come and inspect them.

Reacting to the CIC's order, Nangia said: "It is dereliction of duty on the part of officers which is leading to losses of thousands of crores to the government. We had asked for similar data earlier, but they have not compiled."

The CIC order states such compiled information is important for the authorities and will help analyse data and earn higher revenue. It will also help formulate better lease policies. It goes on to state that the "authorities themselves (should) decide on what proforma should be adopted for computerisation of records so that it can be of maximum help to them in future."