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Exclusion from Public Scrutiny, a Barrier to Accountability: Link between Political Parties and RTI Act

DEVANSH PANDIT¹

ABSTRACT

The Right to Information Act, 2005, was a landmark legislation for the Indian legislative, executive and judicial structure. The Act, in its objective, safeguards the citizen's right to secure access to information under the control of "public authorities", in order to promote transparency and accountability in the working of every public authority. "Public authority" is further defined in Section (2)(h) of the RTI act as being an authority, which is either created by the legislative structures of the Centre or respective states, or by notification or order of the appropriate government. One of the most contentious legal developments involving the RTI Act, 2005 is whether national and state political parties classify as "public authorities" under the Act, thereby, coming under the purview of the legislation. The paper would focus its research on how political parties appropriately classify as "public authorities" by analysing the direct & indirect legal, economic & legislative benefits that such parties receive from the state itself. It would focus on the negligible implementation of the guidelines passed by Central Information Commission in its 2013 judgment, which brought the six national political parties under the purview of the Act. The paper would also explore the international narrative in adducing Right to Information as a fundamental right. It would also elaborate the limitations of the 2013 guidelines of the Central Information Commission, by virtue of there being no penal consequences on the said parties for their inaction. Conclusively, it would offer solutions to the contentious issue of inclusion of political parties under the ambit of public authorities.

I. INTRODUCTION

On June 3rd, 2013, the Central Information Commission (hereinafter referred to as the CIC) delivered a landmark judgement and declared that due to the nature of the role that they perform in the Indian democratic setup, political parties have an inherent public character, thereby

¹ Author is a student at Symbiosis Law School, Noida, India.

bringing them under the purview of the Right to Information Act, 2005² (hereinafter referred to as the RTI Act). Section 2(h)³ of the said act defines ‘**public authority**’ and mentions the criteria to determine whether an institution classifies as a public authority or not. The June 3rd decision aptly pronounced that political parties pass the said criteria and thus, are included under the searchlight of the RTI Act. However, till now, there has been no execution of the said order. Major national political have repeatedly defended their status of ‘private authorities’ in their replies to the commission, despite the public role that they play in the democratic setup, further claiming exclusion from Section 2(h)⁴. Moreover, lack of punitive provisions arising out of non-compliance has allowed the political parties to ignore the implementation of the said order. The main essence behind the RTI Act was to bring about transparency and accountability in the democratic functioning. RTI applications provide citizens with a simple right of requesting official state documents pertaining to public functioning thus, indirectly acting as a check on the exercise of state authority and also on bringing the internal functioning of the government under public awareness. The applications further act as an anti-corruption tool as financial transactions and allocations are also included in the pieces of information that citizens can request to be made available to the public. The preamble of the RTI act itself seeks to achieve an “*informed citizenry and to contain corruption and to hold government and their instrumentalities accountable to the governed*”⁵.

Political parties enjoy a peculiar role in a democratic setup. Either in power, or out of it, these parties influence state policies in both direct and indirect ways. Their very existence is for the furtherance of public welfare and interest. Thus, it would irrational to claim that political parties are to be excluded from the searchlight of Section 2(h) of the act. This paper would analyse how political parties classify as ‘public authorities’ under the RTI act and would further discuss the ambiguities involved in party functioning that act as barriers to accountability. Furthermore, the impact of the June 3rd order will be examined along with the international principles that recognise the Right to Information as a fundamental right.

II. CORRESPONDENCE BETWEEN POLITICAL PARTIES AND RTI ACT

(a) Determining whether political parties classify as ‘Public Authorities’ under Section 2(h) of the Act:

Political aspirations worldwide, face a strange paradoxical situation, where, on one hand,

² Right to Information 2005, No. 22, Acts of Parliament, 2005 (India).

³ Right to Information 2005, §. 2(h), No. 22, Acts of Parliament, 2005 (India).

⁴ *Id.*

⁵ Right to Information 2005, No. 22, Acts of Parliament, 2005 (India), ¶ 3.

nations view democracy as an ideal institution and on the other hand, there is scepticism as to whether democracy is an ideal institution at all. The manifestation of the situation of the latter, can be attributed to the mistrust that the citizens have developed against the government. Here, there is a dissonance in what was promised to the public and what was actually executed and delivered. Thus, with the **objective of promoting an accountable governmental structure**, the Indian Parliament enacted the Right to Information Act, 2005. Its further implication for the functioning of political parties was another step in ushering a visionary and transparent democracy.

Political parties are required to execute certain constitutional duties, in order to be registered by the Election Commission of India. Such registration is carried under The Representation of the People Act, 1951⁶. It is pertinent to note that the registered political parties are required to furnish the details of their expenses (worth Rs. 20,000 -/ and above) to the Election Commission of India, under Section 29C of the Representation of the People Act⁷. Thus, it is a bedrock-requirement for political parties to furnish their financial details to the public, to maintain their registration. There is a certain uniqueness in the role that political parties play. The CIC highlighted this uniqueness in the fact that despite being non-governmental in nature, they wield direct or indirect influence over governmental power⁸. This hold that parties have over legislative policies, subsequently, gives them a ‘public’ character, thereby bringing them under the purview of RTI Act.

If we go by Section 2(h)(d)(i)⁹ and Section 2(h)(d)(ii)¹⁰ of the RTI Act-

2(h) “public authority” means any authority or body or institution of self-government established or constituted-

(d) by notification issued or order made by the appropriate Government,

and includes, any-

(i) body owned, controlled or substantially financed;

(ii) non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government

Moreover, political parties are continuously engaged in activities directed towards public welfare, further reinforcing their ‘public’ character. It was stated in the 170th Report of the Law

⁶ The Representation of the People Act 1951, No. 43, Acts of Parliament, 1951 (India).

⁷ The Representation of the People Act 1951, §. 29C(1), No. 43, Acts of Parliament, 1951 (India).

⁸ CIC/AT/A/2007/01029 & 01263-01270, ¶ 28.

⁹ Right to Information Act 2005, §. 2(h)(d)(i), No. 22, Acts of Parliament, 2005 (India).

¹⁰ Right to Information Act 2005, §. 2(h)(d)(ii), No. 22, Acts of Parliament, 2005 (India).

Commission of India on “Reform of the Electoral Laws”, in May 1999 that “*a political party which does not respect democratic principles in its internal workings, cannot be expected to respect the principles in the governance of the country. It cannot be dictatorship internally and democratic in its functioning outside*”¹¹. It is instead a cause of concern that such institutions having a public character actually support the idea of not supplying information, thereby keeping their internal workings concealed from the public.

The sole aim of political parties is to analyse where public interest lies and to cater to public welfare. Their means to achieve the goal of public interest is through a successful electoral process, following which, they formulate welfare policies for its citizens. Political parties thus, are the essential foundation upon which a transparent and accountable democracy is built. Since, catering to the larger interest of the nation is their paramount objective, it is, therefore, irrational for such institutions to claim independence from inspection and scrutiny from citizens. There is a significant fallacy in the argument presented by those who claim that political parties lie outside the searchlight of 2(h) of the RTI Act; the argument is that RTI applications will flood the party administration with paperwork¹², and also compromise information confidential to working of such institution¹³. The fallacy lies in the fact that the institution whose sole objective is furtherance of public welfare, is willing to retain certain information by branding it to be of “confidential” nature. All proposed schemes, plans, and strategies that parties discuss and formulate are aimed towards providing a superior socio-economic structure to citizens to which the parties serve and thus, are important to be brought to the awareness of the public; it is therefore, irrational to withhold such information from public scrutiny.

To further reinforce the idea that political parties are eligible to be covered under the searchlight of ‘public authority’, we can analyse the judgment in the case of Indian Olympic Association (IOA) v. Veerish Malik & Ors¹⁴, where it was held that for a body or institution to be a public authority and to come under RTI, there is no necessary condition for them to be established by a Government Order or Notification. The Delhi High Court held that an institution like IOA should be considered as a public authority even if it was not established by a government order or notification, since it is substantially financed by government funds¹⁵.

¹¹ The Law Commission of India, *Reform on Electoral Laws*, Report No. 170, (May 1999), ¶ 3.1.2.1.

¹² Government of India’s counter affidavit before the Supreme Court [2015] WP (C) No. 333 of 2015, ¶ 10 <http://s3.documentcloud.org/documents/2299082/political-parties-rti-affidavit-by-uoi.pdf> (last visited May 7, 2020).

¹³ *Id.*

¹⁴ Indian Olympic Association v. Veerish Malik & Ors. [2010] WP(C) No. 876/2007.

¹⁵ *Id.*

(b) ‘Substantial’ Financing of Political Parties:

To judge whether or not political parties are ‘substantially financed’ by the government in terms of the RTI act, it is necessary to make a distinction between the ‘tests’ with which we analyse the nature of government financing to the parties. On one hand, we have a ‘quantitative’ test and on the other, we have the ‘degree’ test. The CIC also came before such strenuous distinction of financing in 2012. According to the commission’s perspective, ‘substantial financing’ is akin to “material” or “important” or “of considerable value” and would depend on the facts and circumstances of the case¹⁶. If we scrutinise the material benefits that the government provides to political parties, it becomes illogical to use the ‘quantitative test’ to determine whether the parties are recipients of substantial financing because the funds which are involved, belong to the citizens who collectively instil their trust on the state. Irrespective of whatever quantitative percentage of subsidies or exemptions that the government provides to political parties, **all financing becomes ‘substantial’ the moment public funds are involved due to the larger interest with which the state is encumbered with;** in other words, direct or indirect financing to political parties involve the allocation of public funds and thus, such financing cannot be construed to be of ‘trivial’ nature, thereby, becoming substantial¹⁷.

To inspect the direct and indirect financing by the government, it becomes pertinent to note that major national political parties enjoy total tax exemption against incomes under Section 13A of the Income Tax Act¹⁸. Moreover, material benefits also include residential as well as official allocation of accommodations at landmark locations in the national capital. With residences situated in Lutyens’ Delhi, ranging from Chanakyapuri to Raisana Road. The rates at which these ‘facilities’ are provided are minimal, as compared to the actual market price¹⁹. Since such exemptions and subsidies involve resources of the public, they are eligible to be valued as financial assistance to political parties by the government.

Evidently, in the case *Mr. Tilak Raj Tanwar v. Government of NCT of Delhi*²⁰, it was decided by the CIC that a school which was provided with land at subsidized rates along with income tax concession was “substantially financed” by the appropriate government. Here the CIC observed that such allocation and concession was a financial benefit provided by the state, thus,

¹⁶ CIC/SG/A/2011/003380/18563.

¹⁷ *The Hindu Urban Cooperative Bank Limited v. State Information Commission, Punjab* [2006] WP (C) No. 19224 of 2006, along with 23 connected cases.

¹⁸ The Income-Tax Act 1961, §. 13A, No. 43, Acts of Parliament, 1961 (India).

¹⁹ *Political Parties under RTI: Myths Busted* [https://adrindia.org/sites/default/files/FAQ-%20RTI%20&%20Political%20Parties%20\(2\).pdf](https://adrindia.org/sites/default/files/FAQ-%20RTI%20&%20Political%20Parties%20(2).pdf) (last visited May 1, 2020).

²⁰ *Tilak Raj Tanwar v. Government of NCT of Delhi* [2011] CIC/AD/A/2011/001699.

enabling the school to be declared as a “public authority”²¹. Even though the institution involved in the above case is not a political party, such a decision is still important as it enforced the concept that subsidy and concession is a form of ‘indirect financing’ flowing from the state to the institution, in terms of Section 2(h)(d)(ii) of the RTI Act. Thus, it can logically be concluded that in determining whether the appropriate government has provided “substantial financing”, the word “substantial” cannot be cramped into a stiff formula involving a quantitative test, instead, the larger goal of such concessions needs to be taken into account while determining the nature of financing. To elaborate more upon the exemption from Section 13A of the Income Tax Act provided to major national political parties against incomes, it is imperative to note the decision of the Punjab and Haryana High Court, in the case of Punjab Cricket Association, SAS Nagar (Mohali) v. State Information Commission, Punjab²². The Punjab Cricket Association (PCA), enjoyed exemption from entertainment tax, such exemption allowed the PCA to save heavy amount of cost which might have accrued if exemption was not provided in the first place, thereby, becoming an incidence of financial aid by the Government²³. **These are some of the institutions where funding from the state does not occur directly through a flow of physical money but through indirect methods involving tax exemptions and allocations at nominal rates.** Various judicial pronouncements, mentioned above, have clearly settled the principle that these material benefits provided to institutions are a form of ‘indirect financing’²⁴. If we do a comparative analysis of what similar benefits are provided to political parties, we see that the said benefits also equate to ‘indirect financing’ by the government²⁵. The vital motive, by which income tax exemptions are provided to other institutions is to introduce a level playing socio-economic field. However, the state has no such intention when exemptions are provided to political parties thus, equating it to be merely an unfair financial advantage for them.

There are multiple organizational structures, such as NGO, trusts and associations, which have been brought under the ambit of RTI, however for them, tax exemptions were not the only determining tool which was used to ascertain whether they are to be brought under the purview of the act or not. They were also supported by other benefits such as land allocations at nominal rates, as well as state-handled maintenance charges. Political parties are those structures, which enjoy the full benefit of such ‘indirect financing’. They are the only institution left out of the

²¹ *Id.* at ¶ 12.

²² Punjab Cricket Association, SAS Nagar (Mohali) v. State Information Commission, Punjab [2008] WP (C) No. 16086 of 2008.

²³ *Id.* at ¶ 68.

²⁴ *Supra* note 20 & 22.

²⁵ *Supra* note 19, at 11.

searchlight of Section 2(h) of the RTI Act, thereby enabling them to utilize, direct and re-direct public funds and resources, without the scrutinization of the public itself. **It is rather contradictory, that the institution, which was formed to accommodate and cater to public interest, is propagating exclusion from public scrutiny.**

(c) Role of the Election Commission of India in providing political parties with ‘indirect’ financial aid:

Another important aspect which requires a critical analysis is the role of the Election Commission of India in administering financial aid to political parties during the time of elections. An essential financial expense, which political parties are allowed to forego, is the airtime cost of *Doordarshan* and *All India Radio*²⁶, which is utilized during the period of election; broadcast facilities during this time are provided free of cost to political parties. Since, political parties are not held accountable to compensate the respective broadcasting facilities of the state, such a waiver is again, a form of ‘financial aid’ proceeding from the appropriate government to nation political parties.

It is now evident that public assets are readily utilised for the functioning of these parties. If state is providing financial assistance in the form of land allocation, tax exemptions and cost waivers, it is only to free the political parties from the concern of financial restraint, so as to allow them to focus completely on public welfare. Political parties are treated by the government like any other institution that is considered as a ‘public authority; this is evident from the indirect financial benefits provided to them²⁷. It is therefore, the duty of political parties to provide necessary information pertaining to their expenditure, as well as within the rights of citizens to demand such information so that they are aware as to how public resources are utilized. **Thus, declaration of parties as public authorities will act as check on their financial practices, which have been concealed till now.**

(d) The need to re-think the exemption provision under Section 29C of Representation of People Act, 1951:

Another noteworthy element which, if brought under the purview of the RTI Act would bring more transparency and accountability is allowing public scrutiny of expenses that parties undertake during the period of elections, which as of now, are full of statistical ambiguities. In an article by Archana Chaudary and Jeanette Rodrigues published in the Economic Times,

²⁶ Petition filed by Association of Democratic Reforms in Supreme Court [2015], <https://adrindia.org/sites/default/files/PIL%20filed%20by%20ADR%20in%20the%20Supreme%20Court%20to%20bring%20Political%20Parties%20Under%20RTI.pdf> (last visited May 7, 2020).

²⁷ *Supra* note 19.

election expense for 2019 election was to surpass the unprecedented amount of 50,000 crore (7\$ billion). Furthermore, a 40% jump in expenses was expected from 2014 election²⁸. With such immense financial expenditure involved, a stronger check on the financial practices of national political parties is required. Association for Democratic Reforms formulated a report named “Analysis of Income and Expenditure of National Political Parties for FY2017-18”. According to the report, the ruling BJP alone is attributed to have around 85.70% (Rs. 1027.339 Crore) share out of the total income of 6 parties²⁹. Furthermore, ADR, in its recommendations stated that full details of donors should be made available for public scrutiny under RTI; they cited countries such as Bhutan, Nepal, Germany where Right to Information has helped in ushering a transparent democracy. Since 75% of the sources of funds received by political parties are from unknown sources³⁰, there is an urgent need to reanalyse the exemption rule under Section 29C of the Representation of People Act, 1951, allowing them to forego revealing donations received below Rs 20,000.

The exemption under this act was given to major national political parties to provide them with a conducive environment where financial restrictions and flow of money was not to be cause of concern. Such absence of pecuniary concern would allow political parties to appropriately cater to public interest. However, if we observe quantitative value which political parties chose not to reveal by using such exemption³¹, a concerning issue is raised, as to **why such national institutions feel the need to hide expenses which ultimately are aimed for the greater public good?**

Political parties hold immense power over national policies, whether they are in power or out of it and it is thus, within the rights of the general public to know as to how political parties are financed as well as to be aware of the sources which finance the parties that will subsequently be responsible for formulating national and state-level legislative policies.

III. IMPACT OF THE JUNE 3RD JUDGMENT OF THE CIC

On 3rd June, 2013, a full bench of the CIC, after deliberating upon submissions from the petitioners as well as the respondents, delivered a judgment which proved to be landmark attempt in ushering a transparent democracy by bringing major national political parties under

²⁸ Archana Chaudary & Jeanette Rodrigues, *Why India's election is among the most expensive?*, THE ECONOMIC TIMES (May 3, 2020, 3:43PM) <https://economictimes.indiatimes.com/news/elections/lok-sabha/india/why-indias-election-is-among-the-worlds-most-expensive/articleshow/68367262.cms>

²⁹ Analysis of Income & Expenditure of National Political Parties for FY- 2017-18, https://docs.google.com/viewerng/viewer?url=https://adrindia.org/sites/default/files/Analysis_of_income_and_expenditure_of_National_Parties_-_FY_2017_-_18.pdf (last visited May 6, 2020).

³⁰ *Id.*

³¹ *Supra* note 29, at 13.

the accountable structure of the RTI Act³². The full bench of CIC declared that Indian National Congress (INC), Bharatiya Janata Party (BJP), Communist Party of India (Marxist) (CPI (M)), Communist Party of India (CPI), National Congress Party (NCP) and Bahujan Samaj Party (BSP) are ‘public authorities’ and are well within the purview of the Section 2(h) of the RTI Act. They further directed these parties to appoint a Chief Public Information Officer (CPIO) within six weeks from the date the judgment was delivered³³. These designated CPIOs were allocated with the responsibility to respond to the RTI application that the parties received. The CIC intended to establish a responsible and accountable setup which was within the ability of national political parties to achieve, if they were to actually follow the principle of a transparent democracy where citizens were fully aware of how their political parties operate.

However, their response was contradictory to the fundamental concept that the CIC wanted to establish. A bill was introduced in the 2013 monsoon session of the Lok Sabha, which intended to amend the original RTI Act³⁴. This bill was faced with vehement opposition from various civil societies, information activist as well as ordinary users of law³⁵ and was further sent to a Standing Committee for deliberations. Despite public opposition, the Committee also agreed to the proposed amendment; in the meantime, the Bill to amend the RTI Act lapsed. The stand taken by the major national political parties was disconcerting. This was because public opinion and opposition from civil societies that propagated an accountable democracy, was readily disregarded by major national political parties. Furthermore, the amendment bill which was introduced had the sole intention to exclude and protect major political parties from the judgment delivered by the CIC. It was evident that such parties lacked the will to reveal internal party workings. This was apparent initially, when Association for Democratic Reforms (ADR) in 2010 filed an application under the RTI Act to all national parties requesting information regarding ‘10 maximum voluntary contribution’, and none of the political parties revealed the information to ADR or to the public³⁶.

(a) Timeline of the journey to bring Political Parties under the ambit of RTI:

Even if the path to the June 3rd, 2013 judgment did not fully lead to a transformation of the

³² *Political parties to come under RTI- landmark judgment by CIC* (May 3, 2020, 5:44 PM) <https://adrindia.org/content/political-parties-come-under-rti-landmark-judgement-cic>

³³ *Id.*

³⁴ Right to Information (Amendment) Bill, 2013, No. 22, Bills of Parliament, 2013 (India), [http://loksabhaph.nic.in/writereaddata/RTI/RuleandAmendment/RTI_\(Amendment\)_Bill,2013.pdf](http://loksabhaph.nic.in/writereaddata/RTI/RuleandAmendment/RTI_(Amendment)_Bill,2013.pdf) (last visited May 7, 2020).

³⁵ Vidya Subrahmaniam, *First-ever amendment to historic RTI act tabled in Lok Sabha* (May 2, 2020, 8:12 AM) <https://www.thehindu.com/news/national/firstever-amendment-to-historic-rti-act-tabled-in-lok-sabha/article5015695.ece>

³⁶ *Supra* note 19.

Indian electoral structure, the journey to bring about such a significant change initiated in 2010.

- 29th October, 2010- RTI filed by ADR, seeking information on donations and contributions received by political parties. No responses were received from BJP and BSP, CPI(M), INC and NCP, refuted the complainants' claim by stating that they do not fall under the purview of RTI.
- March 2011- Complaint was filed with the CIC. After hearing the matter at several occasions, a full bench of CIC pronounced its decision on 3rd June, 2013.
- 12th August, 2013- The Right to Information (Amendment) Bill, 2013, was introduced in the Lok Sabha, which faced vehement opposition from Civil Societies as well the public.
- 12th September, 2013- Bill was referred to Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice.
- 21st November, 2014- Due to non-compliance of the CIC order, a show-cause notice was issued to six political parties; parties did not appear before the commission.
- 16th March, 2015- CIC again issued an order, stating that its decision of 3rd June, 2013, was final and binding.
- 19th May, 2015- PIL filed by ADR in the Supreme Court to bring the political parties within the ambit of RTI.
- 22nd July, 2016- Chief Information Commissioner, RK Mathur, constituted a renewed bench; the hearing for this bench started on 16th August, 2017.
- March 2019- The 'electoral bond' scheme came under fire, with claims that it will be used as a veil to hide illicit campaign financing.
- 7th April, 2019- Ashwini Upadhyay, BJP leader, filed a petition in the Supreme Court, with the plea that political parties should be brought under the RTI Act³⁷.

Political parties are stuck in **paradoxical situation**; any appeal against the CIC decision would lead the general public to believe that there are certain functions and financial practices that parties want to conceal from them, for some reason or the other, which will indirectly hurt their electoral image. Whereas, any appellate inaction on the CIC decision would mean that parties would be duty-bound to comply to the directions. This would shed light on the unseen activities

³⁷ *Political Parties Under RTI* (May 7, 2020, 3:38 AM) <https://adrindia.org/content/political-parties-under-rti#roadmap>

that political parties do not want the public to be aware of.

(b) Inadequate Steps taken to comply with the June 3rd decision of the Central Information Commission:

After the commission delivered its verdict and issued directions, no action was taken for 17 months after the order was issued. The six political parties which were subsequently brought under the purview of the RTI Act did not reply and showed no willingness to be in consonance with the CIC's order. On 21st November, 2014, the commission issued a show-cause notice to the respective parties for non-compliance³⁸, but to no avail as none of the parties appeared for the specific hearing. Furthermore, the respective parties also made no appointments of the CPIO, as directed by the June 3rd order of the CIC. The political parties, in their replies to the Central Information Commission vehemently opposed their inclusion under the searchlight of Section 2(h) of the RTI Act. It is pertinent to note that Section 20 of the RTI Act³⁹ gives the CIC the power to impose penalties on institutions that do not comply with their directions. Furthermore, Section 19 of the RTI Act⁴⁰ also has a provision where exemplary compensation can be provided, for non-compliance. Mr. Subhash Aggarwal and ADR, who were the co-petitioners, requested in their prayers that the commission should hold the parties liable under these sections of the statute. The CIC again set up a hearing for 7th January 2015; all parties were unanimously absent from the hearing. The CIC reserved its order on the issue. The respective political parties showed no willingness to set up specific RTI offices in their organizational structures to be in consonance with the June 3rd order.

One of the contentions presented by the respondents was that their offices would be flooded RTI applications, hampering their administration⁴¹. However, most of the RTI applications that the parties would receive will probably intend to gain more information regarding the flow of finances along with the source from where the finances are received. To make things more comprehensive and up to date, Section 4(1)(a)⁴² of the RTI calls for nationwide computerised network where all RTI applications will be stored. This will further reduce the workload that parties will have to deal with if there is an appropriate use of technology. Another concern that was presented by the respondents was that RTI applications will be misused and parties will be

³⁸ CIC/SM/C/2011/001386

<https://adrindia.org/sites/default/files/CIC%20notice%20on%20non%20compliance%20of%203rd%20June%20order%20by%20Political%20parties.pdf> (last visited on May 2, 2020).

³⁹ Right to Information Act 2005, §. 20, No. 22, Acts of Parliament, 2005 (India).

⁴⁰ Right to Information Act 2005, §. 19, No. 22, Acts of Parliament, 2005 (India).

⁴¹ *Supra* note 12 at ¶ 10.

⁴² Right to Information Act 2005, §. 4(1)(a), No. 22, Acts of Parliament, 2005 (India).

compelled to reveal confidential details regarding internal party meets⁴³. It is pointed out that it would be irrational for parties to hide information from public scrutiny as all party meets are organised to discuss issues of public importance and for the furtherance of public welfare. Moreover, it would be within the rights of citizens to know the official statements that their elected representatives make during such meets. Mr. M Sridhar Acharyulu, in an article published in The Tribune attempted mollify the concern of the respondent parties by stating that blackmail by RTI should be liable to be punished, but the act itself should not be diluted⁴⁴. RTI, as a statute, gives a simple right to its citizens which is to request possession of a government document, or file, which was, at the outset, constructed for public welfare itself. Thus, there should ideally be no reluctance on the part of political parties to deny the dissemination of information. The Act itself provides appropriate protection against disclosure of certain pieces information⁴⁵; other than that, political parties are duty bound to keep the citizens aware as to how they operate, to actually bring about a transparent electoral setup.

Now, for political parties, the path forward is to come together and become the torch-bearers of an accountable democracy and comply with the June 3rd order of the CIC. A relevant judicial pronouncement here would be in the case of *Namit Sharma v. Union of India*⁴⁶, where it was held that an order by the commission is final and binding and can be questioned in the Supreme Court of the High Court, depending upon the Court's jurisdiction. Another path would be to appeal the June 3rd order of the CIC, so that the Supreme Court delivers its decision which will have a superior binding power. However, such an action is unlikely as any such appeal would give parties the image of being the barriers to accountability which will be un-favourable to their electoral strategy. The core of the issue is that the implementation of the June 3rd order is in the best interest of political parties as well as the citizens involved in the Indian democratic structure. Another legal drawback, which needs to be corrected is to establish punitive judicial implications arising out of non-compliance of the commission's orders. It is also due to the lack of such punitive measures, that the commission is unable to get the respondent parties to comply with the June 3rd order.

IV. RIGHT TO INFORMATION: THE GLOBAL NARRATIVE

Right to Information as a movement, is not an ideal phenomenon restricted to the Indian electoral structure. The landmark Universal Declaration of Human Rights (UDHR) includes,

⁴³ *Supra* note 12 at ¶ 10.

⁴⁴ M. Sridhar Acharyulu, *Punish blackmail, but don't dilute RTI Act* (May 4, 2020, 12:13PM) <https://www.tribuneindia.com/news/comment/punish-blackmail-but-don%E2%80%99t-dilute-rti-act-14229>

⁴⁵ Right to Information Act 2005, §. 8, No. 22, Acts of Parliament, 2005 (India).

⁴⁶ *Namit Sharma v. Union of India*, (2013) 1 SCC 745.

in its Article 19⁴⁷, that everyone has the right to freedom of expression which further extends to the freedom to seek, receive and impart information through any media and regardless of the frontier. Thus, it can be observed that the right to seek information pertaining to the state functions was enshrined in the international community in 1948 itself when the United Nations General Assembly adopted the UDHR. Furthermore, in accordance with the respective declaration, the fundamental concept that an ideal human living in a democratic setup has to be provided with civil and political rights also emerged in the international community, thereby leading to the presentation of the International Covenant on Civil and Political Rights in 1996. The covenant, in its Article 19(2) explicitly states the provision where the right to freedom of expression extends to include the right to seek, receive and impart information, either through an oral medium, or through writing or print⁴⁸. It is pertinent to note here that the implication of this provision is not absolute. Article 19(3) of the covenant mentions certain circumstances where information can be withheld, for example, where national security and public order are involved⁴⁹. To analyse the Asia-Pacific⁵⁰ region, the 1967 ASEAN Declaration⁵⁰, to which India is a signatory, adheres to the United Nations Charter which subsequently includes Article 19 of the Universal Declaration of Human Rights⁵¹. In the international community, the idea behind right to information is that it acts as a tool to check the internal functions of the state. Citizens living in a democratic setup have the power to request documents and files belonging to the government, thereby acting as guardian against abuse of power which can take the form of oppressive legislative provisions, illicit public contract allocation and illegal exercise of state authority. Article 13 of the United Nations Convention against Corruption also contains provisions that promotes dissemination of information by the state, on the request of its citizens⁵². Thus, we can see that the concept of right to information is an internationally recognised principle, being enshrined in multiple global legislations thus, giving it a global narrative that nations worldwide should accept and adopt.

⁴⁷ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), art. XIX.

⁴⁸ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, art. XIX(2) (May 2, 2020, 7:27PM) <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

⁴⁹ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, art. XIX(3) (May 2, 2020, 7:27PM) <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

⁵⁰ Association of Southeast Asian Nations (ASEAN), *Charter of the Association of Southeast Asian Nations*, 20 November 2007 (May 5, 2020, 12:13PM) <http://asean-aipr.org/wp-content/uploads/2018/07/1.-The-ASEAN-Charter.pdf>

⁵¹ *Supra* note 47.

⁵² UN General Assembly, *United Nations Convention Against Corruption*, 31 October 2003, A/58/422, art. XIII (May 7, 2020, 6:30PM) https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

V. CONCLUSION

“No Office in this land is more important than that of being a citizen”

-Felix Frankfurter

The issue of whether political parties fall under the purview of the RTI Act, is a contention that has an immediate effect on determining the nature of our democracy. Transparency and accountability can only be ushered, when institutions such as political parties, who are encumbered with the immense public trust, readily give in to the wave of Right to Information as a movement. However, it is disconcerting to see the ignorance showed by national parties in the implementation of the June 3rd order. RTI applications will act as an anti-corruption tool which will further keep a check political parties as to how and where they make financial allocations. Excerpts from internal party meets will also come under the information that can be requested through RTI application, thereby keeping the public up-to-speed regarding the strategies that political parties adopt for the furtherance of public welfare. Political parties will still enjoy exemption from disclosure of certain pieces of information, if it falls under Section 8 of the act, thereby restraining the pervasiveness of RTI applications.

Political parties need to comprehend the essential role that they play in the Indian democratic setup. It would irrational to claim that other authorities require a check on internal workings but not political parties. Parties act as a channel between what the public requires and demands, and what the legislative policies provide, thus, it is within the rights of the general public, to be aware of how national political parties function. India needs to accommodate the global narrative, where precedents have been set which establish Right to Information as a fundamental right. Only then, can India claim to have a transparent democratic structure. All-in-all, inclusion of political parties under the act accompanied with the implementation of the June 3rd decision of the CIC would lead to an unambiguous and unequivocal democracy, which is the need of the hour.
