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Press Release, December 5, 2019

Denials and Revelations: 375 applications filed since August 2019 as part of the Use RTI, Demand Accountability Campaign

Following the regressive amendments to the Right to Information Act in Parliament, the National Campaign for Peoples' Right to Information in collaboration with other peoples' collectives launched the "Use RTI, Demand Accountability" campaign on August 1st of 2019. The objective of the campaign is to protect the RTI through its increased usage and resist any attempt to weaken one of the most radical freedom of information legislations in the world. By coordinating the filing of RTIs at different locations across the country and collectively tracking government responses, the UseRTI campaign will give strength and support to lakhs of RTI applicants in villages, towns and districts across India. The collective filing of applications on a range of issues will counter the rhetoric of this government that all publicly relevant information is already being proactively disclosed and the need for the RTI is diminishing. An excellent example of the power of the RTI is the electoral bonds story recently published in the media that provides a detailed account of how the Finance Ministry overturned the disapproval of the RBI and ignored objections of the Election Commission of India before making funding to political parties completely opaque, dealing a serious blow to democracy in this country. We all would have continued to remain in the dark had it not been for the release of file notings and other documents obtained through RTI applications that were relentlessly pursued by transparency activists. Above all else, the objective of this campaign is to continue to collectively use the RTI to demand greater transparency and accountability in government functioning and the implementation of its programs that affects the lives of lakhs of Indians. RTI users and citizen campaigns have been filing, and will continue to file RTIs on pressing issues of public interest on the 1st of every month.

375 RTIs have been filed since the campaign was launched in August. The range of questions asked include information on district mining funds, incidents of mob lynching, Aadhaar and voter ID linkage, Kathua rape case, Aadhaar based exclusions in the National Food Security Act, pre-legislative consultation before major policies, university course syllabi development, judicial appointments, Ujjwala yojana amongst many others.

We will highlight some significant cases in our pursuit of facts and the truth through filing RTIs in the first week of every month through a press release:

1. Aadhaar and welfare: A set of RTIs were filed by Rethink Adhaar¹ to track the modalities of its widening scope and to verify the claims UIDAI makes on the impact of Aadhaar on reducing corruption. However, information on which corporations who used to have the license to use Aadhaar based e-KYC services, had their licenses cancelled was denied. The basis of that denial was the need for the Government to protect the commercial confidence of these corporations. To challenge the UIDAI's claim that Aadhaar has reduced leakages in PDS and other welfare programs, another RTI asking for

¹ A non-partisan campaign concerned about the Unique Identification or Aadhaar project

exact numbers of fake or duplicate ration cards, Jan Dhan accounts and PAN cards was filed. The UIDAI and its representatives have quoted these figures at various forums including in the Supreme Court when the linking of Aadhaar to welfare was challenged. However, the UIDAI deflected and responded by simply stating that this information was in the domain of various implementing agencies and ministries.

Of 42 hunger related deaths since 2017, 25 have been linked to Aadhaar where people with ration cards were unable to access the PDS because of Aadhaar authentication failures amongst other issues². Although, the Supreme Court in its Aadhaar judgment has clearly stated that no beneficiaries should be deprived of their rightful entitlement for want of Aadhaar, large scale exclusions have been reported in Rajasthan and Odisha. To understand the full scale of the problem, an RTI was filed by the Mazdoor Kisan Shakti Sangathan, with the Department of Food and Public Distribution asking for a month-wise count of the number of ration cards on which authentication was tried at least once during the month but the beneficiary did not receive her entitlement for the year 2018-19. While the department has started publishing useful reports on beneficiaries who were given their entitlements through a “manual override” inspite of failure in biometric authentication, but information on how many are denied entitlements because of failed transactions by Aadhaar or non-Aadhaar means “is not available and maintained”. The Government maintains no records, and therefore no responsibility, for the numbers of beneficiaries whose biometric authentication failed and for whom no “manual override” was initiated, depriving them of their most basic legal entitlement to food security.

2. NREGA: The National Rural Employment Guarantee has regularly come under attack with covert and overt attempts by the government to undermine it. Freezing budget allocation and delayed payment of wages to crores of workers have been the most dominant causes of the work force losing faith on NREGA. After two media reports stated that MoRD was considering proposals from states asking for permission to use machines (banned under the law), to break the silence of the ministry, an RTI was filed by NREGA Sangharsh Morcha³. The ministry has now gone on record to say that “no requests to relax the MGNREGA rules on the use of machinery has been received in the ministry from the state governments of AP, Karnataka and MP”. Second, the government claims that from 2017-18 onwards, 90 percent of the NREGA wage payments have been made on time, i.e., within 15 days of completion of work. This is despite independent studies and researchers pointing out that this figure is closer to 30%. Another RTI was filed asking the ministry for the number of transactions in which payments of wages were made to workers beyond the statutory period of fifteen days. The Ministry’s response only directs the applicant towards an existing report which does not provide citizens the full extent of the delay i.e. from the date the worker completed his/her work, till the time he/she was paid. The RTI response clearly reveals that MoRD is willfully manipulating facts and figures to suppress the total quantum of delay that workers are facing in receiving their wages.

3. Hate crimes and lynchings: Data shows that of the spate of close to 250 incidents of hate crimes motivated by religious hatred, between 2009 and 2018, 90% have taken place since 2014⁴. In 2018, on the petition of activist Tehseen Poonawala, the Supreme Court issued directives to state governments to curb the “menace of mob lynching” by implementing preventive and remedial measures such as setting up fast track courts and special task forces, issue directives to police stations in “sensitive areas” and review incidents and related orders in periodic meetings. Despite these orders, lynching incidents

² <https://thewire.in/rights/of-42-hunger-related-deaths-since-2017-25-linked-to-aadhaar-issues>

³ A national platform of workers' collectives, trade unions, organisations and individuals engaged in public action on NREGA

⁴ <https://time.com/5617161/india-religious-hate-crimes-modi/>

have been reported in several states including the most recent case of Tabrez Ansari in Jharkhand. To hold state government and the administration accountable and assess the strength of the Prime Minister's commitment to protect minorities in this country as stated in his May 26th acceptance speech, 350 RTIs were filed by young lawyers with the Centre for Equity Studies, with the District Collectors, DGPs and Chief Secretaries of five states- Bihar, Haryana, Rajasthan, Karnataka and Uttar Pradesh. The responses received so far reveal that local administration has not responded with adequate seriousness. While some authorities have simply transferred the RTI to other departments, some have refused to provide any evidence of concrete steps taken to curb hate crimes such as minutes of meeting or even orders issued by the Director General of Police. Replies to the RTIs are still being received and we will continue to systematically track each response by district.

4. Mining: RTIs were filed by Environics Trust to access details on the number of mines, workers employed in mines, illegal mines, show cause notices issued to companies with mining leases for non-compliance of norms, forest land acquired for mining amongst other details. The RTIs exposed this Government's utter disregard of the law and its responsibility to regulate and monitor mining activities in the country. RTI applications revealed that the Government does not collect information on even the total number of workers engaged in mines across the country. How will the Government regulate the welfare of mine workers and ensure that they work in conditions that are considered safe when they do not even know the number of mine workers in the country?. The Government responded to a question on an RTI application that it does not collate information on the number of illegal mines in the country. Whereas the same Government as of 2016-17 had reported that there are 96,089⁵ illegal mines operating in the country in response to a Parliamentary question. The Justice Shah Committee had also shown the massive scale of illegalities in mining amounting to Rs 59,000 crores in its 2015 report. The response also revealed that Government has no data on the number and location of closed mines.

5. Judiciary: There has been reason for the RTI community to celebrate when the Supreme Court declared that the office of the Chief Justice of India will come under the scope of the RTI and that transparency has no bearing on the independence of an institution. However the celebration must be tempered. RTI applications filed by the Campaign for Judicial Accountability and Judicial Reform before the judgement came out, seeking information about complaints received against judges, action taken under the in-house mechanism and action taken thereafter by the Chief Justice of India, were faced with denial citing various provisos including the need to respect the privacy of the people concerned. Given the utter disregard of the Supreme Court in following principles of natural justice in dealing with extremely sensitive cases pertaining to sexual harassment against the Chief Justice of India, the institution's growing determination to prevent public scrutiny over its functioning, even in matters beyond judicial appointments, is disturbing.

6. The Regional Comprehensive Economic Partnership (RCEP): The RCEP has been a subject of much political discussion in the recent past. Only last month, India decided to walk out of the biggest potential regional trade partnership of the world. The RCEP could impact crores of farmers and manufacturers of the country, by changing their terms of trade and bargaining power in the market, in a fundamental sense. An RTI application was filed by an associate of the School for Democracy, about the feedback given by stakeholders across the "nearly 100" consultations that the Government held across the country, the Government responded by saying that since the comments were "general" no records were maintained. On seeking access to the text which formed the basis of negotiations between India and other countries in the partnership, the information was denied on account of commercial interests having to be protected. The Government clearly felt obligated to protect trade secrets and

⁵ Lok Sabha Starred Question 144 answered by the Union Minister of Mines, Government of India on 28.12.2017

commercial competitive advantage over sharing details of a deal that affects the livelihoods of crores of farmers to the farmers themselves.

In response to the national call to “file RTIs and demand accountability”, state level RTI campaign are also beginning to file RTIs at scale. The Odisha Soochna Adhikar Abhiyan conducted a campaign across the state, districts and blocks and filed 300 RTI applications on health related issues. Questions included information on rogi kalyan samitis, treatment provided to below poverty line individuals by private hospitals, Biju Swasthya Kalyan Yojana amongst others. Groups and individuals in Odisha will file RTIs on the first of every month. 32 RTIs have been filed in Rajasthan, primarily from Bikaner, Barmer, Jaipur, Alwar, and Rajsamand districts. The RTIs cover issues of government mispending and corruption, police and defense department discrepancies, and inquiries into the denial of certain labour, agricultural, educational, women's, and disability rights and entitlements."

We will continue to file and track responses to these RTIs and appeals through this campaign over the next several months and will periodically publish the status of key RTIs through such press releases. We will also post a tracker and the actual RTIs and responses on a website in the coming month so that citizens and groups can collectively monitor and share the details of their RTIs with us.

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