



1. Petitioner is filing the instant petition under the Article 32, seeking a writ in the nature of declaration, that the political parties registered under Section 29A of the RPA 1951, are Public Authority under Section 2(H) of the RTI Act 2005.
2. Petitioner has not filed any other petition either in this Hon'ble Court or in any other Court seeking same or similar directions except WP(C) 941/2017, which was withdrawn with liberty to approach the Election Commission of India. The said Order dated 23.10.2017 is annexed as Annexure P-1. (Page 32)
3. Petitioner's full name is Ashwini Kumar Upadhyay. Residential address is: [REDACTED]  
[REDACTED]  
[REDACTED]. Annual Income is around 4 LPA. Petitioner is an Advocate and also a social-political activist, contributing his best to development of socially-economically downtrodden people, particularly EWS and BPL category.
4. The facts constituting cause of action accrued on 27.10.2017 and every subsequent date, when petitioner requested the ECI for bringing the political parties under ambit of RTI. But, it did not take appropriate steps in this regard till date.
5. The injury caused to public is large because corruption, black money and benami transaction badly affects the right to freely and fairly vote, guaranteed under Article 14, 19 and 21.
6. Petitioner has no personal interests, individual gain, private motive or oblique reasons in filing this petition. It is not guided for gain of any other individual person, institution or body.

- 7.** There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with the issue involved in this petition.
- 8.** Petitioner's Representation to the Chief Election Commissioner dated 27.10.2017 is annexed as Annexure P-2 (Page 33-35)
- 9.** Copy of the Election Commission's Response dated 20.11.2018 is annexed as Annexure P-3. (Page 36)
- 10.** Tenth Schedule of Constitution vests great powers with the Political Parties in as much as they can oust even an elected member, whether Member of Parliament or Legislature of State Assembly, from the Party, if he steps out of party line.
- 11.** As per Section 29C of the RPA, donations received by Political Parties are required to be reported to the ECI. This obligation cast on the Political Parties also points towards their public character. Therefore, this Hon'ble Court can declare that political parties are a 'Public Authority' under Section 2(h) of the RTI Act, 2005 by reading Tenth Schedule of the Constitution with Sections 29A, 29B and 29C of the RPA.
- 12.** The ECI is an instrumentality of the State. By virtue of the powers conferred on it under the Article 324 and Section 29A of the RPA read with Rules 5 and 10 of the Conduct of Election Rules, 1961, and other powers vested in it, the ECI made and promulgated the Election Symbols (Reservation and Allotment) Order, 1968. Under this Order, ECI allots symbols to various Political Parties. Allotment of election symbols by the ECI to Political Parties is suggestive of the public character of the Political Parties. Moreover, the Political Parties get tax

exemptions, which amounts to indirect financing of the Political Parties in terms of Section 2(h) of the RTI Act.

**13.** The Central and State Governments have allotted land/buildings/other accommodations in prime locations to Political Parties all over the country either, free of cost, or on very concessional rates. This also amounts to indirect financing of Political Parties. Doordarshan allots free airtime to Political Parties during the elections. This is another instance of indirect financing of the Political Parties. As the Political Parties are the life blood of the entire constitutional scheme in a democratic polity and as they are directly and indirectly financed by the Central and State Governments in various ways, as discussed hereinabove, this Political Parties need to be declared “Public Authority” under Section 2(h) of RTI Act.

**14.** Section 80 GGB of the Income Tax Act, which provides that contribution made by an individual, or Company to a Political Party is deductible from total income of the assessee. This provision is exclusively applicable to Political Parties and suggestive of indirect financing to Political Parties by the State.

**15.** Political Parties have a binding nexus with the populace. As a central institution of the Indian democracy, Political Parties embody the will of the people, carry all their expectations that democracy will be truly responsive to their needs and help and solve the most pressing problems that confront them in the daily lives.

**16.** That in addition to exemption on income under Section 139 of the Income Tax Act, Political Parties have been provided

facilities for residential and official use by Directorate of Estates, Government of India, in New Delhi. They have been given offices/residential accommodations at prime locations in Delhi such as Akbar Road, Raisina Road, Chanakyapuri. The rentals charged are a fraction of the market rent. These facilities are not just provided to them at nominal rates but their maintenance, upgradation modernization, renovation, etc. are also done at State expense. Similar facilities are provided at various State Capitals.

- 17.** The ECI spends money for providing facilities to Political Parties such as free electoral rolls and free broadcast facilities at Doordarshan and All India Radio, which results in loss of revenue in terms of air time. If closely monitored and totalled, the full amount of public funds spent on Political Parties, would possibly amount to thousands of crores.
- 18.** The Central Information Commission, various State Information Commissions and the High Courts have held that allotment of land/building on subsidized rates and exemption from various taxes including income tax amount to “indirect financing” in terms of Section 2(h)(d)(ii) of the RTI Act 2005.
- 19.** Political Parties have constitutional and statutory status. Incorporation of the Articles 102(2) and 191(2) through the 42nd Amendment and the 10th Schedule to the Constitution has given constitutional status to the Political Parties. It is a fallacy to say that any individual can form a political party. A body or entity does not become a political party in the legal

sense until the ECI under Section 29A of the RPA registers it, and registration lends it the colour of Public Authority.

**20.** The ECI under the Elections Symbols (Reservation and Allotment) Order 1968, promulgated under the Article 324 and Rules 5 and 10 of the Conduct of Election Rules 1961, grants symbols to the Political Parties for election purposes for the recognition of Political Parties and can suspend or withdraw recognition of the Political Parties on their failure to observe Model Code of Conduct or other lawful directions and instructions of the Election Commission. It is also indicative of the Public Character of the Political Parties.

**21.** This Hon'ble Court in *Common Cause vs. UOI* (AIR 1996 SC 3081) dealt with income/expenditure incurred by Political Parties and laid emphasis on transparency on election funding and empowered the ECI to take steps to promote transparency and accountability.

**22.** The Law Commission in its 170th Report recommended to improve transparency in functioning of the Political Parties: *"On the parity of the above reasoning, it must be said that if democracy and accountability constitute the core of our constitutional system, the same concepts must also apply to and bind the Political Parties which are integral to parliamentary democracy. It is the Political Parties that form the Government, man the Parliament and run the governance of the country. It is therefore, necessary to introduce internal democracy financial transparency and accountability in the working of the Political Parties. A political party which does not respect democratic principles in its internal working cannot be expected to respect*

*those principles in the governance of the country. It cannot be dictatorship internally and democratic in its functioning outside”.*

**23.** That on 29.04.2008, the Central Information Commission in File No-CIC/AT/A/2007/01029 has highlighted the transparency in functioning of the Political Parties as thus: **“28.** *Political Parties are a unique institution of the modern constitutional State. These are essentially civil society institutions and are, therefore, nongovernmental. Their uniqueness lies in the fact that in spite of being nongovernmental, Political Parties come to wield or directly or indirectly influence, exercise of governmental power. It is this link between State power and Political Parties that has assumed critical significance in the context of the Right of Information – an Act which has brought into focus the imperatives of transparency in the functioning of State institutions. It would be facetious to argue that transparency is good for all State organs, but not so good for the Political Parties, which control the most important of those organs. For example, it will be a fallacy to hold that transparency is good for the bureaucracy but not good enough for the Political Parties which control those bureaucracies through political executives”.* **“38.** *The laws of the land do not make it mandatory for Political Parties to disclose the sources of their funding, and even less so the manner of expending those funds. In the absence of such laws, the only way a citizen can gain access to the details of funding of Political Parties is through their Income Tax Returns filed annually with Income Tax authorities. This is about the closest the Political Parties get to accounting for the sources and the extent of their funding and their expenditure. There is*

*unmistakable public interest in knowing these funding details which would enable the citizen to make an informed choice about the Political Parties to vote for. The RTI Act emphasizes that “democracy requires an informed citizenry”, and that transparency of information is vital to flawless functioning of constitutional democracy. It is nobody’s case that while all organs of State must exhibit maximum transparency, no such obligation attaches to Political Parties. Given that Political Parties influence the exercise of political power, transparency in their organization, functions and, more particularly, their means of funding is a democratic imperative and in public interest”.*

- 24.** On 07.01.2010, in *Indian Olympic Association v. Veeresh Malik* [WP(C) No. 876/2007] the Delhi High Court has held that Indian Olympic Association is a “Public Authority” under Section 2(h) of the RTI Act. The relevant paragraph is as thus:-
- “Having regard to the pre-eminent position enjoyed by the IOA, as the sole representative of the IOC, as the regulator for affiliating national bodies in respect of all Olympic sports, armed with the power to impose sanctions against institutions – even individuals, the circumstance that it is funded for the limited purpose of air fare, and other such activities of sports persons, who travel for events, is not a material factor. The IOA is the national representative of the country in the IOC; it has the right to give its nod for inclusion of an affiliating body, who, in turn, select and coach sportsmen, emphasizes that it is an Olympic sports regulator in this country, in respect of all international and national level sports. The annual reports placed by it on the record also reveal that though the IOA is autonomous from the*



*Central Government, in its affairs and management, it is not discharging any public functions. On the contrary, the funding by the government consistently is part of its balance sheet, and IOA depends on such amounts to aid and assist travel, transportation of sportsmen and sports managers alike, serves to underline its public, or predominant position. Without such funding, the IOA would perhaps not be able to work effectively. Taking into consideration all these factors, it is held that the IOA is “public authority” under the meaning of that expression under the Act.”*

**25.** In the same judgment, the High Court held the Sanskriti School to be public authority. The relevant paragraph is thus:-  
*“As discussed earlier, grants by the Government retain their character as public funds, even if given to private organizations, unless it is proven to be part of general public policy of some sort. Here, by all accounts, the grants – to the tune of Rs. 24 crores were given to the school, without any obligation to return it. A truly private school would have been under an obligation to return the amount, with some interest. The conditionality of having to admit children of employees of the Central Government can hardly be characterized as a legitimate public end; it certainly would not muster any permissible classification test under article 14 of the Constitution. The benefit to the school is recurring; even if a return of 10% (which is far less than a commercial bank’s lending rate) is assumed for 6 years, the benefit to the school is to the tune of Rs. 14.88 crores. This is apart from the aggregate grant of Rs. 24.8 crores, and the nominal concessional rate at which the school was allotted land for construction. On a consideration of all the above factors, this*

*Court holds that the school fulfils the essential elements of being a non-government organization, under Section 2(h) of the Act, which is substantially financed by the Central Government, through various departments, and agencies. It is therefore, covered by the regime of the Act.”*

**26.** On 09.02.2010, in Bangalore International Airport Limited versus Karnataka Information Commission [WP (C) 12076/2008] the the Karnataka High Court has held as thus: *“A public authority may be described as a person or administrative body entrusted with functions to perform for the benefit of the public and not for private profit. Not every such person or body is expressly defined as a public authority or body, and the meaning of a public authority or body may vary according to the statutory context; one of the distinguishing features of an authority not being a public authority, is profit making. It is not incumbent that a body in order to be a public body must always be constituted by a statute; for an authority to be a ‘public authority’ it must be an authority exercised or capable of being exercised for the benefit of the public”.*

**27.** On 22.4.2010, Central Information Commission in Amardeep Walia vs. Chandigarh Lawn Tennis Association (CIC/LS/C/2009/900377), has held that Chandigarh Lawn Tennis Association is Public Authority. Para 19of order is thus: **“19.** *The gravamen of the above judgments is that for a private entity to qualify to be a public authority, substantive financing does not mean ‘majority’ financing. What is important is that the funding by the appropriate Government is achieving a “felt need of a section of the public or to secure larger societal goals.”* The

*ratio of the above judgments, particularly of Delhi High Court, applies to the present case on all the fours. A huge property has been placed at the disposal of CLTA by the Chandigarh Administration at a notional rental of Rs.100/- per annum. Besides, grant of one lakh rupees was also given to CLTA in FY 2008-09. Concededly, CLTA fulfills the felt need of a section of the society by way of imparting training to the budding tennis players. It is, therefore, held that CLTA is a Public Authority.”*

**28.** On 21.1.2011, Central Information Commission in *Pradip Bhanot v Chandigarh Club (CIC/LS/A/2010/1184)* has held that Chandigarh Club is a Public Authority. The broad facts in this case was that a plot of land measuring 3.85 lacs sq.ft. was leased out to the Club at the rent of Rs. 1,08,208/- per month w.e.f. 20.7.2005 to 19.7.2010 with annual increase of 5%. Finance Department of Chandigarh Administration had submitted before the Commission that the aforesaid rent was not at par with the market rent. Considering the totality of circumstances, the SIC concluded that Chandigarh Club is a Public Authority under section 2(h). Paras 03 and 04 of Order:

**“3.** *We have now received a response from the Finance Department of the Chandigarh Administration under the signatures of the Joint Secretary, Finance. Paras 02 and 03 thereof are extracted below :- “2. In this regard it is informed that the bodies like Chandigarh Club etc are providing the public service and while fixing the rate of rent in such bodies, this aspect is taken into consideration. In view of the public services being provided by these bodies, the said bodies can not be termed as commercial sites. Due to this reason, the rent of Chandigarh Club*

*was fixed as Rs 1,08,208/- per month with effect from 20.7.2000 with annual increase of 5%. It is not out of place to mention here that other similarly situated bodies like Chandigarh Golf Club and Chandigarh Golf Association which are also providing the public services have been kept at par with Chandigarh Club while determining the rate of rent. In case we consider the Chandigarh Club as commercial site, then the rent comes out to be rupees to 3157400 per month. Keeping in view the urban character of the city, rent being charged from the Chandigarh Club is not at par with the market rent. Further, by charging the rent at a lower rate, it will make amply clear that Chandigarh Administration is indirectly financing the promotion of services being rendered by Chandigarh Club. 3. In view of the aforesaid circumstances and in view of the fact that said club is being indirectly financed for promotion of public services by the Chandigarh Administration the same is squarely covered under the definition of 'public authority' as defined under section 2 (h) (ii) of the RTI Act, 2005." 4. In view of the categorical position taken by the Chandigarh Administration extracted above and the fact that there is vast differential between the monthly rental being paid by the Chandigarh Club and the commercial rent that the premises could fetch in the open market (as estimated by the Finance Deptt), we are of the opinion that the Chandigarh Club is being indirectly financed by the Chandigarh Administration. In this view of the matter, we hold that Chandigarh Club is 'public authority'. Hence, the club management is hereby directed to put in place a mechanism for servicing the RTI Act."*

**29.** On 01.2.2011, Central Information Commission in *Amrit Mehta v IIC* (File No- CIC/WB/A/2009/965/LS) held that India International Centre a Public Authority under Section 2(h). The broad facts in this case were that 4.69 acres of prime land was given on perpetual lease to IIC against deposition of Rs. 1,68,840/- as per agreement signed on 22.4.1960 between President of India and IIC. The yearly rent payable by IIC to the Central Government was Rs. 8,442/- which has remained unchanged during the last five decades. In the facts of the case, the Commission had held as thus:- *“XVIII. In view of the above discussion, it clearly emerges that a huge chunk of land measuring 4.69 acres was allotted to IIC in 1968 at a premium of Rs. 1,68,840/- only, obviously, at a concessional rate. The agreement between the parties expressly speaks of concessional allotment of land. Further, IIC was required to pay rent of Rs. 8,442/- per year to the Central Government and this amount has remained unchanged during the last 52 years. This is also clearly indicative of the rent being nominal/concessional in nature. These facts clearly establish that the Central Government has indirectly financed IIC. The RTI Act does not define ‘substantial financing’. The expression ‘substantial financing’ has to be interpreted in the context of a specific case. This has been so held by the Punjab and Haryana High Court in WP(C) 19224/2006 (The Hindu Urban Cooperative Bank Ltd. versus State Information Commission, Punjab) extracted above. Considering the fact that a huge chunk of land was allotted to IIC in 1960 in the very heart of the capital city of Delhi at a premium of Rs.1,68,840/- only and also considering the fact that IIC is*

*paying rent of only Rs. 8,442/- per year to the Central Government over all these years, in our opinion, amounts to indirect substantial financing of IIC by the Central Government. In this view of the matter, we hold that IIC is “Public Authority” under Section 2(h) of RTI Act 2005.”*

**30.** On 09.05.2011, the Punjab and Haryana High Court in Punjab Cricket Association v. State Information Commission Punjab & others [WP(C) 16086 / 2008 commonly referred as CWP No19224/2006] has held: **“68.** *Now adverting to the case of petitioner –PCA (at Sr. No.12), it is admitted position that it is enjoying tax exemption from entertainment tax which is an direct financial aid by the State to it. Although the SIC has negated the plea of the complainant-information seeker, but to my mind, the SIC has slipped into deep legal error in this regard because the PCA is saving heavy amount from exemption of entertainment tax which naturally is an incidence of financial aid by the Government. 72.* *Now adverting to the financial help of petitioner- Sutlej Club, Ludhiana(at Sr. No.15) is concerned, the SIC mentioned that as per revenue record, the land owned by the Provincial Government is given to the Club which amounts to substantial financial assistance by the State. The fact that the valuable land upon which the Club was constructed, belongs to the Government and no rent/lease is paid by it to the Government shows that there is a substantial financial assistance by the State to the Club. The cost of prime land provided to the club would be much more than its normal revenue expenditure. Apart from land provided for construction of the club building, the Government has also incurred a part of expenditure on its*

*construction.... In my view, the SIC has recorded the correct finding of fact based on the material on record, by virtue of impugned order dated 8.7.2010”.*

**31.** On 23.8.2011 CIC [CIC/SG/C/2010/001036/AD] had held that DPS, Rohini, is a Public Authority under Section 2(h). The reasoning given by CIC is encapsulated hereinafter. *“Considering the above factual matrix of the case at hand, one can sum up that 6000 sq. mts of land has been given to the school at a concessional rate of Rs. 65 lacs per acre and 1-0,000 sq. mts of land at a highly subsidised nominal ground rent of Rs. 10/- per Annum by DDA. The School is under the governance, control and regulation of the Delhi Schools Education Act 1973, Rule 50 whereof mandates disclosure of information in the form of reports etc. to the Director of the Directorate of Education, the Administrator and concerned authority from the Central Government, as already discussed above. The Directorate of Education has appointed two nominees in the key Managing Committee of the School thereby ensuring position of power of managing affairs of the School and having control over the Respondent School.”*

**32.** On 11.01.2012, a relevant case, dealing with both, land and income tax. [File- CIC/AD/A/2011/001699] CIC decides: **“12.** *The Commission while relying upon the various decisions given hereinabove is convinced that the Mount St. Mary’s School may be considered as being “substantially financed” by the appropriate Government, in view of the 5 acres of prime land granted to it at subsidized rates and income tax concessions*

*being enjoyed by the school and that, therefore, it can be declared as a Public authority”.*

- 33.** The Public Authority, as defined under section 2(h) of the RTI Act, is a broader term than the ‘State’ as defined under Article 12. In other words, it is possible that an entity may fall short of being ‘State’ and yet may be a ‘Public Authority’ under the RTI Act. In fact, ‘Public Authority’ and the ‘State’ are different and distinct from each other. Judgment of Punjab and Haryana High Court in WP(C) No. 19224/2006 is thus: **“25.** *Above-all, the deep and pervasive control as required under Article 12, is not required and essential ingredient for invoking the provisions of RTI Act. The primary purpose of instrumentality of the State is in relation to enforcement of the fundamental rights through Courts, whereas the RTI Act is intended to achieve, access to information and to provide an effective framework for effecting the right to information recognized under Article 19 of the Constitution. The complainants are not claiming any kind of monetary benefits or property from the empire of the petitioner-institutions. To my mind, the enforcement of fundamental rights through Courts and the question of applicability of writ jurisdiction on an instrumentality of the State for the purpose of determination of substantive rights and liabilities of the parties are altogether (entirely) different than that of the field of RTI Act, only meant to impart the information. Hence, in my view, the ambit and scope of phrase of instrumentality of the State under Article 12 of the Constitution is entirely different and distinct than that of the regime of RTI Act. If the intention of the Legislature was to so restrict the meaning to the expression of public*



*authority, straight jacketing the same within the four corners of the State, as defined under Article 12, then there was no need/occasion to assign a specific broader definition of public authority under section 2(h) of RTI Act in this relevant connection”.*

**34.** While determining whether a particular entity is a Public Authority or not, narrow interpretation of the words used in the statute would frustrate the object of the Act. Purpose of the Act is transparency and accountability. Judgment of the Delhi High Court in IOC Case [WP(C) No. 876/2007] is thus: **“41.** *The Act marks a legislative milestone in the post independence era to further democracy. It empowers citizens and information applicants to demand and be supplied with information about public records. Parliamentary endeavor is to extend it also to public authorities which impact citizens daily lives. The Act mandates disclosure of all manner of information and abolishes the concept of locus standi of the information applicant; no justification for applying (for information) is necessary; decisions and decision making processes, which affect lives of individuals and groups of citizens are now open to examination. Parliamentary intention apparently was to empower people with the means to scrutinize government and public processes, and ensure transparency. At the same time, the need of society at large, and Governments as well as individuals in particular, to ensure that sensitive information is kept out of bounds have been accommodated under the Act.”*

**35.** Though, above quoted decisions refer to institutions such as schools, clubs which, in some characteristics are different

from Political Parties but these decisions do recognize, accept, establish the principle that exemption from tax and allotment or permission to use land and other real estate is an accepted form of “financing”, though it may be considered “indirect” as it is not in the physical form of money. And this principle is one of the factors that makes Political Parties come under the ambit of “public authority” under section 2(h) of the RTI Act."

**36.** This Hon'ble Court in *Union of India vs. Association for Democratic Reforms* (AIR 2002 SC 2112) had held as thus:- *“To maintain the purity of elections and in particular to bring transparency in process of election, the Commission can ask the candidates about the expenditure incurred by the Political Parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basis elementary right to know full particulars of candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.”*

**37.** Political Parties constitute one of the most important institutions in a constitutional democracy. Prof. Harold J Laski in his classic text “Grammar of Politics” has termed them ‘natural’, though not ‘perfect’. According to him, the life of a democratic State is built upon the party system. Without Political Parties, there would be no means available of enlisting the popular decisions in a politically satisfactory manner. To quote him *“The life of the democratic State is built upon the party-system and it is important at the outset to discuss the part played by party in the arrangement of affairs. Briefly, that part may be*

*best described by saying that parties arrange the issues upon which people are to vote. It is obvious that in the confused welter of the modern State, there must be some selection of problems as more urgent than others. It is necessary to select them as urgent and to present solutions of them which may be acceptable to the citizen-body. It is that task of selection, the party undertakes. It acts, in Mr. Lowell's phrase, as the broker of ideas. From the mass of opinions, sentiments, beliefs, by which the electorate moves, it chooses out those it judges most likely to meet with general acceptance. It organizes persons to advocate its own view of their meaning. It states that view as the issue upon which the voter has to make up his mind. Its power enables it to put forward for election candidates who are willing to identify themselves with its view. Since its opponents will do the same, the electorate, thereby, is enabled to vote as a mass and decision that would otherwise be chaotic, assumes some coherency and direction...What, at least, is certain, is that without parties there would be no means available to us of enlisting the popular decision in such a way as to secure solutions capable of being interpreted as politically satisfactory."*

- 38.** As per paragraph 02 of the Tenth Schedule, a Member of a House belonging to any Political Party can be disqualified in certain circumstances: "2. Disqualification on ground of defection. – (1) Subject to the provisions of paragraphs 3, 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—(a) if he has voluntarily given up his membership of such political party; or (b) if he votes or abstains from voting in such House contrary to any

*direction issued by the political party to which he belongs or by any person or authority authorized by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.*

*Explanation – For the purposes of this sub-paragraph, (a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member; (b) a nominated member of a House shall, - (i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party; (ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of Article 99 or, as the case may be, Article 188. (2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party, shall be disqualified for being a member of the House if he joins any political party after such election. (3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of Article 99 or, as the case may be, Article 188.”*

**39.** Section 29A:“(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application

*to the Election Commission for its registration as a political party for purposes of this Act.”*

- 40.** People must know the source of expenditure incurred by Political Parties and candidates in the election. These judicial pronouncements commend progressively higher level of transparency in the functioning of Political Parties in general and their funding in particular.
- 41.** Political Parties have made a bland assertion before the CIC that they are not Public Authorities under Section 2(h) of the RTI Act, though admitted allotment of land to them by Central and State Government on certain terms. The CIC has rejected the contentions of the parties. Therefore, it is submitted that this Hon’ble Court should allow the instant petition in larger public interest. It will promote transparency and accountability in parties ensure free and fair election.
- 42.** Powers of the ECI under Article 324 of the Constitution have been repeatedly held to be wide-ranging. From the judgment of *Ponnuswamy*, [1952 SCR 218, Page 226] where the phrase “*conduct of elections*” was interpreted widely, and held that the Election Commission is charged with all steps necessary to ensure a smooth conduct of elections. This position has been bolstered by at least two Constitution Bench decisions declaring that where there is a void or a vacuum, the powers of the Election Commission could be exercised. [*M.S.Gill*, (1978) 1 SCC 405 at Para 39 [Majority] and Para 113, *Special Reference No.1/2002*, (2002) 8 SCC 237 at Para 76]

- 43.** It was precisely the above that was invoked in the ADR Case, [(2002) 5 SCC 294 at Paras 23 and 46] to conclude that the right of the voter under Article 19(1) ought to be fulfilled by compulsorily having antecedents of the candidate declared to them. As a result, directions were given to the ECI to solicit the same from the contesting candidates.
- 44.** The Hon'ble Court has repeatedly stated that contestants to legislative office ought to have high levels of integrity and the best available person ought to be chosen. [*PUCL, (2013) 10 SCC 1 at Para 53, Ashok Chavan, (2014) 7 SCC 99 at Para 44*]
- 45.** From the time of *Indira Gandhi, [1975 Supp. SCC 1]* till date, it is an established precept that free and fair elections are an inalienable part of the Constitutional system. But, it is impossible without enhancing transparency. [*PUCL, (2013) 10 SCC 1 at Paras 53, Manoj Narula, (2014) 9 SCC 1*]

### **GROUND**

- A.** Because Political Parties hold constitutional status and wield constitutional powers under the Tenth Schedule in as much as they have the power to – (a) disqualify legislators from Parliament and State Assemblies; (b) bind legislators in their speeches and voting inside the house; (c) decide what laws are made; (d) decide whether Government remains in power (e) decide public policies that affect lives of millions of people.
- B.** Because as per Article 102 (2), a person can be disqualified from being a member of either House of Parliament under the Tenth Schedule and that a similar provision exists for the State Legislators under Article 191(2). Furthermore, as per Article

102(2), if a member of a House belonging to a Political Party votes or abstains from voting in the House contrary to the directions issued by the Political Party, he is liable to be disqualified from being a Member of House.

- C.** Because Political Parties have been given statutory status under Section 29A of the RPA and they are required to bear true faith and allegiance to the Constitution as by law established. Political Parties give tickets to candidates and people vote on party symbols and, thus, the Political Parties are important instrumentalities of the democratic governance and function like a Public Authority
- D.** Because Political Parties are substantially financed by the State in multiple ways and are exempted from Income Tax. They have been claiming tax exemption under Section 13A of the Income Tax Act. State has been indirectly financing various Political Parties by way of free airtime on All India Radio. In addition, State spend huge amounts on Political Parties to provide free air time on Doordarshan.
- E.** Because Under Rules 11 and 12 of the Registration of Electors Rules, 1960, two copies of the Electoral Rolls are supplied to the recognized Political Parties, free of cost. This is another instance of indirect financing of the Political Parties by the State. The Central Government and State Governments have allotted various houses /buildings /other types of accommodation to various Political Parties either free of cost or at concessional rates. This also amounts to indirect financing of Political Parties by the Central and State Governments.

- F.** Because entire political system revolved around the Political Parties. They are continuously engaged in the performance of public duty and it is, therefore, important that they become accountable to the public. Transparency and accountability in working of Political Parties is essential in the public interest as they perform public function and, therefore, warrant to be declared as 'Public Authority' under Section 2(h) of RTI Act.
- G.** Because the Political Parties have constitutional and legal rights and liabilities and, therefore, need to be held to be "Public Authority" under Section 2(h) of the RTI Act 2005. An association or body of individuals gets the status of a political party on its registration with the ECI under Section 29A of the RPA, which is a Central Legislation.
- H.** Because the ECI awards symbols to Political Parties under the Election Symbols (Reservation and Allotment) Order, 1968, only after registration. The ECI calls for details of expenses made by the Political Parties in the elections. Contributions of the value of Rs. 2,000/- and above received from any person or company by Political Party are required to be intimated to the Commission under Section 29C of the RPA.
- I.** Because the ECI is vested with power of superintendence, direction and control of elections under Article 324 of the Constitution. It is also vested with the authority to suspend or withdraw recognition of a political party in certain contingencies. More importantly, Political Parties can recommend disqualification of Members of the House in certain contingencies under the Tenth Schedule. Therefore, aforesaid



constitutional and statutory powers of Political Parties bring them in the ambit of Section 2(h) of the RTI Act.

**J.** The Preamble aims at securing: Justice - social, economic and political; Liberty of thought, expression, belief, faith and worship; and, Equality of status and of opportunity. Coincidentally, objectives of the RTI Act is to promote these principles in the form of transparency and accountability in the working of every "Public authority". It aims to create informed citizenry, contain corruption and hold government instrumentalities accountable to the Public. Needless to say that Political Parties are important political institutions and play critical role in heralding transparency in public life.

**K.** Political Parties perform public functions, define parameters of governance and socio-economic development. They claim to work for public interest but their income tax returns reveal that on an average only about 20% of their income comes from donations that they disclose to the ECI. The remaining 80% of income are shrouded in mystery. This gives rise to all kinds of speculation about pernicious influence of illegal money.

**L.** Because it is manifestly arbitrary and a violation of the basic Constitutional norms of democracy, as well as the rights of the voters under Article 19(1), that they be deprived and denied access and information concerning the sources of income as well as returns filed by the political parties who avail of large-scale exemptions under S. 13A of the Income Tax Act, 1961. It may be noted that as the statute in any case mandates that detailed books of accounts are maintained and audited by the

political parties in interest of transparency and accountability, the same be published on the website of all political parties.

**M.** Because the ECI surprisingly suggests that a distinction exists between national parties and state parties as far as their amenability to the RTI Act is concerned. This is wholly inappropriate and without any basis and ought to be rejected.

**N.** Because functioning of parties has immense ramifications in public life. They are recognized statutorily by the ECI and take active participation in the elections which are held as per the mandate of the Constitution. Thus, they have immense public character and trappings of being termed as 'public authority'.

### **PRAYER**

Keeping in view the above stated facts and circumstances and to curtail the use of black money by the political parties, it is respectfully prayed that this Hon'ble Court may be pleased to issue a writ in the nature of mandamus or declaration to:

- a)** direct and declare that all registered and recognized political parties are 'Public Authority' under Section 2(h)(d)(i) of the Right to Information Act, 2005;
- b)** direct and declare that all registered and recognized political parties shall, within a period of four weeks, appoint the Public Information Officer, Appellate Authority and make disclosures in letter and spirit of the Right to Information Act, 2005;
- c)** direct and declare that the Election Commission of India shall pass Orders or Directions to ensure that in the event of non-compliance by political parties of the provisions of the RPA, RTI Act, Income Tax Act, Model Code of Conduct and other Election

Laws and Rules, the political parties shall be de-recognized and suffer other penalties;

**d)** take such other steps as this Hon'ble Court may deem fit in the facts and circumstances of the case and allow the cost.

New Delhi  
30.3.2019

(R. D. Upadhyay)  
Advocate for Petitioner

**IN THE SUPREME COURT OF INDIA**  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO ..... OF 2019

**IN THE MATTER OF:**

Ashwini Kumar Upadhyay	...	Petitioner
	<u>Verses</u>	
<u>Union of India &amp; another</u>	...	<u>Respondents</u>

**AFFIDAVIT**

I, Ashwini Kumar Upadhyay aged 44 years, son of Sh. Suresh Upadhyay,  
Office at: [REDACTED]

[REDACTED] at present at New Delhi, do hereby solemnly affirm and declare as under:

1. I am the sole petitioner above named and well acquainted with facts and circumstances of the case and as such competent to swear this affidavit.
2. I have read and understood contents of accompanying synopsis and list of dates pages (B- H) writ petition paras (1- 45 ) pages (1- 28) and total pages (1- 39 ) which are true and correct to my knowledge and belief.
3. Annexures filed with petition are true copies of their respective originals.
4. I have not filed any other petition either in this Hon'ble Court or in any other Court seeking same or similar directions as prayed in this petition.
5. I have no personal interests, individual gain, private motive or oblique reasons in filing this petition. It is not guided for gain of any other individual person, institution or body. The only motive is public interest.
6. There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with issue involved in this petition.
7. There is no requirement to move concerned government authority for relief sought in this petition. There is no other remedy available except approaching this Hon'ble Court.
8. I have gone through the Article 32 and the Supreme Court Rules and do hereby affirm that the present petition is in conformity thereof.
9. I have done whatsoever enquiry/investigation, which was in my power to do, to collect the data or material, which was available; and which was relevant for this Hon'ble Court to entertain the present petition.

10. I've not concealed any data/material/information in this petition; which may have enabled this Hon'ble Court to form an opinion, whether to entertain this petition or not and/or whether to grant any relief or not.
11. The averments made in this affidavit are true and correct to my personal knowledge and belief. No part of this Affidavit is false or fabricated, nor has anything material been concealed there from.

(Ashwini Kumar Upadhyay)  
DEPONENT

**VERIFICATION**

I, the Deponent do hereby verify that the contents of above affidavit are true and correct to my personal knowledge and belief. No part of this affidavit is false nor has anything material been concealed there from.

I hereby solemnly affirm and declare it today i.e. the 30<sup>th</sup> day of March 2019 at New Delhi.

(Ashwini Kumar Upadhyay)  
DEPONENT

**APPENDIX**

**SECTION 2 OF THE RIGHT TO INFORMATION ACT, 2005**

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(b) “Central Information Commission” means the Central Information Commission constituted under sub-section (1) of section 12;

(c) “Central Public Information Officer” means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(d) “Chief Information Commissioner” and “Information Commissioner” mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) “competent authority” means—

(i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in case of Council of States of a Legislative Council of States;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(f) “information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(g) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) “public authority” means any authority or body or institution of self-government established or constituted,—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non-Government Organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

(i) “record” includes—

(i) any document, manuscript and file;

(ii) any microfilm, microfiche and facsimile copy of a document;

(iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

(iv) any other material produced by a computer or any other device;

(j) “right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—

(i) inspection of work, documents, records;

(ii) taking notes, extracts, or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

(k) “State Information Commission” means the State Information Commission constituted under sub-section (1) of section 15;

(l) “State Chief Information Commissioner” and “State Information Commissioner” mean the State Chief Information Commissioner and the State Information Commissioner appointed under section 15;

(m) “State Public Information Officer” means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under section 5;

**Annexure P-1**

ITEM NO.62 COURT NO.1 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Writ Petition (Civil) No.941/2017

ASHWINI KUMAR UPADHYAY Petitioner(s)

VERSUS

UNION OF INDIA & ANR. Respondent(s)

Date: 23-10-2017 This petition was called on for hearing today.

CORAM:

HON'BLE THE CHIEF JUSTICE HON'BLE

MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Vikas Singh, Sr. Adv.

Ms. Asha Upadhyay, Adv.

Mr. Girdhar G. Upadhyay, Adv.

Ms. Deepika Kalia, Adv.

Mr. Kapil Seth, Adv.

Mr. R. D. Upadhyay, AOR

For Respondent(s) Mr. Amit Sharma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Having heard Mr. Vikas Singh, learned senior counsel for the petitioner and upon perusal of the prayer clause in the writ petition, we

think it appropriate that the petitioner should approach the Election Commission of India, the respondent No.2 herein, so that it can take appropriate steps as advised in law.

With the aforesaid liberty, the writ petition stands disposed of.

(Chetan Kumar)

Court Master

(H.S. Parasher)

Assistant Registrar

**To,**

**Annexure P-2**

**The Chief Election Commissioner**

Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001

Subject: To bring recognized political parties under the ambit of RTI Act

**Sir,**

1. Political Parties hold constitutional status and wield constitutional powers under the Tenth Schedule in as much as they have the power to – (a) disqualify legislators from Parliament and State Assemblies; (b) bind legislators in their speeches and voting inside the house; (c) decide what laws are made; (d) decide whether Government remains in power (e) decide public policies that affect lives of millions of people.
2. As per Article 102 (2), a person can be disqualified from being a member of either House of Parliament under the Tenth Schedule and that a similar provision exists for the State Legislators under Article 191(2). Furthermore, as per Article 102(2), if a member of a House belonging to a Political Party votes or abstains from voting in the House contrary to the directions issued by the Political Party, he is liable to be disqualified from being a Member of House.
3. Political Parties have been given statutory status under Section 29A of the RPA and they are required to bear true faith and allegiance to the Constitution as by law established. Political Parties give tickets to candidates and people vote on party symbols and, thus, the Political Parties are important instrumentalities of the democratic governance and function like a Public Authority.

- 4.** Political Parties are substantially financed by the State in multiple ways and are exempted from Income Tax. They have been claiming tax exemption under Section 13A of the Income Tax Act. State has been indirectly financing various Political Parties by way of free airtime on All India Radio. In addition, State spend huge amounts on Political Parties to provide free air time on Doordarshan.
- 5.** Under Rules 11 and 12 of the Registration of Electors Rules, 1960, two copies of the Electoral Rolls are supplied to recognized Political Parties, free of cost. This is another instance of indirect financing of the Political Parties by the State. The Government have allotted various houses /buildings /other types of accommodation to various Political Parties either free of cost or at concessional rates. This also amounts to indirect financing of Political Parties by the Central and State Governments.
- 6.** Entire political system revolved around the Political Parties. They are continuously engaged in the performance of public duty and it is, therefore, important that they become accountable to the public. Transparency and accountability in working of Political Parties is essential in the public interest as they perform public function and, therefore, warrant to be declared as 'Public Authority' under Section 2(h).
- 7.** The Political Parties have constitutional and legal rights and liabilities and, therefore, need to be held to be "Public Authority" under Section 2(h) of the RTI Act 2005. An association or body of individuals gets the status of a political party on its registration with the ECI under Section 29A of the RPA, which is a Central Legislation.
- 8.** The ECI awards symbols to Political Parties under the Election Symbols (Reservation and Allotment) Order, 1968, only after registration. The ECI calls for details of expenses made by the Political Parties in the elections. Contributions of the value of Rs. 2,000/- and above received from any person or company by Political Party are required to be intimated to the Commission under Section 29C of the RPA.
- 9.** The ECI is vested with power of superintendence, direction and control of elections under Article 324 of the Constitution. It is also vested with the



authority to suspend or withdraw recognition of a political party in certain contingencies. More importantly, Political Parties can recommend disqualification of Members of the House in certain contingencies under the Tenth Schedule. Therefore, aforesaid constitutional and statutory powers of Political Parties bring them in the ambit of Section 2(h).

**10.** The Preamble aims at securing: Justice - social, economic and political; Liberty of thought, expression, belief, faith and worship; and, Equality of status and of opportunity. Coincidentally, objectives of the RTI Act is to promote these principles in the form of transparency and accountability in the working of every "Public authority". It aims to create informed citizenry, contain corruption and hold government instrumentalities accountable to the Public. Needless to say that Political Parties are important political institutions and play critical role in heralding transparency in public life.

**11.** Political Parties perform public duty, define parameters of governance and socio-economic development. They claim to work for public interest but their income tax returns reveal that on an average only 20% of their income comes from donations that they disclose to ECI. The remaining 80% of income are shrouded in mystery. This gives rise to all kinds of speculation about pernicious influence of illegal money.

**12.** It is manifestly arbitrary and a violation of the basic Constitutional norms of democracy, as well as the rights of the voters under Article 19(1), that they be deprived and denied access and information concerning the sources of income as well as returns filed by the political parties who avail of large-scale exemptions under S. 13A of the Income Tax Act, 1961. It may be noted that as the statute in any case mandates that detailed books of accounts are maintained and audited by the political parties in interest of transparency and accountability, the same be published on the website of all political parties.

**Sir,**

Functioning of parties has immense ramifications on public life. They are recognized statutorily and take active participation in the elections, which

are held as per the mandate of the Constitution. They have immense public character. Therefore, bring them under the RTI Act.

Thanks & Regards.

Ashwini Kumar Upadhyay

15, M.C. Setalvad Chambers, Supreme Court, New Delhi-1

**IN THE SUPREME COURT OF INDIA**

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO    OF 2019

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

ASHWINI KUMAR UPADHYAY            ...PETITIONER

VERSES

UNION OF INDIA & ANOTHER            ...RESPONDENTS

PAPER BOOK

[FOR INDEX KINDLY SEE INSIDE]

**(ADVOCATE FOR PETITIONER: R.D.UPADHYAY)**

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**PERFORMA FOR FIRST LISTING**

**Section: PIL**

The case pertains to (Please tick / check the correct box):

- Central Act: Constitution of India
- Section: Article 19 of the Constitution
- Central Rule: N/A
- Rule No: N/A
- State Act: N/A
- Section: N/A
- State Rule: N/A
- Rule No: N/A
- Impugned Interim Order: N/A
- Impugned Final Order / Decree: N/A
- High Court: N/A
- Name of Judges: N/A
- Tribunal / Authority Name : N/A

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1. Nature of Matter: Civil

2. (a) Petitioner / Appellant : Ashwini Kumar Upadhyay

(b) Email ID: [REDACTED]

(c) Phone No: [REDACTED]

3. (a) Respondent: Union of India and another

(b) Email ID: N/A

(c) Phone No: N/A

4. (a) Main Category: 08 PIL Matters

(b) Sub Category: 0810, Matters relating to Election Commission

5. Not to be listed before: N/A

6(a). Similar disposed of mater: WP(C) 941/2017

6(b). Similar pending matter: No similar matter pending

7. Criminal Matters: N/A

(a) Whether accused / convicted has surrendered: N/A

(b) FIR / Complaint No: N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of Sentence Undergone including period of detention/custody under gone: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 Notification: N/A

(b) Date of Section 6 Notification: N/A

(c) Date of Section 17 Notification

9. Tax Matters: State the Tax Effect: N/A

10. Special Category: N/A

11. Vehicle No in case of motor accident claim matters): N/A

Date: 30.03.2019

**ADVOCATE FOR PETITIONER**

**(R. D. UPADHYAY)**

**SYNOPSIS**

Political Parties hold constitutional status and wield constitutional powers under the Tenth Schedule in as much as they have the power to – (a) disqualify legislators from Parliament and State Assemblies; (b) bind legislators in their speeches and voting inside the house; (c) decide what laws are made; (d) decide whether Government remains in power (e) decide public policies that affect lives of millions of people.

As per Article 102 (2), a person can be disqualified from being a member of either House of Parliament under the Tenth Schedule and that a similar provision exists for the State Legislators under Article 191(2). Furthermore, as per Article 102(2), if a member of a House belonging to a Political Party votes or abstains from voting in the House contrary to the directions issued by the Political Party, he is liable to be disqualified from being a Member of House.

Political Parties have been given statutory status under Section 29A of the RPA and they are required to bear true faith and allegiance to the Constitution as by law established. Political Parties give tickets to candidates and people vote on party symbols and, thus, the Political Parties are important instrumentalities of the democratic governance and function like a Public Authority

Political Parties are substantially financed by the State in multiple ways and are exempted from Income Tax. They have been claiming tax exemption under Section 13A of the Income Tax Act. State has been indirectly financing various Political Parties by way of free airtime on All India Radio. In addition, State spend huge amounts on Political Parties to provide free air time on Doordarshan.

Under Rules 11 and 12 of the Registration of Electors Rules, 1960, two copies of the Electoral Rolls are supplied to the recognized Political Parties, free of cost. This is another instance of indirect financing of the Political Parties by the State. The Central Government and State Governments have allotted various houses /buildings /other types of accommodation to various Political Parties either free of cost or at concessional rates. This also amounts to indirect financing of Political Parties by the Central and State Governments.

Entire political system revolved around the Political Parties. They are continuously engaged in the performance of public duty and it is, therefore, important that they become accountable to the public. Transparency and accountability in working of Political Parties is essential in the public interest as they perform public function and, therefore, warrant to be declared as 'Public Authority' under Section 2(h) of RTI Act.

The Political Parties have constitutional and legal rights and liabilities and, therefore, need to be held to be "Public Authority" under Section 2(h) of the RTI Act 2005. An association or body of individuals gets the status of a political



party on its registration with the ECI under Section 29A of the RPA, which is a Central Legislation.

The ECI awards symbols to Political Parties under the Election Symbols (Reservation and Allotment) Order, 1968, only after registration. The ECI calls for details of expenses made by the Political Parties in the elections. Contributions of the value of Rs. 2,000/- and above received from any person or company by Political Party are required to be intimated to the Commission under Section 29C of the RPA.

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The ECI surprisingly suggests that a distinction exists between national parties and state parties as far as their amenability to the RTI Act is concerned. This is wholly inappropriate and without any basis and ought to be rejected.

Functioning of parties has immense ramifications in public life. They are recognized statutorily by the ECI and take active participation in the elections which are held as per the

mandate of the Constitution. Thus, they have immense public character and trappings of being termed as 'public authority'.

**LIST OF DATES**

- 29.05.1999: The Law Commission in its 170th Report on (Electoral Reform) recommended to improve transparency in functioning of parties.
- 31.03.2002: NCRWC recommended that Political Parties and contesting candidates be made subject to proper statutory audit.
- 29.04.2008: CIC [CIC/AT/A/2007/01029] has highlighted the transparency in functioning of Parties
- 07.01.2010: The Delhi High Court in IOC v Veeresh Malik [WP 876/2007] has held that Indian Olympic Association is a Public Authority.
- 09.02.2010: The Karnataka High Court in Bangalore Intl Airport Ltd vs Karnataka Information Commission [WP 12076/2008] has held: "It is not incumbent that a body in order to be a public body must always be constituted by a statute. For an authority to be a "Public Authority", it must be an authority, exercised or capable of being exercised for the benefit of the Public".
- 22.4.2010: The Central Information Commission in Amardeep Walia v Chandigarh Lawn Tennis

Association (File-CIC/LS/C/2009/900377) held Chandigarh Lawn Tennis Association to be “Public Authority” under Section 2(h).

21.01.2011: Central Information Commission in Pradeep Bhanot v. Chandigarh Club, Chandigarh (File No. CIC/LS/A/2010/001184), has held that the Chandigarh Club is a Public Authority under Section 2(h) of the RTI Act.

01.2.2011: Central Information Commission in Amrit Mehta versus India International Centre (File No- CIC/WB/A/2009/000965/LS) has held the India International Centre a Public Authority under Section 2(h) of the RTI Act.

09.05.2011: The Punjab and Haryana High Court in Punjab Cricket Association, versus State Information Commission Punjab & another [WP(C) 16086/2008, commonly referred as CWP No. 19224/2006] has held that Punjab Cricket Association is a Public Authority under Section 2(h) of the RTI Act.

23.8.2011: Central Information Commission in File No. CIC/SG/C/2010/001036/AD has held that DPS Rohini is a “Public Authority”.

11.01.2012: CIC in File No- CIC/AD/A/2011/001699 held that St. Mary’s School is a Public Authority, in view of the prime land allotted to it at subsidized rates and being substantially financed by State,

in addition to the income tax concessions being enjoyed by the school.

- 11.09.2017: Petitioner filed WP(C) 941/2017 that Political Parties hold constitutional status and wield powers to disqualify legislators bind legislators in their speeches and voting inside house; decide what laws are made, decide whether they remains in power or which Government should come to power, decide public policies that affect lives of millions of people. They take donation and get tax rebate and financed by the State. Hence, they come under the RTI Act.
- 23.10.2017: Petitioner withdrew the petition with liberty to approach the Election Commission. (Annex P1)
- 27.10.2017: Petition submitted a Representation to the ECI but it did nothing about one year. (Annex P-2)
- 20.11.2018: Petitioner received ECI reply, which is inappropriate, without any basis. (Annex P-3)
- 30.3.2019: Functioning of the political parties has immense ramifications on public life. They are recognized statutorily by the ECI and take active participation in the elections, which are held as per the mandate of the Constitution. Thus, they have immense public character and trappings of being termed as 'public authority'. The ECI has not taken apt steps to bring the

political parties under the ambit of the RTI Act.

Hence, this petition in larger public interest.