



## Examiner's recklessness comes to light through RTI Act

The negligence and recklessness of an examiner which resulted in the suicide by an engineering student has come to light with the use of RTI Act 2005.

A second year student of Pondicherry Engineering College had committed suicide after leaving behind a note stating that he deserved higher marks in the theory paper in mathematics II paper in the Second semester examination but was awarded very poor marks. He had secured 22 out of 25 in internal assessment exam but was awarded 20 out of 75 in the theory paper.

The matter was referred to an Inquiry done by Pondicherry additional district magistrate G. Ragesh Chandra. The inquiry authority had noticed that the prime cause



resulting in the death of the student was reckless, careless, incompetent and inattentive evaluation of the students answer sheet by a mathematics lecturer in Annamalai University.

The report pointed out that if the chief examiner had carried out reevaluation of the answer papers at random the tragedy could have been averted by the university. The inquiry officers also recommended that the lecturer be blacklisted from continuing as examiner to Pondicherry University or any other university since 'this suicide has occurred because of his reckless and inattentive evaluation'

The parents of the student had obtained the copy of the report after a month long struggle and following implementation of the RTI Act.

(Source: [Chennaionline.com](http://Chennaionline.com))

## Compensation for Delay

In a significant order, the Central Information Commission has decided to compensate a person whose application was not taken up for hearing on the scheduled date. The CIC decided to pay Rs 500 as damages to Maj. P.M. Ravindran (Retd) for expenses incurred by him for preparing ( himself to appear before it in a case which was] adjourned on the plea of the Registrar of the Delhi High Court who was a party in his application.

The Registrar had sought adjournment on the ground that the notice sent for responding the application was too short. The CIC realised that the notice for hearing being sent less than seven (days before the scheduled date was in violation of the rules of RTI appeal procedure. "We find

that this Commission has been in violation of s provision of the RTI Act 2005 in notifying parties s of the date of hearing which necessitated adjournment. The appellant is, therefore, entitled for compensation," the Chief



Information Commissioner Wajahat Habibullah said.

Maj. Ravindran, through an RTI appeal in September, 2006 with the apex information panel, sought information about a pending petition with the Delhi High Court Registry free of cost as he was not provided the

details within the prescribed period.

He also demanded rationalisation of Rs 500 fee as charged by the High Court for filing an RTI application. During the hearing, the High Court Registrar informed the Commission that a part of the information had already been provided to the applicant. The Commission allowed the contention of the Registrar, declining to supply a copy of the petition to Maj. Ravindran on the ground that a copy of ongoing judicial proceedings could not be provided until the closure of the judicial proceedings.

The CIC was also informed that the fee for seeking information has been rationalised and stood at Rs 50.

(Courtesy: [TheAsianAge](http://TheAsianAge))

## One Pothole, more than 200 Kg of Asphalt mix

A query under the Right to Information Act 2005 has revealed that the Brihanmumbai Municipal Corporation (BMC) has used 208 metric tones of asphalt mix to repair 945 potholes. That's 208440 kg or about 220 kg per pothole.

Mr.Prabhu, who is the head of the Mahithi Adhikar Manch had applied to the BMC and had asked details about road repair works, material used and whether the potholes were repaired according to BMC norms. While the BMC readily provided him the details on the first, it took Prabhu two months of dogged pursuit till officials would disclose the latter.

But the BMC officials had a different view. One of the officials has said that the public perception of a pothole is different. It could even be a bad patch of say 2 by 2 ft. The BMC also disclosed that none of the potholes were repaired as per its own norms cutting down to geometric size, cleaning out and filling to base since they were not equipped with the required machinery.

(Source: [Expressindia.com](http://Expressindia.com))

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## Rate your RTI knowledge

How much do you know about the RTI Act? Rate yourself by answering the following questions:\

1. If a penalty is imposed by an 'Information Commission' (IC) on a "public Information Officer" (PIO) upon hearing an Appeal is the penalty incident on the PIO or the 'Public Authority'?
2. Is an 'information Commission' a Public Authority?
3. In hearing an Appeal, will the IC allow the PIO concerned be to present her/his case?
4. What is the minimum and maximum number of Information Commissioners for a 'State Information Commission' (SIC)?
5. Is there a provision for a single IC for more than one state (as is the case with some high courts in India)?
6. What if a State Government fails to constitute an IC for the State in question of fails to provide for the required resources infrastructure and personnel?
7. Does the Central IC have any jurisdiction over SICs?

(For answers see last page)

## IT-enabled system RTI Applications

The Indian Railways are receiving around 40-50 RTI applications per day. To bring in transparency and better



monitoring in handling RTI cases, web-based software is being Developed. A

separate portal will be developed where an RTI applicant can register his/her application, his name, address and the number of postal order or draft. The status of the application like the reply has been sent or not, when the reply is expected to reach will be updated in the RTI portal.

(Source: Hindustan Times)

### RTI reveals scam in books purchase

A big scam in purchase of books by the Department of Libraries/Public Education of Government of Karnataka has come to light by the use of Right to Information Act 2005. CREAT filed an application to the PIO of Public Libraries and sought a copy of the report of the

T.M.Kumar Committee, which had investigated the purchase of books. Strangely the PIO replied that the report is not available with him, instead of directing the application to the concerned authorities. CREAT filed another application to

Department of Secondary Education and sought a copy of the committee report. After making the applicant to run from pillar to post the required information has been provided in bits and pieces. The details of the report will be analysed and published in the next issue of INFOTAP.

### " Information " Defined

The Central Information Commission (CIC) in its full bench decision has held that a public authority is obliged to provide access to information to a citizen but it is not obligatory on the part of the public authority to create information for the purpose of its dissemination. Complainant Vibhor Dileep Barla sought certain information from Central Excise & Customs office, Nashik, regarding pending excise dues of a private company as well as some other units and premises. The Excise Department provided information about total excise dues but refused information about other units and premises on the grounds that

information sought were questions made in the form of an inquiry and, therefore, do not fall within the ambit of RTI Act, 2005. Defining "information" under the RTI Act, the Commission said the information for the purpose of the Act means information available with public authority and not the information which is non-existent or cannot be accessed. An "opinion" or an "advice", if it is a part of the record, is "information" but one cannot seek from an authority either an "opinion" or "advice" as it would be seeking a decision which he may not be competent or authorised to take.

(Courtesy: The Indian Express)

## CIC for punishment to check RTI misuse

Taking serious note of the misuse of the RTI Act for reasons other than acquiring information, the CIC has called for checking the same by incorporating penal provisions in the transparency law.

Dismissing applications filed by two Navodaya Vidyalaya teachers, Ramesh Kanti and his wife Uma Kanti, the Information Commissioner O.P. Kejariwal called it perhaps the worst misuse of the RTI Act demonstrating how anyone looking for personal gains could make a mockery of a beneficial piece of legislation.

Challenging Ramesh's transfer, the couple had earlier knocked on the doors of the Central Administrative Tribunal, the High Court and the National Commission for Scheduled Castes all unsuccessfully before taking recourse to



the RTI Act. Their complaint was that the Navodaya Vidyalaya Samithi was not providing information on various issues pertaining to the department. In the hearing before the CIC, the Samithi pointed out that the application filed by the couple ran into more than 188 pages, sought information on 375 items, covered over 20 years and concerned thousands of employees.

The CIC rules in favour of the Samithi, directing it not to consider the application as the RTI cannot be turned into a tool for vendetta by an employee against his organization over some grievance. Calling it the worst case of the misuse of the Act, the commission

added that this, as well as other instances, reflected the need for some provision in the RTI Act to check this.

(Source: The New Indian Express)

## CREAT happenings

Over 30 representatives of various civil society organizations were given training on Right to Information and Good Governance on 7<sup>th</sup> February 2008 at Nava Spoorthi Kendra, Bangalore. This was organized by KarnataQka Regional Organisation for



Women taking out a Procession to Creat Awareness on RTI at Devanahalli

Social Service (KROSS). Mr.Y.G.Muralidharan of **CREAT** made a presentation on RTI Act and its relation to Good Governance

**CREAT** in collaboration with The Devanahalli Taluk Grahakara Vedike (Consumer Association) had organized a training workshop on RTI for the members of Stree Shakthi Sangha. Before the commencement of the workshop, over 120 women took out a procession in the main streets of Devanahalli carrying placards on RTI.

Jan Shikshan Sansthan of Karwar in association with **CREAT** had organized a one day workshop on RTI Act on 25<sup>th</sup> January 2008 at Karwar. Sixty Nine participants took part in the workshop which was inaugurated by Srhi. R.G.Patil, Chairman, District



Mr.Ashok Halagali , RTI activist & advocate speaking at a workshop in Belgaum

Consumers Forum, Karwar and presided by Shri. Prabhakar Rane, Former Minister. Mr. D.S.Naik, Advocate from Karwar and Mr.G.G.Hegde Kadekodi of **CREAT** were the resource persons.

RTI awareness programs were held in BBA College, Belgaum on 1<sup>st</sup> February 2008. Another program was held at Iddalhonda. On 25<sup>th</sup> January 2008 another program was held at BIMS, Belgaum, More than 200 students were made aware of RTI Act in these three programs.

**CREAT** in collaboration with **CHRI** had organized a workshop on RTI Act for the benefit of teachers and students of law and journalism courses in Mysore City. The program was held at Hotel Kings Kourt. Over 160 participants took part in the workshop, which was inaugurated by Dr.Basavaraju, Dean (Law) of Mysore University. Prof. Suresh, Principal of JSS Law College released the Kannada version of RTI Users Guide.

Mr.Y.G.Muralidharan, **CREAT**, Dr.AnilKumar, Advocate, Mysore, and Mr.Manjappa, RTI activist made presentations about RTI Act. Mrs. Savitha Ranganath, RTI activist from Mysore, shared her experiences in using RTI Act and the difficulties in accessing information. The participants decided to form a core group to take forward RTI movement in Mysore City. The follow up workshop will be held during last week of March 2008.

A two day training of trainers' workshop on RTI Act was organized by **CREAT** in collaboration with CMSSS, at Hassan, on 29<sup>th</sup> February and 1<sup>st</sup> March 2008. The first day session was a follow up workshop for those who were trained in an earlier workshop. Mr.G.G.Hegde Kadekodi and Mr.Ashok Halagali represented **CREAT** and handled the sessions. On 1<sup>st</sup> March 2008, the training was for NGO representatives.

**Mr.Y.G.Muralidharan made a presentation on RTI Act.**

The Centre for Good Governance, Hyderabad (AP) had



RTI Awareness Program for student at Belgaum

organized a Colloquium of RTI Practitioners (CoRP) on 27 & 28<sup>th</sup> February 2008 at Hyderabad. **CREAT** was invited to make a presentation about the survey conducted about implementation status of RTI in Karnataka. Mrs.Prema, RTI Cooridinator, **CREAT** attended the colloquium.

The Hyderabad Karnataka Development and Environmental Protection Society in collaboration with **CREAT** had organized a training program on RTI Act for Public Information Officers and NGO representatives. Eighty PIOs and 88 NGO representatives attended the workshop held on 23<sup>rd</sup> February 2008 at Gulbarga.



1. Under the 'RTI Act, 2005', the penalty imposed by the information Commission' (IC) on a Public Information Officer is independent on the PIO and NOT on the Public Authority to which he/she belongs
  2. Yes. An IC is a Public Authority for all ends and purposes of the RTI Act 2005 and as such should, indeed, be an exemplar in its compliance with the provisions of the Act
  3. Yes. In hearing an appeal, an IC will have to give the PIO an opportunity to be heard to present her/his case. This derives from the principle of Natural Justice in Jurisprudence, whereby nobody shall be condemned unheard
  4. As per the RTI Act, 2005, a State IC would have to have at least one Chief Information Commissioner and can have a maximum of 10 Information Commissioners (including the Chief Information Commissioner)
  5. There is no provision in the RTI Act for a single IC for more than one State. Every state has to have an IC whose jurisdiction would extend to all the public authorities in that state
  6. There is nothing in the RTI Act that specified recourse to any action in the event of failure on part of appropriate Government (Central/State) to constitute an Information Commission as per the RTI Act. Clearly, however it would be a violation of RTI Act not to do so. As far as providing the ICs with required resources is concerned, it is the responsibility of the Appropriate Authority. How the latter goes about this is reflective of the seriousness with which it views the RTI act, and its effective implementation
  7. The Central IC has no jurisdiction, whatsoever, over the State ICs. Every IC is independent and autonomous in the exercise of its jurisdiction and it functioning.
- (RTI Times July-Aug 2007)

## Panel to speed up files mooted

In a bid to give the administration a facelift, the Karnataka State Government has decided to set up a committee to suggest ways and means to ensure speedy movement of files in the state secretariat and modernization of its offices. As per the press release, the committee will be formed in two weeks and terms of reference would be provided, on which it would submit a report. According to the officials in the Government the average rate of files in state departments stood at 28-30 per cent with Home and Law topping the list.  
(Source: *The New Indian Express*)

## CREAT Survey Findings

Is it possible that even after more than two years have passed since the 'RTI Act, 2005' has been enacted, some 'Public Authorities' (PAs) would not have designated Public Information Officers (PIOs) and Appellate Officers (AOs)?

YES. IT IS POSSIBLE, except that the number (of such PAs) has been found to be quite large.

A very recent study conducted in Karnataka by the CREAT-CHRI combine pegs it at 38.14%. The study carried out in 17 locations in, both, urban and rural areas - found that only 180 out of 291 PAs surveyed had designated PIOs and AOs. In Bijapur (Chadachana) all the 8 PAs covered had failed on this count.

The survey also came across PAs that - though they had designated PIOs & AOs - had not displayed their names and other contact details. The survey point to glaring violations of S. 4(1)(a) & (b).

Not providing information about where to look for and / or how to access "information" / "record" (as defined under the 'RTI Act, 2005') strikes at the very roots of the RTI regime envisaged by the Act.

The survey was carried out in just one State, on a pilot scale, covering a small sample. Hence, it would be tempting to dismiss the survey findings as exceptions and not the norm. However, we would like to reiterate that it may not be right to dismiss them

Clearly, the Central Information Commission share our concern. This can be inferred from its recommendation - emerging from its Conference with State Information Commissioners - to the Central Government about 'issuing strict directions to State Governments / Public Authorities to fulfill the obligations laid

down under S. 4 of the 'RTI Act, 2005'... (and stating that) Secretary of the Department may be held responsible...and be clearly held culpable in case of non-compliance...'

The way forward is for the 'Appropriate Governments' to, meticulously, ensure compliance and for the 'Information Commissions' to, uncompromisingly, enforce it... whatever else they may do to reinforce the RTI regime in the country.

(Source : *Editor's Desk , RTI Times , November-2007*)



Published by the:

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