

REPORT OF THE  
REVIEW OF PRO-ACTIVE DISCLOSURE OF CITY MUNICIPAL COUNCILS OF  
KARNATAKA UNDER THE RIGHT TO INFORMATION ACT 2005

*Submitted to*

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*Introduction*

The Right to Information Act (RTI) came fully into effect from 12<sup>th</sup> October 2005. The objective of the RTI Act is to promote transparency in the working of public authorities, contain corruption, establish a regime where citizens' can have easy access to information and enable public participation in administration. The Act mandates a legal-institutional framework for setting out the practical regime of right to information for every citizen to secure access to information under the control of public authorities. Under Section 4 (1) (b) the Act prescribes mandatory disclosure of certain information to citizens. By including such a provision the Act seeks to assist citizens in getting information without resorting to a separate application. Besides, by making the public authority to disclose certain information voluntarily, the Act tries to minimize the necessity of citizens using the RTI Act.

Mandatory disclosure of information will go a long way in strengthening the culture of transparency and promotes citizens participation in governance. In fact the success of the RTI Act hinges on the quality and quantum of information made available to the public. The nature of information listed under Section 4(1) (b) to be published by public authorities is comprehensive and if done properly takes care of the requirements of the general public. Given the level of legal literacy among the citizens, time and cost constraints, they cannot be expected to seek information by undergoing the process contemplated in the RTI Act. The very fact that only a handful of citizens are using the RTI Act goes to prove that the general public is yet to accustom themselves for using RTI Act. In addition, the knowledge and awareness of the public about the functioning of public authorities is limited. Hence it is essential that pro-active disclosure of information is given importance.

*Background*

The Consumer Rights, Education & Awareness Trust (CREAT) has been involved in propagating citizens' access to information since 2002. The campaign for Right to Information is being supported by the Commonwealth Human Rights Initiative (CHRI) New Delhi. As part of this campaign CREAT-CHRI has taken several initiatives to promote right to information like holding workshops, seminars, trainings, capacity building programs, publications, networking and advocacy activities. A network of civil society organizations working on several issues has been formed to promote RTI. One of the uniqueness of the campaign is that CREAT-CHRI and its network partners have been addressing both, the supply and demand side of information. Government departments,

public institutions, Panchyatraj Institutions, training centers, banks and other public authorities have been using the resources of CREAT-CHRI to train their officials and staff.

As part of its advocacy activities CREAT-CHRI and network partners are actively involved in monitoring the implementation of the RTI Act in various parts of Karnataka. A survey was conducted to study the extent to which public authorities have complied with the requirements of Section 4 (1) (a) and (b). The partner groups made visits to selected public authorities to ascertain whether the details of public information officers and appellate authorities are displayed in the premises. A signature campaign against Rule 14 of the Karnataka Right to Information Rules has been completed. Rule 14 imposes certain restrictions on citizens' access to information.

As a result of the above advocacy efforts some changes occurred. For instance several public authorities like taluk offices, taluk panchyat office, rural police stations, municipal councils, schools and banks woke up and took steps to exhibit the details of public information officers in the notice boards. At least in three cases the public authorities sought the assistance of CREAT-CHRI to prepare the document containing the voluntary disclosure. This had a cascading effect. Several other public authorities started to comply with the requirements of Section 4 (1) (a) and (b).

Continuing its advocacy efforts CREAT-CHRI decided to review the contents of the information made available by the City Municipal Councils (CMC) of Karnataka. There are 44 CMCs in Karnataka which are under the control of the Urban Development Department of the Government of Karnataka.

### Objectives

The objective of the study was three fold i.e,

- *To ascertain whether the CMCs have complied with Section 4 ((1) (b) of the RTI Act*
- *Assess the quality and quantum of information disclosed*
- *Recommend changes required*

### Methodology

The methodology adopted for the review was as follows:

Out of 44 CMCs Ten CMCs (Hospet, Udupi, Davanagere, Bijapur, Chitradurga, Hassan, Chickmagalur, Tumkur, Chintamani, Gulbarga) were selected.

In most cases the copies of the mandatory disclosure document were obtained by filing applications under the RTI Act 2005 by network partners. In some cases the document was taken from the respective websites of the CMCs. In a few cases the documents were obtained in person when CREAT-CHRI and its network partners were invited as resource persons for RTI workshops/Trainings.

One of the difficulties in assessing the quality of the mandatory disclosure document was non-availability of a standard benchmark. Despite the RTI Act being three years old CREAT could not find a template or benchmark against which the quality of pro-active disclosure could be assessed. However the 17 different types of information to be disclosed as per the RTI Act itself serve as a guide. Hence this was used for the assessment. Besides, reference was made to the Template for the Information Handbook under the RTI Act available on the Department of Personnel and Training, Government of India website. In addition the audit manual prepared by the Centre for Good Governance, Hyderabad was also referred.

The review commenced from November 2008 and completed in December 2008.

### Findings

The RTI Act requires every Public Authority to provide certain basic information to the citizens so as to reduce the instances of citizens using the RTI Act. From a plain reading of the objectives and provisions of the RTI Act it is evident that the pro-active disclosure to be made by the Public Authorities should be self contained and citizens should be able to access information quickly and easily. It is an important document which facilitates availability of information at one place. However the study of 30 CMCs reveals that the pro-active disclosure has not been given the seriousness that it deserves. All the CMCs subjected to the study appear to have prepared the document in haste and only to comply with the provisions of the RTI Act. The intention of providing information to the citizens is missing.

### Introduction to the Manual

The CMCs perform several important functions like licensing, issue of permits, improvement of infrastructure, collection of revenue etc. Hence they are in possession of lot of information. Given the volume of information to be made public the CMCs should have prepared the manuals by dividing it into chapters. The information prepared by 30 CMCs studied are not more than 5 pages each. None of the 30 CMCs have included an introductory chapter to explain the background to the manual, contents, purpose of the manual and such other matters. Except Hospet CMC no other CMC have included the logo, name, address or contact coordinates. None of the CMCs have adopted a Vision and Mission Statement. Even the telephone numbers provided does not indicate the STD codes.

### Particulars of the organization

This section of the manual should provide information like the objectives of the CMC, its brief history, activities and duties, list of services provided, organization structure, arrangements and methods made for seeking public participation etc. More important is the information about the mechanism available for monitoring the service delivery and public grievance resolution.

None of the CMCs indicate when they started functioning. Instead they include the composition of the CMC by giving the number of councilors. None of the 30 CMCs indicate when these councilors were elected or nominated and when their terms end. Some information about the elections held is provided by the Chickmagalur Municipal Council.

All the CMCs have indicated details about their activities and functions. Though the list of services is provided, it is too sketchy and the public will have to necessarily interact with the officials to know more about the functions. A brief write-up is not provided in the manual. Besides the organization chart, which is essential to understand the structure of the public authority (CMC) is not provided by any of the CMCs subjected to survey.

#### Powers and Duties of Officers and Employees

All the CMCs have provided this information in detail. The manual lists out the powers and duties of the Municipal Commissioner/Chief Officer. It clearly mentions the various powers delegated to other officers in the CMC. This section also indicate that except those mentioned in the manual none of the officials or employees have individual powers, but will only assist the Commissioner/Chief Officer.

The powers and duties of the Commissioner/Chief Officer and other officers is not given bifurcated like Administrative and Financial powers.

#### Rules, Regulations, Instructions, Manual & Records for discharging functions

All the CMCs have provided this information in their respective manuals. The manual lists 18 different types of Rules and Regulations held by the CMC or under its control used by its employees for discharging its duties. A close reading of the 30 manual reveal that the list is being prepared by on authority and all the CMCs have copied it. Given the nature of the functions of the CMCs this may be apt.

However, the manual does not provide any information about the availability of copies of these documents. A brief write up on each of the Rules, Regulations etc. the name, address and telephone number of the official who has in possession of these documents, the procedure for obtaining and the cost of these documents does not find a place in any of the manuals published by the 30 CMCs.

#### Particulars of any arrangement for public consultation

The details about the existence of any provision to seek consultation/participation of public or the representatives for formulation of policies and its implementation is essential for bringing transparency in administration. The study of the manuals of CMCs reveals that none of them have such a mechanism in place. The CMCs are of the view that the members (elected representatives) of the Municipal Council are 'none (spelled as non in the manuals) other than' public representatives.

The manuals say that the municipality in certain occasion does consult the members of the public, local welfare association, non-governmental organizations wherever necessary. But none of the manuals do indicate the subject/topic on which the public is consulted nor give the details of NGOs involved.

#### A statement of the categories of documents that are held

All the CMCs have provided a list of documents held by it or under its control. However here again the name, address and telephone number of the official who has in possession of these documents, the procedure for obtaining and the cost of these documents does not find a place in any of the manuals published by the 30 CMCs.

#### A statement of boards, council, committees and other bodies

The manuals published by CMCs do indicate that they have a Standing Committee consisting of Councilors to deal with the matters of taxation, finance, public health, education, social justice, town planning and accounts. It is also indicated that the term of the Committee is for one year. However detail of the Standing Committee is not available in the manual.

The manual should indicate the name of the Committee, names and contact coordinates of each of the members, term, frequency of the meeting, rights of the public to attend at such meetings, access to copies of the minutes of the meeting etc. None of the CMCs have provided this information.

Regarding access to minutes of the meeting the manuals contain a omni bus clause stating that 'minutes of the committee meeting are open to public except those exempted under the provisions of the RTI Act 2005'

#### Names, Designations of Information Officers

All the CMCs have provided this information, though not complete in all respects. The names, designation and telephone numbers of the Public Information Officers, Assistant Public Information Officers and the Appellate Authority is given in almost all the manuals covered in the study. However details like fax number, email, residential telephone number and timings when they will be available is not indicated.

#### Procedure followed in Decision Making Process

Information about the procedure followed for taking any decision by the public authority is the core of Right to Information Act 2005. Nepotism, favouritism and such other evils which creep into administration can be minimized if the procedure followed in decision making process is made public. But the 30 manuals selected for study does not provide any insight into the decision making process.

The manuals indicate that the proposals are processed and examined by the Commissioner in terms of the provisions of the Karnataka Municipal Act and placed before the Council for approval. The council which meets once in a month (more frequently in case of urgency) approves the proposal, which is executed by the Municipal Council. The manuals does not contain information about the arrangements available to communicate the decision to the public, who are the officers at various level whose opinions are sought, who is the final authority that wets the decision etc.

#### Directory of officers and employees

All the CMCs have provided this information. In some CMCs where the number of officers and employees are substantial in number, the list is included as a separate annexure. However some of the CMCs have not provided the telephone number and other details necessary to contact the concerned official.

#### Monthly Remuneration & system of compensation

All the CMCs have provided this information along with the name of the official, staff, and employee. The designation of the person is indicated in some of the CMCs. However none of the CMC has provided the procedure to determine the remuneration as given in the regulation.

In case of Tumkur CMC, the list of officials is not indicated. The whole staff is grouped as A, B, C & D and the total monthly remuneration is provided. This is not the intention of the RTI Act. The remuneration received by each of the employee should be separately indicated.

#### Budget allocated to each Agency

The information provided by the 30 CMcs under this head is too inadequate for any person to know the financial status of the public authority. All the CMCs have provided the budget and actual disbursement details under three heads i:e Revenue, Capital and Extraordinary Account. A majority of the CMCs have not indicated the Financial Year to which this budget and expenses relate to. The Chitradurga CMC has indicated the year as 2004-05 and not updated even in September 2008. However the Chickmagalur CMC has given the breakup of the budget and disbursement like general administration, public safety, public health, public works etc. Here again the year to which the budget pertains to is not indicated.

The CMCs should give outmost importance to provide financial information. The very purpose of RTI Act is to enable the public to monitor public expenditure and ensure its effective implementation. None of the CMCs have given the list of the schemes, activity, commencement and completion dates, amount sanctioned and released. It should also include the name and designation of the officer for the quality and completion of the work.

### The manner of Execution of Subsidy Programs

The objective of including this item in the manual is to inform the public about the various facilities/benefits available to different sections of the society including the eligibility conditions, procedure to be followed in obtaining the benefit etc. It should also indicate the various documents/certificates to be submitted, fees to be paid, the time limits etc. so that the beneficiary herself will be able to get the service. Besides, the information provided under this head will enable civil society organizations to monitor the expenditure, quality of service etc.

However the information provided by the CMCs is too inadequate. Most of the CMCs have given the names of two or three programs and the amount allocated. Even while indicating the name of the project/scheme the CMCs have used acronyms like DWACA, SJSRY, ME, USEP, 18%, etc. which appears Greek and Latin to the general public. None of the CMCs list out the schemes in detail. All the CMCs have given the total number of beneficiaries, but not the detailed list.

### Particulars of Recipients of Concessions

Most of the CMCs have not given any information under this chapter. As a result one fails to understand whether there are any beneficiaries or not. The Chitradurga CMC has mentioned 'building license' and 'trade license' as the name of recipients.

### Norms set for discharge of its functions

All the CMCs have mentioned that the council functions within the norms stipulated in the Karnataka Municipalities Act and the Rules framed there under. However this is not the intention of the RTI Act 2005. As tax payers, citizens have the right to obtain certain basic services within the framework of existing rules and regulations. Given the fact that CMCs enjoy monopoly status, there is hardly any benchmark or standard to evaluate the services rendered by them.

The CMCs are supposed to identify the important services they render, fix time limits and frame rules and regulations to be followed by each of the officials in adhering to the time limits. CMCs can even specify monetary compensation to the public if the services are not met within the time limits fixed by the CMCs. The compensation so paid should be recoverable from the concerned officer. In other words CMCs have to publish their respective Citizens' Charters.

The Government of Karnataka has taken steps to introduce Citizens Charters to all departments, including the CMCs. But none of the CMCs selected for the study have mentioned anything about their Citizens Charters. It is essential that the CMCs prepare charters, discuss with the public, employees union and other stakeholders and publish it at the earliest. The Citizens Charter should be included as the Norms for discharge of its functions.

### Information available in electronic form

From the information provided by all the 30 CMCs under this category it appears that they have not understood the concept at all. The CMCs or any public authority are required to furnish the information available in electronic form. Given the progress made in the field in IT in Karnataka, all the transactions of the CMCs should have been computerized and available in electronic form. However only a few CMCs under study have indicated that information relating to finance, personnel and general issues are available in electronic form. The words used by the CMCs are worth noting. All the CMCs say 'Reduced information in an electronic form is available in the following areas' Whether information is itself reduced or available information is converted to electronic form needs to be answered.

### Particulars of facilities available to citizens for obtaining information

Some of the CMCs have given the details about their website, help line number etc through which citizens can obtain information. A few of them have just indicated the timings of the CMC, which is not in line with the requirement with this chapter.

### Other useful information

None of the CMCs selected for the study have given any information under this head.

### Observations and recommendations

It is observed that the template for pro-active disclosure has been prepared by one central agency, probably by the Urban Development Department. The same template has been repeated by all the CMC with little change. Given the requirements of the KMC Act, this is understandable. However each of the CMCs could have improved upon the contents. There is wide scope for the CMCs to rewrite the manual by incorporating as much information as possible.

It is seen that the pro-active disclosure is not made as a separate manual/book. As a result the name, logo, address and other details are missing. When applications were filed under the RTI Act and sought copies of the manual, the CMCs have downloaded it from their website. It is suggested that the manual is prepared separately in a booklet form and made available to public besides loading it on their website

CMCs have used acronyms to indicate various schemes. Though these acronyms are familiar among the staff, the general public may not understand. Hence it is suggested that full description of the schemes are indicated at least once in the manual followed by its acronyms.

It is observed that none of the staff or officers is trained for preparing the manual. In fact our survey shows that many employees are not even aware of the RTI Act in general and

the manual in particular. There is a need to educate the staff on the importance of RTI Act

It is recommended that the State Government should include a session on Section 4 (1) (b) of the RTI Act 2005 in their training programs. The Administrative Training Institute, the State Institute of Rural Development, State Institute of Urban Development and the various District training centers should train public officials the methods of preparing the manual. It is observed that these institutes do dwell on the RTI Act, but not about the methodology of drafting/preparing the suo-motu declaration.

It is observed that the Citizens' Charter which was introduced in 1993 is a non-starter. Knowledge and awareness about the Charter is almost absent among the staff/officials. It is suggested that Citizens' Charter be included as part of the RTI in training programs.

Copies of the pro-active declaration should normally be available for the general public free of cost or at the price of taking photocopies. Our survey shows that at least 12 CMCs could not give a copy to the requesters. Applications under RTI Act were filed to get hold of the documents.

During the survey CREAT could locate The Association of City Managers (based at Bangalore) which is a coordinating agency of urban local bodies. It is recommended that this association should organize workshops and trainings to educate the respective Commissioners and staff of the CMCs about RTI and Rules made there under.

The RTI Act is now three years old. A number of decisions have been given by the Central Information Commission and the State Information Commissions. A proper understanding of these decisions is essential to apply the RTI in practice. It is suggested that the officers and staff of the CMCs are trained on the methods of application of RTI Act in addition to the theoretical understanding of the Act.

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***For more information***

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