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Public Works for a Better Government

November 15, 2014

Prof. Madabhushanam Sridhar Acharyulu
Information Commissioner
Central Information Commission
August Kranti Bhavan
Bhikaji Cama Place
New Delhi 110 066
India

Dear Commissioner Acharyulu:

I have dispatched to you under separate cover two copies of the Petition to the Honorable Ministry. The Petition requests, inter alia, the resumption of our subscription service for Indian Standards so that we may post these documents on the Internet for noncommercial use by people in India and throughout the world. The purpose of this activity is "so that the public safety may be protected, the youth may be better educated, the professions may be practiced, and trade may be promoted in India and abroad."

For your convenience, copies of the Petition may also be viewed on the Internet as linked hereunder:

<https://law.resource.org/pub/in/>

I write to you today under the provisions of Article 18(1) of the **Right to Information Act** (No. 22 of 2005). I write specifically to complain as a person under the provisions of Article 18(1)(b) [*"who has been refused access to any information requested under this Act"*], Article 18(1)(d) [*"who has been required to pay an amount of fee which he or she considers unreasonable"*], and Article 18(1)(f) [*"in respect of any other matter relating to requesting or obtaining access to records under this Act"*].

The petition states the history of our transactions with the Bureau of Indian Standards and also provides documentation in depth about the posting and transformation of Indian Standards performed by my nonprofit organization. We are providing improved access to Indian Standards through better organization, transformation of individual standards by retyping them into valid HTML, transformation of individual diagrams by redrawing them into SVG format, transformation of mathematical

formulae into the MATHML format, and by providing the people of India the ability to easily find and obtain standards through search engines and bulk access protocols. It is my contention these activities directly provide for “an informed citizenry and transparency of information” as stated in the preamble to the Act.

The Indian Standards are a particularly important collection of documents, forming the legal basis for numbers of regulations, mandatory certifications, and the requirements of public safety of a broad reach of public life. The collection of standards clearly falls within the definition edicts of government within the context of **Article 13(3) of the Constitution of India**, which “includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage.”

As H.M. Seervai explains so well in Constitutional Law of India, Volume 1 at page 401, the courts have relied on the definition of law stated by Lord Russel of Kilowen C.J. in *Kruse v. Johnson* [1898, 2 QB 91 at 96]:

“An ordinance affecting the public, or some portion of the public imposed by some authority clothed with statutory powers ordering something to be done, or not to be done and accompanied by some sanction or penalty for its non-observance.”

The collection of Indian Standards clearly falls within this definition and thus implies that the Right to Information Act be strictly interpreted as access to the text of the laws by which we choose to govern ourselves in a democratic society is at the very foundation of the rule of law.

I am writing to you today with specific reference to two important articles of the Right to Information Act which define the obligations of public authorities:

- In Article 4(1)(c), the Act requires that every public authority shall “publish all relevant facts while formulating important policies or announcing the decisions which affect public.”
- In Article 4(1)(d), the Act requires that every public authority shall “provide reasons for its administrative or quasi-judicial decisions to affected persons.”

The assertion of copyright by the Bureau of Indian Standards and the decision to require the payment of substantial fees for access to the information is clearly an important policy and requires the publication of facts underlying this decision to be provided. I do not believe the Bureau has met the obligations under this article.

Likewise, the decision to not renew our subscription for periodic updates and the threat of potential litigation clearly fall within the definition of an administrative and perhaps even a quasi-judicial decision that prevents our continuing to carry out the

task of making Indian Standards available at no charge. No justification for that decision was provided to us besides the assertion that our activity was not “appreciated.”

Additionally, we are bringing to your attention the requested fee of 3,37,600.00 Rs for an update of standards every 6 months or 4,45,600.00 Rs for an update of standards every 2 months. These imposed costs put access to this information beyond the reach of most university libraries, and certainly beyond the reach of those in small and medium business enterprises or those individuals beginning the practice of their professions.

My purpose in bringing this matter to your attention, as well as to the attention of the Honorable Ministry, is not for the purpose of confrontation. In letters to the Director General of the Bureau, Sri Sunil Soni (IAS), Sri Sam Pitroda and I offered our services to host “hackathons” so that we might engage bright young engineers at university campuses to work with us to help make the Indian Standards even more useful. As can be seen from the affidavits contained in the Petition, many others wish to work with this important information as well.

However, with the threat of litigation looming over this corpus of documents as an ominous cloud, I cannot ask students and professors to join in these activities for fear of exposing them to liability. I am thus anxious to hear from the Ministry that the making available of Indian Standards is a desirable activity, one which should be encouraged by all in our common quest to make a safer society.

With best regards,



Digitally signed by Carl
Malamud
DN: cn=Carl Malamud,
o=Public.Resource.Org, ou,
email=carl@media.org,
c=US
Date: 2014.11.15 09:32:25
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Carl Malamud

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cc: Sri Sunil Soni (IAS), Director General, Bureau of Indian Standards
Sri Kishan Pal, Under Secretary (BIS), Department of Consumer Affairs