

# RTI TIMES

**Volume I Issue XII**

**January – February 2008**

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## **Book Post**

## **From the Editor's Desk**

**Dear Reader,**

The "First Appeal Officer" (FAO) is the designated authority in a (Central / State) Public Authority (PA) to receive and hear appeals of applicants / 'third parties' – dissatisfied with a Public Information Officer's (PIO) response to an RTI application.

It was recently reported that the Maharashtra State Information Commission – acting on a complaint – summoned a Joint Police Commissioner for having dismissed 74 appeals without hearing arguments even in one case.

There have been other reported instances, where FAOs have failed to provide succour to the aggrieved. Worse still, FAOs have been found to be hand-in-glove with PIOs (and / or other officials of the PA concerned) in adding to the misery of the aggrieved applicant. This could be due to the FAOs' lack of understanding of the law and / or interest in implementing it.

Information Commissions (ICs) have reprimanded FAOs for their unscrupulous acts of commission / omission. As per the law, however, the FAOs' liability does NOT extend to a monetary penalty as it does for a PIO. But (like PIOs), FAOs do enjoy "protection for action in good faith" (as per S. 21), which applies to "...any person for anything done or intended to be done..."

S. 19(1) of the 'RTI Act, 2005' requires the FAO(s) of a PA 'to be senior in rank to all the PIOs in that PA and though time-bound in disposing the appeals, FAOs have the discretion to admit appeals past the stipulated time limit (for admitting them). It is also notable that ICs have insisted on the 'First Appeal Process' being exhausted before they are approached with an appeal.

Thus, given the obvious significance accorded to an "internal-administrative review" of a PIO's decision, it won't be inordinate to expect an FAO to, not just hear and dispose appeals according to the law, but also to assume a leadership role in ensuring a PA's sound compliance with the 'RTI Act, 2005'. Apathy on the part of a FAO, thus, cuts both ways.

Indeed, if the FAOs shed their indifference to the 'RTI Act, 2005', they can make a positive difference to the RTI regime.

## **Forthcoming Event**

**'Colloquium of RTI Practitioners' [CoRP] on 27 – 28 February 2008  
at Centre for Good Governance, Hyderabad**

## CBAI Project Zonal Review Workshop, Guwahati

On January 29, 2008, a 'CBAI Project Zonal Review Workshop' was organised at the 'Assam Administrative Staff College' (AASC), Guwahati. The objectives of this workshop were to:

- take stock of the project-related activities in the States of the North East especially in those which had come on board in Project's second phase (i.e. since April 2007). 7 of the 8 States of the North East fall in this category. Assam was included in the first phase;
- enable exchange of ideas and experiences among these States and with the representatives of UNDP\* [providing financial assistance to the Project], of DoPT\*\* [providing overall leadership to the Project as the 'National Executing Agency' (NIA)] and of CGG, Hyderabad\*\*\* and YASHADA, Pune\*\*\*\* (as the National Implementing Agency' for the Project);
- know and address specific concerns of the State and District Implementing Agencies in these States with regard to implementation of the Project.



[ from left ] **Mr. Prema Tshetan** (Arunachal Pradesh State ATI), **Mr. P. K. Patnaik** (Government of Orissa), **Mr. Arndt Husar** and **Ms. Aparna Das** (UNDP) and **Mr. Vivek Misra** (CGG, Hyderabad)

Participants being briefed – during a session – about the targets reached / exceeded / not reached under the various components of the Project and about the other achievements till date, during the 1<sup>st</sup> and the 2<sup>nd</sup> phases of the Project.

The State ATI – SIA\*\*\*\*\* representatives participating in the Workshop presented the project-related activities undertaken by the SIA and in the project districts, even as they shared with the DoPT, NIA, and UNDP representatives the physical and financial progress achieved by them over time. Most of the States (whose representatives participated) have carried out activities under key capacity building components identified under the Project.

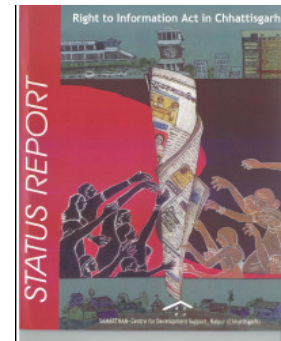
Some of the State / District IAs couldn't meet their targets due to such reasons as: diversion of their human / administrative resources to deal with natural calamities (occurring in the project districts) or due to pre-occupation of the agencies, concerned, with other pressing tasks; frequent changes of the Director at the ATI or absence of a Director with charge for the ATI alone; frequent transfers of District coordinators; and paucity of manpower at, both, SIA and DIAs. **[Continued on Page 6...]**

\* UNDP: United Nations Development Programme; \*\* DoPT: Department of Personnel and Training (Government of India); \*\*\* CGG: Centre for Good Governance; \*\*\*\*YASHADA: Yashwantrao Chavan Academy of Development Administration; State ATI – SIA: State Administrative Training Institute – State Implementing Agency.

## Samarthan's Status Reports on 'Right to Information Act' in Madhya Pradesh and Chhattisgarh

In a noteworthy effort to highlight the implementation aspects and issues of the 'RTI Act, 2005', Samarthan, a "support organisation" working in Madhya Pradesh and Chhattisgarh, has brought out 'Status Reports on RTI' in these States. Samarthan focuses on promoting people's participation in development and governance. These reports are an attempt by a Civil Society Organisation to assess 'the impact of the 'RTI Act, 2005', in making public institutions accountable and transparent' and thereby in, hopefully, moving toward a much meaningful democracy'.

The reports, divided into chapters, cover areas ranging from 'Evolution of RTI' (with special reference to the various RTI-related initiatives in the two States), to 'Proactive Disclosure for Strengthening RTI', to 'Demanding Information under RTI Act', to 'State Information Commissions' (SICs) and, more importantly, include 'Media Review of RTI' and 'Ways Forward'. The concluding sections of the chapters dealing with Media, Proactive Disclosure and SICs, talk about the 'Emerging Challenges' in that particular area.



cover page (front)  
"Chhattisgarh Report"



cover page (back)  
"Madhya Pradesh Report"

At the outset, these reports place the 'RTI Act, 2005' in the context of its genesis, and emphasise the impetus proffered by the Civil Society to its enactment. The governmental responses of various kinds and at various levels, supplementing the Civil Society initiative, have also been mentioned. The reports then discuss key provisions and features of the 'RTI Act, 2005, thus, presenting a prelude to the ensuing discussion on the success or failures in implementing the Act in letter and spirit.

The observations regarding effective 'proactive disclosure' (or the lack of it) – as per the Act – have been made by presenting a comparative analysis of the compliance – with S. 4(1)(b) – of several Departments (in both the States). This detailed analysis underlines the compliance (or non-compliance) of the Departments, in question, with the 17 sub-sub-sections of S. 4(1)(b) in terms of the clarity; applicability; and completeness of their disclosures.

In examining the functioning and achievements of and the challenges faced by the SICs, Samarthan has considered the disposal (or pendency) status of, both, complaints as well as appeals against various Departments in several districts. Certain crucial decisions of the SICs have

been highlighted in view of the important issues they have addressed. Less number of Commissioners, inadequate budgetary allocation, minimal staff and need for further updation of their information systems have been identified as issues / challenges for their functioning. The initiatives of the Chhattisgarh SIC in using video conferencing for hearing and disposing matters from far off districts and in introducing RTI in the curriculum and the active role played by Madhya Pradesh SIC have been commended. The necessity for further reinforcement of the SICs by providing them with adequate staff and all other necessary resources has been emphasised.

The reports do express concern about the finding that resorting to a 'second appeal' is a feasible option only for the urban and the economically better off sections. In fact, it has been found that the rural population is unaware and unwilling to even apply for information under the 'RTI Act, 2005'. It has also been observed that due to the very low internet penetration in these States, 'proactive disclosures' on websites (so that such information is accessible over the Internet) do not benefit a huge section of the population.

Though critical of the national as well as local media for focusing more on the issues of the middle class and for ignoring local level corruption, yet the reports appreciate the media coverage given to RTI. This coverage has been discussed under five themes *viz.* vision of the Act; procedural information on the Act; changes proposed to the Act; political attitudes toward the Act; and successes of the Act.

**Linking implementation of RTI with the legal aid support system for the poor** is a significant recommendation made in these reports. The other pointers on the way-forward for better implementation of the 'RTI Act, 2005' are the obvious ones *viz.* conducting large-scale awareness generation campaigns; enhancing capacity of PIOs to deal with applications through systematic training of the PIOs and allocating sufficient resources within the public authority for sound compliance; providing sufficient resources to the RTI Cell in the General Administration Department (GAD) (in these two States) to promote, support and monitor effective implementation of the Act; and promoting a culture of "Self-disclosure" for disclosing maximum information and updating such information periodically and as and when necessary so that citizens resort less to asking for information, which will also reduce the effort going into processing applications.

Both the reports include a long list of references of articles appearing in, both, local and national print media. Downloadable soft copies of these reports have been put on Samarthan's website and are available @ [www.samarthan.org](http://www.samarthan.org)



## ***Answers to Quiz in Issue XI***

1. S. 21 accords protection against a suit, prosecution or legal proceeding for anything which is done in good faith or intended to be done under the 'RTI Act, 2005' or any rule made thereunder. This provision applies to all persons.
2. If, by reasonably applying the 'Severability' clause, a PIO has withheld certain information in her / his response to a request, he / she has to convey to the requester: **(a)** that only a part of the requested information is being provided; **(b)** the reasons for deciding to apply the severability clause, relevant findings and the material on which these findings have been based; **(c)** the name and designation of the person giving the decision; **(d)** the details of the fees calculated by him and the amount which the applicant is required to deposit; and **(e)** the applicant's rights for review of the decision regarding non-disclosure of part of the information or fees charged or form of access provided, the particulars of the senior officer (who would hear 'first appeal') and of the Information Commission (IC) concerned (which would hear the 'second appeal') and also the time limit, process (for appeals) and any other form of access.
3. Appointments to the Central IC are to be made by the President on the recommendation of a Committee consisting of: the Prime Minister (PM) [as the Chairperson]; the Leader of the Opposition in the Lok Sabha (LS) (and where the of the Leader of Opposition, as such, is not recognised, the Leader of the single-largest-group-in-opposition in LS – as the deemed Leader of Opposition); and a Union Cabinet Minister (nominated by the PM).

Appointments to a State IC are to be made by the Governor (of that State) on the recommendation of a Committee consisting of: the Chief Minister (CM) [as the Chairperson]; the Leader of the Opposition in the Legislative Assembly (LA) (and where the Leader of the Opposition, as such, is not recognised, the Leader of the single-largest-group-in-opposition in LA – as the deemed Leader of the Opposition); and a Cabinet Minister (nominated by the CM).

4. The rules made by an 'Appropriate Government' (AG) under the 'RTI Act, 2005', should (without prejudice to the generality of its power to make such rules) provide for:
  - i) the cost of the medium or print cost price of the materials to be disseminated under S. 4(4);
  - ii) the fee payable under S. 6(1) [application fee];
  - iii) the fee payable under S. 7(1) & (5) [fee for providing information in printed/electronic format];
  - iv) the salaries and allowances and terms and conditions of service of officers and other employees of Central / State ICs (necessary for the efficient performance of functions by Information Commissioners -- as applicable – under the Act).
  - v) the procedure to be adopted by ICs in deciding appeals; and
  - vi) any other matter which is required to be, or may be, prescribed
5. The rules made by a 'Competent Authority' under the 'RTI Act, 2005', should (without prejudice to the generality of its power to make such rules) provide for: the same things as stated in **i), ii)** and **vi)** in the answer to **4** and also for the fee payable under S. 7(5) [i.e. the fee for providing information in printed / electronic format].
6. The power to remove the difficulties arising in giving effects to the provisions of the 'RTI Act, 2005' is vested with the Central Government (Government of India).
7. The timeline specified under 'RTI Act, 2005' for the AG to compile a comprehensible guide, required to exercise "right to information", containing information – in its official language – is eighteen months from the commencement of the Act [i.e. **within 18 months from 15<sup>th</sup> June, 2005**]. Thus, such a guide should have been compiled by AGs, latest, by 14<sup>th</sup> December, 2006.

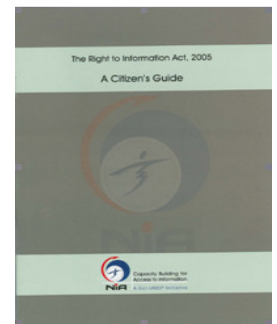
### ... CBAI Project Zonal Review Workshop -- Continued from Page 2

The “Key Areas of Future Action” emphasised during the Workshop were:

- Full and timely utilisation by the states of the financial resources available under the Project;
- Quick planning and speeding up of activities by the State and District IAs;
- Carrying out activities across the entire spectrum for applicable Project components viz: Training; Research and Documentation; Awareness Campaigns; and Dissemination and Advocacy;
- Meticulous documentation of the project activities and achievements for sharing these with the NIA, and through it, with all other State and District IAs;
- Placing a greater thrust on taking the message of RTI to the grassroots level;
- Appropriate designing and targeting of mass awareness activities in view of the socio-cultural milieu. DIAs’ role assumes significance in this respect.

CGG’s representative informed all the participants about the ongoing work of NIA-CGG relating to preparation of an e-Learning Module; updation of Case Laws; preparation of a Guide for Panchayati Raj Institutions and on Records Management; and also about the research studies proposed on “Information Audit” and “RTI and Service Delivery”. A publication brought out by CGG, Hyderabad titled ‘**A Citizen’s Guide**’ on the ‘RTI Act, 2005’ was unveiled on this occasion.

A soft copy of this latest publication by CGG can be accessed at:  
[http://www.rti.org.in/Knowledgebank Handbooks.do](http://www.rti.org.in/Knowledgebank_Handbooks.do)



cover page (front)  
“Citizen’s Guide on RTI ”

### **CBAI Focus State: Meghalaya**

- Meghalaya came on board the CBAI project in the second phase, with the Meghalaya Administrative Training Institute (MATI) as the State Implementing Agency (SIA) and the Project implementation districts being: Jowai Jaintia Hills (JJH) and Tura West Garo Hills (TWGH).
- As reported during the Guwahati workshop (January, 29, 2008), a total of 140 Resource Persons (RPs) – against a target of 80) – have been trained under the Project. Of these, 73 (RPs) have been trained at the SIA and 67 in the project districts (25 in JJH and 42 in TWGH).
- However, the targets set for training of PIOs, APIOs, FAOs and other officials remain largely underachieved. Only 84 of these officials have been trained at / by SIA (against a target of 200). No such trainings have been conducted in JJH. TWGH, however, is an exception for having trained 150 of these officials (against a target of 100). No training has been conducted for the representatives of Civil Society and Media Organisations either at / by the SIA or in the districts, though the target was set at 100 each for all the IAs.
- Utilisation of the funds earmarked for various activities by all the IAs has been less than 15 %. This points to the long road ahead if the State is to really benefit from the Project.
- Some noteworthy Mass Awareness activities conducted by MATI are installation of hoardings at two vantage points in Shillong; printing and distribution of table calendars and stickers; publication and distribution of handy booklets in English, Khasi and Garo languages and Sub-titles scrolling in 3 leading dailies.
- We will be looking forward to the materialisation of the activities MATI has proposed take up in the near future viz training various stakeholders; bringing out a newsletter and compiling ‘Best Practices’.

## **Right to Information Quiz**

1. Can a PIO ask for proof of citizenship from a person asking for information under the 'RTI Act, 2005'?
2. What can the Central Government do to remove 'any difficulty arising in giving effect to the provisions' of the "RTI Act, 2005"?
3. Who is a 'Deemed PIO'?
4. Does the 'RTI Act, 2005' accord protection to copyright(s)?
5. Who should be appointed as Information Commissioners under the 'RTI Act, 2005'?
6. How many Chapters does the 'RTI Act, 2005' have and what do they deal with?
7. How many Sections does the 'RTI Act, 2005' have?

**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](http://www.rti.org.in) or at [www.r2inet.org](http://www.r2inet.org)*

### **Right to Information: TRIVIA**

The 5th '**International Conference of Information Commissioners**' (held in Wellington, New Zealand from November 26 – 29, 2007) comprised a day of closed meetings for the Commissioners and three days of open sessions. The open sessions comprised panel discussions and small group discussions that provided opportunities for focused interactions on various pertinent topics and for network building.

Prof. Alasdair Roberts of the 'Maxwell School of Citizenship and Public Affairs', Syracuse University delivered the keynote address and broached the challenges to the RTI movement and those in the implementation Freedom of Information laws, even as he dealt with the changing nature of government information. The myriad topics on which the Conference deliberated included creating a culture of openness among civil servants; designing effective oversight and enforcement bodies laws; responding to politically sensitive requests; managing backlogs and caseloads; using Information technology for managing and fulfilling requests.

A plan for instituting an electronic communications tool for Commissioners and their staff emerged from the Conference. The tool will be developed under the management of the Mexican Information Commission to help the Commissioners seek advice and assistance on issues arising in their countries. It will also institute a public forum accessible to and allowing for inputs from various stakeholders.

The papers submitted during the Conference are yet to be accessible on [www.icic2007.org.nz](http://www.icic2007.org.nz) Streaming videos of the panel discussions, once uploaded, will also be available on this website.

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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](mailto:nia@cgg.gov.in)**

### **AN IMPRESSION**



### **RIGHT TO INFORMATION**

[Source: 'Raj Patrika', a Hindi Daily]

### **Featured Resources**

- [www.cic.gov.in](http://www.cic.gov.in)
- [www.samarthan.org](http://www.samarthan.org)
- [www.rti.org.in](http://www.rti.org.in)

### **RIGHT TO INFORMATION**



### **AN IMPRESSION**

[Source: unidentified]

### **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.