

**RTI Rules notified in the States and by High Courts – Absence of
Legislative Scrutiny
May 18, 2011**

Dear all,

The lack of uniformity in the Rules notified under the *Right to Information Act, 2005* was a major recurrent theme at the 3rd National RTI Convention organised in Shillong in March this year. Readers who attended the Convention organised by the National Campaign for People's Right to Information may remember the demand made repeatedly by participants for bringing uniformity in the Rules notified by the State Governments. Serious concern was also expressed over the problematic RTI Rules notified by various High Courts. On the 3rd day of this Convention I made a brief presentation at the last plenary about the systemic problems that exist in relation to rules made by competent authorities other than Government of India under laws passed by Parliament. Doubts were also expressed about whether this was a systemic problem at all.

I have attached a letter that we sent recently to the Department of Personnel and Training, Government of India highlighting the systemic problem with regard to RTI Rules notified by the State Governments and the High Courts.

The systemic problems may be summarised as follows:

1) **Problem 1:** Parliament can annul or modify Rules made by the Central Government but it cannot annul or modify Rules made by the State Governments howsoever bad they may be. There is no mechanism for State legislatures to modify or annul Rules made by the State Governments under laws passed by Parliament such as the RTI Act. State Governments are only required to table the Rules in the State Legislature after notification. At the most the State Legislature can recommend changes. Even this does not happen most of the time as the State Legislature may not have a Committee on Subordinate Legislation (like the Lok Sabha and the Rajya Sabha committees in Parliament) to vet the Rules in detail. Even if they have one, the Rules may not be referred to such committees by the State Government at all. As a result retrograde Rules such as word limits, subject matter restrictions, higher fee rates and demand for citizenship proof from applicants go unchallenged.

This problem was discussed by the Lok Sabha Committee on Subordinate Legislation during the 1970s. The 20th Report of the Committee under the Chairpersonship of Shri Somnath Chatterjee submitted to the Sixth Lok Sabha highlights this problem and offers solutions. However these recommendations have not been acted upon since then. The Ministry of Law, Government of India ought to have taken up this matter with the States. But there is very little information in the public domain about what they have done to give effect to the Committee's recommendations.

2) **Problem 2:** There is no requirement for even tabling the Rules notified by the High Courts before Parliament or any State Legislature. This is why there has been no challenge to the retrograde RTI Rules notified by many High Courts around the country. As a result Rules imposing additional restrictions on access to information, charging exorbitant fees etc. have remained intact.

This problem was not even discussed by the Lok Sabha Committee as there were no laws like the RTI Act then which empowered the High Courts to make Rules. However we believe that the Rules of Business Procedure of the Lok Sabha and the Rajya Sabha empower the respective Committees of Subordinate Legislation to vet the RTI Rules made by the High Courts. This is a better procedure than challenging the Rules in the same High Court. But the DoPT will have to place these Rules before the Committees for vetting.

The [letter sent to the DoPT](#) and the relevant extracts from the [Lok Sabha Committee's report](#) are attached for your reference.

Rule 317 from the Rules of Business Procedure of the Lok Sabha is accessible at: <http://164.100.47.132/LssNew/rules/rules.aspx>

Rule 204 from the Rules of Business Procedure of the Rajya Sabha is accessible at: http://rajyasabha.nic.in/rsnew/rs_rule/rules7th.pdf

It is high time we moved our elected representatives to pay serious attention to these matters in Parliament and in the State Legislatures.

In order to access our previous email alerts on RTI and related issues please click on: http://www.humanrightsinitiative.org/index.php?option=com_content&view=article&id=65&Itemid=84

You will find the links at the top of this web page. If you do not wish to receive these email alerts please send an email to this address indicating your refusal.

[I have not posted this message on humjanenge@googlegroups.com. However this message may be automatically relayed through that group to unintended recipients. My apologies in advance for the inconvenience caused to such recipients.]

Thanks

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