**MINUTES OF MEETING OF THE GOVERNING COUNCIL OF COMMON CAUSE**

**Date:**  February 28, 2015

**Venue:** Common Cause House, New Delhi

**Participants:**

Shri Vikram Lal      President

Maj. Gen. (Retd.) J. P. Gupta

Shri Jyoti Sagar

Dr. Divya Jalan

Dr. B. P. Mathur

Shri Lalit Nirula

Shri Kamal Kant Jaswal Director

Dr. Vipul Mudgal Special Invitee

Shri Pankaj Gupta Special Invitee

1. **Confirmation of minutes**

Minutes of the Governing Council meeting held on December 15, 2014 were confirmed.

1. **Presentation of the Society’s activities**

The Director recapitulated the significant developments in the Society’s public interest litigation since the last meeting.

**Supreme Court**

**i. WP(C) 330/2001: Slaughter house pollution:** At the hearing on February 6, 2015, the Court directed the Secretary, Consumer Affairs, to clarify whether the relevant standards of the Bureau of Indian Standards require any modification due to the passage of time. The Court also nominated the Secretary, Urban Development as the nodal officer for monitoring the functioning of the State Committees and directed him to affirm whether all the State Committees have been set up. 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. The matter is now listed for March 27, 2015.

**ii. WP(C) 13/2003: Large scale government advertisements:** The three-member committee appointed by the Supreme Court submitted its guidelines for regulating publicly funded government advertisement campaigns in October 2014. On January 8, 2015, the Court directed that the contesting parties file their response, if any, to the guidelines drawn up by the Court Appointed Committee. Common Cause filed an application for directions urging the Court to grant its imprimatur to the guidelines, which are balanced, comprehensive and objective, and direct the respondents to ensure their compliance. The Court has reserved the judgment on February 17, 2015.

**iii. WP (C) 122/2008: Speedy Justice:** The Apex Court by its order dated December 10, 2014 summarily disposed of the petition, which comprehensively addressed the demand, supply and efficiency issues contributing to the progressive dysfunction of the system of administration of justice in the country. The Court relied 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 has already considered most of these issues independently and finally. An application for the recall of this unwarranted order has been filed by Common Cause on behalf of the petitioners on February 16, 2015.

**iv. WP(C) 536/2011: Combating the criminalization of politics:** 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 and are likely to be resumed on March 26, 2015.

**v. WP(C) 21/2013: Challenging the *vires* of provisions of the IT Act: 2000:** Our PIL challenging the constitutionality of Sec. 66A, 69A and 80 of the Information Technology Act, 2000, has been clubbed with a group of petitions impugning various provisions of the Act. There have been several hearings in this matter. We have filed a written statement bringing out the legal issues involved. Arguments in the matter are continuing.

**Vi. WP(C) 463/2012: Illegal allocation of captive coal blocks:** At the hearing on January 12, 2015, a short note was filed by our counsel substantiating the allegations against Shri Ranjit Sinha, Director, CBI made in the IA for his recusal from the ongoing investigation and prosecution of related cases in the Supreme Court. This IA had been filed in the context of the revelations regarding Shri Sinha’s private meetings with the accused in high profile cases, and his attempts to subvert the due process of law.

On February 23, our counsel requested the Court to direct the Special Public Prosecutor to examine the relevant documents, as in the 2G Spectrum scam cases. The Court wants to pass an order in the matter only after a full hearing and has posted it for March 16, 2015.

1. **WP (C) 728/2013: *Mala fide* favours to RIL in KG Basin contract:** 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. RIL was granted six weeks time to respond to the CAG Report. The matter has been posted direction on March 20, 2015.
2. **WP(C) 114/2014: Illegal mining in Odisha*:*** The matter was taken up by the Green Bench on January 16, 2015, when the Court granted eight weeks time for filing objections to the report of the Central Empowered Committee filed in our petition. The next date of hearing is February 27, 2015.
3. **WP(C) 245/2014: Mismanagement of defence lands:** Counter affidavits have been filed by the UOI and the Directorate General of Defence Estates. At the hearing on February 16, 2015, the UOI was allowed three weeks time to file an additional affidavit with leave to the petitioners to file a rejoinder. This matter is likely to be listed on March 17, 2015.

**x. SLP(C) 24328/2014: Guidelines for appointment of CAG:** At the hearing on February 11, 2015, a forceful plea was made on behalf of the appellants comprising Shri N. Gopalaswami, former Chief Election Commissioner, and 10 former senior public servants, including Shri Kamal Jaswal, 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. **WP (C) 976/2014: Preventing the export of logs of red sandalwood:** The Supreme Court’s intervention 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 demand.

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.

**Delhi High Court**

**i. WP(C) 866/2010: Post-retirement activities of judges:** The 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 in the matter has been reserved on February 25, 2015.

**ii. WP(C) 8363/2010: Misuse of BSP reserved symbol**: Posting the matter for March 18, 2015 at the behest of BSP counsel’s request, the Court made it clear that no further adjournments will be granted.

1. **WP(C) 2992/2013: Strengthening the institution of the Lokayukta, Delhi:** On February 19, 2015, the bench of Chief Justice G Rohini and J.R.S. Endlaw disposed of our petition following the Court’s recent judgment in Sunita Bharadwaj, 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. **WP (C) 7240/2013: Evidence of corruption by Shri Virbhadra Singh:** Shri Virbhadra Singh’s counsel had been challenging the maintainability of the PIL on the ground that it was motivated by Shri Prashant Bhushan’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 Chief Justice’s bench 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. The matter is posted for March 26.

**Orissa High Court**

**WP (C) 9095/2014: Discretionary allotments of plots in Odisha:** As reported earlier, our counsel had lodged a strong protest with the Registrar (Judicial) against the inexplicable deletions of our PIL from the cause list on August 14, 2014. 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 January 19, 2015, stating that since none had appeared on behalf of the petitioners, the matter would 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.

The petition stands dismissed for non prosecution as of now. 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. We are moving an application for restoration of the petition.

The Council expressed its disappointment over the abrupt disposal of the PIL on Speedy Justice, which had sought to address crucial issues of judicial reforms. The petitioners should pursue the application for recall of the Supreme Court order with full force. Equally unfortunate was the dismissal of the PIL on Discretionary allotment of plots in Odisha, which the Society had to file in the Orissa High Court even though the issue of a potential conflict of interest in Orissa had been agitated before the Supreme Court. No effort should be spared to secure the restoration of the petition.

1. **Thrust areas for future initiatives**

The Council appreciated the succinct agenda note on the ongoing and planned initiatives of the Society (attached). Consideration of the item had to be deferred for paucity of time.

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

The Director briefed the Council about the mission and objectives of the nascent Nishthaa India Trust and the people associated with it. There was a feeling that two of the focus areas of Nishthaa, viz. redress of public grievances and fighting corruption, appeared to overlap with those of Common Cause. It was clarified that some degree of overlap in the missions of civil society organizations is inevitable and even desirable, as it makes it possible to build common platforms and issue-based alliances. Besides, the field in both these campaigns is large enough to accommodate many combatants. Moreover, 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.

The Council endorsed the decision of the Executive Committee to extend financial assistance to Nishthaa India Trust.

The meeting ended with a vote of thanks to the Chair.

(Vikram Lal)

President

**Annexure**

**Item 3 : Thrust areas for future initiatives**

The council may like to indicate the thrust areas for future advocacy initiatives. The following initiatives are currently on the anvil.

1. **Free & Compulsory Elementary Education**

* Formulation of a Pilot Project to improve the learning outcomes in government schools in a selected block – in collaboration with Goodearth Education Foundation, Bodh Education Society and other Civil Society Organisations.
* Collation of significant recommendations to remedy the shortcomings in the Act:
* Representation to MP’s by Madhav Chavan and other concerned citizens (February 2009).
* Amendments proposed by Centre for Civil Society (September 2014).
* Other propositions.
* Replication of the Karnataka Model for incentivising the enrolment and retention of vulnerable children in schools and preventing dropouts.
* Formulation of a Class Action suit on behalf of children who are effectively deprived of their right to quality education.

1. **Addressing the need for an independent, non commercial news channel**

Common Cause may explore the feasibility of promoting a publicly funded, professionally run media house, which is not driven by advertising, or shackled by ties of ownership. This undertaking will call for a collective effort of reflection with other stakeholders, who may be working on similar ideas. Preliminary discussions on the subject have been held with the Nishthaa Trust.

1. **Enforcing legislative accountability**

The functioning of Parliament and the state legislatures in India is too often marred by ugly disruptions and determined obstruction by the Opposition. The presiding officers are loath to use their disciplinary powers. As a result, there has been a sharp decline in the quality of legislative debate and the time available for legislation. Important Bills having a significant bearing on the life of citizens are passed without due consideration. In the first instance, Common Cause may launch a signature campaign to mobilize the public opinion and petition the authorities concerned to redress this sorry state of affairs.

In this context, data on the functioning of Parliament, viz. duration of sittings, productivity during successive Lok Sabhas, and disruptive behaviour of members and consequent punitive action, have been compiled. Rules of Conduct and Parliamentary etiquette in both Houses of Parliament and powers of the presiding officers for dealing with gross misconduct of Members have been studied. Also, the disciplinary procedures and powers of Speakers in parliaments of Australia, UK, Canada, US and Brazil have been examined.

1. **Police reforms**

The Council had endorsed the proposal to conduct an annual state of policing survey to generate credible time series data on the levels of satisfaction at the citizens’ interface with the police in different geographies.

The feasibility of constructing a Police Performance Index to rank various states according to their performance in respect of selected parameters was explored in a brainstorming session held on Oct 29, 2014. A concept note on the subject has been prepared and an exhaustive list of performance indicators drawn up as the first step in this direction.

1. **Regulation of multi level marketing schemes**

Common Cause has been proactively campaigning to foil the concerted endeavors of the industrial lobby to dilute the Prize Chits & Money Circulation Schemes (Banning) Act, 1978 and exclude direct selling companies from its purview. Regular contacts in this regard are being maintained with the Ministry of Consumer affairs.

In parallel, a collaborative project with Vidhi Legal Centre has been initiated to collate information on international best practices in the regulation of multi-level marketing and direct selling operations and proactively drafting a model legislation to be proposed to the Ministry of Consumer Affairs.

1. **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 Crimes Record 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 had 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. Some fragmentary information in this matter has been received from the authorities.

**7..    Development and regulation of the real estate sector**

The Director has represented the interest of consumer associations in the committee constituted by the Ministry of Housing & Urban Poverty Alleviation to give a final shape to the legislation for development and regulation of the real estate sector and took an active part in the stakeholders’ consultations on the subject.

**8. Logo on corruption**

The Anti-corruption logo designed by the National Institute of Design for Common Cause had been launched at Jantar Mantar on July 25, 2012, the first day of the dharna organized by India Against Corruption. The logo had been well received. Renewed efforts to promote it as the symbol of the War on Corruption may be made so that this logo becomes a universally recognized symbol of the nation’s resolve to stamp out the scourge of corruption.

**9. Policy advice to Government of National Capital Territory of Delhi**

It is incumbent on concerned civil society groups and public-spirited individuals to offer their considered suggestions to the new government of the NCT of Delhi in regard to the design of policies and programmes for addressing the key issues of governance. In this context, it has been suggested that Common Cause could do the groundwork on the following initiatives, which have the potential to be game-changers, like the Right to Information Act.

* Formulation of a transparent Conflict of Interest Policy: The Draft Policy will take into account the international best practices and the ground realities in India. Hopefully, its adoption by the AAP government would induce other governments to follow suit and promote ethical governance.
* Compilation of the best practices in the implementation of the Right to Education across the country, particularly the innovations leading to significant improvement in the learning outcomes in the public education system. This may be followed by the design of a PPP initiative for a pilot project for identifying the most suitable innovations for the National Capital Territory.
* Proposition for a Rainwater Harvesting Policy to arrest the precipitous drop in the water table and replenish the depleted groundwater reservoirs in the NCT. This will be based on an in-depth study of successful experiences in other urban agglomerations, notably Chennai.