

Annual Convension 2015

Key Issues emerging out of Panel discussion

SESSSION I

TRANSLATING RTI INTO CITIZEN WELFARE – THE EXPANDING HORIZON IN DIGITAL INDIA

SPEAKER - **SHRI RAM SEVAK SHARMA** spoke on the following

- Aim of Digital India is to transform India into Knowledge Sharing platform.
- Digital India can become enabler to transform service delivery platform.
- Buckets of Digital India :
 - a. Creating digital Infrastructure.
 - b. Creating Software (for communication with digital infrastructure)
 - c. Citizen Empowerment
- Digital Technology being enabled in India by :
 - a. Digital Identity
 - b. Digital Signature
 - c. Payment Infrastructure
 - d. Digitising of documents
- Digital technology can enable the RTI request, transmitting information and placing of the information in a efficient manner.

SPEAKER - **SHRI R CHANDRASHEKHAR** spoke on the following points

- All information should be made available by creating new ways of technology.
- Ensure to make available information with respective offices website under Section 4 (1) of RTI Act.
- Digitise the information which is huge and lengthy, easy to transmit and retrieve.

SPEAKER – **Shri Sanjay Kothari, Secretary, DoP&T**

- Need to translate the RTI as an instrument of good governance.
- Need to analyse the RTI requests whether it is a demand to frame a policy, to provide funds or just seeking information. If in larger public interest, we should draw a guideline/policy.
- We are giving stress for uploading more and more information on website. 364 public authorities have come forward. We are encouraging more organisations for this.
- DOPT has eased the process of getting information through RTI.
- Efforts to make decision process clear and faster.
- Employees are more involved in getting the official information; it should be used for poor general public for their welfare.

Speaker - Shri J.S. Deepak, Secretary (IT)

- Digital India - transmitting into citizen welfare.
- RTI should be connected with mobile connectivity.
- Various scheme of digital India being commenced.
- Eco system to be used.
- Reforming Governance through Technology.
- Forms to be provided with simple facilities.
- Government website on all platform in multiple languages.

SESSION-II

Rationalising the nature and scope of the Act: gaps, implications for use and misuse

Speaker :Professor Madhav Menon :

- Three main issues addressed : 1. Objective of the Act , 2. Role of Judiciary in the implementation of the Act, 3. Status of Information Commissions in RTI regime
- How far the object of the RTI Act was able to meet its objective as enshrined in the RTI Act i.e., Transparent and Accountable Government
- On the issue of pro digitalisation of information: the rural population would be discarded who has no access to the digitalised world – a rather more encompassing approach is need of the hour.
- Section 8 of the RTI Act is a provision which actually shows the object of the Act i.e., to deny information if it is counterproductive : CIC and SICs are the bodies to ensure this
- A stumbling block in success of the Act is the mindset of the democratic setup of the Country which is not in tune with what the Act envisages.

- As regard the status of CIC and SIC it is pertinent to note that it being an adjudicatory quasi judicial body, it is important that there is inclusion of legal acumen in the Commissions which needs to be adequately manned with legal minds for better interpretation of Act.
- Commissions are under responsibility to balance the conflicting interest of disclosure and privacy issues: a deeper issue involved while dealing with the RTI Act.

Speaker: Shri Wajahat Habibullah

- Public use RTI Act as a weapon against the government. It is a tool for good governance. Process of digitisation helps the participation of public in the government functioning.
- Sometimes it is used to abuse the process in the government functioning and harass the public servant.
- There are various frivolous and vexatious application filed before the public authority but it is difficult to give a conclusion that the RTI application is frivolous and vexatious.
- If all records are maintained in the digital form and placed in public domain, these can be accessed from any place. Public can get information without filing RTI application.
- There is no law to enforce Section 4 of the RTI Act. DoPT said that CIC is responsible to enforce the Section 4 of the Act.
- As per Section 19 of the Act it is mentioned about the CIC has the power to grant compensation to the information seeker.

Speaker : Satyanand Mishra

- Accurate implementation of the intent behind the law by the Govt or even by the CIC requires adequate infrastructural upgradation.
- Role of Judiciary: Though the HCs and SC have in various judgements led to the increase of the ambit, scope and power of the RTI. However, in a lot of orders have completely truncated the entire scope of the RTI Act.
- **RTI Rules framed by the various HCs are lacking uniformity.**
- **RTI appears to be an Act which is too idealistically drafted. Meanings of words like “personal” and “fiduciary” have not been implicitly explained nor defined.**

Speaker: PROF. M.SRIDHAR ACHARYULU

- RTI is a condition and not a movement. RTI has a limited role. RTI is not meant for giving “gyana (knowledge)”.

- The inherent scope of RTI is limited to right to information only, but its interpretation has created ambiguities which have caused some confusion during the course of time.
- Like 'Justice delayed is justice denied', so also Information delayed is information denied.
- There are some issues for discussion in the Act like the definitions of Public Authority, Information/personal information, missing files, etc.
- Information: Section 2(f) had defined this. There is a provision to access to private information. But the judiciary is interpreting the other way. In other words, the RTI cannot override the other Acts.
- Personal Information: Section 8(1) provides this. There is a proviso which will apply. But unfortunately the courts are holding that this proviso will apply only to 8(1)(j).
- Section 20 says we cannot penalise the PIO without reasonable cause. We know that PIO is not directly responsible; it is the Public Authority, as a whole, which is responsible. But the law imposes the responsibility only on the PIO.
- In most of the Departments, the FAA orders are not implemented. Thus when the appellants come in second appeal before the CIC, the CIC is playing the role of implementing the FAA orders.
- Lastly, RTI is the power of powerless, provided the Government helps, otherwise it will become the power of powerful people.

Speaker: Shri B. Ashok, CMD, IOCL

- 40-45% information seeker in IOCL, largest PSU, are either serving or the retired employees
- RTI Act has brought transparency, integrity and accountability. There must be some safeguard to protect the critical information of the public authority.
- For transparency all the information relating to consumers, company, bidders etc has been placed in the public domain.

SESSION-III

The RTI Act seeks a 'practical regime'; are we doing enough for transparency in governance

Speaker: Shri Yashovardhan Azad, Information Commissioner, CIC

- RTI, sunshine legislation, has three different stakeholders:
Public Authority, Civil Society/Public and Central Information Commission.
- Key issues of RTI:
 - a. Gap between transparency and governance (Poor awareness in rural area)
 - b. RTI as grievance redressal mechanism
 - c. Section 4 (1)(b) Compliance
 - d. Section 4 (1)(a) and digitisation of records
 - e. Delay in furnishing of information by Public Authority
 - f. First Appellate Authority (No speaking Order/Order not relevant)
 - g. Training of PIO and FAA should be strengthened.
 - h. Record management should be digitalised.
- Mission for future:
 - a. Clearing pendency before CIC.
 - b. Ensuring mandatory implementation of Section 4 by Public Authority
 - c. Non-Compliance of Cases
 - d. Reduction of grievance related issues
 - e. Facilitation of easy registration – app.

Speaker- Shri A. K. Jain

First Takeaway

- **Transparency** in the functioning of public authorities
- **Timely** delivery of information to the applicant
- **Trouble free** system of delivery of information

Second Takeaway

- **Process** to get the information
 - **Product** of the information
- After analysing the RTI queries, we can maintain the information in a particular format in which the information is sought from the majority of applicants.
- We need to develop a mechanism so that the information which is already in public domain can be made retrievable easily to the public.

Speaker – Shri D.R. Kaartikeyan

- More public access of the RTI is needed in the long run in a democratic society. Access being instrumental to transparency.
- There is a profound change in attitude.
- Transparency and accountability is not only for good governance but reduces the rampant corruption.
- There is general laxity by government employees. Needs training of PIOs.
- RTI should be used to reduce the corruption.

Speaker: Anjali Bhardwaj

- Frivolous and vexatious applications are less than 1%.
- Most applicants belong to the marginalized section of society.
- The pro-active disclosure is not adequate.
- Inordinate delays in providing of information and mounting number of pendency occur due to inadequate number of ICs and SICs.
- Non compliance of the Commissions' orders need adequate monitoring.
- Section 4 disclosure can protect the people from victimization and getting targeted in the process of unearthing corruption.

17.10.15

Important Points emerging out of Panel discussion

SESSION-IV – Privacy in times of RTI

Speaker: Justice AP Shah

1. Right to Privacy has been recognised as a part of fundamental right by various Judgment of the Court and International conventions.
2. This issued however is under discussion in the Supreme Court in the matter in Aadhar case.
3. Right to information has to be balanced with right to privacy.
4. High time a comprehensive law on right to privacy in India is formulated.

Speaker: Shri A.N. Tiwari

- Privacy under threat after coming of RTI Act.
- Privacy is important to human life. It belongs to persons not to be shared with others.
- Technology is already threatening the privacy of individual.
- Public interest is being misused to attack the privacy.

- RTI Act does not define the methodology for determination of private interest.
- Section 11, Section 2 (f) and Section 8 (1) (g) of the RTI act also protects personal information.

Speaker: Shri Ashwani Lohani

- RTI has brought transparency, improvement in the procedure and decision making process.

- RTI has to be balanced with Right to Privacy, this is a grey area. Being misused for personal cause.

Speaker – Venkatesh Nayak

- Right to privacy is not a new concept. Right to Privacy is implicit in Article 21 and Article 14. It is also recognized through many laws in the country.
- Supreme Court of India in 1970s recognised citizens right to privacy. Question of Right to Privacy being considered in Aadhaar Case.
- Degree of privacy protection to Public person is less than private individual.
- International Convention has recognised right to privacy.

SESSION V: Making RTI work better: experience from the States.

Speaker : Shri Serjius Minj

- RTI is the tool in the hands of the powerless people.
- Areawise State of Chhattisgarh is at 10th position and population wise it is 17th in the country. Ratio between urban to rural is 23:77.
- Numbers of RTI applications has increased to 70,000 which were 20,000 to 25,000 in 2005. Orders of roughly 50% first appeals are challenged in second appeals. Normally second appeals are decided in two to three months for disposal.
- 20% of second appeals are filed from the rural areas and 80% from the urban areas.
- Date of hearing is intimated through SMS.
- To provide special training to FAA.

Speaker: Shri H.S. Das

- Discussed about Impact and implementation of the RTI Act.
- More than 50% applications received from rural areas.
- Use and applicability of section 4 disclosure is very poor.
- Types of RTI applications
 - Public grievances (15-20 years)
 - Environment issues
- RTI should be used for macro issues.
- Awareness of RTI

Speaker: Shri G.R. Sufi

- RTI is a revolutionary legislation.
- Jammu & Kashmir RTI is stronger than central Act in terms of –
 - Time limit of disposal of second appeal
 - Default of PIO to be reported.
- Role of Commissioner:
 - Reconciliation of conflicting views.
 - Training of PIOs.
- Uniformity about RTI rules across the States needed.
- Disclosure is general rule and denial of information in exception .
- Under section 8, harmony has to be done with public interest.

Speaker: A.K. Jain

- Maharashtra received 46 lakhs RTI applications and 96% RTI applications disposed at CPIO and FAA level.
- Maharashtra has one SCIC and 7 ICs. Second appeals are disposed of through video conference.
- Poor training to the PIOs are one of the challenges but Maharashtra has a centre to give training to the PIOs and civil societies. There is certificate course as well.
- Such institution can do research, compile case laws etc.
- For proactive disclosure, they have made District Collector as nodal officers and they review and report to State IC. Centre can adopt this system.
- There should be uniformity of the Central and States RTI rules.
- If there is centre at the district level which facilitate the RTI, it would be benefitted for those in the rural area.

Speaker: Dr.Varre Venkateshwarlu

- RTI Act given power to people and makes Govt. more transparent.
- Information Commissioners are pillars for implementation of the Act.
- Huge population is still unaware of the RTI provisions.
- RTI Act should be made as a part of curriculum of school and college.

- Reward system for CPIO to be implemented for better implementation.
- Training of CPIO to be done.
- Follow up of RTI works at district, block and village level.
- In Andhra Pradesh State Commission is disposing of appeals of current month itself.

Speaker: Dr. Siby Mathews

- In Kerala State, hearing is done at headquarter and camp sittings in various districts/towns.
- For better participation of public, “RTI Adalat” is held in State capital or some other selected town.
- Video conferencing is used.
- A short film in Malayalam with sub-headings in English to provide awareness to the public about the benefits of RTI Act.
- Brings out a newsletter about the RTI functioning of SIC, with articles about recent judgements on RTI etc.
- A ‘Street Play’ by a professional theatre group is funded to spread awareness about the RTI Act.