**Minutes of the Meeting of the Governing Council of Common Cause**

**Date** December 1, 2012; 3.30 p. m.

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

**Participants**

Mr. Vikram Lal President

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

Dr. Mrs. Divya Jalan Member

Dr. Ashok Khosla Member

Dr. B. P. Mathur Member

Mr. Paranjoy Guha Thakurta Member

Mr. Kamal Kant Jaswal Director

Mr. Surjit Kishore Das Special Invitee

Mr. K. K. Jhingan Special Invitee

**Minutes**

1. **Confirmation of the minutes**

Minutes of the Governing Council meeting held on August 24, 2012 were confirmed.

1. **Confirmation of Circular Resolution**

Circular Resolution dated September 20, 2012 regarding the approval of Annual Accounts & Audit Report of Common Cause Society & Trust for the year 2011-12 was confirmed.

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

Reviewing the Society’s activities since the last meeting, the Director apprised the Council of the progress of the PILs filed in various Courts.

**New PILs**

*PIL on Safety issues in Kudankulam Nuclear Power Plant*

As a corollary to our PIL challenging the *vires* of the Civil Liability for Nuclear Damage Act, 2010, CPIL, Common Cause and two others have filed a writ petition in the Supreme Court to ensure that suppliers of the Kudankulam nuclear plant in Tamil Nadu would be bound by the principles of ‘Polluter Pays’ and ‘Absolute Liability’ in case of an accident, and that the accident victims could sue the reactor suppliers for damages, even if the Government and the plant operator chose not to file for the same. The petition seeks a further declaration that the suppliers of Kudankulam would be bound by the Civil Liability for Nuclear Damage Act, 2010, irrespective of any bilateral agreement to the contrary, and prays that Rule 24 of the Civil Liability for Nuclear Damage Rules, 2011, which scales down the liability of nuclear suppliers, be set aside as unconstitutional and *ultra vires* the parent Act.

The Supreme Court has taken up the Kudankulam petition on priority. The earlier petition filed by Common Cause and other prominent citizens challenging the constitutional validity of the Nuclear Liability law has also been tagged with it. In the hearing held on November 20, the Court slammed the administration of Tamil Nadu for taking nuclear safety lightly and not taking effective steps to implement the disaster management guidelines. It asked the Atomic Energy Regulatory Board and the plant operator to file an affidavit on the steps taken to implement the prescribed safety measures. The Court also indicated that the Government could be directed to comply with the Convention on Nuclear Safety which mandates the establishment of an independent safety regulator.

*PIL on Irregularities in Allocation of Coal Blocks for Captive Mining*

Common Cause, along with five eminent citizens, has filed a writ in the Supreme Court for quashing the allocations of coal blocks made in favour of private companies since 1993, along with the joint venture agreements between private companies and public sector allottees. The petition also seeks a court-monitored investigation into the entire allocation process, and a direction to the Union of India to recover punitive damages from companies for false declarations and breaches of the conditions of allotment. It also prays for cancellation of the permission granted to captive coal block users to divert surplus coal for other purposes and the recovery of windfall profits obtained through direct or indirect sale of the allotted coal blocks.

The petition highlights the arbitrary and opaque manner in which the Central Government had proceeded to allocate a scarce natural resource to a few select private companies to the detriment of the public exchequer, deferring the introduction of competitive bidding. Captive coal blocks were hastily allotted to the favoured companies, many of which were not even eligible, or had no real need of coal, and had close links with influential politicians. The petitioners have urged that as per the law propounded in the 2G case and the opinion tendered by the Supreme Court in the subsequent Presidential reference, the coal blocks allotted during the period in question be resumed and auctioned as per Section 11A of the Mines and Minerals (Regulation & Development Act), subject to the relevant environment and forest laws and the Constitutional requirements of the Fifth Schedule. Notice has been issued by the Court to the respondents on November 19, 2012 and the matter posted for hearing on January 24, 2013.

**Developments in Pending PILs**

*Supreme Court:*

The PIL filed by Janhit Manch, Common Cause and others in 2008 offering a multi-pronged strategy to expedite the dispensation of justice and liquidate the backlog of court cases had been tagged with an SLP on a matter relating to judicial service. The attention of the Court was focused on the adequacy of the efforts being made to fill the existing vacancies in the subordinate judiciary under different High Courts.The wider issues raised in our PIL finally engaged the attention of the court after a gap of one year. At the last hearing in November 2012, a forceful plea was made on behalf of the petitioners for video-recording of court proceedings to expedite the disposal of cases and improve the quality of justice.

In our PIL challenging the obstructive RTI rules framed by the Allahabad High Court, the High Court, during the hearing held in November 2012, sought, and was allowed, two months’ time to amend the deviant rules so as to bring them in consonance with the provisions of the parent Act. The matter has been listed for February 1, 2013.

There has finally been some action in our PIL on commemorative and self-laudatory government advertisements. Copies of recent advertisements issued by various governments were brought on record of the Supreme Court to highlight the continuance of this wasteful and practice and seek expeditious disposal of the petition.

*Delhi High Court:*

In our PIL on the post-retirement activities of members of the higher judiciary, which is pending in the Delhi High Court, the Union of India indicated on August 29, 2012 that it was proposed to debar chairpersons and members of various tribunals from taking up arbitration work during their term of office. This would entail amendments to 42 different Acts and might take a period of three months.

A rejoinder rebutting the submissions made in the BSP’s belated counter affidavit in our PIL for freezing the Party’s reserved symbol has been filed and the matter adjourned for May 2013.

The PIL for securing the rights of the construction workers engaged in projects related to the Commonwealth Games, 2010, in which Common Cause was a co-petitioner, was disposed of by the Delhi High Court on September 20, 2012. The final order, which is couched in advisory terms, takes stock of the compliance by the respondents of the directions issued by the Court in a succession of interim orders and makes elaborate recommendations on measures to streamline the administration of labour laws and the implementation of labour welfare schemes. An action taken report is to be filed in six months. The matter has been listed for directions on April 29, 2013. The petitioners have yet to come to an agreement on appealing against the order.

**PIL in the pipeline**

The approach to the proposed writ petition for extending the audit jurisdiction of the C & AG to industrial development area authorities, such as NOIDA and Greater Noida, was discussed at length. It was felt that the argumentation for mandatory audit by C & AG should, *inter alia*, valorize the following facts.

* The initial capital of the said authorities was provided by the state government.
* Their current revenues also are derived from the sale of lands acquired through the exercise of the state government’s coercive powers.

The Director informed the Council that a promising public-spirited lawyer of the Allahabad High Court had evinced a keen interest in taking up the PIL.

**Advocacy Initiatives**

A fresh memorandum urging the adoption of a transparent and objective procedure for appointment to the Constitutional office of the Comptroller & Auditor General of India in line with international best practices was submitted to the Chairman of the Public Accounts Committee of Parliament.

The Society’s campaign against money laundering schemes masquerading as Direct Selling/ Multi Level Marketing companies is being vigorously pursued and the Right to Information Act is being used to underline the indifference and ineffectiveness of the regulatory agencies in regard to the enforcement of the Banning Act.

**Symposium on Participatory versus Representative Democracy**

The Director informed the Council that by way of follow-up to the seminar on ‘Local Self Government- the Unfinished Agenda’, the symposium on “Participatory versus Representative Democracy- Exploring New Paradigms of Self Governance ” was held in collaboration with the Centre for Studies in Developing Societies on October 27, 2012, eliciting an enthusiastic response from civil society. The deliberations in the symposium, which had speakers drawn from the leading intellectuals and social activists of the country, were structured around three interconnected themes, viz. India’s Civilisational Legacy of Self Governance and its Relevance, Gandhi’s Gram Swaraj as an Alternative Constitutional Arrangement, and Pathways to Participatory Democracy. The proceedings of the symposium are being drawn up.

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

*India Against Corruption*

The Director apprised the Council of the developments concerning the India Against Corruption movement. There had been a gradual building-up of tension within the movement between the votaries of an apolitical mass movement and those who wanted to join electoral politics as they were convinced of the futility of an agitation-based approach. Once it became clear that the two streams had become immiscible, we tried our level best at Anna Hazare’s meeting with the IAC leadership at Delhi’s Constitution Club on September 19, 2012 to help evolve a structure for the movement which would allow the coexistence of three distinct but complementary streams, each following its own course to bring about the desired systemic change. While the first would have focused on constructive work at the ground level, the second would have concentrated on popular mobilization, and the third endeavoured to emerge as an influential bloc in Parliament and state legislatures. This articulation had a parallel in the structure of the Congress-led freedom movement before the Second World War, when the Party, shedding its long standing opposition to Council entry, had successfully contested the 1936-37 Provincial Elections. Unfortunately, there were not many takers for this idea and a parting of ways became inevitable. Eventually, the constitution of a political party was announced by Arvind Kejriwal on October 2, 2012.

The Aam Aadmi Party, as this formation was later named, has taken care to avoid any situation of potential conflict with Anna Hazare and his followers and ceded to them the banner of ‘India Against Corruption’. Initially, Anna Hazare gave his blessings to the nascent party, though his subsequent public pronouncements have been somewhat inconsistent.

The Aam Aadmi Party has managed to remain in the limelight with a succession of well-documented exposures of corruption, wrong doing and unethical conduct by top leaders of the main political parties and/or members of their immediate families.

*Date for next meeting of the Governing Council*

The next meeting of the Governing Council of Common Cause is proposed to be held on Wednesday, February 6, 2013, subject to the availability of the members.

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

(Vikram Lal)

President