**COMMON CAUSE**

**ANNUAL REPORT FOR THE YEAR 2014-15**

The last one year has been remarkable and eventful for Common Cause. It witnessed a change in its Governing Council and the executive leadership. The changes were smooth, meticulous and well thought out, heralding a new motto: continuity with change. The Society persisted with the ideas and values of the founder Director, Mr. H. D. Shourie, and made many significant interventions. Its initiatives in advocacy and PILs yielded a fair measure of success in making focused interventions and initiating improvements in governance. The Society engaged, and teamed up, with many institutions and like-minded organizations/activists in its many initiatives.

Building on the good work done over the years, Common Cause now has a new face to connect with the outside world in the form of its new website (www.commoncause.in). Apart from a fresh look and feel, it organizes ideas and information in easy and contemporary ways. A new Common Cause Case Library makes its past and present cases quickly available along with summaries, orders/ judgments and writ petitions. Besides our existing and potential users, particularly of the younger generation, even the staff, members and friends of Common Cause can now access year-wise documents quite easily. The website is meant to grow as an accurate, interactive and user-friendly medium of information and updates on our activities and interventions.

Following are the activities of the organization over the past year:

1. **Advocacy initiatives**
2. **Police Reforms**

Common Cause has held several rounds of interactions and brainstorming sessions with like-minded organisations keen to collaborate on various aspects of police reforms. These include Commonwealth Human Rights Initiative (CHRI), Association for Democratic Reforms (ADR), Transparency International, Lokniti and Centre for the Study of Developing Societies (CSDS). The ideas discussed included collaborations on ASPR and also a Police Performance cum Perception Index. It is felt that the need is to work towards making the police force responsive and effective for the ordinary citizen, particularly those belonging to the weaker sections. Common Cause seeks to launch the ASPR Survey as a valuable tool for advocacy and generate time series data on the satisfaction levels of the citizens to monitor its impact on the ground.

1. **Initiative for making the Right to Education a reality**

The team has had a series of meetings with Video Volunteers, who under their campaign “Pass ya Fail” have shared about 60 videos with us. These videos cover approximately 60-70 districts of Bihar, Jharkhand and UP. They document lack of access to clean drinking water, separate toilets for girls and boys, proper mid-day meals and safe buildings, libraries and playgrounds. The idea of the collaboration is to evolve an effective strategy for advocacy and legal interventions. Similar meeting have also been held with Karnataka-based Citizens Voluntary Initiative for the City (CIVIC) to work out a plan for a possible legal intervention to include a protocol in the RTE Act to arrest the alarming drop-out rates in the Indian school system. A draft petition is being prepared on the basis of these interactions for more focused consultations in future.

1. **Representation to the Rajya Sabha Select Committee on the Real Estate (Regulation and Development) Bill 2013**

Common Cause made a representation to the Rajya Sabha Select Committee on the Real Estate (Regulation and Development) Bill 2013 through its director, in person and in writing. It has also participated in the civil society deliberations on the subject and supported the written submission made by the Federation of Apartment Owners Association (FAOA). However, in our own representation we emphasized that the legislation has far reaching consequences for the ordinary citizen whose life’s earnings are at stake and any unintended ambiguity or lack of clarity in the text might allow the unscrupulous among builders to use the law against the very citizens whose interests it aims to protect.

In addition to the FAOA submissions, Common Cause response noted that the Bill must include measures which will encourage flat/ house owners in running their own affairs on cooperative basis and in the spirit of participatory democracy. This will only happen when the builders exit after completing the project and hand over the reins to the owners’ associations without exception. It also suggested that the new law needs to protect the interests of the consumers from an unregulated industry and therefore every effort must be made to ensure that it is in agreement with the competition law and that it does not allow the builders to use any ambiguity in the rules and regulations which may go against the consumers and which are followed by different state governments.

Common Cause also suggested to the Rajya Sabha Committee that in the spirit of Prime Minister’s Swachchh Bharat Mission, every housing society must include service areas like toilets, drinking water and clean waiting facilities for the service staff like maids, servants, guards and drivers before receiving the completion certificate which should be made mandatory before occupation begins. Its suggestions included clearly defining the term Builder-Buyer Agreement (or contract) unambiguously and capping of the escrow account at 95% all over the country and making it non-negotiable. We also submitted that the cases of builders not fulfilling their agreement to buyers must be treated as cheating and should attracts criminal proceedings.

1. **Tackling radiation hazard caused by telecom towers**

Common Cause submitted representations before the Minister of Housing & Urban Poverty Alleviation and to the Secretary, Department of Telecommunications, Ministry of Communications and IT drawing their attention to the hazards of radiation emission by mobile telephone towers installed all around us. Our contention was that these towers emit harmful Electro Magnetic Frequency/Radiation (EMF/EMR) having thermal as well as non-thermal effects and that the population within ten meters of these towers receives signals, which are several thousand times stronger. This makes them vulnerable to exposure to radiation entailing a variety of health hazards.

It was requested that unless it was conclusively proven that the emissions have no ill effect, a precautionary approach with stricter norms should be adopted to minimize the exposure levels, without compromising on optimum performance of the networks. It was further requested that in the larger interest of the citizens, the administrative authorities may be directed to comply with the recommendations of the Standing Committee and the service providers be directed to abstain from mounting towers adjacent to schools, parks, hospitals and densely populated places. It may also be made mandatory for mobile companies, to print on the handset, health advisory regarding ill effects of prolonged use of mobile phones.

1. **Multi-level Marketing & Ponzi Schemes:**

Common Cause has been pursuing the issue of pyramid schemes functioning under the garb of MLM companies and also corresponding with the authorities concerned. Under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, the practice of camouflaging money circulation schemes as direct-selling schemes for distribution of goods and services has become firmly established. Common Cause has also been collaborating with Vidhi Legal Centre with a view to collating information on international best practices in the regulation of multi-level marketing and direct selling operations. It was decided to wait and watch before filing a writ petition when it was learnt that the Government under the Ministry of Consumer Affairs, Food and Public Distribution, has already established an Inter-Ministerial Committee to examine the global best-practices and other relevant issues in consultation with all stakeholders.

Common Cause has filed an RTI application seeking a copy of the Report. It has been decided to follow up the matter and take action on need basis. Regarding ponzi schemes, it is learnt that in a recent meeting chaired by Union minister of State for Finance, a Permanent Central Coordination Mechanism, to act against money deposit and collection frauds is purported to be set up. As reported in the media, the government wishes to devise a coordinated and comprehensive strategy to deal with the illegal activity as also to ascertain the risks posed by such frauds to the country’s financial system.

**f. Prevention of accidents caused by uncovered manholes, etc.**

Despite repeated admonitions and directions from the Courts, fatal accidents caused by open manholes, sewers, pits and drains have continued unabated. The National Crime Records Bureau puts the death toll across India in the year 2013 at 1981. There have been recurrent fatalities in the National Capital region as well. In this context, the civic authorities concerned have been requested to place in the public domain full information on the safety measures instituted by them for preventing accidents of this kind and to enforce the accountability of the officers responsible for the upkeep and maintenance of the manholes in the areas under their jurisdiction.

1. **Financial assistance to Nishthaa India Trust**

Common Cause extended a seed financial assistance of Rs 5 lakh to Nishthaa, a newly constituted trust of media persons, lawyers, public intellectuals, corporate honchos and other professionals to assist whistle-blowers, to highlight unaddressed issues in the media, and to work on aggregation of information on corruption through social media and new technologies among other things. Nishthaa’s overall thrust, besides highlighting issues largely unaddressed in the media, is on whistle-blowing and aggregation of citizens’ grievances through the use of social media and other Internet based platforms.

1. **Applications filed under the RTI Act**
2. **Right to Education:**

It had been reported in the media that the Delhi Government had acquired land in 98 places across the city to set up schools. In light of these reports applications were filed before the relevant departments in the Delhi Government seeking details such as number of plots acquired so far, no of schools sanctioned for construction, time frame for completion of such construction, number of plots lying vacant against land already acquired, etc.

Information on the above has been received from the authorities.

1. **Functioning of Gram Nayayalayas as established under the Gram Nyayalayas Act, 2008**

With reference to the 67th report of the Department-Related Parliamentary Standing Committee (on Infrastructure Development and Strengthening of subordinate Courts), an RTI Application was filed before the Department of Justice, Ministry of Law & Justice. Information was sought in respect of the time frame for the establishment of 5000 Gram Nyayalayas (mentioned in a report cited by the Committee), copies of file notings and correspondence and instructions if any, relating to the processing of the said report by Standing Committee. Besides, we also sought a copy of the Action Taken Report on the recommendations of this Committee and the latest state- wise break up of Gram Nyayalayas notified and operationalised all over India.

File inspection was carried out and the relevant information has been received from the concerned department.

1. **Financial Services for the poor**

What happens to all the accounts that are closed because of non-performance or dormancy? What are the guidelines stipulated by financial institutions, insurance companies and Insurance Regulatory Authority, regarding accounts that are closed/inoperative/lapsed or deposits remaining unclaimed for more than 10 years? Are there any norms which would allow the money to be expended/utilized for the benefit of the account holders?

To seek answers to the above questions, Right to Information Applications were filed before Reserve Bank of India (RBI), Insurance Regulatory & Development Authority of India (IRDA) and Life Insurance Corporation of India (LIC).

Information on the above has been received and is being collated.

1. **RTI with Department of Banking Supervision, Reserve Bank of India on counterfeit banknotes**

The issue of wide circulation of counterfeit notes in the market, its adverse impact on our economy and the apathy of the regulating agencies was brought to the notice of Common Cause by a life member.

After due it research it was found that in June 2013 RBI had issued notification to the heads of all scheduled commercial banks regarding its monetary policy statement of 2012-13 for streamlining of the system of the banks for detection of counterfeit notes. Reference was made to a previous circular of the RBI, which directed the banks to bear the cost of counterfeit notes rather than the common man. The circular also stated that failure on the part of the banks to impound counterfeit notes detected at their end would attract penalty and would be construed as wilful involvement of the bank concerned in circulating counterfeit notes. The banks were also directed to file monthly reports with the RBI.

In this regard, an RTI application was filed with the **Department of Banking Supervision,** Reserve Bank of India on counterfeit banknotes. The application requested for copies on monthly reports so filed, complaints against the banks and action taken by the RBI as per its circulars/policy/notifications on the subject. Common Cause was denied information. First appeal has been filed.

1. **RTI on accidental deaths of pedestrians and cyclists**

Bicycles and motorcycles constitute a significant proportion of vehicles in India and their riders a large percentage of road accident victims. As per the information released by Ministry of Home Affairs, out of a total of 1, 37,423 road accidental deaths in 2013, the percentage share of cyclists and pedestrians was 1.9 % (2,587) and 9% (12,385) respectively.

In view of this, RTI Applications were filed before Ministry of Road Transport and Highways seeking details of steps taken by the Ministry to ensure safety of cyclists and pedestrians in the country.

1. **RTI on Land Acquisition of Village Common Lands**

It was brought to our notice that in its efforts to locate lands free of cost for its various institutions and other uses, Governments have started acquiring Panchayat Shamlat or commons land. Significantly, the landmark SC judgment by Justice Markandey Katju and Gyan Sudha Misra in the 2011 had ruled: “*We cannot allow the common interest of the villagers to suffer merely because the unauthorized occupation has subsisted for many years. ...... In many states Government orders have been issued by the State Government permitting allotment of Gram Sabha land to private persons and commercial enterprises on payment of some money.****In our opinion all such Government orders are illegal, and should be ignored***.” (emphasis added)

In context of this order, Common Cause filed RTI Applications before six states seeking status of compliance following the order.

In Himachal Pradesh, there were reports of commons land being acquired for construction of a Central University Project and a Vidhan Sabha project in Kangra. In light of this, information was sought from the concerned authorities seeking some specific details pertaining to total area of land being acquired in the villages of Sakoli, Patola, Kand and Kardiana.

1. **RTI- Censorship**

Recent months have seen substantial public reaction to arbitrarily imposed restrictions on the freedom of speech and expression. Cinema, television and online entertainment, despite being various means of visual expression, are governed by different regulations, which are more often than not embedded with subjectivity and discretion. As State has significant control over the exhibited visual content through pre-and post-censorship measures, the morality of the ruling government determines the limits on freedom of expression, leaving a possible room for oppression of creativity. Common Cause has filed RTIs with the Board of Film Certification and Ministry of Information and Broadcasting seeking information on the basis of appointment of members to the Board to identify if there are minimum qualifications for these.

1. **Public interest litigation**

Significant developments in the writ petitions and applications filed by the Society are summarized below.

**Supreme Court Cases**

1. **Appointment of Lokpal and Lokayuktas**: **WP(C) 26/1995-** The writ petition pertained to enactment of the Lok Pal Act and ensuring appointment of Lok Ayuktas and Up Lok Ayuktas under the Legal Services Authorities Act. The petition was dismissed on April 30, 2015 for having become infructuous in view of the enactment of the Lokpal and Lokayuktas Act, 2013 and as another petition seeking inter alia the implementation of the said Act has already been filed before the Apex Court.
2. **Crime and Violence on TV:WP(C) 387/2000-** The petition seeks to curb the excess of crime, violence and sex on TV. The Secretary, Ministry of Information & Broadcasting, has been forced to submit a personal affidavit on the compliance of various directions given by the Court in the matter, which stands tagged with a bunch of petitions, including our PIL WP 880/2013 (serial no. 16 infra). The Court directed the Government on September 29, 2014 to file an affidavit showing the steps it intended to take to address the issue and indicate the time frame by which an analogous policy, if any, was to be implemented. There are no further orders of listing.
3. **Slaughter House Pollution: WP(C) 330/2001-** The petition prays for remedial measures against the rampant malpractices in slaughter houses, notably improper waste disposal, slaughter of diseased animals and employment of children in the trade. The Court had directed the Central and State Pollution Control Boards and the Animal Welfare Board to confirm compliance with the laws for prevention of cruelty to animals and environment protection. The Ministry of Environment & Forest filed a compliance report on August 27, 2013 along with guidelines to be followed by the State Committees for ensuring effective supervision of slaughter houses.

The Apex Court requested the High Courts in January 2014 to nominate retired District Judges to act as conveners of the state level committees constituted to monitor the implementation of the Court orders as well as the regulatory framework prepared by the MOEF. The Committees would submit quarterly reports to the Court. Deploring the inaction of the state governments, the Court directed the defaulters at the hearing on September 2, 2014 to ensure compliance of its orders within four weeks. At the hearing on March 27, 2015, the counsel for Union of India informed the Court that an ‘Expert Panel’ was constituted to look into the issue. He submitted that the last meeting of the Panel was held in July 2014 and another was to be held ‘shortly’. The Court, not convinced with the submission, imposed cost of Rs. 5,000 on the Ministry of Consumer Affairs, Food and Public Distribution for unnecessary adjournments and deferral in the matter.

In a previous hearing, the Court had also nominated the Secretary, Urban Development as the nodal officer for monitoring the functioning of the State Committees and directed him to file an affidavit on whether all the State Committees have been set up within 4 weeks. He was also directed to report on the enforcement of the Prevention of Cruelty to Animals (Slaughter House) Rules, 2000, and the implementation of the broad framework prepared by the Ministry of Environment and Forests for the State Committees for slaughter houses. However, as the affidavit had not been filed till the day of hearing, a cost of Rs. 5,000 was imposed on the Ministry of Urban Development as well for the delay. The matter is likely to be listed on November 27, 2015.

1. **Large Scale Advertisements: WP(C) 13/2003-** In a landmark judgment delivered on May 13, 2015 in a public interest litigation filed by the Society against self-congratulatory government advertisements in the print media, the Court laid down guidelines for publicly funded government advertisements misused ostensibly to promote political leaders and parties in power. The Apex Court bench comprising Justice Ranjan Gogoi and Justice P. C. Ghose prohibited the use of photographs of ministers and other political leaders in government advertisements with the exception of the President of India, the Prime Minister and the Chief Justice of the Supreme Court of India.

However, in months following the said decision, some State Governments allocated huge funds for government advertisement towards advertising for personal political gain, through television, radio and print media. Similarly, in stark violation of the prescriptions of the Apex Court, certain states continued to publish photographs of political functionaries in governmental ads, outside the exceptions carved in the judgment.

The Society on August 14, 2015, filed a contempt petition against the State Governments of Uttar Pradesh, Tamil Nadu and Delhi for derogating from the letter and spirit of the Apex Court’s guidelines regarding large scale advertisements. The petition is at the stage of being examined by the Registry.

Governments of Tamil Nadu and Karnataka have separately filed review petitions against the May 2015 decision of the Apex Court, praying for a stay on the said order. Notice has been issued on the review petition and the matter is to be listed on October 27, 2015 for hearing and final disposal.

1. **Living Will: WP(C) 215/2005-** The petition sought the enactment of a law on the lines of the Patient Autonomy and Self-determination Act of the USA, which sanctions the practice of executing a ‘living will’ in the nature of an advance directive for refusal of life-prolonging medical procedures in the event of the testator’s incapacitation. The matter was disposed of on February 25, 2014. Without pronouncing any order on the specific prayer made in our petition, the Court invited a Constitution Bench to resolve the inconsistencies between the Division Bench judgment in Aruna Shanbaug (2011), which allowed passive euthanasia under certain safeguards, and the Constitution Bench judgment in Gian Kaur (1996), which held that the right to life does not include the right to die.

The matter was taken up by the Constitution Bench on July 16, 2014. Notice was issued to all States and Union Territories in view of the prayers made in the writ petition, particularly, the prayer to declare 'right to die with dignity' as a fundamental right within the fold of right to live with dignity under Article 21 of the Constitution.

1. **Speedy Justice: WP(C) 122/2008-** Filed by Janhit Manch, Common Cause and two others, the PIL offered a multi-pronged and comprehensive strategy to expedite the dispensation of justice and liquidate the backlog of court cases. Regrettably, the Apex Court by its order dated December 10, 2014 summarily disposed of the petition, relying on the Solicitor General's statement that most of the issues raised in the petition were also involved in the pending Criminal Appeal nos. 254-262/2012 *Imtiyaz Ahmad Vs. State of U.P. & Ors*. The Court also observed that the Judiciary had already considered most of these issues independently and finally. An application for the recall of this unwarranted order was filed by Common Cause on behalf of the petitioners on February 16, 2015. The Recall Application was also however summarily dismissed by the Registrar on grounds that the order disposing the writ petition was passed in presence of counsel for the parties and the application for Recall did not disclose a reasonable cause to be entertained.
2. **Safety Concerns in Nuclear Energy Programme: WP(C) 464/2011-**  We have challenged the constitutional validity of the Civil Liability for Nuclear Damage Act (CLNDA), 2010, and sought a safety reassessment, and a comprehensive analysis of the long-term cost-benefits, of Indian nuclear plants. The petition also prays for the establishment of an independent atomic energy regulatory authority in the interest of people’s rights to life and clean environment. After protracted deliberations, the Court partly admitted the petition to the extent of the challenge to the *vires* of the CLNDA. It stands tagged with the PIL at serial no. 10.
3. **Combating the Criminalization of Politics: WP(C) 536/2011-** Public Interest Foundation, Common Cause and two others filed this PIL for debarring persons charged with serious criminal offences from contesting elections and expediting the disposal of pending criminal cases involving members of Parliament and state legislatures. The petition also challenged the constitutional validity of Sec. 8(4) of the Representation of the People Act, 1951, which provided that in the event of conviction of a sitting member the ensuing disqualification would be stayed if an appeal was filed within 3 months.

The UOI filed its response in October 2013.Taking shelter behind the Parliamentary Standing Committee’s rejection of the ECI’s recommendation for disqualification of persons charged with serious criminal offences, the government claimed that the issue of electoral reforms stood referred in its entirety to the Law Commission for consideration and examination. The Court thereupon posed two questions to the Law Commission: first, whether, in addition to conviction, filing of a charge-sheet with allegations of commission of a serious offence should result in disqualification; second, whether filing of a false affidavit by a candidate under Section 125 A of the Representation of the People Act should be a ground for disqualification.

After considering the response of the Law Commission, the Court passed an interim order on March 10, 2014 to the effect that trials in criminal cases against lawmakers must be concluded within a year of the charges being framed. The Court also directed that trials must be conducted on a day-to-day basis, and if a lower court was unable to complete the trial within a year, it would have to submit an explanation to the Chief Justice of the High Court concerned and seek an extension of the time limit.

At the hearing on February 17, 2015, the petitioners pressed for the effective implementation of the Court's landmark order of March 10, 2014 for time-bound disposal of pending criminal cases against sitting legislators. The Court was informed that the lead petition had requested the Registrars of the Supreme Court and the High Courts in June 2014 to lay down appropriate procedures and regulations with an in-built monitoring mechanism to ensure compliance of the Court's order by all the subordinate courts under their jurisdiction. Regrettably, these letters did not elicit any response. The Court was urged to put in place an effective monitoring mechanism to ensure the implementation of its order which can go a long way in combating the scourge of criminalisation of politics in India.

As regards the prayer for debarring persons charged with the commission of serious offences from contesting the elections, the Court seemed disinclined to assume the legislative role of Parliament. The arguments in the matter are continuing. The matter is likely to be listed on October 27, 2015.

1. **RTI Rules of the Allahabad High Court: WP(C) 194/2012-** The petition challenges the *vires* of the Allahabad High Court (RTI) Rules, 2006, which were found to be the most obstructive of all the High court rules examined by Common Cause. In November 2012, the High Court sought and was granted two months to amend the deviant rules. A gazette notification was issued on April 4, 2013 for the amendment of Rule 4 relating to application fees. Common Cause filed an additional affidavit on July 15, 2013, highlighting a deliberate ambiguity in the wording of the amended rule.

The PIL has now been clubbed with Lok Prahari’s PIL on the same issue, which has been transferred from the Allahabad High Court. Notices to the unserved respondents are to be issued afresh.

1. **Safety issues in Kudankulam Nuclear Plant: WP (C) 407/2012-** As a corollary to our PIL challenging the *vires* of the CLNDA, CPIL, Common Cause and others filed a writ petition to ensure that suppliers of the Kudankulam nuclear power plant in Tamil Nadu are bound by the ‘Polluter Pays’ and the ‘Absolute Liability’ principles, and that in case of an accident the victims can sue the reactor suppliers for damages, even if the Government and the plant operator choose not to sue. The petition seeks a further declaration that the suppliers are bound by the said Act, irrespective of any bilateral agreement to the contrary, and challenges the rule framed by the Government to scale down the liability of suppliers as *ultra vires* the Constitution and the parent Act.

The Court has reserved its judgment in the matter.

1. **Illegal allocation of captive coal blocks: WP(C) 463/2012-** The petition sought a court-monitored investigation into the allocation process and prayed for imposition of punitive damages on the allottees for false declarations and breaches of the conditions of allotment, cancellation of the permission granted to captive coal block users to divert surplus coal for other purposes, and recovery of the windfall profits obtained by the allottees through direct or indirect sale of coal blocks.

The PIL highlighted the arbitrary manner in which the Central Government alienated a scarce natural resource in favour of a few select private companies to the detriment of the public exchequer and deferred the introduction of competitive bidding. The petitioners urged that as per the law propounded in the 2G Case and the subsequent Presidential reference, the coal blocks in question be resumed and auctioned as per Section 11A of the Mines and Minerals (Regulation & Development Act.

In a landmark judgment delivered on August 25, 2014, the Court ruled that neither the Coal Mines (Nationalisation) Act, nor the Mines & Minerals (Development & Regulation) Act, empowers the Central government to allocate coal blocks. The Court also undertook a judicial review of the entire process of allocation and concluded that the allocations made on the recommendations of the Screening Committee as well as the allocations made through the Government Dispensation Route between 1993 and 2009 were arbitrary and illegal. Coal blocks, where competitive bidding was held for the lowest power tariff for Ultra Mega Power Projects, were excluded from the purview of the verdict. However, the Court, at the instance of our counsel, directed that no diversion of coal for commercial exploitation will be permitted from the blocks allocated for UMPPs commercial exploitation.

The Court held further hearings to determine the consequences flowing from its verdict. The UOI accepted the inevitability of auctions for the blocks held to be illegally allocated, but sought an exemption for 46 blocks, where mining leases have been granted, or the end use plants are nearing completion. The Court delivered its final order on September 24, 2014, cancelling 214 of the 218 allocations made in favour of private entities and joint ventures during the period from 1993 to 2010.

Common Cause had filed an interim application in September 2014 underlining determined efforts by the then Director CBI Mr. Ranjit Sinha to subvert the investigation and prosecution of the Coal Scam cases and requesting for a court-monitored investigation by a Special Investigation Teams or by the Ant-corruption Bureau of Delhi Police in the entire matter. The application also sought recusal of Mr. Sinha from the ongoing investigations and prosecutions related to the coal blocks allocation case. Mr. Sinha subsequently moved an application on November 17, 2014 praying for registration of an FIR for perjury against Kamal Jaswal, Common Cause and Prashant Bhushan for false statements made in the affidavit and in course of the Court proceedings. The said case was however dismissed in a welcomed order of the Apex Court on May 14, 2015. The Court observed that that under the circumstances it was difficult to hold that there was any intention to mislead the Court in any manner on the part of Mr. Bhushan, Common Cause or Mr. Jaswal. In the process, the Court also made several adverse observations on the manner of conduct of inquiry by the CBI. The arguments tendered by the CBI that any adverse order in the matter would irreparably damage its credibility was termed "fallacious" by the Court and rejected. Holding the meetings in the absence of the investigating officer or team as completely inappropriate the Court found it necessary to look into the question whether any one or more such meetings have had any impact on the investigations and subsequent charge sheet/closure reports filed by the CBI.

A high level committee headed by former CBI Director Mr. M.L. Sharma has been constituted by the Court for the purpose of ascertaining whether the investigations conducted by CBI have been influenced in any manner by Mr. Ranjit Sinha in respect of the accused in the case. The matter is listed to be heard on November 16, 2015.

Mr. Sharma had sought the Court’s permission to access the original Visitor's Register maintained at the residence of Mr. Sinha, the list of the names of 23 personnel and the names of four CBI constables working at his residential establishment which had been directed to be kept in a sealed cover by the order passed on September 8, 2014. The Court was of the opinion that the documents sought should be handed to Mr. Sharma at the earliest to facilitate the enquiry. The matter has been directed to be placed before the Bench that had passed the order of September 8, 2014 for consideration. It is listed to be next heard on October 30, 2015.

1. **Internet Freedom: WP (C) 21/2013 -**The alarming spurt in cases of abuse of the sweeping powers given to enforcement agencies under the Information Technology Act as amended in 2008 underlined the urgency of judicial intervention to ensure that citizens were not deprived of their freedom of speech and expression and personal liberty for opinions expressed on social media networks. In this context, Common Cause approached the Supreme Court to challenge the constitutional validity of Sections 66A, 69A and 80 of the Act. The matter is due for final disposal. There has been no hearing after September 30, 2013.

Affirming the value of free speech and expression, the Supreme Court Bench of Justice Rohinton Nariman and Justice Chelameshwar, in a landmark decision on March 24, 2015 struck down in its entirety Section 66A of the IT Act as unconstitutional. Referring to the government’s argument that the possibility of abuse does not render a law invalid, the Court held that section 66A, which was otherwise invalid could not be saved by the ASG’s assurance that the law would be administered flawlessly. “Governments may come, and governments may go, but the law will remain”, observed the judges.

The Court, however, upheld the law related to blocking, section 69A, and the connected Rules, in its entirety. As for the Intermediary Rules, the court has upheld section 79 of the IT Act, and the Intermediary Rules subject to reading down both provisions to allow for a requirement whereby a court order is required before an intermediary is required to take down information if it was related to subject matter covered by Article 19(2).

No observation was made on Common Cause’s challenge to the constitutional validity of Section 80 under which an arrest can be made on the basis of intention to commit a crime depending on the discretion of the police officer.

1. [**Inquiry**](http://commoncause.in/Recent_PILs/KGBWrit.php) **against Chairman, NHRC: WP (C) 678/2013-**  Our PIL seeks a writ of mandamus to the Union of India to comply with the Court’s order of May 10, 2012 in our PIL WP (C) 35/2012 by making a reference for holding an inquiry against Shri K. G. Balakrishnan, Chairman, National Human Rights Commission. We have comprehensively rebutted the specious arguments advanced by the UOI in support of its contention that there was no misbehavior on the part of Justice Balakrishnan, either as a judge, or as Chairman, NHRC.

In the hearing on September 16, 2015, our counsel brought to the Court’s notice that regrettably, the prayer seeking the removal of Justice Balakrishnan as chairperson of NHRC had become infructuous since he had already demitted the office in May 2015. He urged that this instance raised serious concerns regarding the accountability of judiciary in the country and that the Court should direct the CBI to register a preliminary enquiry into the charges of disproportionate assets against Justice Balakrishnan under the Prevention of Corruption Act. The Court was reluctant to delve into the allegations of ‘benami’ properties allegedly acquired by him but observed that source of income had not been duly examined by the Income Tax authorities and the issue could be looked into. The matter is now listed for November 17, 2015.

1. ***Mala fide* favours to RIL in KG Basin contract: WP (C) 728/2013-** The petition seeks appropriate writs to the UOI to undo the *mala fide* favours shown to Reliance Industries Limited and its associate, NIKO, in the working of the Production Sharing Contract for KG Basin Gas Block and a thorough court monitored SIT inquiry into the collusion between the establishment and the said entities. It prays for cancellation of the RIL lease and an appropriate penalty for its failure to adhere to its commitments and deliberate under production. The matter has been tagged with a similar writ petition filed by Shri Gurudas Dasgupta, M. P. At the final hearing on March 4, 2014, the Court ruled that the implementation of the government’s decision on the revision of natural gas prices would be subject to the orders of the Court.

There had been reports that the Ministry of Petroleum & Natural Gas had moved a draft note for seeking the approval of the Cabinet Committee on Economic Affairs for amending the Production Sharing Contract with RIL with a view to allowing it to retain certain oil and gas fields which it was obliged to relinquish. Hence, we filed an application for interim directions on April 21, 2014 to foil this move. The IA sought a direction to the UOI not to amend the PSCs with Reliance as proposed in the draft CCEA note and a further direction to the contractor to relinquish the oil and gas fields that it ought to have surrendered.

At the hearing on January 16, we filed an IA requesting the Court to take on record the final report of the CAG on the operation of the PSC between the Government and RIL in respect of the KG Basin D6 Block, which was tabled in Parliament on November 28, 2014. The UOI filed its latest gas pricing guidelines. During the hearing on March 30, 2015 the apex Court granted time to RIL to file their response to the CAG report filed earlier by Common Cause. The solicitor general requested for time to study the report of the PAC on the recommendations of the CAG report. The Court granted time to the UOI to file a status report regarding the proceedings, if any taken pursuant to the said C.A.G. report. There are no further orders of listing.

1. **Guidelines for appointment of CAG: SLP(C) 24328/2014-** A PIL filed by Mr. N. Goplaswami, former CEC, and 8 former senior public servants, including the Director, Common Cause, for a transparent, broad-based and objective procedure for appointment to the Constitutional office of the CAG of India was dismissed by the Delhi High Court on August 13, 2014. The Court held that the appointment of Mr. S. K. Sharma as the CAG was neither in violation of the principle of institutional integrity, nor arbitrary. Differentiating the matter from the CVC case, the Court refused to undertake what it termed as a merit review of the appointment, as opposed to a judicial review. It also refrained from issuing any directions to the Government for framing objective criteria for future appointments to the office of C & A G.

In view of the importance of the issues raised in the PIL, an SLP had been filed in the Supreme Court to secure the desired reliefs. At the hearing on February 11, 2015, a forceful plea was made on behalf of the appellants for prescription of an objective and transparent procedure for appointment to the high Constitutional office of the CAG. Unfortunately, the Chief Justice's bench was unwilling to deviate from the literalist position taken by the Apex Court while disposing of the two earlier PILs on the subject and dismissed the SLP.

1. [**News broadcast by private radio stations**](http://commoncause.in/Recent_PILs/privateradio.php): **WP (C) 880/2013-** The [PIL](http://www.commoncause.in/whatsNew/FMnewswritfinal02092013.docx) prays for quashing of the unreasonable provisions in the policy guidelines and grant of permission agreements of the Ministry of Information & Broadcasting, which prohibit the broadcast of news and current affairs content on private and community radio stations. The Court has tagged this petition with our PIL on Crime and Violence on TV and some other matters relating to the right to freedom of speech and expression. At the hearing on September 17, 2014, the Court directed that the matter be listed after completion of service on all the respondents in the petitions tagged with this case.
2. **Illegal Mining in the State of Odisha: WP(C) 114/2014-**Our petition to curb the rampant illegal mining in Odisha as highlighted by the Central Empowered Committee and the Justice M. B. Shah Commission was taken up on April 21, 2014. The Court issued notice to the respondents and directed the CEC to submit a report on the averments made in the PIL and provide a list of mines involved in illegal mining. On May 16, 2014, in the light of the CEC’s report on the status of mining leases and approvals in Odisha, the Court granted an interim stay on the operation of 26 mines, which were being worked on the basis of second and subsequent deemed renewals of lease, and directed the State Government to dispose of all renewal applications as per the law within six months.

This matter was taken up by the apex Court on March 25, 2015 on an IA filed by Sarda Mine’s pleading permission to resume mining operations which had been suspended since April 2014. The Court directed the petitioners to file a rejoinder within a week, which has since been filed. This matter is next listed on November 5, 2015.

1. **Mismanagement of Defense Lands:WP(C) 204 /2014-** The CAG had submitted several reports highlighting the rank mismanagement of defence lands. Common Cause and CPIL filed a PIL on February 20, 2014 to seek the intervention of the Court to remedy this situation and protect the national patrimony constituted by the vast tracts of lands under the management of the Defence Ministry from further erosion. The petition seeks systemic reforms in the management of Defence lands, a comprehensive audit and Court-monitored investigation into the irregularities in their administration and resumption of defence lands under commercial exploitation or unauthorized use of private parties.

The Union of India has filed its additional affidavit in the matter and a rejoinder was filed by the Society refuting the contentions in August 2015. This matter is likely to be listed on November 17, 2015.

1. **Challenge to the Lokpal Search Committee Rules: WP(C) 245/2014-**The rules notified by the Union Government on January 17, 2014 to give effect to the long awaited Lokpal Act undermined the independence of the institution of Lokpal by restricting the field of selection to the hand-picked nominees of the Government and giving undue advantage to senior bureaucrats, in appointment as non judicial members of Lokpal. This was a blatant abuse of the device of delegated legislation. Hence, a PIL challenging the arbitrary Search Committee rules was filed in the Supreme Court on March 5, 2014. Subsequently, we filed an IA to foil the outgoing government’s last ditch bid to convene a meeting of the Selection Committee in order to pack the Lokpal with its nominees. The government had to give an undertaking that it would proceed with the appointments only after amending the impugned rules.

At the hearing on August 22, 2014, the CJI’s Bench pulled up the government for delaying the process of constituting the Lokpal. The government notified the amended Lokpal search committee Rules on August 27, 2014. The amended rules provide that the search committee may, for the purpose of short-listing of persons, adopt such short-listing norms as it may consider appropriate*.* The words, *'from amongst the list of persons provided by the Central government in the Department of Personnel and Training’,* have been omitted*.* Thus, one of the two reliefs sought in our PIL has already been secured.

The matter is likely to be listed on November 11, 2015.

1. **Preventing the export of logs of red sandalwood: WP(C) 976/2014-**The intervention of the Supreme Court was sought to foil a determined bid by the Government of Andhra Pradesh to export a huge quantity of confiscated red sandalwood, an endangered species, in the form of round logs fancied by international traders. This move flies in the face of international conventions, express provisions of the Import-Export Policy and repeated admonitions of the Ministry of Environment & Forests. It also runs counter to a commitment made by the DGTD in the High Court of Madras. The Government of India has done a complete volte face and actively collaborated with the State government. The auction lot is far in excess of the State government’s own estimates of the global annual demands.

In response to the notice issued by the Forest Bench, the Government of Andhra Pradesh filed its counter. We have filed our rejoinder refuting the averments made therein. There are no further orders of listing.

1. **Extension of audit jurisdiction of the C & AG of India to NOIDA, G.Noida Authority and Yamuna Expressway Authority: WP No. 221/2015-**The CAG had been requesting the Government of U.P. to entrust the audit of NOIDA and Greater Noida Industrial Development Authority to it as the extant audit by Examiner Local Fund Accounts has proved to be totally inadequate. These requests had been turned down by the Government of U.P., taking shelter behind the provisions of the Uttar Pradesh Industrial Area Development Act. Against the backdrop of recurrent reports of massive land scams in these authorities and scathing comments by the higher courts, on March 10, 2015 a PIL had been filed in the Supreme Court to seek the extension of the CAG’s audit jurisdiction to NOIDA, Greater Noida Industrial Development Authority and Yamuna Expressway Industrial Development Authority.

The PIL was however dismissed as withdrawn with liberty to approach the High Court of Allahabad on February 24, 2015. A petition has been duly filed before the High Court on September 1, 2015 seeking a writ of mandamus for a direction that an audit of the income and expenses of Noida, Greater Noida and Yamuna Expressway Authority should be carried out by the Comptroller & Auditor General of India under the provisions of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. (See Allahabad High Court, *infra*).

1. **Challenging the vires of the appointments made to the Central Vigilance Commission: W.P. (C) No. 505/2015-**Common Cause along with a few renowned and concerned citizens have filed a [writ petition](http://commoncause.in/whatsNew/CVC-petition-Final.doc) in public interest challenging the arbitrary appointments of India’s new Central Vigilance Commissioner and the Vigilance Commissioner. It is argued that a complete non-transparency was followed by the Central Government in making the said appointments and that these were illegal and void as they violated the principles of ‘impeccable integrity’ and ‘institutional integrity’ laid down in the landmark judgments of the Apex Court in *Vineet Narain* case (1998) and *Centre for Public Interest Litigation* (CPIL) case (2011).

Notice has been issued in the petition. There are no further orders of listing.

1. **Contempt Petition against lawyers strike: CP No. 550/2015 In W.P.(C) No. 821/1990-**Common Cause filed a Contempt petition against the strike of lawyers in Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction. In WP (C) 821/1990 ([*Harish Uppal vs Union of India*](http://judis.nic.in/supremecourt/imgs1.aspx?filename=18663).) the Supreme Court had observed that lawyers had no right to go on strike and could not give any call for boycott. The court also held that lawyers refusing to respond to such a call could not be visited with any adverse consequences by the Bar Association or the Bar Council. In May this year, the Delhi High Court Bar Association went on a strike against passage of a bill by Rajya Sabha increasing the pecuniary jurisdiction of district courts. The bill was expected to reduce the workload of the Delhi high court by transferring thousands of civil suits, valued upto Rs two crores, to the six district courts.

The contempt petition seeks issuance of a writ of mandamus directing the Respondents to incorporate appropriate rule prohibiting the use of strike by advocates in the Standards for Professional Conduct and Etiquette” framed under Section 49(1)(c) of the Advocates Act, 1961. The Court has issued notice in the matter on September 11, 2015. The matter is likely to be listed on November 27, 2015.

**High Court Cases**

**Delhi High Court:**

1. [**Post-retirement activities of**](http://commoncause.in/Recent_PILs/hc4.php) **judges: WP(C) 866/2010-** During the pendency of this petition, which seeks to extend the accountability of the members of higher judiciary beyond their retirement, the Society has secured some significant outcomes. The High Court has instructed its registry to refuse to accept writ petitions in which opinions of retired judges are annexed. This is in line with our prayer for the prohibition of this practice, which is contrary to the spirit of Article 124 (7) of the Constitution. As regards our prayer for debarring chairpersons and members of various tribunals from taking up arbitration work during their term of office, the Court was informed that a Bill to prohibit members of a tribunal or a statutory body from acting as arbitrator had been introduced in the Rajya Sabha and referred for consideration by the Standing Committee.

The said Bill (Tribunals, Appellate Tribunals and other Authorities (Conditions of Service) Bill, 2014), prohibiting members of a tribunal/statutory body from acting as arbitrator, stands referred for consideration by the Standing Committee.Judgment has been reserved on the matter on February 25, 2015.

1. [**Misuse of BSP reserved symbol**](http://commoncause.in/Recent_PILs/hc4a.php): **WP(C) 8363/2010-** The petition challenges the order of the Central Election Commission rejecting our request for freezing the reserved symbol of BSP on account of its misuse by its government in Uttar Pradesh. The matter has been fixed for hearing on December 10, 2015.
2. **Strengthening the institution of the Lokayukta, Delhi: WP(C) 2992/2013-** Common Cause had challenged the competent authority’s rejection of the recommendations made by the Lokayukta in respect of eight former Municipal Councillors, who had been caught in the act of negotiating bribes for facilitating unauthorized constructions in a sting operation. It was contended that the Lt. Governor had deviated from the prescribed procedure by conducting *de novo* inquiries and taking into account extraneous circumstances. The High Court was urged to set aside the impugned orders and direct that the case records be forwarded to the Commissioner of Police for further action in accordance with law.

On February 19, 2015, the bench of Chief Justice G Rohini and J.R.S. Endlaw disposed of the petition following the Court’s recent judgment in *Sunita Bhardwaj Vs. Smt. Shiela Dixit* 203 (2013) DLT 743, where it was held that the Competent Authority was free to accord a hearing to a public servant reported against by the Lokayukta. It was also held that if the Lokayaukta was aggrieved by the Competent Authority’s decision, the only recourse available to him is to draw up a Special Report which has to be laid in the Legislative Assembly for such action as is deemed appropriate. The Court drew a parallel between the provisions of the Lokayukta Act and those of the CAG Act and the Commissions of Inquiry Act to demonstrate that there are other Constitutional offices or powerful bodies whose reports also are only for the consumption of the legislature. Refusing to sit in appeal over the decisions of the Competent Authority, it expressed its helplessness in addressing the inherent weakness of the legislation which had made the Lokayukta a powerless body.

The Court, however, granted a token relief to the petitioner by way of the direction that the formality of laying the Lokayukta’s Special Reports in the Assembly, where it had not yet been done, should be completed within six weeks.

1. **Evidence of corruption by Shri Virbhadra Singh: WP (C) 7240/2013 -** Our counsel, Shri Prashant Bhushan, had requested the CVC and the CBI in January 2013 to act on the unrebutted documentary evidence of corruption against Shri Virbhadra Singh, former Union Minister. The Society followed up the matter with letters to the CVC and the Director, CBI urging them to discharge their statutory responsibilities. As no satisfactory response was forthcoming, Common Cause filed a PIL, seeking a court-supervised probe by the CBI/Director General, Income Tax (Investigations) into the allegations.

Mr. Virbhadra Singh’s counsel had been challenging the maintainability of the PIL on the ground that it was motivated by our counsel’s alleged animosity with his client. At the hearing on January 29, 2015, opting not to adjudicate as to the *bona fides* of the petitioner, the Delhi High Court discharged Common Cause and appointed two amicus curiae to assist it in assessing whether there was any public interest in the petition and to suggest the future course of action in the matter.

As the Court has now taken the case on its own motion, it dismissed the arguments raised on maintainability by the Respondent in the hearing on September 1, 2015. The Court in the said hearing also directed the CBI and Income Tax Authorities to submit within four weeks status reports on the action taken in the matter. The said reports have been submitted to the Apex Court and will be examined in the next hearing on November 4, 2015, if it deems necessary.

1. **Petition on electrocution by live wires: W.P.(C) 7241/2015 -**A [petition](http://commoncause.in/whatsNew/Writ-live-wires-final-18-7-2015.docx) under article 226 was filed in the Delhi High Court on the issue of recurring deaths due to live wire electrocution, especially during monsoon. Common Cause had earlier made representations to the executive authorities concerned for taking corrective steps well in time and fixing responsibility for electrocution deaths. As there was no response, it was decided to approach the judiciary. Our PIL highlights the sorry state of electric poles and wires as well as the callous attitude of the distribution companies (discoms). The petition seeks to safeguard the Right to Life guaranteed under the Constitution and make the officers of the state agencies and discoms accountable for their failure in taking adequate precaution to save lives.

The Hon’ble High Court was pleased to issue notice in the petition. The matter will be taken up on November 4, 2015.

**Allahabad High Court:**

**Extension of audit jurisdiction of the C & AG of India to NOIDA, G.Noida Authority and Yamuna Expressway Authority: WP (C) 48416/2015-**A [writ petition](http://commoncause.in/whatsNew/Noida%20Writ-Allahabad.docx) has been filed in the Allahabad High Court on September 1, 2015 seeking the extension of the audit jurisdiction of the Comptroller & Auditor General of India to NOIDA, Greater Noida Authority and Yamuna Expressway Authority. These entities have been established by the State of Uttar Pradesh under the provisions of the U. P. Industrial Area Development Act, 1976. The proposal is actuated by the imperative of improving the standards of financial accountability and probity in these bodies and securing the right to good governance, which forms part of the right to equality and the right to life.

Notice has been issued in the petition and counters have been filed on behalf of all the respondents. Rejoinder has been filed by the Petitioner and the matter is next listed to be heard on October 29, 2015.

**Orissa High Court:**

**Discretionary allotment of plots to VIPs in Odisha: WP (C) 9095/2014-** Following the dismissal of WP (C) 1096/2013 by the Supreme Court on February 21, 2014, Common Cause and Mrs. Jayanti Das filed a PIL in the Orissa High Court to challenge the abuse of discretionary quota in the allotment of plots to persons of influence in Odisha. The PIL was listed before the Chief Justice in May 2014, but could not be taken up due to his elevation to the Supreme Court. Subsequently, the matter was listed on two occasions, but deleted each time at the last minute. Our counsel lodged a strong protest with the registry against the inexplicable deletions from the cause list at various instances. The PIL was eventually taken up on September 8, 2014 and the counsel was asked to file the background of the order passed by the Supreme Court in the original petition by the next hearing after the Pooja vacation. The matter was not listed thereafter and suddenly, an order was passed on January19, 2015 noting that since none had appeared on behalf of the petitioners, the matter be listed after four weeks in the interest of justice. It was also made clear that if the petitioner remained unrepresented on the next date, the petition would be dismissed for non-prosecution. However, the counsel for the Petitioners could not appear on the next date of listing on February 24, 2015 for the want of prior information and the petition was dismissed for non-prosecution. The Registry ignored the request for accommodation made by our counsel and on purpose listed it for the 24th instant, when he could not be present.

**J. Finance and Accounts**

The Audit Report on the Annual Accounts of Common Cause Society and Common Cause Trust for the year ending March 31, 2014 has been received. The Governing Council has accorded its approval to the documents on September 29, 2015. Briefly, the expenditure during the year was Rs. 79.62 lakh against Rs. 50.69 lakh recorded in the previous year. The income during the year was Rs. 108.30 lakh compared to Rs. 52.41 lakh during 2013-14. Thus, there was a surplus of Rs. 28.68 lakh during the year as against a surplus of Rs. 1.72 lakh in the previous year. Overall, the financial results have been satisfactory.