National Campaign for Peoples’ Right to Information (NCPRI)

Press Release

**NDA’s proposed amendments seriously undermine the RTI Act**

The NDA Government introduced the RTI Amendment Bill, 2019 in the Lok Sabha on Friday (July 19, 2019). The proposed amendments are regressive and are aimed squarely at undermining the independence of information commissions, thereby diluting India’s strongest and most widely used framework for transparency.

It is a matter of grave concern that the amendments to the RTI Law were introduced in complete secrecy and in flagrant violation of the Pre-Legislative Consultation Policy of the Central government which mandates public disclosure and consultation on draft legislations. Owing to the undemocratic way of its introduction, the contents of the draft amendments were not known by MPs, citizens and the media till the bill was circulated to members of the Lok Sabha on the eve of its introduction.

The bill seeks to amend the RTI Act in order to empower the Central Government to unilaterally decide the tenure, salary, allowances and other terms of service of Information Commissioners at the Centre and States.  **The NDA Government has done so by wilfully misrepresenting an amendment to a basic feature of the law, as a function of rule-making.**

As the RTI Act stands today, it provides for a fixed tenure of 5 years for information commissioners (subject to the age limit of 65 years). Further, the salaries, allowances and other terms of service of the Chief of the Central Information Commission are the same as that of the Chief Election Commissioner. This is a part of the basic structure of the existing law and therefore any amendment to these provisions undermines the basic structure of the RTI.

The status of information commissioners was extensively discussed during the formulation of the law, including in the Standing Committee. In fact, the Standing Committee opined, *“Information  Commission  is  an  important  creation  under  the  Act  which  will  execute  the laudable  scheme  of  the  legislation  …It  should,  therefore,  be  ensured  that  it  functions  with utmost  independence  and  autonomy.”* It recommended  that  to  achieve  this  objective,  it would be desirable to confer on the central chief  information  commissioner  and  information commissioners,  status of the chief election commissioner  and  election  commissioners respectively. The committee’s recommendation to  elevate  the  status  of  information commissioners was accepted and passed by  parliament unanimously through an extensive process of public and Parliamentary consultation.

The principle of according a high stature, and protecting the terms of service by equating it to functionaries of constitutional bodies, is routinely adopted for independent statutory oversight bodies, including the Central Vigilance Commission and the Lokpal.

Enabling the Executive to govern the functioning of the Commissions will fundamentally weaken the institution of the Information Commissions as it will adversely impact their ability to function in an independent manner. The Information Commissions are the final authorities to adjudicate on claims of access to information which is a deemed fundamental right under the Constitution. The RTI Act confers an autonomous status to Commissions to empower them to carry out their functions independently so as to enforce compliance of the highest offices with the provisions of the law. Further, the Central government usurping for itself the power to decide even the tenure, salaries and allowances of information commissioners of the State Information Commissions, raises key issues of federalism, and is a continuing indication of the current Government’s centralized, and undemocratic decision making.

In 2017, similar amendments were made to laws regulating 19 tribunals and adjudicating authorities through the Finance Act. Subsequently is several cases, the government through rules has reduced the term of office of functionaries of the tribunals/authorities.

There is a wide array of pressing issues which require the urgent attention of government  to ensure  the effective implementation of the  RTI  Act and to promote higher standards of transparency in public life. These include:

* Making time bound and transparent appointments to fill vacancies in information commissions
* Addressing the issue of  attacks  on information seekers- more than 80 RTI users have been murdered across the country.
* Implementing the Whistle Blowers Protection Act
* Addressing poor implementation of Section 4 of the RTI Act to strengthen mandatory pro-active disclosure, the lack of which was acutely felt in some of this Government’s most wide sweeping policies such as demonetization.
* Addressing the complete lack of transparency in electoral funding.

It  is  inexplicable  that  instead  of  addressing some of these issues that are currently undermining peoples’ right to information, the NDA Government has decided to focus on means to subvert the independence and autonomy of the adjudicating authorities under the RTI Act. This latest legislative sleight is another example of this government’s characteristic intention to disempower democratic institutions of this country.

The RTI Act is used every year by nearly 6 million citizens of the country. It has proved to be the strongest tool in the hands of ordinary citizens to realize their fundamental right to know and hold power to account. The law’s passage in the Parliament in 2005 was a victory for peoples’ movements and campaigns that represented the will and intention of lakhs of citizens to keep democracy alive.

The National Campaign for Peoples’ Right to Information (NCPRI) wholly rejects the amendments introduced by the NDA government, and demands that they be withdrawn with immediate effect. The NCPRI also would like to remind the government to follow due process in carrying out its legislative business and ensure that all draft legislations (including amendments) be put through the pre-legislative consultation process. Amendments which will impact peoples’ fundamental rights must be put through extensive debate and discussion by referring them to the appropriate Parliamentary Standing Committees. The NCPRI will oppose these regressive amendments and mobilise public opinion, so that this peoples law is protected.