

Proposal to Amend the RTI ACT

*305. SHRI B.K. HARIPRASAD: Will the PRIME MINISTER be pleased to state:

(a) whether Government has mooted a proposal to amend the Right to Information (RTI) Act to allow setting up of separate benches to hear RTI related complaints;

(b) if so, whether the proposed amendment would also include a clause to weed out 'vexatious' and 'frivolous' applications; and

(c) whether the public activists have commented that the move to amend the RTI Act is fraught with malafide intentions to dilute the efficacy of the Act and its intent?

THE MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRI PRITHVIRAJ CHAVAN): (a) to (c) A statement is laid on the table of the House.

Statement

The Government proposes to strengthen Right to Information by suitably amending the laws to provide for disclosure by government in all non strategic areas. The Government is examining a proposal for incorporation of provisions in the RTI Act regarding Constitution of Benches of the information Commission and rejection of vexatious and frivolous applications.

Government has received representations expressing concern about the proposed amendments. NGOs and Civil Society Organisations will be consulted before any final decision is taken about the amendment.

SHRI B.K. HARIPRASAD: Mr. Chairman, Sir, the hon. Minister knows that RTI is one of the most revolutionary steps taken by the UPA to bring in transparency in public life, especially bureaucracy and judiciary. In his reply, the Minister has said that the Government is examining proposal for incorporation of provisions in the RTI Act regarding constitution of Benches of Information Commissions and rejection of vexatious and frivolous applications.

Sir, this is exactly the apprehension in the civil society and the people who fought for this RTI right through, to bring in transparency. Amending RTI at this juncture may give sweeping powers from the Supreme Court to the Gram Sevak in rejecting the applications by applicants in the name of vexatious and frivolous applications. I would like to know from the hon. Minister whether he has received any letter from the Chief Justice of India to amend this RTI in this regard. Because the RTI has sent jitters in judiciary and bureaucracy. To scuttle one of the important Acts, I would like to know if he has received any letter from the Chief Justice of India.

SHRI PRITHVIRAJ CHAVAN: Sir, the hon. Member is right. This is one of the most revolutionary enactments of the Government in the Independent India and we are rightly proud of it. Sir, we have said that the Government is considering amendments to the RTI Act. Let me give the background of why this is necessary.

Firstly, Sir, we have an experience of over four years of the Act functioning. There are some practical difficulties found. In some cases, there are legal difficulties found. I personally have got legal opinion from the Law Ministry. There is agreement in the civil society that some issues need clarifications.

Secondly, Sir, to constitute the Administrative Reforms Commission is also one of the historic decisions; the second Administrative Reforms Commission was constituted by our Government. The first report was devoted, and rightfully, to the right to information, a master key to good governance. In the Administrative Reforms Commission report, it was observed that adequate safeguards were required to be provided against vexatious and malicious requests, and recommended amendment to the Act for the purpose.

Sir, we are in touch with the civil society; therefore, an attempt was made in 2006 to amend the law. I think, at that time, not adequate discussion was made in the civil society, there were apprehensions. Therefore, that attempt was dropped. Now, Sir, because of the recommendations of the Administrative Reforms Commission and some other things, the Government thought, and the President, in her Address to the Joint Session of Parliament on 4th June, declared that strengthening right to information by suitably amending the laws to provide for disclosure by Government in all non-strategic areas is necessary. The spirit of the Presidential Address was that we need to strengthen this regime further.

With these two things in background, I would not go into the difficulties that we have had, there is a whole list which I can share with you, Sir; but, there are certain technical difficulties in certain areas. We want to expand the scope of the RTI Act. Exemptions to certain agencies, we think, are not necessary. Those exemptions can be withdrawn. Our intention is to strengthen the law further. Therefore, we are considering amending the law. I have assured the civil society organisation on a number of occasions that it will not be done behind anybody's back, that everybody would be consulted. I have already had consultations with the Central Information Commission and all the State Information Commissions; in a conference of the State Information Commissions I have assured that the Status Paper will be put up and it will be discussed with the civil society organisation. If it is found necessary to amend that, only then we will do it; we are not saying that we will amend it. We want to strengthen that. That is our commitment. We want to remove difficulties, that is a commitment. If it can be done without amendment, we have no problems. But, I think, we will be able to convince the civil society.

SHRI B.K. HARIPRASAD: Mr. Chairman Sir, this is exactly the apprehension of the civil society — as he said — going by the administrative Reforms commission. Who are these people? They are the bureaucrats of this country who know how to scuttle things. What exactly I wanted to remind him was, whether he has got knowledge about Bihar where about 42 cases were filed against the applicants by the bureaucrats for filing the RTI applications.

SHRI PRITHVIRAJ CHAVAN: Sir, I did not reply to one part of the question in the first supplementary about the reference made about the Chief Justice. On the vexatious and malicious request, I will quote a part of the Administrative Reforms Commission. The ARC report refers to the UK law. It also refers to the South African Law. They have studied the RTI Acts of the democracies of all the world Governments and they will come and I will just go briefly. The UK law says that Section 1.1 does not oblige the public authority to comply with a request for information if the request is vexatious. This is UK law.

SHRI B.K. HARIPRASAD: How does he judge?

SHRI PRITHVIRAJ CHAVAN: The South African law says that the information shall not be given. The request is manifestly frivolous or vexatious. Sir, there is a safeguard built into laws of many countries. We are considering whether we should do it or not. If it is considered by the Government that it is not necessary, then, ultimately no amendment will be passed unless this House approves. If the Government decides to amend the law, we will come to the House, it will go to the Standing Committees and it will look carefully. But please be assured that we will not do any thing which will go against the spirit of this Act, which is one of the major achievements of this Government. The other question I did not reply. Sir, there is an apprehension in the highest court in the country that unless the RTI law is protected, RTI law will hamper the working, which is exactly the opposite. It is not that we are trying to curtail it. The highest authority has written that please don't do anything which will make our working difficult.

SHRI M. RAM JOIS: Sir is the hon. Minister aware that the Chief Information Commissioner has called upon the Chief Justice of India to furnish information on notice, correspondence etc. relating to the President of the collegiums which are of privileged nature and if so, what action is being taken to exempt such information?

SHRI PRITHVIRAJ CHAVAN: Sir, this is precisely the point. Sir, there are apprehensions in the higher courts whether the applications under Right to Information Act will hamper their freedom. The separation of powers that the Constitution has enjoined should not be hampered. That is the apprehension and we will examine this issue very, very carefully. But now, it is up to the Chief Information Commissioner whether he wants that the information should be given or not.

SHRI M.V. MYSURA REDDY: Sir, the other Members expressed apprehensions. I want to ask the Minister about frivolous and vexatious applications. There is a possibility that this Act will be diluted in the name of frivolous and vexatious applications. So, I want to ask the Minister through you, Sir, whether there is any clear definition which will be there in the Act regarding vexatious and frivolous things.

SHRI PRITHVIRAJ CHAVAN: Sir, I tried to explain why this was considered important by the Administrative Reforms Commission and why we are considering it. It is a directive by the President that the Act will be strengthened. This is a very contentious area and civil society is rightfully apprehensive that we might do something to curtail the power. Sir, I assure you, Sir, we will debate this whole issue with the Civil Society Organisation, with the CICs, with the Information Commissioners before the proposal is brought to the House. So, all the proposals will contain the exact definition of how it can be curtailed if it is found to be vexatious and we will see to it that no public authority will deny information in the name of this.

SHRI P. RAJEEVE: Sir, in reply the hon. Minister has mentioned that the Government is examining the constitution of Benches of the Information Commission. Now, the CIC is trying for speedy disposal of complaints by constituting a mechanism of separate Benches. But, it was reported that the Government has taken a stand against this and this stand seriously affects the functioning of the CIC. So, I would like to know from the hon. Minister whether the Government is ready to allow the CIC for functioning independently, as an autonomous body, in view of pendency of amendments.

SHRI PRITHVIRAJ CHAVAN: Sir, this is another area where there is a lot of misinformation. The Act currently does not contain any provision regarding constitution of Benches by the CIC or the State Information Commissions. If at all a single Commissioner or two Commissioners work together, it could be held invalid. Therefore, whatever they have done could be struck down. The current Act says that the entire Commission must work together. It is, obviously, not possible and the Information Commissions are working separately. We just want to strengthen that position which is currently going on. Otherwise, it is found to be not legally tenable by the legal advisors. We will see that the current functioning continues under a legal authority.

संसद की बैठकें

*306. श्री शिवानन्द तिवारी:

श्री राज मोहिन्दर सिंह मजीठा:

क्या संसदीय कार्य मंत्री यह बताने की कृपा करेंगे कि:

(क) क्या यह सच है कि वर्ष 1958 में संसद की 151 बैठकें हुई थीं जबकि वर्ष 2008 में वे घटकर मात्र 46 तक रह गई हैं;

(ख) यदि हां, तो तत्संबंधी ब्यौरा क्या है; और

(ग) क्या यह भी सच है कि विभिन्न लोकतांत्रिक देशों की संसदों की बैठकों की तुलना में भारतीय संसद की बैठकें कम होती हैं?

संसदीय कार्य मंत्री (श्री पवन कुमार बंसल): (क) से (ख) वर्ष 1958 में लोक सभा की 125 और राज्य सभा की 91 बैठकें हुई थीं। वर्ष 2008 में संसद के दोनों सदनों की 46 बैठकें हुई थीं।

(ग) विभिन्न लोकतांत्रिक देशों की संसदों की बैठकों की संख्या, उन देशों की विशिष्ट जरूरतों और आवश्यकता पर निर्भर करते हुए प्रत्येक देश में हर वर्ष अलग-अलग होती हैं। अतः भारत की संसद की अन्य लोकतांत्रिक देशों की बैठकों की संख्या से तुलना करना उचित नहीं होगा।