

INFOTAP

(Information for Transparency, Accountability and Participation]
Quarterly newsletter on Right to Information Campaign of Consumer Rights Education & Awareness Trust (CREAT)

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THE HAZARDS OF USING RIGHT TO INFORMATION ACT



EVER SINCE the Right to Information Act (RTIA) came into force, there has been a wide spread debate about its usage and its benefits. It is argued that RTIA can be a tool for achieving what is called Good Governance. The RTIA basically has two sides i.e., supply and demand side. The efficacy of the RTIA depends on how these two sides play their respective roles. The recent events reported from some parts of the country makes one wonder whether the supply side is doing justice to one of the best pieces of legislation seen in post independent India.

There are reports of the Public Information Officers (PIO) threatening information seekers with dire consequences. In some cases RTI applicants are physically assaulted. Take for instance Mr.J.M.Rajashekara a local journalist and RTI activist from Ranebennur in Haveri District of Karnataka. He filed an application under RTIA and sought very general information from the North Eastern Karnataka State Road Transport Corporation. The corporation instead of providing information

or rejecting it issued a legal notice through their advocate. The advocate threatened the applicant with dire consequences and also demanded Rs.2000 as legal fee for filing application under RTIA.

In Chintamani taluk of Kolar District Mr.Manjunath Reddy is running a civil society



organization called Jana Jagruthi Vedike. He found that the quality of road work was poor and sought information and documents from the executing agency. He also applied for inspecting the work. The quality inspector was brought and it was proved that work amounting to Rs.2 lakhs was not done but paid for. The contractors lobby hired goondas and instigated the local people against Mr.Reddy. They manhandled him, tore his shirt and beat him right in front of the officer. Fortunately the officer was convinced of the poor works

and ordered for redoing the work. Mr.Reddy has also been a victim of physical assault from contractors of the Public Works Department.

In yet another case Mr.Paramashivamurthy of Mysore has been physically abused by the very PIO from whom the information was sought. The applicant sought details of works in the Varuna Canal Project in Mysore. He was beaten up by the PIO and his supporters right in the office premises where Paramashivamurthy worked. The case of Mr.Ravindranath Guru a consumer and RTI activist from Bangalore is much worse. He found that his neighbor has violated the building byelaws and had constructed a commercial complex on a site

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meant for residential purposes. He obtained sufficient information by using RTIA. Next day midnight Mr.Ravindranath Guru's house was ransacked, stones pelted and windows panels broken. He suspects some politicians behind this violence.

The RTI provides that the PIO shall not ask the reason for which the information is sought. Though the PIOs are not insisting this in writing RTI applicants are orally asked to divulge the reasons. In some cases the credentials of the applicants are sought indirectly. Take the case of Mrs. Savitha Ranganath of the Mysore District Mahithi Vedike (RTI Forum). She sought a copy of the movement register of a doctor of KR Hospital, Mysore. Though a copy was given the doctor insisted that the applicant be personally present

before him. Poor lady had to wait from afternoon to evening to get the information.

Forget about PIOs. Even the advocates appearing on behalf of the PIOs or Public Authorities have started using their usual legal language to protect their clients. Mr.Veeresh of the Anti Corruption Forum, Bangalore, has been using RTI extensively in Bangalore. This is an eye sore to many officials. In an appeal filed against Mr.Veeresh in the Karnataka Information Commission, the advocate took exception to Mr.Veeresh's practice of using RTIA. The advocate had said that the RTI applicant should come before the Commission with clean hands etc. After much persuasion and intervention of the Chief Commissioner the advocates petition was withdrawn

Similar abuses have been reported from Assam. One of the NGO which collected information about large scale corruption and misuse of funds have been threatened and beaten up. False complaints have been filed against the NGO and RTI activists.

While the brutal murder of Satyendar Dubey and Manjunath gets wide coverage the threats, abuses and physical abuse of mortals like the above RTI activists goes unnoticed. Most of these RTI activists have to wage a lone battle and be ready for any consequence. Can something be done to protect these soldiers of RTI? May be an amendment to the RTIA?

**(The above article By
Mr. Y.G. Muralidharan
First appeared in the Hindu)**

The fate of RTI applications

In the last one year till 8th September 2006, the Central information Commission (CIC) had received 3059 applications. Out of this, it has disposed only 1531 cases. The waiting period for disposal varies from 72 to 195 days.

RTI progress in Maharashtra

According to available reports Maharashtra had recorded the highest number of RTI applications received by Public Authorities during 2006. Out of 1.24 lakh applications received, 1.13 lakh applications were disposed off. The maximum number of applications were for the Urban Development Department followed by the Department of Revenue, rural development.

First official to be fined

K.D.Bansor created history of sorts by becoming the first Central Government official to lose Rs.12500 from her salary for violations under the RTI Act. The CIC had found Mrs.Bansor, Additional Public Information Officer and an Under Secretary in the National Commission for Scheduled Castes and Scheduled Tribes, guilty of delay in divulging information and harassing the applicant.

[Source: RTI Times, Issue 1]

GOVERNANCE ISSUES

Expenditure on Bonded Labourers

The Government of India has a scheme of identifying and rehabilitating bonded labourers. Financial grants are given to the states under the Centrally Sponsored Schemes. The details of bonded labourers identified and rehabilitated during 2004-05 is as follows:

States	No.of bondedLabourers identified and rehabilitated	Amount spent Rs/lakhs
Bihar	281	28.10
Jharkhand	196	19.60
Karnataka	64	6.40
Madhya Pradesh	265	16.91
Orissa	19	1.90
Uttar Pradesh	41	4.05

(Parliament Digest, NACS)

Expenditure on elections



Can you imagine what is the expenditure that the Government i:e people incur for conduct of elections? As per the figures furnished to the Loksabha by the Minister of Law and Justice, the expenditure incurred on conduct of elections for the 14th Lok Sabha in the year 2004 is approximately Rs.1094 crores. This is an increase of Rs.145 crores over the expenditure incurred for the previous Lok Sabha elections.

(Parliament Digest, NACS)

Minister invokes Right to Information Act!

It may be surprising. Yet it is true. Perhaps for the first time a Minister in the State of Maharashtra has used the RTIA. What for? Hold your breath. Just to ascertain the details of the transfers of officers in his Department. Mr.Dharma raobaba Atram, the Minister of State for Transport was so fed up with the spate of sudden transfers in his department and the stonewalling bureaucrats who wouldn't give him details, he filed an application to the Chief Information Commissioner, Dr.Suresh Joshi in November 2006. In his application the Hon'ble Minister sought details about large scale transfers made in his department without his knowledge. He further complained that Transport Commissioner, who actually reports to him, had been stonewalling his queries on these transfers and the circumstances under which they were executed.

(Source: Mumbai Mirror)

Ten Top Tips to Public Authorities

The effective implementation of RTIA depends on the initiative of the Public Authorities and the officials designated under the Act. The RTIA prescribes certain duties and obligations of the Officials. Yet it is the initiative of the officials that makes all the difference. Apart from complying with the requirements of the RTIA public officials need to take proactive steps and cultivate the culture of openness. The following Top Ten Tips adapted from Information Commission Office of UK will help public authorities comply with the RTIA.

Be positive. Greater transparency is good for the public and democracy

Be active. Use publications schemes pro-actively. Pro-active publication saves time, effort, resources and money

Anticipate Requests. Don't wait to be asked

Why not? The Act presumes disclosure. Public authorities should met people's requests unless there is a good reason within the Act not to. Organisations

do not have to withhold information if an exemption applies

Get talking. A dialogue between the requester and the public authority can help you resolve requests more quickly

Don't fear precedent. All decisions should be made on their own merits and on a case to case basis at the time of the request

Give clear reasons. If you are turning down a request, write a clear Refusal Letter or Notice. Properly drafted and fully explained refusals can help avoid appeals and complaints

Give more if it helps. Supply additional information where it is useful. Such as an explanation of the data you are supplying

Meet it or beat it. You must meet the 30 day deadline beat it if possible

Help yourself. Look at the RTI Act, decisions of the Information Commission and other useful websites.

RTI CASE LAW

Universities come under RTI Act

The Karnataka High Court has passed a judgment stating that Universities come under the purview of the Right to Information Act 2005. Mr. Shivanna Naik had filed an application under the RTI Act seeking information regarding his non selection for the post of Lecturer in Law. The application was rejected on the ground that there was no such provision under the Bangalore University Regulations. Mr. Naik filed an appeal in the Karnataka High court. Mr. Justice K.L. Manjunath, while allowing the petition filed by Naik directed the University to consider his application. The Court also observed that the University comes under the definition of Article 12 of the Constitution, and must conform to the principles of fundamental rights.



Passport Officer Fined

The CIC has imposed a penalty of Rs. 16000 on a Passport officer in Delhi for delay in giving information to a passport applicant. Ninety year old Krishna Devi Jhalani, a resident of Jorbagh in New Delhi had applied for renewal of her passport. But there was no response from the Regional Passport Officer even after three months. She then filed an application under RTI to know the status of her application.

This also did not elicit a reply which prompted her to apply to the CIC. The Passport Officer did not respond even to the notice issued by the CIC.

Mr. Kejriwal, Information Commissioner directed the Ministry of External Affairs to take strict action against the officer.

Steps to Operationalize RTI Act

The Department of Personnel and Training, Government of India has issued a circular to all Ministries and Departments regarding the steps to be taken for effective implementation of the RTI Act. This is based on the suggestions and complaints received from the public by the CIC. Following are the highlights of the circular:

– The PIOs, APIOs and Appellate Authorities are placed in all public authorities

– Furnishing the CIC the details of nodal officer appointed for implementation of the Act and the complete list of the PIOs/APIOs and AA along with their contact details namely addresses, phone number, email addresses and fax numbers

– Awareness to be generated through print and electronic media regarding the name of the bank account into which the demand draft of banker's cheque should be accepted. The particulars of these bank accounts should be furnished to the CIC

– Some Ministries/Departments have appointed several PIOs In such case, a clarification may be issued to the effect that any PIO whose duty it would be to direct it to the PIO concerned applicant

– The application for information on plain paper is also to be received and replied within the prescribed time limit

– The RTI Act states that no person seeking information shall be required to give any reason for his request. Therefore, necessary order may be issued to all the officials in the Ministries/Departments/Public Authorities to comply with the directive of the Act and not to ask unnecessary question from complaints/applicants. [Source: DPT.O.M.No.1/4/2006-IR dated 21.2.2006]



having different jurisdictions. application can be received by under intimation to the

RTI CASE LAW

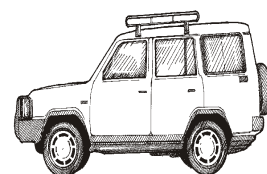
IT Probe exempted from RTI Act

The Central Information Commission (CIC) has held that the Income-Tax department need not furnish information to aggrieved parties on action taken by it till the investigations are complete. Mr. Shankar Sharma and Devina Mehra of a Mumbai based stock broking firm had sought information about the basis for conducting searches on their premises by the Income Tax department on the ground that investigation in the matter was complete. Whereas the Income Tax department had submitted that the investigation included not only initial probe but all subsequent actions including all levels of appeals and final determination of the Income Tax liability based upon the initial investigation.

After hearing both the parties the CIC observed that there is a strong case that information connected with such law enforcement work by a public authority must be provided requisite protection from disclosure in view of its uncontested impact on the functioning of the public authorities, and in that sense all general law enforcing agencies.

Info on travel expenses are not personal

Can a citizen seek the details of expenses incurred on tour program and travel expenses while on duty by a



Government servant? The Central Information Commission says that this information is NOT personal and should be furnished to the applicant.

A citizen had sought the details of tour and travel expenses of an employee of Bharat Petroleum. The PIO as well as the Appellate Authority had denied the information on the ground that it was personal. On appeal, the CIC has ordered that tour and travel expenses of a public servant cannot be treated as personal and should be given to the applicant.

Landmark Judgments on RTI

Whether a Cooperative Society is a Public Authority?

Whether co-operative societies and housing societies come under the ambit of Right to Information Act is an important issue that needs to be settled at the earliest. A number of applicants, who are



m e m b e r s o f cooperative societies are being denied information under the RTIA. Though by nature of their composition and creation cooperative societies qualify to be Public Authorities as defined under the RTIA, managements of these societies are trying to get exempted from the RTIA.

The Karnataka Information Commission has already decided that Cooperative societies are Public Authorities as contemplated in the RTIA. However the Central Information Commission (CIC) is yet to consider this issue. Yet the CIC has hinted that cooperatives are bound to share information.

An applicant had sought certain information and documents from the East End Cooperative Group Housing Society Ltd, Delhi. The information was denied on the pretext that the society was a private body. On appeal the CIC observed that even if the society in question is deemed a private body, the information sought falls within the definition of information u/s 2(1) of the RTIA, because it is accessible to the public authority, namely the Registrar of Cooperative Societies.

(CIC/WB/C/2006/00080 dt.9.10.2006)

RTI CASE LAW

Is videography permitted under RTIA?

If an applicant wishes to make copies of records/samples given to him for inspection at his own expenses, it is not for the Public Authority to object to the form in which the copies are being made, provided it is restricted to the information permissible under the Act. There is no provision in the Act disallowing Videography and therefore, cannot be excluded unless it violates the parameters of any information sought and agreed to be provided



(CIC/WB/A/2006/00144 dt. 3.8.2006)

Can ACRs be accessed by Government Officers?

Whether a Government official is entitled to obtain a copy of the Annual Confidential Report (ACR) under the RTIA? This has been the first question that is asked by Government Officers in workshops, seminars and training programs on RTIA. The answer is NO. Government officials cannot ask for copies of the ACRs. When an employee of the Indian Oil Corporation sought for copies of the ACR the same was denied by the PIO of the corporation. This denial was appealed in the CIC. But the CIC held that the assessment reports by the superiors officers are personal and confidential information and therefore exempted under Section 8 (1)(j) of the RTIA.

(18/IC(A)/2006 dt.28.3.2006)

Information for what?



A perfect knowledge and understanding of the RTIA in itself will not produce results. It is essential that you make use of the RTIA for your benefit as well as of the community. But the question is where to use RTIA? What to ask for from which authority? How to use the information accessed? In short 'Information: for what? It would be difficult to recommend a list of issues on

which citizens can seek information. Broadly it may be divided into two. First issues related to individual grievances. For instance you can use RTIA to know the status of your complaints in a Police Station. Delay in sanctioning electricity power supply, building plans, old age pension, bank loans, scholarships, refund of deposits etc. are some of the issues for which RTIA can be used.

On the other hand if you are keen on improving the social conditions even to a small extent you can highlight community issues by using

RTIA. Seeking information about the expenditure incurred on road works, garbage cleaning, street lights, buildings, bore wells, installing water taps, expenses on the Primary Health Center, working of Public Distribution System etc. are some of the topics on which information can be sought.

Each of the above issue needs a separate treatment and separate set of questions to be asked under the RTIA. You need to learn framing questions. If you have a specific issue, write or email to CREAT. We will try to assist you

Join the RTI Campaign

The Consumer Rights Education and Awareness Trust (**CREAT**) is involved in promoting right to information since 2000 when the Karnataka State Government enacted the Karnataka Right to Information Act. However the campaign has intensified with the Central RTI Act coming into force. The campaign activities include training citizens as well as the government officials. A number of publications like posters, stickers, user guides and pamphlets have been published. Workshops and seminars are held regularly. A network of civil society organizations spread across Karnataka working on RTI has been created.

CREAT as well as other network partners have been filing applications seeking information on

various developmental issues. RTI implementation audit is being carried out by network partners. An RTI hub has been established within CREAT to cater to the needs of the public, academia and researchers. The RTI hub has a collection of case studies, books, journals, training papers, CDs etc. on issues related to RTI. Two newsletters namely INFOTAP (in English) and PRAJA MAHITHI (in Kannada) devoted exclusively for RTI is being published.



The success of RTI campaign hinges on the active participation of the citizenry. We request you to use RTI extensively. Share your experiences with us. Organise public meetings and consultations. Write to us for any technical support. For details contact RTI Unit of CREAT. Our work on RTI is being supported by CHRI, New Delhi.

RTI Campaign News



- Training to officials of Collegiate Education on 3rd April 2007 at Bangalore

- Awareness program on RTI Act for Consumer Club Coordinators on 12.4.2007 organised by Consumer Care Society, Bangalore

- Training to PIOs/APIOs and staff of Devraj Urs Backward Class Development Corporation on 26th April 2007

- Presentation on ' Strengthening Supply Side of RTI' at the two day workshop on RTI Act organized by Centre for Good Governance, Hyderabad on 27 & 28th April 2007

- Training for staff of Secretariat at the Secretariat

- Training Institute, Government of Karnataka on 28th April 2007

- Training to PIOs for Central Government Officials was organized by Parsam Institute of Statutory Laws at Hotel VK Paradise, Bangalore on 10th May 2007

- Training program for PIO and staff of Women and Child Development Corporation, Government of Karnataka on 11th May 2007

- Lecture on RTI for members of AVAS members at Indian Social Institute, Bangalore on 17th May 2007

- Training for the staff of Bangalore University on 25th May 2007 held at, Jnanajothi Auditorium, Bangalore.

Public Awareness Meeting at Tumkur



The LIC Agents Association of Tumkur and Saras Media Centre had organized a public awareness meeting on RTI Act at Tumkur on 23rd June 2007. The program

was inaugurated by Mr. Mohamad Khyam, Commissioner, Tumkur City Municipal Council. He said that the council has implemented the RTI Act and has put up the required information in the website. He called upon the citizens to use the RTI Act for the benefit of the society and not just to harass the officials. Mr. Y.G. Muralidharan of CREAT-CHRI made a presentation on RTI Act and how people can use it. More than 100 participants took part in the one day program.

It was decided to form a Tumkur District Level RTI Forum. Mr. R.S. Iyer and Mr. Kote Nagabushana, Sr. Correspondents of Praja Pragati had organized the program.

Survey of DC's offices

The office of the Deputy Commissioner (DC) is an important Public Authority and it is in charge of the district administration. As such it is the DC's office which has to be a role model for implementation of the Right to Information Act. Whether it is publishing suo moto declarations or designating the PIOs or putting in place a system for providing information to the citizens, it is the DC who has to set an example.

CREAT has taken the initiative of filing applications to all the Deputy Commissioners of Karnataka seeking information about the steps taken to implement the RTIA in their Offices. A request has been made to obtain copies of the notification under Section 4 (1) (b). The results will be published in subsequent issues of **INFOTAP**.

Training workshop on RTI Act



CREAT in collaboration with CHRI and National Law School of India University (NLSIU) had organized a two

day training workshop on 3 & 4th May 2007 at the NLSIU training centre. Forty five representatives of civil society organizations from all over Karnataka participated in the training workshop. The objective of the workshop was to train the participants in using

RTI Act and also in conducting survey about implementation of the RTI Act in respective districts. Each of the participant prepared Five applications on issues like outstanding property tax, rent on public buildings, maintenance of public toilets etc. It was also decided to conduct a survey about the implementation of RTI Act. The participants were provided with templates to conduct the survey and record their findings. The participants agreed to submit their reports and experience relating to using RTI Act by the end of June 2007.



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