

**Title:** Discussion on the Freedom of Information Bill, 2000(not concluded).

1544 hours

THE MINISTER OF STATE OF THE MINISTRY OF SMALL SCALE INDUSTRIES, AGRO AND RURAL INDUSTRIES, MINISTER OF STATE IN THE DEPARTMENT OF PERSONNEL AND TRAINING, DEPARTMENT OF PENSIONS AND PENSIONERS WELFARE OF THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE DEPARTMENTS OF ATOMIC ENERGY AND SPACE (SHRIMATI VASUNDHARA RAJE): Mr.Chairman, Sir, I beg to move:

"That the Bill to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto, be taken into consideration. "

Sir, the need to enact the law of Right of Information has now been recognised at many levels in order to make the Government more transparent and accountable to the public. With this end in view, the Government had appointed a Working Group on the "Right to Information and Promotion of Open and Transparent Government" under the Chairmanship of Shri H.D. Shourie. The Working Group was asked to examine the feasibility and the need for either full fledged right to information or its introduction in a phased manner to meet the needs of open and responsive governance. This Working Group submitted its report in May, 1997, and as a part of its work, drafted legislation on following broad principles:-

a) The disclosure of information should be rule and secrecy the exception; and

b) The exceptions should be clearly defined; and

The draft Bill and the report of the Working Group was examined in detail by three separate groups of Ministers at different times and extensive discussions were also held by the Committee of Secretaries with the result that the final Bill is a product of all these suggestions. The proposed Bill is in accordance with both Article 19 of the Constitution as well as Article 19 of the Universal Declaration of Human Rights.

While drafting the proposed Bill, the Government kept in view the need to provide requisite information to the general public while keeping in view the public interest. It will be seen from the proposed Clause 8 and Clause 9 of the Freedom of Information Bill that the Government have ensured maximum freedom, allowing access to information in custody of public authorities, and the exceptions have been kept to the minimum. The proposed Bill has wide coverage because it applies to all public authorities which have been defined to include the Central as well as State/Union Territory Governments, bodies owned or controlled or substantially financed by them, the two Houses of Parliament, State Legislatures, the Supreme Court, High Court and the Courts under them and constitutional authorities like Election Commission, C&AG, UPSC. The Bill casts an obligation on the concerned public authority to grant information or publish certain categories of information.

(y2/1545/rk-rjs)

The Bill also lays down the machinery for grant of access to information and public authorities are required to appoint Public Information Officers whose responsibility is to deal with the request for information within 30 days after the request is received. There is also a provision for appealing to the prescribed authorities within 30 days of the decision.

After the proposed Bill is passed, it would be necessary to develop an inexpensive, quick and efficient mechanism for grant of information and for this purpose, appropriate infrastructure and training of civil servants would be ensured besides notification of rules to carry out the purpose of the Act. Further, all Central Government rules, which restrict flow of information even when such information can be granted to the general public, would be reviewed with a view to develop a culture of openness.

In this connection, attention is invited to clause 14 of the proposed Bill which provides that the Official Secrets Act, 1923 and every other Act in force shall cease to be operative to the extent to which such Act is inconsistent with the provisions of this Act, thereby clearly specifying that the proposed Act will have an over-riding effect.

The Freedom of Information Bill is an historic legislation which will lead to a more open, transparent and accountable system of Government. With these words, Mr. Chairman, Sir, I request that this Bill may kindly be considered and unanimously passed by this august House. Thank you.

(ends)

MR. CHAIRMAN (SHRI P.H. PANDIYAN): Motion moved:

"That the Bill to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto, be taken into consideration."

1547 hrs.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman, Sir, since Independence, a plethora of new laws has been added to the Statute Book to shape a liberal society, a liberal polity and to give expression to the needs, yearnings and aspirations of the people. Welfare of the teeming millions and promotion of lofty democratic principles, besides, of course, the most importantly the paramount national interest have *inter alia* been the considerations of this enactment.

However, since we inherited the old imperial system of governance, there has been no perceptible change in the mindset and approach of the civil service. The relationship between the Government and the people continues to be that of the ruler and the ruled. So, this *mai-bap* psyche still continues to bedevil our society. And, this is so despite the fact that youngsters, students from many families, which otherwise are below the poverty line or in any case belong to the weaker sections of society, have also made it to the administration through the dint of hard work and democracy, as such, has provided wings to the wingless. So, it is ironic that even after 53 years of Independence, if a well-meaning citizen today asks for some information or some sort of accountability by a Government official, he is looked with suspicion. In fact, the person from whom the information is sought is rather offended. This perhaps is because of the colonial paternity of the civil service which still strives to thwart any well-meaning citizens desirous to have some information on the basis of which some Governmental decision was taken or on the basis of which a Governmental policy is being drafted.

Sir, the right of speech and expression or even the right of equality, the rights which are enshrined in article 19 referred to by the hon. Minister, have an in-built right of information therein. Sir, unfortunately, I would say, the Government today - as always I would say - has a sort of shroud of secrecy about its functioning, about its various decisions which in a democracy like ours should not really be the position.

(z2/1550/rc/sb)

Sir, in this context, I would just refer to one observation made by the hon. Supreme Court way back in 1975 in the case of State of Uttar Pradesh *versus* Raj Narain. I quote:

"In a Government of responsibility like ours where the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, and everything that is done in a public way by the public functionaries. They are entitled to know particulars of every public transaction in all its bearings. The right to know which is derived from the concept of freedom of speech though not absolute, is a sector which should make one wary when secret is claimed for transaction which can at any rate have no repercussion on public security. "

Sir, this lack of information possessed or available to the common citizen was recognised by the late Rajiv Gandhi as well when he lamented that only six paise out of a rupee ultimately reached the beneficiary under the various developmental programmes. This situation has not changed during the last 10 years only because the public does not know how the public money is spent. Sir, the planning process today makes building of an EWS tenement much more slow than the building of a palace a hundred years back. That is what we have achieved by our planning and by the way the Government works. Sir, how much is spent on what, and whether there is a judicious use of the public fund, these questions are important to expose corruption, to check squandering of public funds, and to check arbitrariness through a process of social audit. For this, information so zealously guarded and kept away from the public by the loyal *babu* has to be now thrown open to public. Sir, I would again comment that this approach of the Government and this transparency will certainly impart meaning to democracy and will make democracy an effective instrument of social change. It will promote public ethic. It would promote probity in public life and ultimately it would even help achieve efficiency in Government. In this perspective, I would certainly welcome the introduction of the Freedom of Information Bill which is intended to provide freedom to every citizen to secure access to information under the control of public authorities consistent with public interest in order to promote openness, transparency, and accountability in administration.

Sir, having said this, I would very briefly refer to some of the amendments which I have suggested. Let me also say that there is one clause with which I would certainly find some difficulty. Sir, before that, permit me to say that since this is an important piece of legislation, and since this, I would say, is also a historical legislation my fears are that this would be a dead letter ultimately.

(a3/1555/kvj/har)

What is the law? It is the manifestation of what the people desire through their elected representatives. We do want this piece of legislation. People for long have been denied access to the Government held information and therefore this is a right step that the Government has taken in coming forward with a piece of legislation like this to meet that long-pending need which in fact is the *sine quo non* for the efficient working of democracy itself. Democracy is not just an exercise in one-time vote or a periodic vote. Democracy is a principle in itself. Democracy means that you have to inculcate and develop a democratic temper. You have to, for that matter, encourage and promote democratic values. Intended as this Bill is to achieve these objectives, it is welcome.

But when I say this would become a dead letter, I have the fear for the simple reason that along with enacting such legislations it is imperative that the mind-set changes. As I began I said that this mind-set is not easy to change. People who have held Government information close to their hearts, even information which is innocuous in nature has not been parted with by them. Here I would not hesitate to say and I would seek your indulgence to do so that even in this House when we seek information by means of parliamentary questions, every effort is made to see that the least possible information is provided to the Members of Parliament. I do not blame only this Government for this. I have said that the colonial paternity of bureaucracy which has been inherited by us is the cause for this. It is important to change that mind-set. Till we are able to do that, maybe this Bill achieves nothing.

The second point is, even if it is not a dead letter, I think this could cause problems for the Government. Here I am with the Government. I think the Bill as it is drafted could lead to a new sort of jurisprudence. Though there is a provision to bar the jurisdiction of civil courts, I think this piece of legislation would open floodgates of writ petitions. You would kindly permit me to make those observations as I move, though hurriedly, some of the amendments that I have suggested.

Before I refer to the amendments, I would venture to say that since this is a Bill of great significance, it would have been better if this Bill had been referred to the Standing committee before this was brought to the Parliament. Because there is really no urgency attendant to the early passage of this Bill. At times we have seen Government coming forward with certain Bills converting Ordinances and impressing upon the House here that the contingency or the expediency of the situation requires the Bill to be passed immediately. We have seen this in the case of the Telecom Regulatory Authority of India Bill where an Ordinance had been issued and with the utmost hurry the Bill was sought to be passed and was passed in the House and for months no action was taken under the Bill. But, here is a Bill with which there is no such urgency.

MR. CHAIRMAN (SHRI P.H. PANDIYAN): It is 4 o'clock now.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): If it is an indication for me to stop, I would seek your permission to continue later.

MR. CHAIRMAN: You can continue your speech after two hours. Now amendments. Shri Varkala Radhakrishnan.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Sir, I have not concluded my speech. I have to continue my speech. Therefore, the stage of moving amendments will come after I have concluded my speech.

MR. CHAIRMAN: He can move the amendment now.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30<sup>th</sup> November, 2000." (1)

MR. CHAIRMAN: I think Shri Vilas Muttemwar is not present.

From 4 o'clock to 6 o'clock we will discuss under Rule 193 disinvestment of PSUs. After 6 o'clock we will resume the discussion on the Freedom of Information Bill, 2000.

(b3/1600/ru-skb)

...(Interruptions)

MR. CHAIRMAN : The time allotted for this discussion is two hours, namely, between 4 p.m. and 6 p.m. At 4 p.m., Shri Acharia will commence the discussion, it will be over at 6 p.m. and after 6 p.m., the Bill on Freedom of Information will be taken up.

SHRI RUPCHAND PAL (HOOGLY): Sir, how can the Chair decide, without the consent of the House, that the

House will sit beyond 6 p.m.?

MR. CHAIRMAN: The BAC has taken a decision that we will sit upto 8 p.m.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): We passed that resolution yesterday.

SHRI RUPCHAND PAL (HOOGLY): You need not refer to what happened in the BAC. Only at 6 p.m., this House has to give its consent.

MR. CHAIRMAN: We will get the consent of the House at 6 p.m.

SHRI RUPCHAND PAL (HOOGLY): That can be done at 6 p.m.

SHRI PRAMOD MAHAJAN: Those who want to participate in the Freedom of Information Bill should not miss it. So, he has announced it. Otherwise, Shri Pawan Kumar Bansal has initiated the discussion and he should not miss it at 6 p.m. That is why, he has just informed the House that the Bill will be taken up at 6 p.m.