

Volume I Issue II

March 2007

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From the Editor’s Desk

Dear Member,

The compass of the Capacity Building for Access to Information (CBAI) Project has been expanded to cover all the 28 States of India [excluding Jammu & Kashmir (where the Act doesn’t apply) and including Delhi.

This entails an addition of 32 districts – 2 each from the 16 new States to have come on board – to the mandate of the National Implementing Agency (NIA) for wide-ranging capacity building of key stakeholders.

We believe we can measure up to the challenge. This is so, not only because of our belief in the processes we have set in motion under our mandate so far and the results of this processes, but also because we are committed to take necessary steps (including making necessary course corrections) to optimize the intended positive outcomes of this project.

We take this opportunity to express our gratitude toward the United Nations Development Programme (UNDP) and the Department of Personnel and Training (DoPT), Government of India (Gol) who have once again reposed their confidence in the NIA in entrusting it with the responsibility of coordinating the scaling up of the project.

We would like to welcome all the new State Administrative Training Institutes (ATIs) that have joined the Project as partners – in their role as State Implementing Agencies (SIAs) – and we wish them all the very best.

Forthcoming Event

- Workshop on “**Right to Information Regime: Social Change and Governance**” : 27th – 28th April, 2007 at Centre for Good Governance (CGG), Hyderabad
- For a downloadable ‘Soft Copy’ of this ‘Newsletter’ and other information on the ‘RTI Act, 2005’, please visit **www.r2inet.org**

CBAI: Project Fact Sheet

An account of the 'Review Meeting' for the CBAI Project held in February, 2007 is as follows:

- The significant progress made by the National Implementing Agency [Centre for Good Governance (CGG) & YASHADA, Pune] on the project CBAI project was appreciated.
- NIA's deliverables in terms of 'Training & Capacity Building' and Research & Documentation' which have provided support to State ATIs in taking the project forward, were taken note of.
- Few of NIA's key achievements are:
 - Training of 593 Resource Persons;
 - Release of 7 Publications;
 - Development of Networking Portal; and
 - Regular compilation of decisions of the Central Information Commission.
- The 12 States that have been a part of the project since the beginning have shown good progress in achieving, both, physical and financial targets. The cadre of National Resource Persons and the State Resource Persons (on the Right to Information Act, 2005) in these States is very strong.
- Few of the key achievements of the SIAs are:
 - Training of over 1,000 State Resource persons; and
 - More than 14,000 Stakeholders trained.
- The 16 new States to have come on board the CBAI Project were appraised of the developments under the project over the first year of its implementation
- A Video Conferencing facility was launched on the occasion by YASHADA. This facility will enable administrative offices at the district level address their queries regarding the implementation of the Act to experts at YASHADA.
- For the benefit of the new States to have joined CBAI, YASHADA showcased its various activities undertaken as a partner in the NIA, as SIA and also as the Primary Resource Centre on the Right to Information Act, 2005 in the State of Maharashtra.



Shri Sanjeev Bhatia, addressing the participants and briefing them of YASHADA's role as NIA partner



Core Members of NIA and DoPT concerned with the CBAI Project interacting at the 'RTI Exhibition' set up by YASHADA

RTI Act, 2005 Applauded during the Social Accountability Workshop [13–14 March, 2007]



Chief Guest for the workshop, **Chief Information Commissioner, Mr Habibullah** said that 's. 4(1) of the RTI Act was at the heart of the RTI regime in the country and that failure on part of 'public authorities' to comply with it is unacceptable'.



Mr. C. D. Arha,, Chief Information Commissioner Andhra Pradesh State Information Commission (APSIC), one of the keynote speakers on the occasion, contended that '*Any talk on Social Accountability" is necessarily intertwined with the Right to Information*'.

As an aside, Mr. Arha also appreciated the support that the (APSIC) was receiving from the CGG, Hyderabad, especially the 'Tracking e-Tool' that CGG has developed.

It is evident that the new RTI regime would facilitate the use of such Social Accountability tools as 'Community Score Card', 'Participatory Expenditure Tracking', 'Participatory Budgeting' etc. This will be so on account of the fact that information of departments / agencies – including, especially, those involved in public service delivery – regarding their functional and allocative efficiency can now be easily accessed.

The Workshop was held under the aegis of a collaborative initiative between the World Bank and Centre for Good Governance (CGG) at Dr. MCR HRD Institute of Andhra Pradesh, Hyderabad. The Sri Lankan Minister for Nation Building, **Mr Jagath Pushpakumara** (first from left) and Chief Secretary, Government of Andhra Pradesh, **Mr J. Hari Narayan** (second from left) were among the distinguished guests for the occasion.



Christine Wallich, Senior Governance Advisor (South Asia), World Bank opined that '*the enactment of the Act had broken new ground in bringing about accountability and transparency in the Public Service*'. She asserted that '*the new law had contributed positively to transforming the relations between the Government and the governed and alluded to its significance in reinforcing monitoring of the implementation of NREGS*'.

Participatory Expenditure Tracking through People's Hearing: A Tool for Social Accountability

– An Instance of Access to and Use of Information in Promoting Accountability in Government

The following instance is an important episode in the genesis of 'Access to Public Information' as a right as operationalised by the Right to Information Act, 2005.

The work of a community based organisation, the **Mazdoor Kisan Shakti Sangathan (MKSS)**, in Rajasthan demonstrates how development interventions can be made more effective through a vibrant grassroots democracy. It is noteworthy that the MKSS movement eventually led to the enactment of legislations pertaining to the Right to Information (RTI).

MKSS was founded in 1990 with the objective of using constructive action to change the lives of the rural poor so that they could live with dignity and justice. Minimum wage and entitlement (or their denial) had been major issues of the rural poor. MKSS started to hold **Jan Sunvais**, or public hearings, during which official records of State development projects were put up for scrutiny by the intended beneficiaries. Shocking revelations of corruption and misuse of funds followed. Such revelations embarrassed officials and led to public apologies, investigations and in some cases the return of stolen funds.

This struggle for the payment of the statutory minimum wage in Government-sponsored public works programs revealed the significance of transparency and access to public information. Thus, a simple demand for minimum wages became a struggle for Right to Information. Eventually, this struggle resulted in the passing of a RTI law by the Central Government and several States (including Rajasthan). Today, MKSS continues to work toward exposing corruption and increasing public accountability among Government functionaries through spreading the methodology of *Jan Sunvai* and generating awareness on the Right to Information Act, 2005.

A **Jan Sunvai** is a public gathering for a public debate. The steps involved are:

- Information on suspected corruption in local development projects is generated from extensive research by volunteers organising the **Jan Sunvai**. Official records on amounts sanctioned and actually spent on local development projects are procured from Local Government offices and analysed;
- A public hearing is organised independently, not through the official village assembly, in a public place in the village concerned. Extensive publicity is given to the public hearing. All villagers, government officials, elected representatives and the press is invited;
- The hearings are presided over by a panel of respected individuals from the local community;
- At the start of the *Jan Sunvai*, the rules of the meeting are laid out. All, except persons under the influence of alcohol are entitled to speak. Everybody must speak on the theme and be restrained in their language;
- Identified cases are taken up one by one. Detailed accounts of development expenditures from official records are demystified, paraphrased and read out aloud for the assembly;
- Villagers particularly laborers, suppliers and contractors speak out and verify whether they received the money due to them or whether construction took place as claimed. Officials are encouraged to clarify or defend themselves;
- Discrepancies, if any, are thus, highlighted and officials are asked to account for missing sums.

A Significant Decision of the Madhya Pradesh State Information Commission

– ‘First Appeal Officer’ may escape monetary penalty, but cannot escape the blame for a wrongdoing

Section 20, sub-section (1) of the Right to Information Act, 2005 is, perhaps, the most admired [or disapproved of – depending upon whether you look at it from the viewpoint of the Citizen or the viewpoint of the “Public Information Officer” (PIO)]. This sub-section stipulates a monetary penalty for non-compliance, without a reasonable cause, by a Central / State PIO with the provisions in the RTI Act, 2005 for providing information, as far as possible, as per the request, and within the stipulated time period of 30 days.

Further, sub-section (2) (of the same section) goes on to say that ‘persistent failure (on the part of a Central / State PIO), without any reasonable cause, to do the needful, shall require the Central / State Information Commission (CIC / SIC) concerned, to recommend disciplinary action against the PIO concerned. The RTI Act, 2005 does not stipulate any penalty (monetary or otherwise) for a(ny) lapse on the part of “First Appeal Officer(s)” [i.e. the “officer senior in rank (to all the) PIO(s)” in a given Public Authority – required to be designated to hear appeals of citizens who are not satisfied with a particular decision / action of a PIO regarding their RTI application].

It is remarkable, however, that in a decision*, on a ‘Second Appeal’, the Madhya Pradesh State Chief Information Commissioner, Mr. T. N. Shrivastav, in addition to imposing the maximum monetary penalty on the PIO (of a *Tehsil* office in *Vidisha* district), issued strictures against the ‘First Appeal Officer’ concerned.

Mr. Shrivastav found the ‘First Appeal Officer’ guilty not only of exceeding the stipulated time limit in deciding upon the first appeal (i.e. a maximum of 45 days), but also of attempting to shield the erring officials of the Public Authority concerned (- the PIO as well as those whose conduct was questioned in the RTI Application). Mr. Shrivastav, thus, found the ‘First Appeal Officer’ unfit to discharge his responsibilities. The decision went on to suggest that, (though the State Information Commission cannot proceed against the ‘First Appeal Officer’ under the RTI Act, 2005) the State Government should consider disciplinary action against him.

Importantly, the decision also drew attention to the larger malaise incident in the functioning and the non-transparent processes of the Public Authority concerned, compounded by the neglect of the need for bringing reforms in the same. This, the decision stated, is clearly having an adverse impact on the rights of the citizens. The State Government was urged to take due notice of the underlying shortcomings.

Note: * Decision: **A-46 / SCI / 06 / Vidisha – dt. 23rd May, 2006**. Earlier, CIC had also recommended disciplinary action against a ‘First Appeal Officer’ (CIC/EB/C/2006/00040-24th April, 2006).

** The PIO, concerned, was guilty, not only of unreasonably and unjustifiably, not giving the information that was requested, but also of holding back certain information that should have been given to the applicant, and, further, also of giving such limited information only after the lapse of 100 days from the date when the information should actually have been given.

The above extract is a translated version of the decision of the MPSIC. Any error or discrepancy in translation is unintentional. This decision has been documented by the RTI Cell, CGG.

Good Practice

The Andhra Pradesh State Information Commission (APSIC) - supported by the Centre for Good Governance, Hyderabad (CGG) - has taken a significant step toward entrenching and reinforcing compliance of Public Authorities with the provisions of RTI Act, 2005 with regard to their reporting obligations.

A good practice has come about in the form of the development and deployment of an e-tool that will, both, facilitate, as well as track the passage of an application under the said Act, as it were through the lifecycle of the i.e. from the time it is received by a 'Public Authority' till the final action due to have been taken on the application is reported.

The e-Tool has been named "R2I Track". It is designed to serve as an important monitoring and evaluation tool. As such, it will also help in identifying good as well as bad practices at the institutional ('Public Authority') level and the good performers and bad performers at the level of individual functionaries—APIOs / PIOs / AOs.

Please visit: www.r2inet.org

Focus State: Chhattisgarh

The Chhattisgarh Academy of Administration, Raipur has been one of the partnering State Administrative Institutes (ATIs) under the CBAI project right from the inception of the project.


It is the "State Implementing Agency" (SIA) under the project for the State of *Chhattisgarh*. As such, it also provides resource support to the "District Implementing Agencies" (DIAs) for their project-specific activities in the identifies districts of *Bilaspur* and *Rajnandgaon*.

Achievements of Chhattisgarh Academy of Administration under the project are:

- Constitution of RTI Cells at the SIA and the DIAs;
- Training of 48 Resource persons NIA (YASHADA);
- Conduct of "Train the Trainer" programmes for 318 District / Block Resource Persons;
- Training of 612 PIOs / APIOs;
- Training of 34 representatives from Civil Society & Media Organisations;
- Preparation of "Directory of Public Authorities" for more than 20 Departments;
- Distribution of more than 1,75,000 pamphlets and brochures on RTI Act, 2005.

It is noteworthy that the Chhattisgarh State ATI has managed to meet most of its targets and has also reported its achievements (and utilisation of funds) as per requirements in spite of teething logistical problems.

This fact was taken note of and led to a special congratulatory mention of the ATI's work during the 'Annual Review Workshop' held at YASHADA, Pune. Shri M. K. Sharma, Nodal Officer, in Chhattisgarh ATI deserves our best compliments.



Right to Information Quiz

1. Does the Right to Information Act, 2005 define “Information” that is under its purview?
2. Does the Right to Information Act, 2005 define a “Public Authority”?
3. Should the ‘First Appeal Officer’ in a ‘Public Authority’ be senior in rank to all the Public Information Officers (PIOs), as designated, in that Public Authority?
4. Does the Right to Information Act, 2005 define what would be a “reasonable cause” to deny a citizen information that is otherwise not exempted?
5. Are Information Commissions expected to bring out an Annual Report, which in turn is to be placed before the Legislature concerned (State Legislature or the Parliament, as the case may be)?
6. Does an appeal against the decision of a State Information Commission lie with the Central Information Commission?
7. Are Information Commissions independent and autonomous entities in their functioning?

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

Right to Information: TRIVIA

- It was a Finnish clergyman, Anders Chydenius, who, primarily sponsored Sweden’s law on Freedom of Information, which has gained Sweden the distinction of being the first country in the world to pass such a progressive legislation. Chydenius (1729 – 1803) was an Enlightenment thinker. The said law, enacted on December 2nd 1766, abolished political censorship and provided the public access to Government documents. Sweden celebrated the 240th anniversary of the ‘World’s First Freedom of Information Legislation’ in December 2006. Another of Chydenius’ great achievements was the extension of the Freedom of Press in the Sweden-Finland of his days.
- Arguably, however, **the origin of the notion of ‘Openness in Government’ is in the East!** Chydenius is said to have been inspired by the humanist Confucian philosophy (Confucius lived in China in the middle of 5th century B.C.) and the fact that Chinese emperors were expected ‘*to admit to their imperfections, even as they were to uphold infallible and exemplar personal conduct...*’

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We Invite You to Share with Us:

- Your ideas / comments on 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 I

- Sweden in December, 1766.
- Tamil Nadu in April, 1996.
- Article 19, Clause 1, Sub-clause (a)
- No. A requester cannot seek opinions of authorities under the RTI Act, 2005. A citizen can only access information held by or under control of public authorities and not seek creation of any information.
- The requests / applications should be in writing (they cannot be oral). They need not be typewritten.
- Yes. An Information Commission (IC) can review its own decision. Whether to admit a plea for review or not, will, of course, be the decision of the IC concerned, based upon certain considerations.
- Yes. There have been instances of both Central & State Information Commissions doing so.

Featured Resources

- www.cic.gov.in
- www.apic.ap.gov.in
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- www.r2inet.org
- www.sakshitrust.org
- www.humanrightsinitiative.org
- www.rtiindia.org
- <http://www.ndtv.com/rti/successstories>
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