

## SUBVERTING THE RTI REGIME

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

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The [recent passage of the Right to Information \(Amendment\) Bill](#) by the Lok Sabha has reignited the debate on the future of important institutions in India. The Bill is being seen by many as an attempt to subvert the RTI Act and its machinery.

Two of the most controversial provisions of the Bill are: a) the stipulation that the terms of office of the Central and State Information Commissioners (CIC/SIC) will be determined by the Central government as against the existing provision which guarantees a fixed term of five years or up to an age of 65 years; and b) the proposal that their salaries, allowances, and other terms and conditions of service will be determined by the Central government. This is contrary to the currently prescribed salaries and allowances, which are equivalent to that of the Chief Election Commissioner (CEC)/Election Commissioners (ECs) for the CIC/SIC; and the Chief Secretary to the State government for the other ICs.

The object clause attached to the Bill differentiates between the status and functions of the Election Commission and the Information Commission. It thereby reasons that the conditions of service must also be correspondingly rationalised. While introducing the Bill, Minister of State for the Prime Minister's Office Jitendra Singh said that it was a gross anomaly to designate the CIC and ICs as equivalent to the CEC and the ECs respectively. He said this potentially equated CICs to Judges of the Supreme Court even though the order passed by CIC is liable to be challenged in a High Court.

The tremor of unwelcome amendments to the RTI Act

Both these reasons are *prima facie* problematic and self-contradictory. Since information as a right is a prerequisite for an effective exercise of the right to free speech and expression, the Information Commission's autonomy as an institution should not be viewed through the parochial lens of positioning in a statute book, but should be seen in terms of the nature of power and functions it exercises. The Supreme Court has termed the CIC and SICs as guardians of the Act and directed that CIC and ICs shall be appointed on the same terms and conditions as applicable to the Chief Election Commissioner/Election Commissioners. Interestingly, on the question of orders passed by the CIC, the fact is that even an election petition against an order of EC can be filed in the High Court and, quite evidently, this does not have any bearing on the poll body's constitutional stature.

Power has an inherent tendency to tempt governments to cajole or control institutions. Freedom from interference and pressures provide the necessary atmosphere where one can work with an absolute commitment to the cause of transparency. Discipline in life, habits and outlook facilitate a constitutional functionary to be fair. Its existence depends however, not only on idealistic and metaphysical aspects but also upon numerous mundane things — security in tenure, freedom from ordinary monetary worries, freedom from influences and pressures.

In the words of the Supreme Court, "The right to get information... is [a] natural right flowing from the concept of democracy. That right has reached new dimensions and urgency. That right puts greater responsibility upon those who take upon the responsibility to inform..." Instead of playing one institutional body against the other and diluting their powers, what is expected of the

government is to focus on the real challenges faced by these institutions, such as pendency of applications; vacancies; and qualitative decline in adjudication standards.

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