

## **Minutes of the Annual General Body Meeting of COMMON CAUSE Society held at Common Cause House, New Delhi, on February 28, 2015**

Mr. Vikram Lal, President, Common Cause, called the meeting to order at 11.15 AM. As the quorum was not complete, the meeting was adjourned at 11.30 AM to be reconvened at 11.45 AM. In all, twenty three members attended the meeting.

The President extended a warm welcome to the members and invited the Director, Mr. Kamal Kant Jaswal, to proceed with the items on the agenda.

### **Consideration of the Annual Report and Adoption of the Annual Accounts and Auditors' Report for the year 2013-14**

The Director presented the main points of the Annual Report of the Society for the year 2013-14, which had been made available to the participants. The members expressed their satisfaction over the information presented. Maj. Gen. (Retd.) J. P. Gupta proposed that the Annual Report and Audited Accounts of the Society along with the Auditors' Report be adopted. Mr. Narendra Ahuja seconded the motion, which was unanimously carried.

### **Appointment of Auditors for the year 2014-15**

The Director stated that the Auditors, Messrs. VKGN & Associates Chartered Accountants, had discharged their responsibilities during the year under review to the full satisfaction of the Society. Mr. Vikram Lal proposed that they be reappointed for the year 2014-15. Dr. B. P. Mathur seconded the motion, which was adopted by the General Body.

### **Activities and Programmes**

The Director stated that during the period of report the Society was able to harness the potential synergy among like-minded civil society organisations to extend the reach and impact of its interventions. He made a brief Power Point presentation on the activities and programmes undertaken in furtherance of the missions and objectives of the Society since the last Annual General Meeting. The following were the highlights of the presentation.

#### ***Advocacy initiatives***

**Police Reforms:** Preparatory to the launch of an Annual State of Policing Report (ASPR), considerable progress has been made in the conceptualisation of the Report and the identification of performance indicators. The concept of ASPR found considerable traction among the Directors General of Police who attended the National Workshop on Community Policing held at Thiruvananthapuram in November 2014.

**Right to Education:** The Society in concert with Good Earth Education Foundation and other like-minded entities is exploring the advocacy options for improving the abysmal learning outcomes in the government school system. The feasibility of seeking judicial intervention for effectuating the right to free and compulsory elementary education is also being considered.

In parallel, the critiques of the Right to Education Act are being collated and analysed to examine the desirability of amendment to the Act.

**Mining sector reforms:** The focus of the ongoing engagement with the Ministry of Mines is on the institution of a transparent and equitable system of attribution and renewal of mining leases. The Society has also furnished its inputs on the Draft Mines & Minerals (Development & Regulation) Bill, 2014 to the Ministry.

**Regulation of direct selling operations:** The Society has persevered in its campaign to prevent the dilution of the rigour of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 in the name of formulation of a separate legislation for the regulation of direct selling companies. To this end, a proposition for a regulatory framework is being drafted in collaboration with Vidhi Legal Centre. It will be presented to the Ministry of Consumer Affairs shortly.

**Regulation of real estate sector:** Common Cause has been an active participant in the pre-legislative consultations to ensure the protection of consumer interests in the face of determined lobbying by the associations of developers.

### ***Public interest litigation***

#### **New initiatives:**

The Director briefed the members about the new PILs filed by the Society since the last meeting of the General Body. These petitions have addressed vital issues of public importance that are central to the preservation of the rule of law and promotion of ethical governance.

The PILs filed in the Supreme Court address the issues of mismanagement and corruption in the administration of Defence lands, unconstitutionality of certain provisions of the Lokpal Search Committee Rules and reckless export of huge quantities of Red Sanderswood logs by the Government of Andhra Pradesh, putting in jeopardy the standing stock of this endangered species.

The Director informed the members that the PIL highlighting the abuse of the discretionary quota in the allotment of prime plots of land to influential persons in Odisha had to be filed in the Orissa High Court following the Supreme Court's refusal to entertain it. The petition, which no member of the local bar Association is willing to touch, has run into scheduling difficulties due to the High Court Registry's reluctance to grant our counsel's request for accommodation and currently stands

dismissed for non-prosecution. A restoration application is being filed in order that the issues agitated in the petition are decided on merit.

The proposed PIL to extend the audit jurisdiction of the Comptroller & Auditor General of India to NOIDA, Greater Noida Authority and Yamuna Expressway Authority has been finalised after painstaking research and several rounds of iteration. The petition is ready to be filed in the Supreme Court after the Holi vacation.

### **Significant developments in pending PILs:**

***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. The guidelines are balanced, comprehensive and objective. Common Cause has urged the Court to grant its imprimatur to them and direct the respondents to ensure their compliance. Judgment in the case has been reserved.

***Speedy justice:*** The Apex Court on December 10, 2014 summarily disposed of this long pending petition, which had comprehensively addressed the demand, supply and efficiency issues contributing to the dysfunction of the system of administration of justice in the country. Reliance was placed on the Solicitor General's statement that most of the issues raised in the petition were also involved a pending Criminal Appeal. 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 the Society on behalf of the petitioners.

***Combating the Criminalization of Politics:*** By its landmark order of March 10, 2014, the Supreme Court had mandated a time-bound disposal of pending criminal cases against sitting legislators. The Registrars of the Supreme Court and the High Courts were requested 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, but 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 could go a long way in combating the scourge of criminalisation of politics.

Arguments on the main prayer for debarring persons charged with the commission of serious offences from contesting the elections are continuing.

***Illegal allocation of captive coal blocks:*** The Director recapitulated the far-reaching repercussions of the Supreme Court's historic orders of August 25 and September 24, 2014 holding the allocation by the Central government of captive coal block in favour of private entities as arbitrary and illegal, and cancelling 214 of the 218 allocations made during the period from 1993 to 2010. In the course of

these proceedings, the Society also flagged various lapses in the investigation and prosecution of the cases arising from the impugned allocation. These interventions triggered the review of the autonomy of the Central Bureau of Investigation and the limits of government control and superintendence of the Central Vigilance Commission over the agency.

The suitability of the former Director of the agency to lead the investigations also came into question in view of certain revelations concerning a record of visitors to his residence. The Society has substantiated the allegations against the former Director in its application for his recusal from the ongoing investigation and prosecution of related cases. This prayer was made in the context of his private meetings with the accused in high profile cases and his attempts to subvert the due process of law.

***Mala fide favours to RIL in KG Basin contract :*** The members were informed that implementation of the Central Government's decision for a twofold increase in natural gas prices has been made subject to the orders of the Court. The Government has filed its latest gas pricing guidelines in the Court.

The move for amending the Production Sharing Contract with RIL with a view to allowing it to retain certain oil and gas fields, which it was obliged to relinquish, has also been foiled. The Society has submitted 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. The respondents have to file their response before the matter comes up for directions on March 20, 2015.

***Post-retirement activities of judges:*** The prayers made in the petition have been granted to a considerable extent. The Supreme Court and the Delhi High Court have already issued directions for rejecting petitions which cite the legal opinions tendered by retired judges of the higher courts. The Union Government has introduced the Tribunals, Appellate Tribunals and other Authorities (Conditions of Service) Bill, 2014 prohibiting members of a tribunal/statutory body from acting as arbitrator in Parliament. The Bill is under consideration of the Standing Committee. The High Court has reserved judgment in the matter.

***Strengthening the institution of the Lokayukta, Delhi:*** The Delhi High Court has disposed of our petition on February 19, 2015 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 also held that the only recourse available to the Lokayukta against the Competent Authority's decision was that of drawing up a Special Report to be laid in the Legislative Assembly for such action as is deemed appropriate. Refusing to sit in appeal over the decisions of the Competent Authority, the Court 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.

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

At the end of his presentation, Mr. Jaswal informed the General Body about his decision to leave the directorship on March 31, 2015. Thanking the members for the unstinting support and cooperation extended to him during his eight-year term as Director of Common Cause, he hoped that that they would extend the same to his successor, Dr. Vipul Mudgal.

The President proposed a resolution to thank Mr. Jaswal for his consummate leadership and sterling services to the organization. He said that Mr. Jaswal led from the front to convert what was perceived as a one man endeavour into a broad-based national institution. He observed that in the last eight years Common Cause has taken up some exemplary causes with courage and imagination. The resolution proposed by the President and seconded by Ms. Madhumita Bhattacharjee was supported overwhelmingly and with thumping of desks.

Thereafter the members were invited to offer their suggestions and inputs.

**Mr. N. Ahuja** suggested that Common Cause should readily provide legal assistance in issues of public interest proposed by individuals. The Director clarified that the Society has a limited bandwidth and is not in a position to take up every individual case. Nevertheless, the Society invariably gives such assistance as is within its capacity to members and non members alike. The Director also reiterated his offer of providing full editorial support for the petition that Mr. Ahuja was planning to draft, just as he had edited Mr. Ahuja's articles on the execution of wills.

**Mr. R. K. Rohilla** highlighted the sharp practices of telecom operators resulting in their undue enrichment at the expense of hapless consumers. He also recounted his prolonged campaign to reclaim the telecom consumers' right to seek redress of their grievances against service providers through consumer courts. This right has been taken away by a decision of the Supreme Court which has wrongly applied the provision in Section 7B of the Indian Telegraph Act for arbitration of disputes between the Telecom Authority and the consumers to disputes between service providers and consumers, ignoring the amendment carried out in the statute in 1997.

Eventually, he filed a PIL in the Supreme Court on the subject in November 2014, making the Supreme Court a party to the proceedings, but the PIL was not being listed. Mr. Rohilla was advised to seek the assistance of the Society's legal consultant for rectifying the apparent defect of misjoinder of parties.

**Mr. Ashok Ahuja** reported that he had tried to personally contact the members from West Delhi to motivate them to attend the AGM. He was shocked to find that 29 of the 58 members, whose registered addresses he visited, were no more. This experience underlines the urgency of updating the database of members. Mr. Ahuja also suggested that the next of kin of deceased members should be encouraged to become members of the Society.

The Director informed him that it is only since 2007 that contact details of members, like phone number, email address, are being recorded at the time of enrolment. These details are not available for most of the members of the Society. In general, the next of kin of members do not bother to inform the Society of their demise. A drive to update the member database was launched a few years ago through repeated appeals in the journal, letters sent to the registered addresses of members, and house-to-house visits in certain localities of Delhi with a heavy concentration of members. The outcome was not commensurate with the effort, but with the help of enthusiastic members like Mr. Ahuja a focussed campaign could be launched in different localities.

**Mr. K. K. Jhingan**, who was General Manager, Administration, at the time of the outreach drive, added that in most cases the next of kin of deceased members were only interested in receiving the journal of the Society; they were not keen to become members.

The Director thanked Mr. Ahuja for the pains that he had taken to reach out to the members of the Society and involve them in its activities. The General Body also complimented him for his exceptional commitment to social causes, such as blood donation and organ donation.

**Mr. M. M. Sharma** stated that the record of his intervention at the Annual General Meeting held on March 1, 2014 was couched in terms that were too strong. He requested that it be moderated and the reference to any government department in particular be avoided. In deference to his request, the General Body decided that the relevant passage in the minutes of the Annual General Meeting held on March 1, 2014 be modified as follows.

*"Mr. M. M. Sharma felt that there were quite a few government agencies, which, instead of doing anything good for the common man, had to be given bribes in order that they did no harm."*

#### **4. Expansion of the Governing Council of Common Cause Society**

The Revised Rules and Regulations adopted in 2007 have reduced the strength of the Governing Council of Common Cause Society from a minimum of ten and a maximum of eighteen members to seven and twelve members, respectively. It was felt at that time that a board of twelve members was sufficient to effectively steer the Society toward attainment of its objectives. There has been a substantial increase in the range of activities and interventions of the Society since then, necessitating the induction of more members with knowledge and experience of diverse domains in its governing body. However, the ceiling of twelve members prescribed in the extant Rule 8, sub-rule (i) acts as a constraint on the requisite expansion.

Under the circumstance, the Governing Council in its meeting held on December 15, 2014 passed a Resolution to amend Sub-rule (i) of Rule 8 to raise the minimum strength of the Governing Council from seven to eight and the maximum strength from twelve to fifteen.

The said resolution was placed before the members of Common Cause Society for their approval. The Director proposed that the General Body may adopt the following Resolution.

“Resolved that Rule 8(i) of the Rules and Regulations of Common Cause be amended to increase the minimum strength of the Governing Council from seven (7) to eight (8) and the maximum strength from twelve (12) to fifteen (15) members.”

Shri B. Shadrach seconded the Resolution, which was adopted unanimously.

#### **Elections**

The President informed the members that the Rules of the Society provided that two members of the Governing Council, who happened to be the senior most among the members liable to retire by rotation, had to retire on the day of the General Body Meeting. Accordingly, Dr. B. P. Mathur and Mr. Prakash Singh were due to retire. The President stated that both of them had rendered yeoman service to the Society and were willing to be re-elected.

Mr. Narendra Ahuja proposed that Dr. B. P. Mathur be re-elected. The proposal was seconded by Mr. K. K. Jhingan. Gen. J. P. Gupta then proposed that Mr. Prakash Singh be re-elected. The proposal was seconded by Mr Lalit Nirula. The General Body unanimously approved the two proposals.

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

**(Vikram Lal)**  
Chairman