

STRENGTHENING THE SUPPLY SIDE OF INFORMATION

Even after two years after the Right to Information Act (RTIA) coming into force the public authorities and bureaucracy are finding it difficult to manage information requests received from the citizens. Reports from across the country indicate that the Government departments & institutions are unable to implement the RTIA for various reasons. As a result the Central and State Information Commissions are flooded with complaints and appeals. Ideally these Apex bodies should deal with questions on principles of RTI and not with day to day complaints, which has to be dealt with by the Appellate Authorities.

Ignorance about the right to information law among the staff is a primary reason for non-implementation of the Act. Forget about officers and staff at the Sub-division and Taluka level. Even among the staff in the office of the Deputy Commissioner (District Collector) very few know about the RTIA. The Bangalore based Consumer Rights Education and Awareness Trust (CREAT) applied under the RTIA and sought copies of the suo moto declaration to be made by public authorities under Section 4 (1)(b) of the RTIA, from the 27 DC's offices in Karnataka. The results are there to see.

One PIO returned the application stating that it should be in a format prescribed though it is not compulsory under the RTIA. Two PIOs demanded a fee of five rupees per page as against Rupees One per page as specified in the Karnataka Rules. The DC from Raichur wanted the applicant to remit the required fee of Rs.28 in cash at Raichur. Four DC's sent the document without asking any additional fee. A majority of the DCs have sent the one page list of PIOs and Appellate Authorities in their respective Offices, which is not the one CREAT requested. What more the Bangalore Urban DC did not have the time even to respond to the application within 30 days as required under the RTIA.

Non-availability of guides, modules and office manuals detailing the procedure for dealing with RTI application is a handicap to the officials. Though officials have a general idea of the RTIA, they find it difficult when it comes to dealing with applications. It is essential that the Government come out with procedures and manuals on various aspects of RTIA. There is a lot to be learnt from countries like UK and Bulgaria in this respect. In fact the Information Commission should start publishing such materials.

Thirdly, it is observed that the training modules produced by various Government training institutions are inadequate. In the last two years a number the Information Commissions



have given decisions and judgments (some are path breaking) Yet these are not included in the training materials. A hand book of case studies will go a long way in understanding the spirit of the RTIA. Involving civil society in the training programs is another way of improving the quality of the contents. For instance CREAT and the Delhi based Commonwealth Human Rights Initiative (CHRI) have been invited as trainers by several departments in Karnataka.

The success of RTIA depends on the methods of maintaining and preserving records by the public authority. It is unfortunate that records management has not been given due attention by the Government. Even the RTIA does not address this crucial issue. The Public Records Act is a forgotten piece of legislation. So also the Record Retention Schedules. As a result may PIOs find it difficult to provide documents and cull out information sought by the applicants.

The recent direction of the Karnataka Information Commission to the Government to come out with specific directions about records management is a welcome sign.

It is observed that much of the information sought by the citizens is general in nature and should have been published by the public authorities on their own. However public authorities are yet to prepare the different types of manuals as required under the RTIA. Some public authorities have not put this information on their website. A large number of public authorities do not have the expertise to frame these manuals. This may be one area where the civil society organizations involved in RTI campaign can play a positive role.

RTI is a growing subject and the officials are to be kept informed about the latest decisions of information commissions and the judiciary. However there is no system to educate the PIOs on continuous basis. It is essential that the PIOs are subjected to regular trainings. Forming discussion groups within the public authority may be one step. Circulating important decisions and rulings may be another effort to keep the officials well informed. Producing newsletters and bulletins on RTI issues would be of help. For example the Center for Good Governance is publishing RTI times. CREAT is publishing a bimonthly newsletter called INFOTAP (information for transparency, accountability and participation).

Transparency Review is published by Center for Media Studies However these efforts are to be supplemented by the Government and it has a duty to do so under Section 26 of the RTIA. ■

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Replies under RTI must be time-bound



The Central Information Commission (CIC) has said that every designated information officer is duty-bound to reply within a stipulated time period to all the queries made by citizens. The order came in the case of State Bank of Saurashtra the information officer of which denied reply to an Right to Information (RTI) plea made by Mohammed Rasulbhai saying that it was not necessary to respond to queries made by every citizen. The officer also failed to reply to notices issued by the CIC.

The applicant had sought details pertaining to a property taken on lease by the bank from a person. The matter was brought before the CIC after the bank denied the information stating that the details were held by it in a fiduciary capacity. The bank caught the ire of the commission after it failed to reply to notice issued by it, as also the Central Public Information Officer's (CPIO) failure to appear during the hearing.

The CIC said that "It is noticed the public authority is not performing their role as per the RTI Act The CPIO's reply stating it was not necessary to reply all citizens letters, and the bank has kept the discretion to reply to letters written by citizens is not acceptable." ■

Disclosure of medical test results exempted under RTI

The CIC has held that information on a medical test or diagnostic procedure is exempted from disclosure under the RTI Act as it amounts to invasion of privacy and breach of trust. Upholding the decision of the Centre for DNA Fingerprinting and Diagnostics (CDFD) in not revealing the details of DNA test done on a person, who did not make the request for such a test, Chief Information Commissioner Wajahat Habibullah said that such information can only be supplied by the party concerned directly and not by the institution or confidant who holds the information in trust. ■



Improving Ration shops Through RTI Act

A Number of studies and research analysis have proved that the Public Distribution System (PDS) has failed to deliver goods. A study by the Planning Commission itself pegs on the pilferage at 35-50 per cent in different states. Recent survey conducted by Centre for Media studies gives a similar figure. Besides, studies by civil society organizations also show that PDS needs are-look.

However, with the enactment of the Right to Information (RTI) Act, there is a move to use it as a tool to improve PDS's functioning and particularly the Fair Price Shops (FPS).

Last week over 50 representatives of civil society organization who were in Bangalore to attend a two-day training program on PDS and Right to Information organized by the Commonwealth Human Rights Initiative & Consumer Rights Education & Awareness Trust (CREAT) poured out their experiences and the working or non-working of FPS at village levels. It revealed that none of the FPS adhered to the rules regarding timings, sample display, stock positioning etc.

In one village FPS demand additional Rs 2 to provide bills. Representatives from consumer groups said, Citizen Charters' published by the Government several years ago was a non-starter and hardly FPS owners or the public knew about it. Another major issue discussed at length was vigilance at FPS level. Participants said, the public was unaware of the VCs and their functioning. Not a single FPS displayed required VC details.

Similar is the case with Food Security Committees. The list of members, data and meeting timings and the minutes were not made public. Officials of the Food department were not approach able and they themselves had little knowledge about FPS's functioning. Since different types of methods have failed to bring in transparency in FPS's functioning,



participants discussed how best they can use the RTI Act to make FPS active.

N L Krishna, Nagarakere Gram Panchayat President, who extensively used RTI Act said, citizens groups need to collect various documents like food allotment letters, details of balance left etc. he added that pressure should be brought to conduct the Food Security Committee meetings regularly and transactions be made public. Citizen's apathy is evident in these meetings. Hedge Kadekodi from Sirsi said, he had obtained several documents through RTI Act. Problems related to FPS appears to be same whether it is Chintamani or Raichur, the situation is comparatively a little better in urban areas.

Kathyayini Chamaraj of CIVIC said, even in Bangalore details of Vigilance Committee member are unavailable at the FPS. It is in this background that the RTI Act needs to be used judiciously. Mere obtaining information or documents cannot yield results. Based on information civil society group must hold public hearings, file petitions, make proper interventions and hold period interactions with officials. Efforts of Parivartan, Satkart Nagarik Sanghatan (SNS) and other groups needs to be replicated. Apart from trying to redress individual grievances, civil society groups must focus on procedural and systematic changes required through use of RTI Act. ■

Info on Bank Account exempted under RTI

The Central Information Commission (CIC) has ruled that the disclosure of bank account details is exempted under the Right to Information (RTI) Act. Dismissing an RTI request of an Amritsar resident who had sought from Canara Bank five years' details about all non-performing accounts (NPAs) at its Jalandhar branch, and the status of their settlements, the CIC has contended that agreements entered into by banking enterprises with its customers are matters of 'commercial confidence'. It has said that the bank holds such information concerning private persons in a relationship of trust. Hence the bank is under no obligation to disclose such information unless it is satisfied that larger public interest warrants the disclosure. ■

Source: *Insight* January-2008

Delhi HC asked to give details on appointment of its PIO



The Delhi High Court came under the RTI scanner after the Chief Information Commissioner Wajahat Habibullah said that the public has a right to know the procedure that went into the appointment of PIO and matters that weighted with the Hon'ble justices deliberating on the issue. The decision came on an information appeal filed by Delhi-based advocate Manish Khanna, seeking

information on details of offices and judges in the High Court who had deliberated upon the appointment of its Information Officer. The CIC, in its order has asked the High Court Joint Registrar to provide the information sought to the appellant within 15 days.

Rejecting the contention that the CIC was not empowered to examine functioning and conduct of judicial business of the High Court, it observed that the issue pertaining to appointment of PIO was a matter of "public interest. The Delhi High Court's reply to RTI application revealed that there was a delay of more than a year in the appointment of its PIO which was notified on November 8 last year.

As per the provision of the RTI Act, every public authority was to appoint PIO within 120 days of the enactment of the Act, viz June 21, 2005. The appellant's request to impose penalty on the High Court was however, turned down by the Commission. ■

Bruhat Bengaluru Mahanagara Palike PIO fined

The Karnataka Information Commission (KIC) has imposed a penalty of Rs 22,500 on A.K.Gopaldaswamy, Engineer-in-chief of Bruhat Bangalore Mahanagara Palike (BBMP), for delay in furnishing information, which was also incomplete.

C.H. Ram, an applicant, had sought information regarding procedure followed to shortlist consultants for the Palike's web services. Gopaldaswamy is the public information officer who furnished only partial information after 90 days. The RTI Act requires that public authorities furnish information within 30days. However, Gopaldaswamy was present before the KIC during hearing of the appeal but was represented by his assistant Anwar Pasha. KIC has ordered the Palike Commissioner to deduct the fine from the salary of Mr. Gopaldaswamy.

Campaign against Rule 14 of Karnataka Right to Information Rules, 2005

CREAT in collaboration with CHRI, New Delhi, has launched a campaign to make the Government withdraw Rule 14 of the Karnataka Right to Information Rules, 2005. During March 2005 the Government notified that Rule 14 has been inserted to the Rules 2005, placing certain restriction on citizens' right to access information. As per Rule 14, henceforth citizens in Karnataka cannot seek information on more than one subject in one application. Further the question should not exceed 150 words. It gives powers to the Public Information Officer to reject the application if it contains a request on more than one subject. In case the application has more than one subject, the PIO can provide information to the subject matter mentioned first and ask the applicant to file separate applications to the rest.

As the Rule 14 imposes restrictions on citizens' right to information, CREAT with the help of CHRI has launched a campaign throughout Karnataka. CREAT and over 50 network partners have joined together in this campaign. CREAT has prepared a Campaign Kit consisting of copy of Rule 14, the critique prepared by CHRI, press clipping, file notings, correspondence between the KIC and the Government and also model letters to be written to the Government by citizens' groups.

As a first step CREAT and its network partners filed applications under the RTI Act to the Department of Personnel and Administrative Reforms and obtained all the records, documents and file notings leading to the decision to insert Rule 14. It was found that it is not the Government that has sought the amendment but the Karnataka Information Commission (KIC).

A press release was sent to newspapers and several major newspapers have given wide coverage. The Hindu has made a front page story. Letters has been sent to the His Excellency the Governor of Karnataka, Chief Secretary of Government of Karnataka and the Principal Secretary of DPAR, but without any reply.

CREAT-CHRI organized a state level meeting of RTI activists on 18.5.2008 at the National Law School of India University, Bengaluru, which was attended by over 60 activists from all over Karnataka. It was unanimously decided to oppose the introduction of Rule 14. Further a signature campaign was also launched. CREAT and its network partners have collected more than 3000 signatures.

In the meantime elections were held and a new Government has come to power. The campaign has now turned towards the new Members of the Legislative Assembly and Council. Prominent members like Mr.A.Ramadas and Dr.Ashwathnarayana of the BJP and Mr.N.L.Narendra Babu of the Congress have been approached to raise the issue in the Assembly.

Representatives of CREAT has met Mr.Suresh Kumar, Hon'ble Minister for Law and Parliamentary Affairs and Urban Development and submitted the Campaign Kit along with three volumes signatures collected. The Minister has given a patient hearing and has gone through the critique. He assured the delegation that he will discuss the issue with the concerned authorities and revert back to us. We are waiting for the Minister to call us. ■



RTI Campaign Activities

Workshop on RTI and Public Distribution System



CREAT in collaboration with CHRI had organized a two day workshop on Using RTI for improving the Public Distribution System on 22 & 23rd March 2008 at Hotel VT Paradise, Bangalore. Over 50 RTI activists from all over

Karnataka participated in the meeting. The workshop was inaugurated by Shri. K.A.Thippeswamy, Information Commissioner, Karnataka Information Commission.

An exhibition of all the materials obtained by CREAT and the network partners, using RTI was organized as part of the workshop.

The Kudremukh Iron Ore Co, Bangalore had organized a workshop on RTI and Consumer Protection on the occasion of World Consumer Rights Day on 4.4.2008 in which 65 officers and staff of the company were present. Mr.Y.G.Muralidharan made a presentation on Consumers' Right to Know

A training program on RTI Act was organized by KEONICS on 5.4.2008 for their Public Information Officers, and Assistant Public Information Officers. Mr.Y.G. Muralidharan made a presentation on RTI Act and interacted with the participants. Over 35-40 officials were present in the training program

Organisation for the Development of People (ODP), Mysore, had organized a two day conference on RTI Act on 8 & 9th April 2008, for the benefit of the NOGs working in and around Mysore District. The first day's training was handled by Mr.Y.G.Muralidharan and the second day's session by Mr.Ashok Halagali. Over 45 NGO representatives (mostly women) participated in the workshop.

A training on RTI was organized by State Institute of Rural Development on 17.4.2008 for the benefit of elected representatives (Presidents of Jilla Panchyat). 35 participants were trained by Mr. Y.G. Muralidharan on RTI

A state level conference on "Keeping RTI Strong - Campaign to withdraw Rule 14 of Karnataka Right to information Rules, 2005" was organized at the National Law School of India University, Bangalore on 18th May, 2008 by CHRI-CREAT. Report of the event is published elsewhere in this issue.

On 29.5.08 CIVIC, Bangalore, had organized an interactive session on PDS and RTI can be used as an effective tool to cull out the corruption existing in PDS and Fair Price Shops. Mr. Y.G. Muralidharan made a presentation and explained how citizen groups and individuals can use RTI to know about the functioning of PDS and their entitlements. He also explained the various provisions on right to information included in the PDS Orders framed by the Government of Karnataka. He said that even before the RTI Act came into effect there was a provision to check records, take samples and copies of bills from the PDS.

On 2nd June 2008, CREAT-CHRI in collaboration with World Community Centre, Kumarapathnam, Davanagere District, organised a one day workshop on RTI for NGOs. 25 participants took part in the workshop. Mr. Jeyaswamy a trained activist by CREAT, was the resource person.

On 7th June 2008 - a training program on RTI was organized by DEEDs in partnership with CREAT-CHRI at Mangalore. Around 95 participants including PIOS & APIOs from 15 nodal Govt. organizations attended the program. Mr. Ashok Halagali, an RTI Activist trained by CREAT was the resource person.

On 10th June The Abdul Nazir Sab State Institute for Rural Development organized a workshop on Right to information Act 2005 for the benefit of Presidents of Taluk Panchyats of 25 taluks of Karnataka. Mr. Y.G. Muralidharan made a presentation about the role of elected representatives in implementing RTI Act in their respective panchyat offices. The training emphasized the provision relating to pro-active disclosure, display of information about various programs and benefits available to the people. ■



Tips for filing Your Request

Though filing an application seeking information under the Right to Information Act 2005 appears to be simple, seldom it is so. Citizens who have tried to use this Act have found several difficulties in accessing information. Their trouble starts with finding a copy of the format of the application, the details of the public information officer, finding him or her in place, getting the acknowledgment etc. The second leg of the war starts after filing the application. We

give below some of the steps which will help citizens in filing the applications.

If you do not have a copy of Form A do not worry. The RTI Act allows you to send /file applications made on plain paper. Though it is preferable to type the matter, handwritten applications are also accepted. Write the application neatly and let it be legible.

Your application should be addressed to the Public Information Officer of the department or office from which you are seeking the information. It should contain your name, address, the details of information required, the year to which it relates and the details of the application fee paid. Remember to put your signature on the application.

The application fee can be paid in cash, bankers' cheque, DD or through Indian Postal Order. Some states accept the fee by way of court fee stamps.

If you are applying through email, you will have to pay the fees within seven days from the date of the application. If you fail to do so then your application will be treated as withdrawn.

Do not ask several questions. Be specific and ask information that you require. Remember that asking voluminous information may result in rejection of your application. Besides, the more number of pages you ask, the more amount you have to pay. ■



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