**MINUTES OF MEETING OF THE GOVERNING COUNCIL OF COMMON CAUSE SOCIETY HELD ON MARCH 15, 2011**

**Venue:** National Foundation for India, India Habitat Centre, LodiRoad, New Delhi

**Participants**

Mr. Vikram Lal                               President

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

Dr. B.P. Mathur

Mr. Lalit Nirula

Mr. Prashant Bhushan

Mr. Kamal Kant Jaswal Director

Mr. Paranjoy Guha Thakurta Special Invitee

Mr. Sarvesh Sharma Special Invitee

**1. Confirmation of the minutes.**

Minutes of the Governing Council meeting held on January 29, 2011 were confirmed.

**2. Confirmation of circular resolution.**

Circular resolution dated March 14, 2011 regarding appointment of Mr. Paranjoy Guha Thakurta was confirmed. The Council extended a warm welcome to him and hoped that his contributions will greatly enhance the effectiveness of the Society’s interventions.

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

The Director recapitulated the progress made since the last meeting in regard to the thrust areas of the Society’s activities. The Council noted with satisfaction the success achieved in mobilizing popular support for the India Against Corruption campaign and hoped that the Central government will have the sagacity to initiate without further loss of time a dialogue on civil society’s draft Jan Lokpal Bill, so that Anna Hazare does not have to undertake an indefinite fast. In this context, it becomes imperative to undertake a critical review of the civil society draft and address the concerns voiced by Common Cause and other sympathizers in regard to the remit and functioning of the proposed institution, composition of the selection committee and other key provisions. The Council requested Mr Prashant Bhushan to take the initiative to organize an urgent meeting of the campaign’s drafting committee.

**4. Evolving jurisprudence of the Right to Die with Dignity**

Mr. Prashant Bhushan underlined the significance of the recent judgment of the Supreme Court in Aruna Shanbaug’s case, which has legalized passive euthanasia and laid down the guidelines for withdrawal of life support from a patient in a permanent vegetative state. This order of the Apex Court goes much beyond the limited relief sought in our pending writ petition, which prays for recognition of an individual’s right to execute a living will in the nature of an advance directive for refusal of life prolonging medical procedures in the event of his incapacitation.

**5. Future initiatives in the domain of public interest litigation**

After an exhaustive discussion, the following priorities for public interest litigation were identified.

**Non-implementation of 73rd & 74th Constitutional Amendments**

It was recalled that the PIL filed by Common Cause on this issue in the Supreme Court in 2007 was dismissed as withdrawn with the suggestion that the matter should be agitated in the High Courts concerned. Considering the disposition of the current dispensation and the practical problems in pursuing state-specific PILs in various High Courts, a consolidated PIL may be filed in the Supreme Court in the name of Centre for Public Interest Litigation. The required documentation for the petition may be compiled expeditiously.

**Abuse of executive discretion in appointments of Constitutional Statutory Bodies**

Common Cause has tried, in vain, to secure directions from the Supreme Court for adoption of a merit-based, non-discriminatory and transparent procedure for appointment of the Comptroller and Auditor General of India. The recent judgment of the Supreme Court in the case of P.J. Thomas has provided an opening for a wider writ petition for the reform of the process of appointments to constitutional and statutory authorities with a view to minimizing the abuse of executive discretion. Tactically, it would be appropriate to file such a petition when a specific instance of patent irregularity in a questionable high level appointment comes to light. In the meantime, instances of bad faith in appointments to statutory bodies in the recent past may be compiled to strengthen the case for generic reforms.

**Civil Services Reforms**

The writ petition filed in the Supreme Court by Mr. T.S.R. Subramanian and 82 former senior civil servants limits itself to a few peripheral issues in civil services reforms. While the reliefs sought in the petition would certainly have a salutary impact on the morale of the civil services, they will hardly improve the quality of the common man’s interface with the civil services and do nothing to reinforce their accountability. Mr. Prashant Bhushan informed the Council that some time ago, Dr. E.A.S. Sarma and Mr. Madhav Godbole had filed a writ petition on citizen-centric civil services reforms, but at that time, the Supreme Court was not inclined to entertain such a petition. The Court may now be willing to expand the scope of judicial review to take up core governance issues. A writ petition on comprehensive civil services reforms designed to benefit the common man may be formulated, incorporating the prayers made in the Sarma- Godbole petition and the key recommendations of the Second Administrative Reforms Commission and other expert bodies appointed by the central government.

**Delay in implementation of the Benami Transaction (Prohibition) Act**

The feasibility of moving the Supreme Court for a direction to the Union Government to frame, without further delay, the rules required to implement the Benami Transaction (Prohibition) Act, 1988 may be examined. The Court has in the past refused to intervene in a case of non notification of a law enacted by Parliament. It needs to be ascertained whether the issue of the failure of the executive to frame rules for implementation of a law, which has duly been notified, has been agitated in the past.

**6. Any other item with the permission of the Chair**

Dr. B.P. Mathur highlighted the impropriety of the increase in the annual allocation under the MP Local Area Development Scheme from Rs. 2 crore to Rs. 5 crore. It was felt that after an adverse decision of the Constitution Bench of the Supreme Court in the writ petition filed by Common Cause, no further judicial recourse is available. The only course of action open to civil society is to mount a media campaign and mobilize public opinion against the government move.

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

(Vikram Lal)

President