

**Minutes of the 2nd Meeting of the Executive Committee of
the 'National Federation of Information Commissions of India' (NFICI)**

Date: 20.02.2010, **Venue:** Gurajada Hall, Andhra Pradesh Bhawan, New Delhi

Attended by:

Executive Committee Members of NFICI:

1. **Shri Wajahat Habibullah**, Chief Information Commissioner (CIC), Central Information Commission & President;
2. **Shri C. D. Arha**, State Chief Information Commissioner (SCIC), Andhra Pradesh & Vice President;
3. **Prof. M. M. Ansari**, IC, Central Information Commission;
4. **Shri K. K. Mishra**, SCIC, Karnataka;
5. **Dr. S. V. Joshi**, SCIC, Maharashtra;
6. **Dr. Mohd. Shakeel Ahmad**, IC, Bihar.

Special Invitees:

1. **Shri P. S. Rana**, Chief Information Commissioner, Himachal; Pradesh;
2. **Shri M. D. Kaurani**, Chief Information Commissioner, Rajasthan;
3. **Shri G. Madhavan**, Chief Information Commissioner, Haryana;
4. **Shri A. K. Chaudhary**, Chief Information Commissioner, Bihar.

Agenda Items:

1. Steps toward inviting members and accepting their membership contributions – requesting the Chairman to write to all Information Commissions for obtaining membership for '**National Federation of Information Commissions in India' (NFICI)**;
2. Seeking approval for meeting the initial administrative / operational costs to be incurred by APIC toward setting up the NFICI unit in APIC;
3. Detailed deliberation on next steps of the Committees constituted during the last Governing Board meeting.
4. Deliberating on the possibility of organising a conclave exclusively for the **members of NFICI** and determining a minimum membership before such a conclave can be organised and deliberating upon the objective / outcome of such a conclave; and
5. Any other matter with the permission of the Chair.

Shri C. D. Arha formally welcomed the President *Shri Wajahat Habibullah*, (in the Chair) by presenting him with a bouquet. He also extended a warm welcome to the other participants and mentioned that the ensuing discussion may have some overlaps in terms of what was touched upon / discussed in the morning during the 6th Meeting of the Sub-Committee, but felt that it would help brief the Chair about some of the key points discussed and agreed upon.

On behalf of the NFICI, **Shri C. D. Arha** stated that he was grateful to **Shri K. K. Mishra** and to **Shri P. S. Rana** for having made a valuable contribution to the Sub-Committee's work by codifying the Memorandum and Articles of Association for NFICI as well as rules and procedures that will govern its functioning.

He then enumerated, for the Chair and for the participants attending for the first time, the highlights of the 1st meeting of the Executive Committee of NFICI as follows:

1. decision to send a communication from the CIC, Central Information Commission to all State ICs requesting them to become members of NFICI;
2. participation of representatives from SAARC countries – as special invitees;
3. formation of two Committees: The 'Programme Committee' and the 'Finance Committee';
4. decision to have a representative of CGG, Hyderabad as the interim executive secretary till such time as a full time Executive Secretary, NFICI is appointed and opening of an account for NFICI for depositing membership contributions.

Further, **Shri C. D. Arha** flagged some key issues for the NFICI to deliberate upon in near future. These were:

- having uniformity in the budgetary norms of the ICs – given that the situation regarding the budgets available to ICs as also the financial autonomy they enjoy varies so much from IC to IC,
- having uniform staffing norms, perhaps, in line with the CIC pattern – given that some ICs have to manage with absolutely inadequate staff (at times temporary);
- adopting a unified approach to deal with various common problems, limitations and constraints faced by ICs;

- introspecting and working toward improving their image in the minds of the public by setting some norms, say, for practices for a time bound disposal of 2nd appeals / complaints; levels of pendency permissible for which some benchmarking must be adopted.

Thereupon, **Shri C. D. Arha** requested the President **Shri Wajahat Habibullah** to give his remarks. **Shri Wajahat Habibullah**, first, announced that he had withdrawn his resignation submitted earlier to the Central Information Commission and that he would not be taking up the other responsibility in Jammu & Kashmir just yet.

He agreed that a letter from the CIC to all SICs requesting them to become members of NFICI was indeed something to be done urgently. A letter to Secretary, DoPT to write to State Governments could also be sent by CIC.

Thereupon, he said that in view of the call, by DoPT, for suggestions for amendments to strengthen the 'RTI Act, 2005', NFICI could deliberate upon what the amendments could be. Toward this, he referred to some of the premises as follows:

- What steps can be taken to reinforce the implementation of S. 4(1)(a)&(b) in view of its dismal implementation at all levels. Even on hearing complaints in this regard, ICs can only issue orders, which do not necessarily ensure that the Government will act to set the non-compliance with S. 4(1)(a)& (b) right;
- Enforcing the time limits fixed for the 'First Appellate Authority' (FAA),
- Reporting by ICs under S. 25 is still not an effective tool of monitoring, for very little notice is taken by Appropriate Governments of these reports;
- There is no provision in the 'RTI Act, 2005' for handover of charge by the CIC to any other IC (something which has been pointed out by the Law Ministry) as is the case with, say, UPSC or EC, where the senior-most member takes over. He gave a few examples of how it becomes difficult in case of absence of the CIC from the Commission for any length of time. He felt that law should, clearly, provide for an alternative arrangement.

He requested that these and other points be deliberated upon, say, till 15.03.2010 (when the Sub-Committee is to meet next) and the suggestions, if any, may be conveyed to him thereafter. He reiterated that with respect to NFICI being able to function effectively, GoI must be "fully on board" and he would request the MoS or even the Prime Minister for the Government's support.

To **Shri Wajahat Habibullah's** point about there being no provision to hand over charge to another IC, **Shri G. Madhavan** pointed out that for some time, an IC was officiating as the CIC in Punjab based upon the order of the Chief Secretary and one cannot be certain about the legal tenability of such an order. **Shri A. K. Chaudhary** cited the provision of "Acting Chief Justice" as an alternative arrangement, which exists in the case of High Courts, which is absent in the case of Information Commissions.

With respect to **Shri Wajahat Habibullah's** point about the IC's orders not being implemented, **Shri K. K. Mishra** opined citing a Karnataka High Court (HC) decision that if an IC's order is not complied with, then the IC should take suitable steps to initiate action, but also held that since the IC is not a court per se, the IC cannot initiate contempt action. As for handing over charge by CIC, **Shri K. K. Mishra** contended (citing a Supreme Court decision) that an Act may not be able to provide for all eventualities. If a particular authority has been given to the ICs in keeping with the objectives of the Act, then in order to ensure that these objectives are not defeated, certain other powers may have to be assumed by the authority as an administrative exigency.

Taking this point further he also said that there are several areas in the Act that may be improved, but it may still not be perfect. Thus, in view of the Civil Society's mistrust of the Government's intentions in wanting to amend the Act, the Government should come clear about what amendments it wants to bring to strengthen the Act (and then these could be debated), instead of asking others to suggest amendments.

As an example of NFICI taking up some common problems faced by the ICs, **Shri K. K. Mishra** cited the issue of service conditions in general of the State Information Commissioners and their retirement benefits (including pension and other terminal benefits) in particular as something on which NFICI should come up with concrete recommendations for the Government. Later he suggested that uniform guidelines may be framed by NFICI and communicated to all governments.

To this **Shri Wajahat Habibullah** added that CIC has drafted a comprehensive set of rules (which includes the IC's budget coming from a grant fund which would give the IC the much needed financial leeway), many of which were recommended to the Jammu and Kashmir Government and were indeed adopted in toto for its IC. He suggested that these rules would be circulated by CIC among the NFICI Executive Committee members so NFICI may take a view on recommending them to GoI and the latter may then recommend them to the State Governments.

It was discussed that some other good practices may also be recommended by NFICI to be adopted. Toward this **Shri G. Madhavan** pointed that the Haryana IC has enough financial autonomy, for there is a drawing and disbursing officer under the Secretary, SIC. He added that the SIC needs to approach the State Government only for two reasons: a) creation of additional posts and b) purchase of vehicles. Moreover, CIC has been given necessary powers under financial rules, civil service rules etc. He also pointed out that during the first Convention itself, a resolution had been voted upon saying that ICs' budgets will be 'charged to the State' and will 'not be voted upon'.

With regard to **1.** above, the Vice President, NFICI conveyed to the Chair that action was yet to be taken and that Secretary, Central IC has been asked during the 6th Sub-Committee meeting, to do the needful at the earliest. Further, the Secretary, Central Information Commission had also been requested to write to Secretary DoPT to request State Governments to appropriately support NFICI.

With regard to **4.** above and to an earlier point made by **Shri Wajahat Habibullah** that NFICI should have its office in New Delhi, **Shri C. D. Arha**, suggested that till such time as the General Body meets and a full-time Secretary is appointed and a decision is made about the location of the office in New Delhi, NFICI would continue to function under the aegis of APIC. However, **Shri Wajahat Habibullah** pointed out that NFICI should start looking for an appropriate place now. The possibility of having it located in the CIC building may also be explored. It was agreed that **Prof. Ansari** would make appropriate recommendations in this regard.

With regard to **3.** above, it was stated by **Prof. Ansari** and **Dr. S. V. Joshi** (who were the only members present from the respective Committees) that the Committees had not met since the 1st NFICI meeting and hence there was nothing to be submitted by way of their collective propositions. However, individually, both presented their points which were as follows:

Prof. Ansari said that he could not gear up for this responsibility as he could not attend the last meeting and was also not aware who the convener for this committee would be. Recalling the proceedings of the 1st meeting, it was clarified by **Shri C. D. Arha** that **Prof. Ansari** and **Shri A. N. Tiwari, IC, CIC** would, respectively, be the Conveners, of the Programme Committee and the Finance Committee. On this **Prof. Ansari** said that the Programme Committee would take up the activities identified for it during the 1st and 2nd meetings of the Executive Committee. He added that he had some points, which he would bring before this Committee and which could, after being deliberated by this Committee, be appropriately presented to the Executive Committee.

Dr. S. V. Joshi stated that he favoured requesting the government to make financial contribution to NFICI as also exploring the option of using the interest accrual on the unutilized funds for this purpose, because NFICI's functions would be very much in line with the role that is expected of the Appropriate Governments. If agreed, steps in this direction may have to be taken fast to get this demand accepted in the supplementary budget. **Shri Wajahat Habibullah** suggested that these points be deliberated upon in the Finance committee and its conclusions be presented to the Executive Committee.

The possibility of individual information commissioners contributing to the NFICI kitty (over and above institutional membership fees) was discussed and there seemed to be general agreement on this. **Shri C. D. Arha** suggested that very soon steps are being taken to open an account in the name of NFICI. It was agreed that the Bank Account number would be communicated to all. Membership fee cheques could then be issued on this account.

At this time, **Shri A. K Chaudhary** suggested that 3 measures need to be taken by the Appropriate Governments if they are to convey that they give requisite importance to the 'RTI regime'. These are: a) Entry to Information Commissioners into VIP lounges on airports; b) doing away with their frisking at airports or such other places; and c) Extension of protocol facilities to Information Commissioners.

To this, **Shri Wajahat Habibullah** said that he agreed with a) and C), and in fact, if the Governments agree to issue the 'Order of Precedence' for Information Commissioners, (which the CIC has been demanding for long) these issues would be taken care of. However, he contended that regarding frisking the Information Commissioners should not claim any privilege where every person has to necessarily go through it.

With regard to retirement benefits-related point made by **Shri K. K. Mishra**, it was suggested that Bihar IC which had evolved some norms in this regard share them with NFICI (especially the two Committees) and with individual Commissions as per their request.

Toward the end **Shri C. D. Arha** referred to the issue of disclosure of assets by Information Commissions (as the HC / SC Judges would be doing now) as another important matter that NFICI should deliberate on.

Shri M. D. Kaurani citing the recent RTI awards-related development suggested that ICs should not concede any such role to any agency. It was discussed and agreed, that it was best for ICs to ignore this development. In fact the stand taken by some ICs – for instance, the CIC of not accepting any award (much before any announcements were made) or by the Karnataka IC (of not being a party at all to any such exercise) were appreciated.

Finally, the need for the Executive Committee to meet at least once every three months was reiterated. The Vice President proposed that a date for the next meeting of the Executive Committee would be determined in consultation with the President and communicated to all the Executive Committee members as well as to others. The meeting ended with the Vice President thanking the Chair and all the participants for their inputs and valuable time.

C. D. ARHA
Chief Information Commissioner, APIC
& Vice President, NFICI