

1/20/2011

Gmail - some points from paris



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To: aruna roy <arunaro@gmail.com>, Nachiket Udapa <nachiket.udapa@gmail.com>, Rakshita Swamy <rakshitaswamy@gmail.com>

Dear Aruna, (and all the others mkss sathies who might read this))

I arrived in Paris a couple of hours ago. By the time I cleared the security and transferred terminals it was an hour and a half after landing. Incredibly expensive airport food, so even though it is paid for, our lifestyle has become part of our nature, so it is very difficult to eat or drink anything at these prices. Anyway, have had some coffee and an apple, and thought I would start writing something which could be used by you during the presentation on the amendments to the RTI rules. Taking into account the justified critique that I am becoming verbose- I will try and keep it short, and confined to a few main points:

- 1) The first thing we need to ask ourselves is our approach as we frame the rules. The rules must strengthen the Act without going beyond the Act. This is an access to information Act passed to **strengthen** citizens access to information. This must be the touchstone by which the rules must be examined. Anything that would strengthen citizens access to information through the Act should be favourably considered, and anything that even might hamper such access should be rejected. This is not an issue of "balance", as the DoPT note repeatedly uses as a justification. It is in fact an issue of correcting a long standing imbalance.
- 2) The second thing we need to consider is the effectiveness of the proposed amendments- either for reducing harassment of the offices and officers, or for strengthening areas of weakness. What is the intended purpose, and will it achieve that purpose?
- 3) The third consideration is whether there can be areas of rule making that the DoPT has overlooked, and should those not be considered at this time. How can only those amendments that the DoPT suggests be considered to be possible?

4) The fourth has to do with the process between the NAC and the DoPT. The NAC working group has discussed these amendments more than once. There has also been a consultation with people from civil society, and suggestions and reactions to the proposed amendments that were in the public domain were also discussed. The suggestions were presented to the whole NAC on the 10th of January, and no objections to the working groups suggestions were made. This time, the NAC should make its position/ opinion/advice clear. It is notable (from the language used by the DoPT in its response) that the DoPT seems to have already made up its mind on what it will accept or reject. Arguments are not offered- decisions are being conveyed. The NAC position should also be made clear. *(Aruna, if there are problems on some of these issues, and the NAC seems reluctant to send this tomorrow, then legal opinion could be sought by the working group from eminent lawyers and even Sol Gen Addl Sol Gen - or the DoPT could be asked to hold action on this till a meeting is organised by the working group, where they attend, some civil society people attend, and eminent legal experts attend.)*

5) The most important amendment that has drawn widespread criticism for being ultra vires the act, as well as for being a potential roadblock for many ordinary citizens' use of the act is the 250 word limit, and single subject limitation. If this proposed amendment is not withdrawn, the entire effort to amend the rules are likely to be justifiably labelled an attempt to use rules as a backdoor entry to undermine the act. There may be justification for proposing this rule, but there is much greater justification to reject it.

6) The suggestions of rules for setting up mechanisms for helping the selection committee choose from a panel of names for information commissioners, as well as the need for rules to determine how the government decides what is an intelligence and security agency and notifies it under section 24 as exempt, are important areas that should be discussed and worked upon with reasons rather than rejected as not within the purview of the rules as the DoPT seems to have done.

Hopee this helps. There is a thing that says free wi fi for 15 minutes. Will try and send it within that time. Otherwise- from Washington. I got your sms. Will send you the hotel phone number as soon as I reach.

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I will try and write about the other issues like minimum wages, and what I feel we should do now. Can you see if we can meet the new RD Minister through a reference from Mrs Gandhi- even in the 1st week of Feb?

Lots of love and zindabad,

Nikhil

p.s. my feet got so swollen that I could not get into my shoes. Now they are in the carry on bag and the slip on chappals are on my feet! Thanks for making me carry them! Otherwise I would have been a hussain.

—
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