

News on Right to Information

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1st Aug, 2010

'Doctors bound to inform patients about side-effects of medicines'

The Hindustan Times

Many years ago, the central government had asked all hospitals, particularly those in the public sector, to come up with a charter on patients' rights.

The hospitals were so worried about committing themselves to any kind of quality standards in health care that they drafted charters that were not even worth the paper they were written on.

And even before the ink on the charters dried, they were forgotten and consigned to the dustbins of history.

Meanwhile, the consumer courts have stepped in to clearly define the rights of patients and protect them.

Let me string together a few important orders of the consumer courts on the subject. For example, in the case of Dr Shyam Kumar vs Mr Rameshbhai Harmanbhai Kachhiya (RP 1486 of 2001), the National Consumer Disputes Redressal Commission emphasised the consumer's right to information.

It pointed out that a doctor was duty-bound to inform the patient about the details of the disease afflicting him, the various alternatives available and the risks involved in the proposed treatment.

Failure to do so constituted negligence and the concerned doctor was to be liable for consequences.

In its order, in the case of Shri SR Shivaprakash vs Wockardt Hospital, Mumbai (OP No 208 of 1993), the National Commission placed an obligation on doctors and hospitals to provide the patient with all medical records pertaining to the treatment, including the Nurses Flow Sheet, notes of duty doctors and specialists.

Then, in 2008, in the case of Dr V K Ghodekar vs Sumitra Prahlad Korgaonkar (RP No 1727 of 2002), the highest consumer court in the country upheld the right of the patient to all basic and vital information pertaining to the drugs prescribed by the doctor, including the contraindications (side-effects).

Hospitals often ask the patient or the relative to give consent to a surgical procedure without giving adequate information. In the case of Samira Kohli vs Dr Prabha Manchanda and Anr ((2008) 2 SCC,) the Supreme Court emphasised the importance of 'informed consent' and clearly defined it. Private hospitals are known to resort to unnecessary surgical procedures — more because of commercial considerations than the patient's health.

In the case of Mrs Varadhan S. Nair vs Dr (Mrs)Remani Rajan (O P No. 123 of 1997,) the National Commission was highly critical of such practices and said that would constitute deficiency in service.

In the case of Pravat Kumar Mukherjee vs Ruby General Hospital, where the hospital denied emergency care to an accident victim on the ground that it had not received the required cash deposit, the National Commission said such denial of emergency treatment constituted gross negligence (OP no 909 of 2002).

Of course, on emergency care, a number of Supreme Court orders have made it abundantly clear that hospitals have a duty to treat without any delay, victims of road and other accidents and those requiring emergency care.

H.C.Sharma: I went to a reputed private hospital in Noida for a cataract operation in my right eye. Even though they charged R 50,000 and said the operation was successful, I lost my vision after the operation. I feel pain and discomfort in the eye and cannot work properly due to this. Since the hospital is not responding to my complaints of deficiency in service, I would like to lodge a complaint with the consumer court.

You need to build a strong case of negligence, in order to win the case and get compensation. So, put together all your medical records. Get the opinion of experts to prove your point. Look at case laws on the National Commission's website. You can also get help from the toll-free consumer helpline — 1800-11-4000.

Do you have any problems? Send in your queries to: n pgirimaji@gmail.com

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1st Aug, 2010

Games people play

The Hindustan Times

As New Delhi prepares for the Commonwealth Games, the legacy question is looming large. This refers to the civic infrastructure and sporting facilities the Games will leave behind. Typical of India, it also points to the mopping-up operations that will be required.

Here, the experience of the 1982 Asian Games may be instructive. Those Games were put together by the Asian Games Special Organising Committee (AGSOC), expected to be disbanded shortly after the closing ceremony in December 1982. It is sobering to learn AGSOC is still around. Its secretary general, K.S. Bains, still attends office. Now long retired from the IAS, he does not draw a salary but continues to avail appropriate perquisites, including the services of a personal assistant.

For 28 years AGSOC has been locked in a legal battle with a Dubai-based contractor. It cannot be dissolved till its court liabilities have been met. Recently, AGSOC won the case against the contractor and is now hiring lawyers in Dubai to force the offending company to adhere to the Indian court's verdict and pay compensation. Even if the Dubai lawyers waive their fees, AGSOC will earn itself no more than Rs 1.5 crore. In the past quarter-century, the government has spent well above that in keeping the two-man AGSOC office alive!

Horror stories like these add to the growing scepticism about those who are organising the Commonwealth Games. Indeed, alleged financial swindles related to the Games are expected to burst upon India before the year is out. They will make the Indian Premier League (IPL) scandal look like child's play.

For one, the sums involved are much larger. Also, in the end, IPL was about private money and embezzlement. The Commonwealth Games involve taxpayers' money. For instance, it is unclear why sponsorship funds paid by a public sector company on the advice of its administering ministry are shared between the Commonwealth Games organisers and a mysterious Singapore-registered 'marketing company'. Is

this a replica of the Mauritius entities that picked up 'facilitation fees' on major IPL deals?

At the root of the Commonwealth Games mess is the Indian Olympic Association (IOA) and its handpicked Organising Committee (OC). The OC is responsible for the actual conduct of the Games. Its chairman, Suresh Kalmadi, has divided the OC's work among 24 sub-committees, some of which have 64 members. The OC has also hired 450 employees.

How is the OC meeting its expenses? To run the Games, and pay allied costs such as multi-year salaries to 450 unknown professionals, the OC had sought Rs 400 crore in its original projections of 2003. That sum has gone up to Rs 1,620 crore and the OC now demands more, arguing it has no money to pay caterers and feed athletes. As for the 450 employees, the government has no record of who has been hired and how much he or she is being paid. Some activists have moved a petition under the Right to Information Act and hope to get an answer.

In addition, the OC has also sought Rs 687 crore for 'overlays' — temporary fittings at stadiums already built and handed over to it by government agencies. The procurement of these temporary fittings will be left to the OC and it will choose the vendors. At the end of the Games, it will no doubt declare that all the temporary fittings have been irreversibly damaged and the Rs 687 crore should be written off.

To be fair, Kalmadi and the OC have been insisting they are only borrowing money from the government and will pay back the Rs 1,620 crore, the Rs 687 crore and whatever else they get. They propose to do this from the Games revenue. How feasible is this?

The 2003 bid projections estimated revenue collections worth Rs 1,708 crore. So far sponsorship deals of about Rs 400 crore have been signed. Much of the money has come from PSUs. Even if this money is used to repay the government — and given the OC's record that is extremely unlikely — it will only recycle taxpayers' money. Where are the incremental earnings?

Brazen to the last, the IOA has gone and bid for the 2019 Asian Games (the Olympic Council of Asia or OCA has moved the date from the scheduled 2018). It appears the economic recession has scared away other potential hosts and New Delhi may actually win. To add to the frightening prospect, the IOA has recommended the term of the Commonwealth Games Organising Committee be extended to 2019.

The IOA decided to bid for the Asian Games in December 2009. It informed the OCA but forgot to tell the government of India, only sending an email on April 28, 2010. After eight reminders, it finally came up with a vague plan in mid-July. This gives an indicative budget, allegedly based on estimates of the 2010 Guangzhou Asian Games. In 2019, the IOA says it can host Delhi's second Asian Games for \$401 million. It has even promised revenues amounting to \$450 million.

Believe it at your peril.

Ashok Malik is a political commentator. The views expressed by the author are personal.

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1st August, 2010

'Awareness on RTI needed'

The Indian Express

HYDERABAD: Chief information commissioner Jannath Hussain called upon the campaign activists of the Right to Information Act (RTI) to organise awareness camps to get information regarding all welfare schemes of the government. He was the chief guest at a discussion on the RTI Act organised by the United Forum for RTI campaign here today.

Addressing the gathering, Jannath Hussain said there was an immediate need to create awareness among the people to utilise the RTI Act to get information of all government activities.

The RTI was also providing all memoranda of understandings (MoU), which were signed by the governments with various companies. "I observed that people are not utilising the Act due to lack of awareness and there is a need to motivate them by organising awareness camps," he said.

He said people can get information from any department of the state or central government, panchayati raj institutions, or from any other organisation (including NGOs) that is established, constituted, owned, controlled directly or indirectly by the state or Central government.

Speaking on the occasion information commissioner Dileep Reddy said that if some ration shopkeeper was not giving rations properly, people should conduct an audit of him by seeking his records. "You should file an application for getting information of public services, like LPG cylinder deliveries, ration shops activities on whether the cause of delay is due to lack of supply or because the deliverer is expecting a bribe," he added.

B Ramakrishna Raju, convener of the United Forum for RTI campaign, said that the forum is an umbrella organisation of around 80 civil societies working for the effective implementation and bringing awareness about the utility of the RTI Act among the people particularly in rural areas.

In view of increasing cases of killing, threats and physical violence on RTI activists, the forum requested Jannath Hussain to write to the district collectors and the police to give protection whenever an activist approaches them with fear of attack.

“An RTI campaign activist Sola Ranga Rao was killed in April as he strived to create awareness among the people on the RTI Act in Krishna district. As many as 10 activists of RTI campaigning were killed across the country,” Ramakrishna Raju said.

2nd Aug, 2010

File indicting IAS officer missing

The Express Buzz

BANGALORE: You may have the right to information, but that doesn't mean you can have the information. Government files can, after all, always go "missing".

The file containing information on the action taken against IAS officer B G Nandakumar — joint secretary to the Chief Minister — who is accused of distributing cash to voters in the 2009 Assembly election at Chikmagalur, has gone "missing", a RTI query has revealed.

Nandakumar's file, containing information on the action initiated against him by the chief secretary, has disappeared from the Department of Personnel and Administrative Reforms (DPAR).

The 175-page file was previously inspected by K K Sumitra, a women's rights activist, on behalf of Jayashree J N, an RTI activist.

"Public Information Officer (PIO) of DPAR department, K G Anantha, promised to dispatch the file to my address after accepting a fee of Rs 390, but to date I have not received the file," said Sumitra.

Jayashree also filed an RTI query with the Election Commission of India (ECI) seeking the same information. The ECI forwarded the query to the DPAR. The response was the same: "No such file is held by the undersigned PIO."

The PIO's response is puzzling, especially since Sumitra had been allowed to scrutinise the file earlier.

"He (K G Anantha) is the same PIO who allowed us to inspect the file earlier, and agreed to give a copy," said Sumitra. "DPAR is colluding with senior IAS officers and government to protect Nandakumar."

Official documents assessed by Express show that in a subsequent communication the PIO refused permission to give a copy of the file, saying it will “take lot of labour, stationery which are scarce commodities”.

The appeal against the PIO’s decision is pending before the Karnataka Information Commission.

3rd Aug, 2010

Citizens' forum exposes malpractice by Goa poll officers

D.N.A

Goa-based Citizens' Forum today claimed to have exposed malpractices by the state election officers while revising the electoral rolls.

Data collected by Pilerne Citizens Forum (PCF) under Right to Information (RTI) shows that election officers in Goa adopt procedures which are different from the guidelines issued by Election Commission of India (ECI).

"All the eleven talukas are following guidelines different from ECI to enroll new names or shift the name from one constituency to another," PCF chairman Prakash Bandodkar told reporters here.

PCF's allegations are based on the data collected from various offices after one-year-long procedure of getting information under RTI.

Bandodkar said ten out of eleven mamlatdars responded to their queries and all were found following procedures which were diverse from the ECI guidelines.

Also, each mamlatdar differed with other in the procedure complicating the matter further, he said.

Moreover, joint election commissioner's office in Panaji does not even have the copy of prescribed guidelines required to be followed vis-a-vis change or addition in the electoral rolls.

"The information sought by the applicant is not held by this office," a reply by joint election commissioner's office reads.

PCF's legal advisor Yatish Naik said that they have filed a formal complaint with ECI by attaching all the documents procured under RTI seeking their intervention in the matter.

PCF, in past, had raised the issue of foreigners being enrolled in the electoral rolls. They had also pointed out that the foreigners were illegally getting entry into ration cards of locals by bribing district administration officers.

A foreign couple in their 70s was shown as a son and daughter of Goan couple in their mid

4th Aug, 2010

Law to protect whistleblowers on cabinet table

The Hindustan Times

The cabinet will on Thursday consider a proposed law to protect whistleblowers who raise the red flag on corruption without consulting civil right groups.

The proposed law - Public Interest Disclosure and Protection for Persons Making Disclosure Bill 2010 - comes in the wake of the murder of Right to Information activist Amit Jethwa in Gujarat who exposed corruption by an MP last month.

RTI activists sought a law to protect whistleblowers after National Highways Authority of India project director Satyendra Kumar Dubey was murdered in Gaya, Bihar. Dubey fought corruption in the Golden Quadrilateral highway project.

In the law, the government has defined public interest disclosure as any information that indicates misuse of public money or authority. The persons providing the information are defined as whistleblowers.

The bill gives sweeping powers to the Central Vigilance Commission to protect whistleblowers from any disciplinary action for exposing corruption in a government department.

"The commission will have the power to advise or stop any government organisation from transferring or initiating any disciplinary action against a whistleblower," a senior government official said.

The CVC will also be required to protect the identity of the information provider, otherwise the whistleblower's family would be able to initiate action against the officials who reveal the identity. The draft law also provides for disciplinary action against those who reveal the identity of the information provider.

The provision has, however, angered RTI activists who believe the CVC has failed to enforce the existing guidelines to protect the whistleblowers. In the past the commission has revealed the identity of the whistleblowers.

4th Aug, 2010

RBI rejigs portfolios of deputy guvs

The Times of India

MUMBAI: [RBI](#) on Tuesday reshuffled some key portfolios of its deputy governors in a surprising, late evening move.

Some key departments that one of its deputy governors, KC Chakrabarty, was looking after, have now been given to other deputy governors, a RBI release said. The central bank did not give any reason for the sudden reshuffle of such important departments among its deputy governors.

Chakrabarty, who joined the RBI in May this year from Punjab National Bank, will now oversee departments like customer services, information technology, inspection and rajbhasha. Departments like rural and urban cooperative banks have been re-allocated to [Usha Thorat](#) while departments of payments and settlement systems have been given to Shyamala Gopinath. Department of administration & personnel management, including works related to Right to Information Act, will be under Subir Gokarn. All these departments were earlier under Chakrabarty.

Read more: [RBI rejigs portfolios of deputy guvs - India Business - Business - The Times of India](#)

<http://timesofindia.indiatimes.com/articleshow/6254170.cms?prtpage=1#ixzz0vttcwQW>

4th Aug, 2010

Rs 2,000 ticket to traffic cops for RTI violation

The Times of India

NAGPUR: In a dubious first, [Nagpur](#) traffic police were fined Rs 2,000 by the Nagpur bench of the Bombay HC for failing to provide information under Right to Information (RTI) Act. The court asked the cops to pay the amount to petitioner Tushar Mandlekar.

Mandlekar, a social activist and traffic expert, had made an RTI query asking whether they issued temporary licence against seizure of permanent licence of traffic offenders. It is mandatory for the police to issue a temporary licence (TL) as per Rule 14(1) of [Central Motor](#) Vehicles Rules 1989 and Section 206 of Motor Vehicles Act 1988. Unfortunately, this provision was being violated and citizens, charged with any traffic violation, were being forced to drive without valid driving licence until their offence was settled or compounded.

The then deputy commissioner of police (traffic) Harish Chavan had claimed in response to Mandlekar's query that the department had no power to issue TL.

05th Aug, 2010

Babus head panels without applying

The Hindustan Times

Be it the Central Information Commission (CIC), State Information Commissions or the National Commission for Protection of Child Rights (NCPCR), those who apply for the post of commissioners seldom get the job, government replies to various RTI applications have revealed.

And, in most cases the persons appointed are retired bureaucrats.

In case of the transparency watchdog CIC, none of the retired bureaucrats who were appointed had even applied for the job, the government reply to Right To Information Activist Arvind Kejriwal has revealed.

Except Shailesh Gandhi, all other commissioners in CIC including its Chief Wajahat Habibullah are retired bureaucrats.

“A large number of applications for the posts were received but the Department of Personnel and Training did not list them for the consideration of the selection committee,” Kejriwal said.

The story is not much different in the NCPCR, the body entrusted to monitor implementation of the Right To Education law.

Shantha Sinha never applied for the post of the chairperson but was selected for the post whereas those who applied were not even considered, an RTI reply to Raj Mangal Prasad has revealed.

5th Aug, 2010

CIC: Pvt schools too under RTI Act

The Times of India

NEW DELHI: Private recognized schools cannot claim exemption from disclosing information to [Education](#) Directorate under Right to Information Act, a full bench of the Central Information Commission (CIC) has held, thus virtually bringing them under the ambit of the transparency law.

“The issues relating to management and regulation of schools responsible for promotion of education are so important for development that it cannot be left at whims and caprices of private bodies, whether funded or not by the Government,” the bench said in its order deciding on disclosure of service records of a teacher employed at a private school.

Bindu Khanna, a teacher at [Pinnacle School](#) at Panchsheel Enclave, had filed an [RTI](#) application with Education Directorate seeking to know her service records. But despite orders of the Directorate to provide the details, the school maintained that it was a private body and hence outside RTI purview. It cited sections of the law which exempt the disclosure of personal information.

The Commission said various clauses of Delhi School Education Rules, 1973 say that “all records” of a private recognized school are open to inspection by any officer authorized by the Director or the appropriate authority at any time.

The records provided to education department by the schools can be accessed by an RTI applicant, it said.

“Information which a public authority is entitled to access, under any law, from private body, is ‘information’ as defined under Section 2(f) of the RTI Act and has to be furnished,” the Commission said in its order rejecting the claims of the school.

Quoting a high court order in this regard, the bench said the term ‘third party’ includes not only the public authority but also any private body.

5th Aug, 2010

Speedy CIC appointment sought in Mizoram

Daily News Analysis

The Aizawl-based anti-corruption watchdog People's Right to Information and Development in Mizoram (PRISM) today said it has sent a memorandum to president Pratibha Patil seeking quick appointment of a chief information commissioner for the State Information Commission.

Copies of the memorandum were also sent to prime minister Manmohan Singh and UPA chairperson Sonia Gandhi, PRISM said in a statement here.

The State Information Commission has been functioning without the CIC since the retirement of Robert Hrangdawla in early February, the statement said, adding that it had urged the state government to appoint a CIC immediately but without any success.

The committee set up to appoint the CIC was yet to meet to make the appointment till date, the statement claimed.

The committee comprised of chief minister Lal Thanhawla,

6th Aug, 2010

Public authorities find ways to deny info under RTI Act

The Times of India

Jeeva, TNN

CHENNAI: Despite repeated orders from the state and the central information commissions, public authorities continue to be adamant in rejecting applications filed under the Right To Information (RTI) Act by office-bearers of any organisation. They violate the transparency law saying applicants would be given information only if they apply in their individual capacity and not as representatives of an organisation.

And the state health department has gone one step ahead. It hasn't bothered to comply with a specific directive from the Tamil Nadu State Information Commission ordering it to furnish information within a week to an RTI [application](#) filed by P Balasubramaniam, Cuddalore district organiser of [Federation of Anti-Corruption Teams](#) (FACT)-India and a former village administrative officer.

The commission, in its order on July 27, also directed the department to submit an explanation why a penalty should not be imposed against the public information officer concerned for refusing to provide the information to the applicant for over ten months now. The order remains on paper.

Balasubramaniam filed his RTI application on October 30, 2009, with the office of the deputy director (medical services) seeking the addresses of primary health centres (PHCs) in the district, the number of doctors available and their duty hours. He also wanted the mobile number of the deputy director that could be called in case of an emergency.

First, the public information officer rejected the application saying the applicant had sought the information in his capacity as a representative of FACT-India. Balasubramaniam went on appeal with the first appellate authority in the department, only to get the same reply.

"I asked for the details as people in our area have not been getting proper care in

several PHCs, particularly at night. Now, I am planning to move the commission about the non-compliance of its order by the health department," Balasubramaniam told The Times of India.

"Section 3 of the [RTI Act](#) says all citizens shall have the right to information. It doesn't say that citizens will not have such right if they ask for information representing any organisation. Authorities are increasingly trying to find ways to reject the RTI applications rather than furnishing the information sought," said M Thuyamurthy, an activist in Tondiarpet. Last year, the fisheries department had rejected an RTI application filed by Thuyamurthy in his capacity as vice-president of the National Fishermen Association. However, fisheries department gave a reply to him after the commission directed it to do so.

jeeva.pugazvendan@timesgroup.com

6th Aug, 2010

RTI activists facing threat, admits govt.

Daily News Analysis

The Centre admitted on Thursday that people trying to expose corruption with the help of the Right to Information (RTI) Act were facing harassment.

In response to a query whether the government knew about increasing threats to people using RTI against corruption, minister of state in the prime minister's office (PMO), Prithviraj Chavan, told parliament, "Yes, reports have appeared in the media about the threats. The Central Information Commission (CIC) has received some complaints of harassment from citizens for filing applications under the RTI Act." Chavan gave a list of seven such complaints received by CIC.

DNA had recently reported about Manish Bhatnagar who started receiving threats after he sought information related to the CBI chief. Chavan said, "CIC has probed these complaints and passed appropriate orders."

On a query on what mechanism was in place for safeguarding interests of RTI activists, he said: "Legal mechanisms of IPC and CrPC Acts are available for handling case of harassment and threat."

7th Aug, 2010

Organic farming council told to give info on expenditure

The Indian Express

Chandigarh : Information cannot be denied on plea that it has been provided earlier in different case: SIC

The Punjab State Information Commission has directed the Organic Farming Council of Punjab to provide information sought by an applicant even if part of it was provided to him earlier.

State Information Commission Lt Gen P K Grover (Retd) has also sent a copy of the order to N S Kang, Financial Commissioner, Development, to take cognisance of the matter.

Hitender Jain of NGO Resurgence India, Ludhiana , had sought information from the PIO of the Organic Farming Council regarding the expenditure incurred by it from February 9, 2006, onwards. Quoting the Indian Evidence Act, 1872, he had stated that he be provided authenticated copies of the documents, which "should not be certified by fixing rubber stamp of the signatures".

He had, however, added that his demand for information was under the Right to Information Act and not under the Indian Evidence Act, and the Section was quoted only for the purpose of elaborating the manner in which certification should be done. The council denied information, stating that the documents had already been provided to the complainant in an earlier case filed by him. Turning down Jain's demand for information in a specific format, the council said there was no provision in the entire legal jurisprudence wherein the certified copies in a particular format could be provided. The respondent also stated that information sought was not specific.

Jain argued that he was not insisting on certification according to the Indian Evidence Act and that he would accept documents according to the directions of the commission.

He said the information sought was very specific — bills and orders related to eight specific firms — adding that there was no bar under the RTI Act for seeking information again. He said his demand was for all the documents pertaining to expenditure borne by the council on various things, such as drip irrigation system, pump sets, citrus plants, labour and agricultural operations on the agricultural land of now retired IAS officer R S Sandhu. Jain added that the demand was not only for bills and purchase orders but all the documents pertaining to Sandhu's agricultural land.

Grover said it had emerged that the basic ground for denial of information was that it had already been supplied in a different case. "All other arguments submitted subsequently by the respondent are an afterthought," he added.

Directing the PIO to provide certified information by August 20 free of cost, he said the specific format was suggested for the convenience of the respondent.

The case will come up for confirmation of compliance on August 26.

7th Aug, 2010

PMC gets a taste of RTI Act, fined Rs 25,000

The Times of India

PUNE: The [Pune](#) Municipal Corporation (PMC) has been fined Rs 25,000 by the state information commissioner (Pune division) Vijay Kuwalekar on Thursday for delaying information under the Right to Information Act (RTI), 2005 and for providing incomplete' and misleading' information to Major Gen (retd) SCN Jatar of Nagrik Chetana Manch.

In July 2009, activists Jatar, Sujit Patwardhan of Parisar, Vijay Kumbhar of Surajya Sangharsh Samiti and Vivek Velankar of Sajag Nagrik Manch had submitted a memorandum to guardian minister Ajit Pawar on the city's water supply.

They wanted the reasons for insufficient water supply be detected and repaired and officials responsible for irregular and insufficient supply be punished. A copy of the memorandum was also submitted to municipal commissioner Mahesh Zagade.

In August 2009, Jatar had sought information on the action taken by Zagade. Since then, Jatar has been seeking more relevant information from the civic body as the replies to his queries were incorrect, misleading and not answering the basic questions raised on water supply'.

As per the [RTI](#) Act 2005 section 4, the PMC should have declared the information on its own. It is inappropriate to make citizens put so much efforts to seek proper information. Despite Jatar's repeated follow-up, comprehensive and factual information was not provided. The PMC's departments are subject to a fine because of the incomplete, delayed, contradictory and hence misleading information they provided, Kuwalekar's order on Thursday said.

Four PMC department heads including water supply, development engineer, deputy city engineer and junior engineer were responsible for giving the information. Hence it would be inappropriate to hold any one person responsible in the matter, it added.

"The original RTI application by Major General (retd) Jatar was submitted on August

18, 2009 and the four departments have provided information on February 8, 2010. The PMC has to pay a fine of Rs 25,000 for incomplete' and misleading' information. Municipal commissioner Mahesh Zagade should fix the responsibility, collect the fine and deposit it with the state government and submit a report by September 5, 2010," Kuwalekar's order stated.

Zagade told TOI on Friday, "I have not received the orders as yet. I will take action after scrutinising the order."

The commissioner has also asked the civic body to establish a special executive group and plan action according to the order and inform it by August 20, 2010.

7th Aug, 2010

RTI effect: Man gets stolen gold chain back

The Hindustan Times

The first time Dhawal Udeshi (25) used the Right To Information Act, he got results, with immediate effect. Udeshi's tryst with the act began when a miscreant snatched the gold chain that he had around his neck on April 14.

"I was sitting with my back facing the door when suddenly, this attacker snatched my chain from behind and jumped from a running train." Udeshi along with his cousins went to the Mumbai Central GRP Police station and lodged an FIR.

On June 22, a constable from the Mumbai Central station called Udeshi and told him that his chain was found.

"The constable told me that the thief had sold it to a 'Marwadi' who had melted the chain. So, if I wanted the chain in the original form, I would have to pay the constable."

A suspicious Udeshi said he'd let the police know about it soon.

On June 24, however, he got a call from a different constable from the same station who repeated the story.

Udeshi refused to entertain the requests. "I found it ridiculous that I had to pay the police to get my chain back."

He approached activist Sameer Zaveri, who advised him to file a complaint about the cops' behaviour, along with an RTI query about the form in which his gold chain was found.

He filed an RTI with the GRP on June 28. A few days later, Inspector R.S. Kokate from GRP Mumbai Central called him. "I was told collect the chain from court, without any payment. Kokate told me that the chain was found in the original form."

On Wednesday, Udeshi finally got his chain back, in the original form. With the chain firmly back in his hands, Udeshi is unsure whether he wants to pursue the complaint.

“I realise that even policemen are humans and make mistakes. Hence, I am not too sure.” Kokate, meanwhile, says that the complaint will be followed up.

“We’ve asked Udeshi to co-operate and give his statements.

23rd Aug, 2010

Allahabad HC RTI rules not in conformity with the Act: CIC

Business Standard

New Delhi: The Central Information Commission has taken strong exception to Allahabad High Court's rejection of RTI applications which sought details of action on complaints against judges of sub-ordinate courts on the grounds that disclosure of such information was not a rule or practice.

The Right to Information Act allows a public authority to frame RTI rules for the processing of information sought by applications. These rules may include fee, process adopted for the facilitation of information, the officials who need to be contacted among others.

One such rule of the High Court says, "Notwithstanding anything contained anywhere in these Rules, the applicant will be furnished with the information, requested for, if and only if, the furnishing of such information is not otherwise against any law or practice."

The rule was cited by the High Court while rejecting the RTI applications of Onkar Sharma who sought to know the action taken on his complaint against Civil Judge Veena Chaudhry and Ajay S Jajodia who wanted details of action initiated on his complaint against Civil Judge of Varanasi Aniruddha Maurya.

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One such rule of the High Court says, "Notwithstanding anything contained anywhere in these Rules, the applicant will be furnished with the information, requested for, if and only if, the furnishing of such information is not otherwise against any law or practice."

The rule was cited by the High Court while rejecting the RTI applications of Onkar Sharma who sought to know the action taken on his complaint against Civil Judge Veena Chaudhry and Ajay S Jajodia who wanted details of action initiated on his complaint against Civil Judge of Varanasi Aniruddha Maurya.

"If...the High Court has established a practice of refusing such information which would justify recourse to Rule 20 (v), this practice is clearly in violation of the law and the CPIO is hereby directed to ensure necessary changes in this practice to bring the management of such records into compliance with the RTI Act 2005," Chief Information Commissioner Wajahat Habibullah said in Sharma's case.

In the case of Jajodia, Habibullah said, "If, on the other hand, it has been the practice in the High Court of Allahabad not to disclose such information this practice is ultra vires of the RTI Act 2005."

The CIC directed the High Court to bring its rules "in conformity with" the transparency law. The Commission also took exception to the fact that the High Court Registrar had asked Jajodia, the reason for seeking the information. "the stand taken by the Registrar General, High Court of Allahabad is in direct contravention of Section 6(2) of the RTI Act which states without ambiguity 'An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him,'" Habibullah said.

He said any information could only be denied if any of the sub-clauses of section eight to the RTI Act were applicable on it. The section lists several categories where disclosure is exempted.

24th Aug, 2010

The Way To Healing

The Times of India

Promoting transparency and accountability, RTI can be an instrument of real change in J&K

Muzaffar Bhat, Shah Faisal & Preetiaish Kaul

Jammu & Kashmir simmers. Even as the 'whys and wherefores' are hotly debated, people who have known nothing but strife and unrest continue to die. The tragedy is an ongoing concern. It is in times like these that one searches for a glimmer of hope amidst the violence, corruption and mismanagement that bedevil the state.

The Right to Information (RTI) has recently given us hope. For constitutional reasons, the central RTI Act of 2005 exempted J&K, leaving it behind as RTI improved people's lives across the rest of India. With the long overdue enactment of our state's own Act 16 months ago, the RTI's influence has begun to permeate daily life in J&K. Though the state information commission remains headless, RTI training programmes have been organised across the state to raise public awareness. Success stories highlighted in the media have inspired many citizens to use the RTI to solve their problems, improve local governance and address some social wounds unique to J&K. This revolution represents a peaceful alternative to the culture of violence and protests so often identified with Kashmir.

These changes are illustrated by our unprecedented use of the RTI to address a custodial disappearance case. Muhammad Ashraf Yattoo was a 35-year-old resident of Chadoora, Budgam district. A father of four, he was an employee of the J&K government's food and supplies department. On December 13, 1990, he was arrested from the street by the Border Security Force (BSF) in front of several dozen witnesses. He has not been seen since. When approached by his pleading wife and children, the BSF denied knowledge of his fate. Later, the J&K police declared him innocent of any crimes and the government provided compassionate employment to his widow so she could raise her family with dignity.

After 17 years of uncertainty, the family learned about the RTI. With our help, they filed an RTI application with the BSF to uncover the fate of their husband and father.

The BSF returned the application and we, therefore, appealed on procedural grounds. On July 2, the Central Information Commission (CIC) admonished the BSF, and directed them to provide the family all the existing information on Yatoo's fate. The decision was highlighted in the local and national media, and piqued interest in the RTI amongst many Kashmiris, who flooded us with supportive phone calls and e-mails.

Ashraf's case shows how the RTI can be used to address allegations of wrongdoing by the security forces. One former director-general of the BSF was supportive of the CIC's decision and told a journalist with a news magazine that it would make the security forces "accountable". But another former DG said that we shouldn't be "asking the authorities inconvenient questions". We believe any reform without accountability is meaningless. The latter officer and those who share his views do not fully appreciate the importance of the RTI in protecting the constitutional rights of Indian citizens.

Indeed, the RTI brings real power to the people by making the establishment accountable to them. Accountability and transparency in administration produces better governance. It also strengthens grievance redressal mechanisms. Isn't that what everyone wants?

While the civilian bureaucracy has been slowly absorbing and implementing these principles, the same cannot be said about the state and central security forces when it comes to human rights violations. The partial RTI exemptions for security forces and their entrenched culture of confidentiality have made them resistant to disclosing information on human rights violations. When they have been challenged, they've offered the arguments that disclosure would "impede ongoing investigations", "hurt morale" or "inspire the enemy".

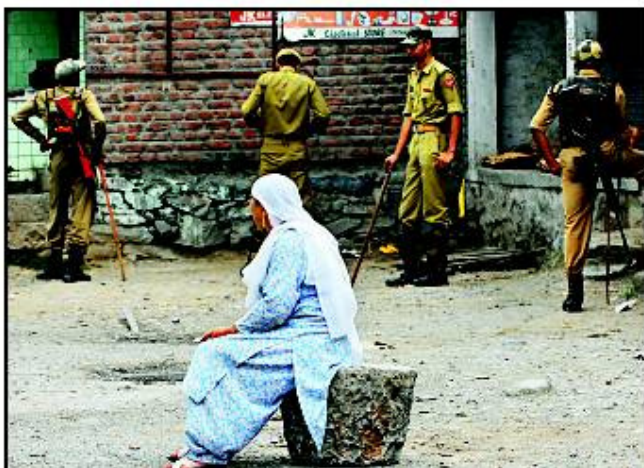
Such reasons may be genuine in exceptional cases, but they cannot be used as blanket excuses. Isolated cases of excessive retaliation and unnecessary killings can

happen in spite of institutional professionalism. The authorities should appreciate that nothing hurts the reputation of a besieged security force more than the distrust of the people it is supposed to protect.

The BSF has now been directed to provide Ashraf's family with information on his disappearance, but the same information should be automatically provided in other similar cases, past and future. Through such disclosures, the security forces would demonstrate their willingness to operate within the limitations of the law, gain the public's trust and restore normalcy in J&K.

The political and bureaucratic establishment must also embrace the RTI as an instrument of change in the state, since people's grievances stem from hardship, suffering and resentment spread by decades of mismanagement, corruption and indifference on the part of politicians and the civilian bureaucracy. Indeed, real improvements in their daily lives will not blossom from the stagnant air of fruitless debates and grand political bargains, but rather from incremental improvements in governance cultivated by real instruments of change like the RTI Act. The political, bureaucratic and security establishments must, therefore, stop neglecting the RTI in J&K as if it were a "sideshow", and must instead place it at the centre of a renewed effort in promoting peace and prosperity for all.

The writers are RTI activists with the J&K RTI Movement. Bhat is a dental surgeon; Faisal, a physician, has joined the IAS; and Kaul is a physician.



A scene in Srinagar: She might want answers

24th Aug, 2010

RTI: Govt fined for delay in giving info

The Times of India

Himanshi Dhawan

New Delhi: The Central Information Commission (CIC) has directed Delhi government's health department to cough up a compensation of Rs 50,000 before September 30 to a patient for failing to reply to a Right to Information (RTI) query within 48 hours as mandated under the Act, if the issue is affecting "life and liberty".

In a recent order, information commissioner Shailesh Gandhi said the case highlighted the "complete failure of the government to deliver social welfare schemes, particularly those involving free medical treatment to persons who cannot afford them, effectively".

West Vinod Nagar resident Pooran Chand had approached the Indian Spinal Injuries Centre (ISIC) -- touted as the most specialised hospital for spinal injuries - - for free treatment on the plea that he was a BPL card holder. ISIC gave Chand an estimate of Rs 1.75 lakh prompting him to file an RTI plea demanding information on his eligibility under the scheme for poor.

In his plea to the Directorate of Health Services (DHS), Chand also asked if the hospital had been given directions by the government to provide free treatment and what action would be taken if the treatment was not being provided.

The response was given after 12 days and in the meantime, Chand was forced to borrow money and get operated at another hospital.

Expressing concern over the delay, Gandhi said, "Since the matter pertains to life or liberty of the complainant, there should have been fast and effective coordination."

He added, "However, the complainant did not receive any information on his RTI application within 48 hours and consequently, could not avail of the medical facility at ISIC free of cost."

26th Aug, 2010

Tribals use RTI Act to fight land sharks

The Times of India

HYDERABAD: The Right to Information (RTI) Act finally seems to be serving its purpose: empowering citizens with information which they can use to demand justice.

Reeling under an attack on their houses, a group of 13 displaced tribal families from remote Bhadrachalam used the [RTI](#) Act to find out the status of the land on which they had constructed their huts a year ago. Armed with this information, they have now knocked the doors of the [State Human Rights Commission](#) (SHRC) seeking heavy compensation from people who rendered them homeless earlier this month.

The tribals had lived in the heart of Bhadrachalam on a grazing land for one year before they were forced out. They were told they were encroachers and were harassed for many days to vacate the area. The matter reached no point of return on August 17 and 18 when a group of people, allegedly led by the local police, destroyed all the 13 huts where the tribal families lived. "This is when the tribals, who had so far only heard of the RTI Act approached the mandal revenue office (MRO) there and got information on the status of the land which was categorised as agency (government) land," said K Murali, state secretary of [Human Rights Forum, Hyderabad](#). Murali is representing the tribals in the case before SHRC.

"Since then (the attack) we do not have a place to live in," said T Krishna Rao, a daily wage earner whose house was demolished in the drive. Rao filed the petition before SHRC on August 19 after the group got the facts of the case clear by seeking information from the MRO.

"It was through the RTI query did we find that the land we lived on was classified as agency land thereby giving us legal right to occupy it. We have demanded a compensation from those who destroyed our homes and have also asked for our homes to be re-built," said the petitioner. Rights activists note that by virtue of being 'agency' area, tribals have the right to construct temporary accommodations and reside there.

The commission, after conducting a hearing of the case recently, asked the district collector, Khammam, to submit a detailed report by September 20. The commission has sought details of the attack on the houses of the tribal families and also the estimate of the damage done to their belongings.

29th Aug, 2010

Colour stickers to beat RTI

The Times of India

HYDERABAD: A steady rise in the awareness levels about the Right to Information Act (RTI) among the general public has forced babus to adopt the use of [multi-coloured stick-notes](#) (small glued sheets or post-its) on all files and petitions processed at the state secretariat. This way, there will neither be any record of favouritism shown to any issue nor evidence of any irregularity in the speedy clearance of a certain file as all the stickable notes can be removed in case of an [RTI](#) query, sources said.

As per government rules, all files have to contain relevant notings on the papers itself and not on a stick-note. "No file can be circulated without notings (observations) at various levels in the hierarchy. Of late, we are seeing files endorsed by some ministers or higher officials using the stick-note labels," an officer said.

This practice is common in revenue-generating departments like revenue, industries, information technology, municipal administration and urban development, roads and buildings, civil supplies and irrigation. These stick-notes are available in various colours like regular green, blue, yellow, purple and pink. They also use fluorescent colours of orange, yellow, green and pink for subtle differentiation.

Though these stickers do not form part of the business rules of the secretariat office manual, their use has definitely been on the higher side for the last couple of years. Historically, these multi-coloured stick-notes gained prominence in the early 1990s and reached their peak during the previous Congress regime, especially in the chief minister's office. Bureaucrats contend that there is nothing new in this. "When you are not clear about what to write or decide on an issue, a stick-note is used as a temporary measure. The ultimate decision has to be written clearly in any case," a bureaucrat explained.

Official sources said the multi-coloured stick-notes have specific purpose within each department, more so in the CM's office. " [Colour coding](#) indicates that a specific file is being perused by a particular minister\officer (obviously with a vested interest). A particular coloured stick-note label is affixed to the file so that it is not handled by anyone else," a mid-level bureaucrat revealed. However, the use of coloured pens for file notings has long been a practice followed by several disciplined officers, including the chief secretary. Their significance still holds lot of weight as any noting in black usually means negative, blue means neutral, green means clear and magenta means relaxation of rules.