CASE AND ADVOCACY UPDATES

Supreme Court Cases

Writ for Police Reforms: This matter was taken up on June 12, 2020, when the Court, as an exception, allowed Tripura to give relaxation of five years in the appointment of Director General of Police (DGP). The Apex Court held that the reduction of the experience period for appointment as DGP from 30 years of service to 25 years was a one-time exception, and maintained that the original rule will stay intact.

It stated in its order that "as a result of the Union of India declining to release one eligible candidate Shri Amitabha Ranjan, IPS, for appointment as DGP, there was only one other candidate available for appointment as DGP in the State of Tripura." The amicus curiae suggested that the monitoring of the implementation of the guidelines resulting from the present case be relegated to the jurisdictional High Courts. In response, the Court felt that the matter required further consideration and directed the matter to be listed after four weeks.

Illegal Mining in Odisha: This matter was taken up twice on March 23 and March 27, 2020, where the Court granted relief to an applicant for sale of iron ore based on certain circumstances. The matter is likely to be listed on July 9, 2020.

Advocacy Updates

Comments Submitted to the Ministry of Corporate Affairs regarding the Draft Companies (CSR Policy) Amendment Rules, 2020

In response to the Ministry of Corporate Affairs publishing the Draft Companies (CSR Policy) Amendment Rules, 2020, Common Cause submitted its comments and suggestions on March 25, 2020. The main provision of concern was Rule 4 (2), which suggested that registered trusts and societies would no longer be eligible to receive CSR funds once the Act is in force. Common Cause highlighted the unprecedented nature of the move, citing past Ministry initiated Committee reports. This included the High-Level Committee on Corporate Social Responsibility (HLC), set up on September 28, 2018, where there was no mention of removing registered trusts and societies from the CSR funding pool. We also underlined various negative impacts this move would have on the overall civil society activity portfolio and CSO- government collaborations. In addition, we advocated for this provision to be reconsidered, so that registered trusts and societies continue to receive CSR funds.

Comments Submitted to the Election Commission of India

In response to the Election Commission of India's (ECI) call for comments/suggestions for recommendations of the ECI Working Groups on Various Aspects of Electoral Management, Common Cause submitted both general and specific comments on March 30, 2020. Along with our comments, we also submitted a 'call to action' document titled 'Safeguarding Democracy from Digital Platforms,' for increased regulation on the use of digital platforms for electoral campaigning. This was a follow up to the press conference organised by Common Cause on April 5, 2019, in collaboration with Constitutional Conduct, Internet Freedom Foundation, Free Software Movement of India, Association for Democratic Reforms, and many former public servants as well as former Chief Election Commissioners, Dr N. Gopalaswami and Dr S. Y. Quraishi.

Comments by Common Cause to the working groups' recommendations included:

- The need to monitor and regulate expenditure and use

of digital and online social and news media platforms by political parties.

- Repeal of Electoral Bonds to ensure elections remain free, fair and autonomous from undue corporate deal making and foreign influence.
- Transparency and accuracy in publication of election data by the ECI, and the recommendation to create a grievance cell for investigation of discrepancies in election data and for responding to the elector's queries.
- Transparency in the appointment procedure of Chief Election Commissioners and Election Commissioners via implementation of the recommendations of the 2002 Justice MN Venkatachaliah Commission.
- Ensuring democracy within political parties through increased oversight of the Election Commission.
- The need for expanding voter registration among less represented communities in the country.

Summary of letter submitted to the Union Ministry of Consumer Affairs, Food and Public Distribution regarding the rise of food insecurity of vulnerable populations in India due to the nation-wide coronavirus lockdown:

On May 4, 2020, Common Cause sent a representation to the Union Minister of Consumer Affairs, Food and Public Distribution Ram Vilas Paswan, providing suggestions to address the mounting food insecurity among vulnerable populations owing to the coronavirus lockdown. Underscoring the need for urgent action to mitigate hunger and distress, we pointed out how crores of people were going hungry despite surplus buffer stocks in government granaries. Common Cause also suggested a bevy of measures to address the food security crisis. Specific suggestions included:

- Releasing excess grain stocks with the Food Corporation of India (FCI) and other government agencies for public distribution.
- Better monitoring and implementation of the PDS on the ground through specialised committees for grievance redressal, and doorstep delivery of rations in areas far from fair price shops.
- Initiating a system, temporarily at least, for universal distribution of food, with or without Ration Cards or Aadhar Cards.
- Immediate, stringent implementation of the One-Nation, One Ration card system in all states.
- Including all eligible persons under National Food Security Act (NFSA) as per the estimated population of 2020-21, instead of still using the outdated 2011 census data.

Representation to the Prime Minister to ensure that the rights of children are protected during the Covid-19 pandemic

Common Cause, along with Right to Education Forum, numerous academicians as well as several civil society organisations, urged the government on May 11, 2020, to take steps to ensure that children enjoy their rights to survival, protection, education and development during and after the COVID-19 pandemic without any discrimination based on religion, gender, class and caste. Some of the suggestions included:

- To safeguard food security of India's children, ensure smooth implementation of the notification for home delivery of mid-day meals and the Supreme Court's suo moto order for providing nutritional food for children and lactating mothers through the Anganwadi Centres (AWC) for children on an urgent basis.
- Steps should be taken for child protection, including identification of children at risk of violence and abuse during the lockdown. Helplines and other child protection measures should be declared essential services and kept open. Child protection committees at district and block levels should be activated to monitor child protection.
- Wherever possible, the children and parents within the vicinity of the neighbourhood school

should be connected through messaging service groups comprising SDMC/SMC members and parents. These groups can be used to keep in constant touch with parents (if teachers are not in the same locality) and children. These groups must be used only for matters relating to children's education and nothing else. Wherever necessary, the teachers can visit children to offer counselling or advice and ensure that the mental health of children is safeguarded. The same procedure needs to be followed in case of AWCs and Crèches. Educational materials could be provided along with relief and dry food packages by the Government.

Representation to the Union Ministry of Home Affairs for immediate action to mitigate the suffering and to safeguard the interests of India's domestic workers

On May 12, 2020, Common Cause submitted a representation to Mr Amit Shah, Union Minister of Home Affairs, highlighting the plight of domestic workers during the COVID-19 crisis. It requested the Government of India to issue a specific order to include domestic workers in the category of 'migrant workers' and 'daily wagers,' so that they receive at least 50% of their monthly wages under the aegis of the urban local bodies and the residents' welfare societies. This was in response to a circular issued by the Ministry of Home Affairs on March 29, 2020, detailing protections for migrant workers as a specific category. Common Cause's suggestions are summarised as follows:

- Local government bodies should immediately ensure that domestic workers are paid by their employers during the lockdown in a non-coercive way. (If the employers themselves are in acute financial distress, the wages should be paid from an especially created fund). MHA had earlier issued directions to employers to make wage payments on due dates to all employees for the entire period of the closure of their industries. We recommended the immediate issuance of a similar order for domestic workers, to mitigate their miseries.
- If the states do not possess data on domestic workers, we suggested that a registry of names and contact details of all domestic workers/ households be created in conjunction with Resident Welfare Associations (RWAs) and other similar bodies. The Municipal Corporation should work with the RWAs to ensure their wage payments for the lockdown period.
- The Union Government has been working on a national policy to regulate domestic workers. We pointed out that the present crisis is a good opportunity to take steps in the same direction in the spirit of cooperative federalism.
- We also advocated for the creation of a national-level task force to provide a just solution to the long-term problems of domestic workers.

Response to the Draft Environmental Impact Assessment (EIA) 2020 Notification

On June 24, 2020, Common Cause submitted its response to the Draft Environmental Impact Assessment 2020 Notification to Mr. C.K. Mishra, Secretary, Ministry of Environment, Forests and Climate Change. Our representation stated how the Draft Notification significantly dilutes the provisions of the EIA Notification, 2006, and waters down several provisions of the parent legislation, the Environment (Protection) Act, 1986. This results in the erasure of long-standing principles of environmental jurisprudence, such as the Polluter Pays Principle, Precautionary Principle, Public Trust Doctrine and the standards set out in international conventions such as the Rio Declaration on Environment and Development, 1992 and Paris Agreement, 2015. We stressed how the notification went against precedents set by the Indian courts and the National Green Tribunal. Additionally, comments on specific sections of the notification were also included and explained. Our suggestions included:

- Nomenclature of terms such as Projects and Strategic Projects

should be clarified to explain the specific focus.

- Requirement of Prior Environment Clearance.
- Public Consultation – we recommended an increase in the notice period of a public hearing from the suggested 20 days to 60 days.
- Not granting Post-facto EC – We emphasised our stand against granting post facto Environment Clearance as it would regularise industries which had commenced operations without valid environmental clearances.
- Project Exemptions for EC – We recommended that self-compliance reports be submitted every three months, instead of the stipulated 6 months. We also suggested an increment in penalties in the event of compliance failure.
- Removal of restrictions for registering noncompliance complaints – The draft notification imposes numerous restrictions on the citizenry, regarding who is qualified to register their grievances. We suggested the removal of any condition requiring prior government approval for citizens to communicate project grievances.

> Overcoming poverty is not a task of charity, it is an act of justice. Like Slavery and Apartheid, poverty is not natural. It is man-made and it can be overcome and eradicated by the actions of human beings. Sometimes it falls on a generation to be great. You can be that great generation. Let your greatness blossom.
>
> *Nelson Mandela*

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Common Cause is a non-profit organisation which makes democratic interventions for a better India. Established in 1980 by the legendary Mr H D Shourie, Common Cause also works on judicial, police, electoral and administrative reforms, environment, human development and good governance.

Its very first Public Interest Litigation benefitted millions of pensioners. Subsequent PILs transformed the way natural resources are allocated in India. Its landmark cases include those regarding criminalisation of politics; cancellation (and re-auction) of the arbitrary 2G telecom licences and captive coal block allocations; quashing of Section 66A of the IT Act; prohibiting misuse of public money through self-congratulatory advertisements by politicians in power, to name only a few. Our other prominent petitions pertain to imposing penalties on rampant illegal mining in Odisha, the appointment of Lokpal and seeking human beings' right to die with dignity through a 'Living Will.'

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COMMON CAUSE VISION

An India where every citizen is respected and fairly treated

MISSION

To champion vital public causes

OBJECTIVES

To defend and fight for the rights and entitlements of all groups of citizens

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