

RTI TIMES

Volume I Issue VII

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BOOK POST

From the Editor's Desk

Dear Reader,

Whither RTI? Period...

As members of a research and consultancy organisation in the area of governance reform – for the 'Government of Andhra Pradesh' (GoAP), other State Governments and the 'Government of India' – we, at the 'Centre for Good Governance, Hyderabad', would swear by the rationale and efficacy of the 'RTI Act, 2005'.

Over time, we have provided various kinds of support to the GoAP in the run up to, and subsequent to the 'RTI Act, 2005' coming into force. Later, we have also been working closely with the 'Andhra Pradesh State Information Commission' providing it some 'on demand', end-to-end support – the highlight of which has been the design and deployment of the RTI Application Tracking System ('R2I Track').

As a partner in the 'National Implementing Agency' under the, nationwide 'CBAI Project', we have been carrying out various capacity building activities for various stakeholders of our RTI regime.

Although we swear by RTI, we have to admit that there is only so much that the 'RTI Act, 2005' can do '*... (to) set out the practical regime of Right to Information for citizens...*'. It cannot be a 'Cure – All'!

Governance reform can be argued to be so much more. Even within our present *right-to-information*-scheme-of-things, the 'RTI Act, 2005', by itself, can, at best, be seen as a good first step in moving toward a more comprehensive regime... of '*Freedom of Information*'.

A more comprehensive regime – as in several countries of the World – would also comprise legislations on '*Right to Privacy*', '*Right to Environmental Information*', '*Right to Information covering Private Organisations*', and '*Whistleblowers' Protection*'.

Do we not need these? Certainly, there will be many opinions on this and several other issues of governance reform. We will raise the question: "***Is Right to Information all that there is to Citizen-centric Administration?***"

We hope a country-wide debate ensues. And we hope it throws up a reform agenda and carries it forward to its logical conclusion i.e. to a serious pursuit of '*Citizen-centric Administration*' through the conscious design and implementation of a thorough and integrated public policy.

Toward this end, the unravelling – by way of progressive implementation and use of the **people's right to information** – of many of the hitherto unknown inner workings of Government(s) **will be of immense help.**

Another Case Law on 'What Determines Being a Public Authority' – Another Decision of the Central Information Commission

In the previous (July 2007) edition, we had covered a significant decision of the Central Information Commission' (CIC), that had established certain criteria to determine how a Non-Government Organisation (NGO), by virtue of being "substantially financed" by the Government, becomes a 'Public Authority' for all ends and purposes of the 'RTI Act, 2005'.

As a 'Public Authority', such an NGO, would be bound to comply with all the provisions of the 'RTI Act, 2005' (applicable to a 'Public Authority'), for there is no *inter se* differentiation among 'Public Authorities' in terms of their compliance¹. We present here a recent decision of the CIC – now a Case Law & an important precedent too – about what constitutes "*being a Public Authority*".

The CIC in its decision on the appeals by two persons held the Indraprastha Gas Limited (IGL) to be a public authority obliged to provide information under the provisions of the 'RTI Act, 2005'.

Two appeals with the CIC were filed after IGL refused a citizen, information about *the working conditions and pay scales of employees at IGL stations operated by sub-contractors*. IGL denied the information on the ground that *'the RTI Act did not apply to it since it was neither a public-sector undertaking nor a government company'*. Further, IGL had turned down another citizen's information request on the grounds that *'it could not be termed a public authority because it was not substantially financed by the government'*.

IGL reiterated its contention before the CIC that it is not a government company as defined under the Companies Act. It is not substantially financed by Government and its accounts are not audited by the auditors appointed by the Comptroller and Auditor General of India. It is not dependent on Gas Authority of India Limited (GAIL) or Bharat Petroleum Corporation Limited (BPCL) or the Government of National Capital Territory (NCT) of Delhi for its day-to-day functioning.

In rejecting IGL's contentions and in asserting that the citizens have a right to seek accountability in the functioning of IGL, CIC made the following observations:

- IGL is a joint venture between GAIL, BPCL (both of whom are Government of India undertakings) and the Government of NCT of Delhi (with 50% of the shares held by these promoters) – "with Taxpayers' money through government instrumentalities being involved";
- The total financial support from the PSUs and the Government of NCT of Delhi through equity participation is Rs. 70 crore;
- It has been assigned to perform a public duty of supplying, distributing and selling natural gas to general consumers in Delhi;
- The Government of NCT of Delhi has provided infrastructure support for IGL and;
- The post of Chairman and Managing Director of IGL has been held either by the Chairman of BPCL or of GAIL, who are appointed by the Government. This clearly establishes that IGL is controlled by the promoters, which are Government of India undertakings.

The Commission also referred to a communication from the Ministry of Petroleum and Natural Gas, which had directed IGL to designate officers as per the 'RTI Act, 2005'. **IGL, was therefore, directed to comply with the mandatory obligations within 30 days.**

Note: This decision of CIC has been documented at the '**Right to Information Cell**', Centre for Good Governance, Hyderabad.

¹ Barring, of course, those intelligence and security organisations of the Central and State Governments (as notified by the latter) exempted as per the 'RTI Act 2005' itself.

Turbocharging RTI

– Technology Can Help Make the Right to Information Act an Even More Useful Tool for Empowerment

by Amit Varma

In an article published on <http://www.livemint.com/2007/08/30002130/Turbocharging-RTI.html>, one Amit Varma makes some interesting points on the implementation of the 'RTI Act, 2005'

I love the Right to Information (RTI) Act. In theory, it gives me back a little bit of the power that the government has taken from me. Governments are supposed to work for us, and it is apt that people who work in government are called public servants. Yet, over the last 60 years, our government has become our lord and master. How does one bring it back to heel?

On paper, the RTI is one way of doing so. Much of the power of government comes from its opaqueness. If you can't put your finger on what's going wrong, you can't hold it accountable. Garbage not being collected from your neighbourhood? You have no idea whom to contact or what action to take. Your ration card is not being given to you? You don't know who's withheld it, or if someone else is using it. For virtually any service that the government is supposed to provide, bribes are often necessary, and there's little you can do.

The RTI changes that. Information is power, and the RTI allows the common citizen access to most information pertaining to government services.

A road has been poorly repaired? You can find out which contractor did the job, which officer approved it, and what action is being taken. Sewers haven't been made in your neighbourhood? You can find out if your local municipality officials are lying about working on it. By exposing the actions of our government officials, we render them accountable for their inaction. That's the theory of it.

In practice, I think the RTI is a great tool that isn't within easy reach of everyone. Yes, yes, I know that it has been made quite user-friendly, and I've even attended a workshop on how to file RTI applications.

It's simple enough if you want it enough, and if you care deeply about whatever cause you're chasing down. But the common citizen is unlikely to take the time to use it, even if it is likely to be of some use to him or her.

The reason for that is what public choice theorists call rational ignorance—the costs of chasing down such information, in terms of time spent, are generally greater than the benefit to any one person. Also, with the RTI as it has worked so far, information remains dispersed. Individuals and NGOs get information on subjects that interest them, but by and large it remains inaccessible to the common Joe.

As a taxpayer, I would ideally like all information about how my money is being spent available in one central source, which I can access without any effort. I don't see why I should have to run after it, no matter how easy that running is. It's my money, after all.

This is where technology can help. Having won the battles to make RTI a reality, some of the NGOs that have worked so hard to make it happen can now take it to the next level. Here's how I think the Internet can be used as an enabler.

First up, it would be wonderful if there was a central database, perhaps using a wiki interface, where anyone who got public information using RTI could upload that information.

That would mean two things. One, if I am curious about something but wouldn't necessarily chase it down, I can simply check online if the information has already been dug out by someone else.

Two, it prevents duplication, as people don't file for information someone has already dug up, and officers don't waste time getting similar information again and again. Just browsing through such a resource should provide so much insight about how the government works. The existence of it should keep our babus on their toes.

Secondly, I'd like to see services that make it easier for you or me to file RTI applications. The Rs. 10/- charge for filing an RTI application with the Central government may be nominal, but who's got the time to file applications?

If there was a service attached to this central database that could file an application on my behalf without my having to do anything more than register (once) and fill up an online form, I might feel more motivated to ask for information. And thus, the database of information would build up, and we would be empowered.

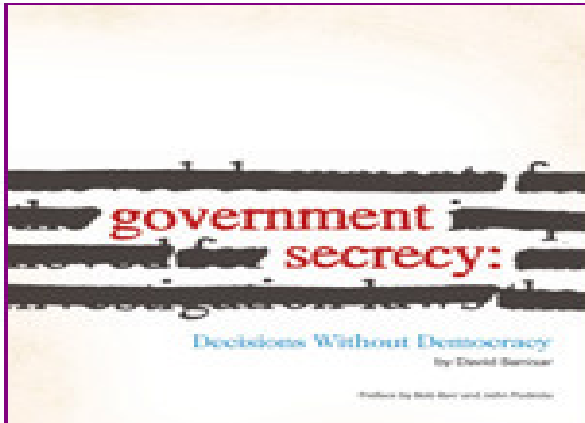
I've searched online for such services and wikis, but the RTI blogs and forums that exist don't cut it for me, and consist of nuggets of information instead of constituting a repository. Friends of mine in various NGOs have mulled such a project, but not actually gotten down to it.

For the RTI to work, for it to be used to empower the common citizen instead of activists and NGOs, we need such a service and I hope someone takes the initiative one of these days.

The above piece is an extract of an article published by *Amit Verma* on <http://www.livemint.com/2007/08/30002130/Turbocharging-RTI.html>

Your comments on this article are welcome at thinkingitthrough@livemint.com as well as at nia@cgg.gov.in

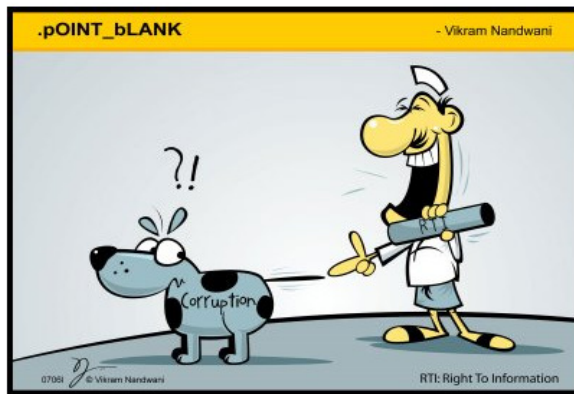
Some Impressions on the Right to / Freedom of Information...



www.sunshineweek.org [Homepage]



Exercise Your Right To Information



By Vikram Nandwani. Source: <http://pointblank2006.blogspot.com>



Note: For a downloadable 'Soft Copy' of this 'Newsletter' and other information on the 'RTI Act, 2005', please visit

www.rti.org.in or www.r2inet.org

Another Laudable Initiative to Fight Corruption

– People from Several Walks of Life to Join Hands

– RTI will Help

The **Tamil Nadu chapter of Transparency International, India** – which has former IAS officers, educationists and advocates on its Committee – would launch a Helpline (on September 1st, 2007 at its office in Kilpauk, Chennai) to fight corruption even as it would help Chennaites to obtain legitimate services from the Public Authorities.

The Helpline numbers – **64581444** & **42858557**– would be functional between 9:30 a.m. and 5:30 p.m. on all days except Sunday. Upon receiving a call (and the authenticity being established), the case would be written down and followed up with the members using their personal contacts in the wide network of bureaucrats and government officials.

Individual cases won't be investigated, for that is legitimately, the work of the law enforcement agencies, but TIITN would take up the matter with higher authorities to help those citizens affected by corruption in government offices and would also solve their problems through counselling.

The protagonists are hopeful of being able to, at least, curtail corruption, if not eradicate it. **The members of the organisation are clear that, if necessary, they will certainly use the RTI Act to serve their cause.**

They are looking forward to be able to get different kinds of technical and other help from various quarters – like persons with experience in public office and those with knowledge in computers; persons working as senior administrators or corporate managers who could help review systems; senior citizens experienced in various fields and students willing to spare a few hours every week to become part of TIITN to conduct awareness campaigns on the Right to Information.

A curtain raiser meeting was organised in Chennai, which was attended by *Agnivesh (Chairman, Bonded Labour Liberation Front)*, *N. Vittal (former Chief Vigilance Commissioner)*, *Arasu (President, Anti-Corruption Movement)* and *L. M. Menezes (Convener, TIITN)*, among others.

Note: This piece is extracted from several news reports in the Chennai editions of THE HINDU.

CBAI Focus State: Andhra Pradesh

Dr. Marri Chenna Reddy Human Resource Development Institute – the State Administrative Training Institute – is the State Implementing Agency and the districts covered are *Rangareddy & Anantapur*

The institute has carried out extensive training on RTI under its own mandate and, at present, is also working on bringing out a film on RTI as well as a Distance Learning Programme.

The physical progress in the State (i.e. the SIA and DIAs together) with respect to the total number of persons trained includes 121 Resource persons (of which 71 have been trained by YASHADA, Pune); 1,859 PIOs / APIOs/ First Appeal Officers and other officials; and 164 representatives from Media and Civil Society Organisations.

MCRHRDI conducts training programmes on RTI outside the CBAI scheme as well. It has trained hundreds of officials at various levels for various Departments of the Government of Andhra Pradesh. Resource persons from the institute have also conducted peripatetic training in the districts other than those covered under the CBAI project.

It has conducted 9 information fairs and has distributed about 23,000 units of relevant reference material including the Act, pamphlets, guides, brochures, posters etc.

Right to Information Quiz

1. If a penalty is imposed by an 'Information Commission' (IC) on a 'Public Information Officer' (PIO) upon hearing an Appeal – is the penalty incident on the PIO or the 'Public Authority'?
2. Is an 'Information Commission' a Public Authority?
3. In hearing an Appeal, will the IC allow the PIO concerned be to present her / his case?
4. What is the minimum and maximum number of Information Commissioners for a 'State Information Commission' (SIC)?
5. Is there a provision for a single IC for more than one State (as is the case with some High Courts in India)?
6. What if a State Government fails to constitute an IC for the State in question or fails to provide for the required resources – infrastructure and personnel?
7. Does the Central IC have any jurisdiction over SICs?

Note: Find answers to this Quiz in the next issue.

Please visit 'R2I NET' for a detailed account of our activities and related updates at www.rti.org.in or at www.r2inet.org

Right to Information: TRIVIA

The Central Information Commission (CIC) has five Information Commissioners including the Chief Information Commissioner. All the Commissioners do not hear all the appeals and complaints. The work has been distributed among them. This distribution falls into two broad categories: (1) *Ministry / Department / Organisation / UTs* and (2) *'Central Public Authorities' based in States (of the Union of India)** (with several States being allocated to each Commissioner).

CIC is under the Chief Information Commissioner himself. He would also look into appeals / complaints, if any, against the Parliament, Cabinet Secretariat, President's Secretariat, Vice-President's Secretariat, Election Commission, Central Vigilance Commission, Central Bureau of Investigation etc – as 'Public Authorities'. The Planning Commission, National Human Rights Commission and the office of Comptroller & Auditor General have been assigned to other Commissioners.

It must be noted, however, that there have been instances where the Full Bench of the Commission has heard and decided upon cases.

*Andaman & Nicobar Islands and Dadra & Nagar Haveli, however, have been included under category (2) [& not (1)], whereas Govt. of National Capital Territory (NCT), Delhi is under category (1).

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We Invite You to Share:

- Your ideas / comments on the 'RTI Act, 2005' or the 'CBAI Project';
- Your experiences in using / implementing the 'RTI Act, 2005';
- Other inputs in the form of relevant photographs / video footages.

You may send your inputs to:

Right to Information Cell (RTI) Cell,
Centre for Good Governance (CGG),
Road No 25, Jubilee Hills,
Hyderabad – 500 033.

E-mail: nia@cgg.gov.in

Answers to Quiz in Issue V

1. 'Appropriate Government' (for a 'Public Authority'), as per the 'RTI Act, 2005' would be the Central / State Government / Union Territory Administration that would have established, constituted, owned, controlled or substantially financed the 'Public Authority' in question.
2. 'Competent Authority' has been defined in terms of certain specified 'Public Authorities' and thus could vary. Such a 'Competent Authority' has the power to, by notification in the official Gazette, make rules to carry out the provisions of the 'RTI Act, 2005'. The term has been elaborated upon in Section 1(e)(i - v)
3. Certain categories of information are exempted from the purview of the 'RTI Act, 2005' from being provided on request (or being disclosed *suo motu* for that matter). Providing such information, would normally, be a violation of the law. Such information could be of different kinds as listed in Sections 8(1)(a) through 8(1)(j) and Section 9 of the 'RTI Act, 2005'. However, if 'larger public interest' is served in disclosing such information, then it should be disclosed.
Certain intelligence and security organisations (listed in the Act – the list is amendable. Relevant notifications are to be issued by State Governments) – more precisely the information held / controlled by them – are exempted from disclosure. However, with respect to this category, too there are exceptions regarding information pertaining to allegations of corruption or violation of human rights.
4. A 'Third Party' under the 'RTI 2005, Act' would be any entity – individual or organisation (private or public) -

Featured Resources

- '**Right to Know A Hands-on Guide to the Right to Information Act**' by *Prakash Kumar IAS, Secretary (Admin. Reforms), Govt. of Delhi & K B Rai Dy. Dir. (Admin. Reforms), Govt. of Delhi.* Vikas Publishing House Pvt. Ltd New Delhi-14. www.vikaspublishing.com, helpline@vikaspublishing.com

– other than the citizen making the request for information or the 'Public Authority' to whom the request is made.

5. Any information handed by a 'Third Party' (as explained earlier) to a 'Public Authority' **in confidence** is 'Third Party Information' (held by or under control of the 'Public Authority' in question).
5. Yes. The total amount of the monetary penalty to be imposed on a PIO for non-compliance with the provisions of the 'RTI Act, 2005' cannot exceed Rs. 25,000/-
7. The 'RTI Act, 2005' does provide for 'Compensation' – '*for any loss or detriment suffered*' by the citizen – to be decided by an Information Commission.

Disclaimer

While all efforts have been made to ensure that the information presented in this Newsletter is accurate, yet, no warranty is assumed for either its completeness or its fitness for a particular purpose.

All opinions and views expressed in this Newsletter are personal and do not, necessarily, represent any policy or position of any organisation.