

Open Parties To Public Scrutiny

Political parties' objections to RTI being applicable to them are fatuous

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The government's widely reported intention to promulgate an ordinance to nullify a recent order of the Central Information Commission (CIC) confirming that six national political parties are subject to the Right to Information Act, is condemnable on many counts. It is also amusing that the government proposes to bring in an ordinance, bypassing Parliament, even on a matter that seems to have the support of all major political parties.

It is surprising that the government considers the application of the RTI Act on political parties a circumstance that 'renders it necessary to take immediate action' – for that is the sole justification allowed by the Constitution to promulgate an ordinance while Parliament is not in session.

Whatever be the legal merits of the CIC's order, there can be no question that governance in India can never be accountable to the people unless political parties, who are at the core of it, are accountable to people. And to argue that political parties are accountable to the people every five years, when they seek votes, is to argue that governments are also accountable to the people when they seek reelection. Therefore, neither needs a transparency law.

Yet these very political parties talked about participatory democracy and passed the RTI Act so that Indians did not have to wait to seek accountability

from their ruling party once in five years. Then why should they now balk at the same logic being applied to all the parties?

The preamble to the RTI Act states that "democracy requires an informed citizenry". Is there any reason to believe that democracy requires a citizen who is only informed about the government of the day and not about the political parties that form the government or those who might be aspiring to replace the government?

But governments spend public money, or so the political parties argue, while political parties receive only minimal support from the government. But whose money do political

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parties spend? They admit that almost all their money comes from the public, some in traceable large donations, but most in untraceable small donations.

Therefore, if most of those who have funded (and supported, and voted for) a political party are anonymous, the only way a party can be accountable to them is by opening itself up for scrutiny by the anonymous Indian.

The RTI Act only asks parties to make public existing records, and you are required to



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keep only those records that some law, regulation or rule makes mandatory. So, if you do not maintain records on why a particular ticket was given, and there is no legal requirement for you to do so, so be it.

The RTI Act cannot demand that you provide information that you do not have in record form, or that you keep records that you are not otherwise obliged to. Besides, parties also have protection under Section 8(1) of the RTI Act that, among other things, exempts information that would harm a party's competitive position.

Perhaps the most incredible objection came in the early days of the debate when some political leaders objected that they were already "under" the Central Election Commission and did not want to also come under the CIC. But the Indian Penal

Code also applies to them. Does that put political parties "under" the local thanedar? The CIC is one of many regulatory agencies that these very parties have created through the parliamentary process. These agencies work for the people of India on the instructions of Parliament. Is it, then, a shame to come under their purview?

And who will bear the burden of the cost of servicing the RTI Act? Given that political parties can easily put out proactively the few records that they are obliged to maintain, hopefully not much will remain to be asked of them through specific RTI applications. However, if political parties are unexpectedly confronted with a deluge of RTI applications, there would be a good case for financial support from the government to help meet their transparency obliga-

tions. This could be in addition to the land and other concessions that they already get, and it would probably be the best spent rupee of all the public money being given to them.

When most people vote for parties rather than individual candidates, and when political parties use the whip and other statutory measures to ensure that all their elected members follow the party line, an understanding of the values and functioning of a political party is fundamental to the functioning of an enlightened, or even a functional, democracy.

The people might want to know whether the party has a criteria for selecting candidates, and if not, why not. They might want to know why the party chose to take a particular stand in Parliament or why it did or did not raise a particular issue. Of course, a party might legitimately refuse to answer any of these questions on the justifiable plea that it does not maintain records or have norms on these matters, because it is not required to.

But its legally acceptable refusal will have its own message for the voters, and the fact that such questions interest the voter will, over time, persuade political parties to start maintaining records – for example, on their performance relating to their manifestos, or setting up guidelines for the selection of candidates. Surely this cannot be thought of as a bad outcome!

The writers are members of the National Campaign for Peoples' Right to Information.