

RTI TIMES

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Book Post

From the Editor's Desk

Dear Reader,

If one were to gauge the number of 'Public Authorities' (PAs) [as defined in the 'RTI Act, 2005'], who do NOT think they are a PA, one would, most probably, be left very surprised.

One reason, possibly, why many PAs would NOT think so is that they are not aware that they are PAs. It is also possible that they would NOT think so because it would be rather convenient for them – for obvious reasons – not to think so. Whatever be the reason, this doesn't augur well for the stated objective of the 'RTI Act, 2005' and for the efforts toward accomplishing this objective.

Hopefully, all 'Appropriate Governments' (AGs) would, have, by now, published a "Directory of PIOs" of PAs covering, AT LEAST, "governmental" and other "public sector" organisations falling within their jurisdiction(s).

But have they done it for the PIOs of those "Non Government Organisations" (NGOs) [which are also 'Public Authorities, falling within their jurisdiction(s)]? Are they supposed to do this?

As per S. 26(3)(b) of the 'RTI Act, 2005', they are supposed to do it for 'PUBLIC INFORMATION OFFICERS of **EVERY PUBLIC AUTHORITY** (within their respective jurisdictions)'.

If it is to be done for the PIOs of all PAs, then given the definition of a PA, even NGOs that are directly or indirectly, financed substantially by an AG, have to be included in these 'Directories'.

This requires, in the first place, clear delineation of NGOs that are PAs and whether a given NGO is a Central / State PA. As we have pointed in the July issue of 'RTI Times', the Central Information Commission has clarified its position on what amounts to substantial direct or indirect funding.

The Second Central Administrative Reforms Commission stressed the need to clarify the meaning of substantial direct / indirect financing, by making recommendations in this regard.

Together, these developments should be an indication to the AGs about their next step(s) in this direction. Moreover, bringing reasonable uniformity in the relevant rules to be, thus, framed and in their applicability to, both, Central and State PAs would be as much a challenge as it is indeed desirable.

AGs will have to rise to this challenge and deal with it effectively.

Info Panel Flexes Muscles, Fines Top Bureaucrats

– K. P. Narayana Kumar

Last month, three senior bureaucrats in Chandigarh were rudely reminded that information is money. The three, all Joint Secretaries in the Union Territory's Government, were asked by the Central Information Commission (CIC) – the Union Government body responsible for monitoring the Right To Information (RTI) Act – to together ante up Rs. 25,000.

A Joint Secretary is the second highest level in India's bureaucracy. Even the country's apex investigating agency, the Central Bureau of Investigation, needs permission from the ministry concerned before it can launch an investigation against officers at this level. The crime in this case: the three officers had not provided the information sought by a citizen under the Act.

The chain of events leading up to the fine began with *Mehar Singh*, a resident of Chandigarh, seeking information from the Union Territory's Home Department using the provisions of the RTI Act. When Singh did not receive the information within 30 days, as mandated by the Act, he approached the CIC.

CIC asked the concerned principal information officer – all Government Departments have information officers to (whom) RTI applications are made; only when they are not answered do the applicants approach the CIC – *Satya Thakur* to pay a fine of Rs 25,000 for the delay.

Thakur responded with a detailed report on the movement of the applicant's request through the Department and said that although she had written to the senior officers concerned for the information several times, they had not responded in time. CIC then asked the three senior officers from the Home Department and the Finance Department to share the fine of Rs. 25,000 (among) themselves.

CIC's fine, levied on such senior officers, seems to have had the desired effect. "The (*Mehar Singh*) case is a reminder that all Departments need to make their RTI systems more efficient," says one of the officers who was fined and does not wish to be identified. Eventually, the three Joint Secretaries apologised to CIC and were spared the fine.

Not everyone has been as lucky. CIC has thus far penalised around 40 information officers for not having provided information, on time, to RTI applicants. An information officer with the *Delhi* Development Authority (DDA), the Capital's urban development agency, says that 'imposing such fines on information officers was not fair'.

"There are so many applications under which people ask for all sorts of general information which requires coordination among all the wings of the DDA. After all, how much of manpower can we use to dig up old files?" asks the officer, who did not wish to be identified. The officer adds that each of the designated 50 information officers at DDA are handling between 5 (to) 10 RTI applications a day. "In fact, many advocates have started a business of filing RTI applications on behalf of citizens against the DDA and MCD (Municipal Corporation of *Delhi*)," says the officer.

He suggests that the Rs 10 fee to be paid with RTI applications needs to be raised to ensure that only serious applicants lined up. However, an RTI activist says, 'the CIC has not penalised enough officers to ensure that they routinely send information on time'.

"There have been over 4,000 cases filed with CIC and it has imposed fines in less than 40 cases," says *Arvind Kejriwal* of non-governmental organisation, *Parivartan*. *Kejriwal* won the *Ramon Magasaysay* award in 2006 for his work in the RTI area. He adds that the CIC is not doing enough to ensure that bureaucrats treat RTI applications with respect.

Fines cannot be imposed "left, right and centre," says a senior official at CIC who did not wish to be identified. He adds that the RTI Act itself is new and that CIC needs to only "gradually start using all provisions of the Act" (such as fines) so that "the system also is able to accommodate the needs of a burgeoning number of applicants."

Source: www.livemint.com



This cartoon accompanied the above article on www.livemint.com

Postscript:

Extracts from a Quick Edit on www.livemint.com

It is increasingly clear that the true power of right to information cannot be unleashed in India without the continuous support of the media... While other authorities may have acted on the RTI revelations at some point, there's little doubt that the media's responsible highlighting of RTI filings helps generate the necessary attention and action.

... the Government is yet to implement basic terms of the two-year-old Act even as CIC faces hurdles, such as respondents getting court stays on its orders. This affirms that the media needs to build more awareness on the Act itself and keep a tab on follow-up action.

Maybe it is time editors, including at this paper, have dedicated RTI beat reporters?

Misuse of Right to Information !?!?

'*Raj Patrika*', a local daily in *Rajasthan*, reported [on 12.10.2007] a case of impersonation and blackmail, from the State's capital city, *Jaipur*. One *Yadunath Dashaanand*, had impersonated as the editor of a local newspaper – '*Paakshik*' – and also as the President of the '*Rajasthan Press Club*' to blackmail the Additional Chief Engineer of the Irrigation Department.

The impostor was later apprehended and presented before the court, which handed him a two-day remand before further legal action would be taken against him. The report details how the said accused had blackmailed the said official (and several other officials earlier) with the threat of using RTI against them. It turned out that the accused had demanded Rs. Twenty Thousand as ransom from the said official and upon being paid 10,000; the accused raised his demand to Rs. Two Lakhs.

The report – in its concluding paragraph – mentions that the accused, with the help of a few young accomplices, had collected certain information against the officials by using the 'Right to Information Act, 2005' and that the police are now looking for the accomplices of the accused. Interestingly, the sub-heading for this concluding paragraph reads: "***Soochana Ke Adhikar ka Durupayog***" [i.e. Misuse of Right to Information].

Are we assuming that RTI encourages blackmailers? Are we to infer that RTI is highly prone to be misused or that the misuse has to be blamed on the existence of such a right? **In our interactions with the supply-side stakeholders, we hear such apprehensions too often for comfort.**

One needs to be careful not to draw such simplistic conclusions and blame the frailties and malfeasance of an individual (in this case, the alleged impostor / blackmailer) on RTI. It is worth considering whether a similar exercise of RTI, say, in the process of 'Social Audit', would not yield the desirable result of exposing corruption and maladministration, misfeasance and nonfeasance.

There is no denying that *Dashaanand*, if found guilty of impersonation and blackmail, should be brought to justice. **One must ask though: what does the vulnerability of public officials to be so blackmailed and their willingness to pay ransom to the blackmailers indicate?** The obvious answer to this question only points to the utmost significance of RTI (and of strengthening the RTI regime) for improved governance in this country.

Vardhaman Vaidya
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Answers to Quiz in Issue X

1. S. 23 (Chapter VI) of the Act states: *'No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act'*.

Thus, normally, courts would not have the authority to hear cases under the Act. However, this exemption applies only to lower courts (i.e. the 'Subordinate Judiciary').

The Supreme Court (SC) and the High Courts (HCs) CANNOT be so exempt from hearing appeals against decisions of Information Commissions (ICs). Whether or not to admit such appeals will, of course, be the decision of the SC / HCs.

2. Under the 'RTI Act, 2005', the 'Competent Authority' for Union Territories is the 'Administrator' appointed under Article 239 of the 'Constitution of India'.
3. Yes. ICs can establish offices at other places. However, to do so, the Central IC has to secure previous approval of the Central Government, whereas, a State IC has to secure previous approval of the State Government (to establish offices at other places in the State concerned).
4. Yes. The 'RTI Act, 2005' gives a 'Third Party' the right to make an appeal (both, to the 'First Appeal Officer' concerned and, later even to the IC concerned) against a 'Public Information Officer's (PIO) decision to disclose information about that 'Third Party'.
5. The 'Severability' provision under the 'RTI Act, 2005' [i.e. section 10 (1)] is about providing access to such part of the information (as per the information requested under the Act) – which is not exempt under the Act – by reasonably severing it from the part that contains exempted information.
6. The key considerations for a 'Public Authority' (PA) for information dissemination under S. 4 of the Act are:
 - wide dissemination in such form and manner, as is easily accessible to the public;
 - cost-effectiveness, local language & most effective method of communication in that area, easy accessibility (with PIOs) in electronic format (to the extent possible), & free or priced availability (as prescribed); and
 - communication through notice boards, newspapers, public announcements, media broadcasts, internet and other means such as inspection of offices.
7. Yes. An 'Appropriate Government' (AG) has a role in facilitating programmes to help PAs secure compliance with the Act. Section 26 (1),(2),(3) & (4) have elaborate provisions regarding such role of AGs, which includes, among other things, developing and organising educational programmes (particularly for disadvantaged communities) [and] even undertaking such programmes themselves.

Further, AG is to ensure promotion of timely and accurate dissemination of information by PAs; training PIOs; producing relevant training material; preparing an easily comprehensible guide in its official language to enable exercise of this right; updating and publishing guidelines at regular intervals etc.

RTI Guide(s) on Social Issues

The May issue of 'RTI Times' had introduced to its readers a Bangalore-based NGO – **Sakshi Trust** – that is working for the cause of promoting 'Right to Information' (RTI). Among its various initiatives toward achieving its objective, Sakshi Trust has developed what it calls: 'RTI GUIDE FOR SOCIAL ISSUES'. These guides have been developed on particular pressing issues and include:

- 'RTI Guide for Improving Urban Environment';
- 'RTI Guide to Track Cases of Missing Children';
- 'RTI Guide to Improve Public Education'; and
- 'RTI Guide for People with Disabilities'.

The **Guide for Improving Urban Environment** provides the users with 'ready-to-use applications and RTI interventions for several common urban environmental issues', whereas the **Guide to Track Cases of Missing Children** has been prepared to aid citizens to follow-up on complaints about missing children at the district / block level through the Office of the Superintendent of Police. The **Guide for Improving Public Education** is intended to enable use RTI as a tool to address the malaise of teacher indifference and absenteeism as well as of corruption in the administration of public schools. The **Guide for People with Disabilities** – prepared in collaboration with ACTIONAID, India – seeks to improve government facilities for the disabled. In order to achieve this through the use of RTI, it provides application(s) [templates] for: (i) getting a disability certificate; (ii) facilitating barrier-free access for the disabled in Government buildings; (iii) improving access to public education and employment opportunities for the disabled; (iv) Expedient disposal of complaints by 'Commissioner, People with Disabilities' (PwD); and (v) Reservation for PwD in Poverty Alleviation Schemes.

These guides have been uploaded on Sakshi Trust's website (www.sakshitrust.org) and are downloadable free of cost. Moreover, Sakshi Trust has invited ideas / suggestions for development of similar Guide Books on other social issues.

Source: www.sakshitrust.org

CBAI Focus State: Himachal Pradesh

- It was in the second phase of the 'CBAI Project' – i.e. after the Project was up-scaled and extended beyond the (first phase) 12 States – that *Himachal Pradesh* (HP) was brought on board the Project.
- The 'Himachal Pradesh Institute of Public Administration' (HPIPA) – the State Administrative Training Institute – has been identified as the 'State Implementing Agency' (SIA) under the Project.
- The Project districts in the State are: **Hamirpur** and **Mandi**.
- For the First Quarter in 2007, the SIA has – in the online report – reported training of 79 Resource Persons and financial allocation for multi-stakeholder workshops at the SIA level, whereas the District Implementing Agencies (DIAs) have reported no activities.
- Likewise, for the Second Quarter, the SIA has – in the online report – reported training of 55 Resource Persons and financial allocation for multi-stakeholder workshops at the SIA level. However, the DIAs are yet to report for this quarter.
- As for the Third Quarter, both, the SIA and the DIAs are yet to report as per the online format.
- Admittedly, the NIA expects the HP SIA and DIAs to do much better under the Project – as regards various activities envisaged under it. We hope the SIA and the DIAs will soon catch up with NIA's expectations and report their activities – in time – for their dissemination to various stakeholders.

Right to Information Quiz

1. What is the provision regarding 'Protection of action taken in good faith'?
2. What "incidental information" is to be provided by a 'Public Information Officer' (PIO) to the requester of information when he / she applies the 'Severability' clause in giving requested information?
3. What is the procedure for constituting 'Information Commissions' (ICs)?
4. What should the 'Rules' made (under the 'RTI Act, 2005') by an 'Appropriate Government' provide for?
5. What should the Rules made (under the 'RTI Act, 2005') by the 'Competent Authority' provide for?
6. Who has the power to remove the difficulties arising in giving effect to the provisions of the 'RTI Act, 2005'?
7. What is the timeline specified under 'RTI Act, 2005' for the 'Appropriate Government' to compile a comprehensible guide containing information – in its official language – required to exercise any right specified in this Act?

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

On January 26, 2007, the then newly-elected Secretary-General (SG) of the United Nations Organisation (UN), Ban Ki-moon, made public his personal financial statement, which he disclosed earlier as per UN's requirements, but, had the choice to keep confidential. Mr. Ki-moon, thus, became the first UNSG to do so.

Mr. Ban's disclosure for 2006 was reviewed by PriceWaterhouseCoopers (PWC), the firm hired by the UN as a consultant to review financial disclosure statements. PWC confirmed Mr. Ban's compliance with the requirements of the financial disclosure programme, after which it was made public.

This disclosure form is posted on UN's website ([http://www.un.org/sq/SG fd form.pdf](http://www.un.org/sq/SG_fd_form.pdf)). Though Ban encouraged other UN officials 'to be as transparent as possible..', it was clarified that 'they would not be compelled to do so'.

This move by the SG came within a month of his assuming office on 01.01.2007, underlining his emphasis on restoring trust and confidence in the UN. His leading by example was, understandably, widely appreciated.

It was hoped that some other international leaders would follow suit. However, the number was expected to be very small, for few international organisations require disclosure of personal financial information, while those that do allow for (like the UN) keeping such information confidential.

It has been over a year ever since Mr. Ban took the unprecedented step..... Would it not be interesting to know or find out how many and which international leaders have emulated him?

Sources: www.un.org & www.freedominfo.org/features

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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:

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Hyderabad – 500 033.

E-mail: nia@cgg.gov.in

Some Impressions on RTI



"What information do you need.., I'll give it forthwith! Here the rate is only two hundred"

Source: 'Raj Patrika' (hindi daily) [02.12.2007]



Source: Sunday Times of India, New Delhi [October 28, 2007]

Featured Web Resources

- www.cic.gov.in
- www.rti.org.in
- www.freedominfo.org
- www.humanrightsinitiative.org
- www.humjanenge.org
- www.mahadikar.org
- www.indiatogether.org
- www.livemint.com [Right to Information]
- www.sakshitrust.org
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- www.parivartan.com
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