

Proceedings of Seminar on Human Resource Development And Right To Information Act, 2005.

1. The Central Information Commission organised a seminar on the topic “**Human Resource Development And Right To Information Act, 2005**” on 09 August 2019 at SCOPE Convention Centre, Lodhi Road, New Delhi. The seminar began with an address by Hon’ble Chief Information Commissioner, Shri Sudhir Bhargava.

2. Shri Sudhir Bhargava welcomed all the participants. He stated that education enhances a child’s learning process, awareness and understanding of her surroundings. It equips the child with knowledge and skills for realization of personal development goals, aspirations and dreams. It also provides her the confidence to face the challenges and opportunities of a rapidly changing world. Education, therefore, improves and strengthens the development capacity of individuals, communities and countries and accelerates the transition to a knowledge based economy. He further added that Governments, especially, in developing countries, therefore, initiate strategies for strengthening the education sector as well as quickening the process of achieving the goal of universal access to quality education. The Government formulates policies, programs and schemes specially for the socio economically marginalized and under privileged sections of society so that no child is deprived of her right to quality education; education enables her to play a more productive role in society. The RTI Act promises the citizens the right to secure access to information. It therefore, envisage that everyone specially the socio economic disadvantaged and the marginalized section of society would be able to avail their entitlements essentially quality education. He informed that out of thirteen lakhs RTI applications filed every year, with Public Authorities under Government of India less than a lakh i.e. less than 10% pertain to education sector. Out of these, more than 60% relate to personal issues of stakeholders, other than students. A large number of RTI applications filed by students are for seeking copies of mark-sheets, marks, enrolment numbers, certificates and only less than 10% seek to know about academic issues.

3. The proceedings were, thereafter, chaired by Shri Divya Prakash Sinha, Hon’ble Central information Commissioner, who gave a brief address on the expectations from the seminar.

4. Dr. K. Kasturirangan, Former Chairman, Draft National Education Policy Committee stressed upon **THE VISION** of the Draft National Education Policy viz., “An India-Centric education system that contributes directly to transforming our nation into an equitable and vibrant knowledge society, by providing high quality education to all”. Further, he emphasized upon policy elements of Governance, further categorized into Academics/Standard Setting; Funding; Policy Making; Regulation and Accreditation. In addition Technology, further classified into Early Childhood Care Education (E.C.C.E.); School; Higher and Adult which are furthermore classified into various other linkages. The speaker stressed upon the aspect of approaches to ensuring transparency and accountability for improving governance in the school education sub-sector which was again pigeonholed into five distinct roles of policymaking i.e., **1.** Apex body such as Rajya Shiksha Aayog which is responsible for overall policymaking and monitoring for continual improvement of the system; **2.** Directorate of School Education (DSE) to coordinate all educational operations and service provision for the public schooling system of the whole state; **3.** State School Regulatory Authority (SSRA), which is an independent, State-wise regulatory body to carry out all regulations; **4.** State Council of Educational Research and Training that leads all academic matters, including standards setting and curricula in the State; and **5.** Boards of Certification/Examination which is responsible for conducting examinations and certification of competencies of students at the school-leaving stage. The speaker in addition pressed upon the fact that the public and private schools are to be regulated on the same criteria, benchmarks, and processes emphasizing public disclosure and transparency. The speaker in continuation of the approaches to ensuring transparency and accountability for improving governance in the school education sub-sector, stated that all schools i.e., government/public, private-aided and private-unaided schools are to be covered by the audit of accreditation which is done through a mechanism set up by S.S.R.A. and the results of the audit are to be made available in public domain. The speaker while concluding the presentation, put-forward certain essential and valid points about the composition of Rashtriya Shiksha Aayog that directly targets the transparency and accountability aspects for improving governance in the education sector.

5. Ms Vanaja N Sarna, Hon’ble Information Commissioner, Central Information Commission dealing with various departments of the Ministry of HRD and its subordinate offices among others, highlighted various issues which would help both the applicants and the Departments, including CPIOs and FAAs to improve the manner in which RTI

applications are handled right from the first stage of the receipt of the RTI application, through the first appeal and the important role the FAA plays in the entire process and the second appellate stage and the issues the Commission has to deal with. The key issues which were brought into focus for the audience, particularly for the CPIOs and FAAs included the need for well developed websites; need for in-house training of the CPIOs & FAAs in addition to DoPT's training programmes, quality replies to ensure satisfaction of the applicants and the role of the custodian of information. The speaker discussed not only the need for nodal CPIOs in large departments like Ministry of HRD but also their role and the important role that FAAs have to play while deciding first appeals. A suggestion was made regarding holding pre-hearing discussions in-house before the CIC hearings and the manner in which frivolous and frequent RTI applicants should be dealt with. The speaker concluded her speech with an advice to the public authorities that the CPIOs should be provided some incentive for performing their additional duty as a CPIO especially where they are carrying out their duties appreciably and this could be done in the form of letters of appreciation or certificates of appreciation, which will also serve as an incentive to others who may be given the CPIO charge later.

6. Shri Neeraj Kumar Gupta, Central Information Commissioner, CIC highlighted that Subject-wise segmentation of the RTI applications and added that voluntary disclosure of the information was the panacea for easing the flow of information. For example, if a public authority is receiving multiple RTI applications on the same subject and from different applicants, then it is better to voluntarily upload the disclosable information on the website of the public authority. Even a reference can be made to their earlier reply if it was already responded to the RTI applicant. Quoting the relevant web-link is always beneficial for the public authority as well as the RTI applicants. Suo-motu disclosure of information is one of the best ways of sharing information and brings about a transparency in their system. So, the spirit of the RTI Act, 2005 should be upheld by empowering the citizens at a very low cost. As far as exemptions are concerned, they should be claimed by the CPIOs with proper justification. Challenges faced by the CPIOs were also highlighted which the CIC experienced from different CPIOs at the time of hearing(s). Quality of the RTI reply and factoring it in their performance appraisal were some of the suggestions for improved functioning and transparency of public authorities. Regular guidance form and healthy discussion among the superiors and CPIOs were told to be the key points in analyzing the quantity and quality of the information dissemination. Thereafter, he drew attention to a

number of judgments of the Hon'ble Supreme Court of India and the different High Courts and those in light of the CIC decisions and the legal provisions of the RTI Act, 2005. As concluding remarks, he explained in a concise and compact manner the concept behind the RTI Act, 2005, its framework and relevance advising the audience to uphold the spirit of the RTI Act, 2005 and its solemn objectives. In the end, he answered the queries raised by the audience.

7. Shri Narinder Chauhan, State Chief Information Commissioner, Himachal Pradesh mentioned the definition clause of Right To Education Act, 2009 and Right to Information Act, 2005 "Appropriate Government" as defined under Section 2(a) of RTE Act comparing it with that of "Public Authority" as defined under Section 2(h) of RTI Act. Further discussed the challenges occurring in the implementation of the RTI Act in Private/Unaided Educational Institutions. Moreover, emphasis was laid down towards several private institutions that are imparting education and performing public functions reluctant to come within the purview of the RTI Act, 2005. In this context, the speaker referred to the decision of the Hon'ble High Court of Punjab and Haryana at Chandigarh in the matter of DAV College Trust and Managing Society and Another Vs. Director of Public Instructions (Schools), Union Territory Administration, Chandigarh and Others, decided on 27th October, 2009, in which it was held that in the second part 'public authority' has been defined to include any-body owned, controlled or substantially financed or non government organisation substantially financed directly or indirectly by the funds provided by the appropriate Government. The speaker also referred to the decisions of the Hon'ble Supreme Court of India in the case of Aditya Bandopadhyay & Ors. Vs. CBSE, dated 09th August, 2011 and Thalappalam Ser. Coop. Bank Limited and Ors. Vs. State of Kerala, etc. While relying upon several decisions of the Courts, the speaker suggested that by issuing Government Notification / Circulars / Memorandums, the private educational institutions which can be accessed by a public authority / Non Government Organisation substantially financed directly or indirectly by the funds provided by the appropriate government can be considered as a Public Authority and that consequently, fell within the jurisdiction of the RTI Act, 2005.

8. Shri Gyan Prakash Upadhyaya, Additional Chief Secretary (HRD), Department of Education, Government of Sikkim spoke on Human Resource Development and the Right to Information. He focused on the type of information sought by the applicant generally and delineated it into various categories. He specifically mentioned certain subjects/area in which

mostly information are being sought by applicants. Further, he highlighted the methods for quick disposal of RTI applications like orientation on disposal procedure and penal provisions, providing online training to the staff on RTI matters, Records and documentation as per the Manual of Office Procedure etc. He also highlighted some innovative practices being adopted in the Education Department for Disposal of the RTI application. In conclusion, he emphasized upon the importance of proactive disclosure of information as mentioned in Section 4 (1)(b) of the RTI Act. He strongly believes that number of RTI application can be reduced if the section 4 (1) (b) of the RTI Act is complied with by the Public authority properly. Thereafter, he gave some important suggestions to improve the standards set for suo-motu disclosure and achieve its objective.

9. Mrs. Anita Karwal, Chairperson, Central Board of Secondary Education, at the outset, discussed the duties and responsibilities of CPIOs prescribed under the Act including the exceptions under which the CPIOs were not cast upon an obligation to collect or collate such information not available with them in material form. [*Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & ors.* (Civil Appeal NO.6454 of 2011)].

The extension of ambit of RTI Act to access information of private schools was one of the highlights of her presentation. She cited the Commission's decision in *Sanjeev Kumar vs. CBSE, Delhi* (CIC/CBSED/A/2017/195101-BJ dated 16.02.2018), wherein the CBSE was advised to instruct the schools affiliated to the Board to periodically *suomoto* disclose all information regarding the Student Intake and other such related information by them to the Board as also upload details on their website keeping in view the spirit of the RTI Act, 2005. The key suggestions reflected in her presentation were optimum voluntary disclosure of all such information by schools that would facilitate dissemination of information relating to admissions, examinations, result declarations, etc.

10. Smt.N.Kumutha, Associate Professor, Sudharsan Engineering College Pudukkottai, Tamil Nadu discussed the functions of Ministry of Human Rescores Development (MHRD) in higher education and the importance of RTI in MHRD. She further enumerated the list of departments under MHRD, institutions highlighting that through RTI, information can be disclosed relating to MHRD procurement process, new institutions details, new course details and its benefits, question papers for online exam. She concluded her presentation with the remarks that the large number of RTI application are filed due to less transparency in the system (education.) She finally, concluded by stating that the education system (admission, progress, evaluation and outcome) should not be confidential in nature.

11. Dr. Devendra Kumar Singh, RTI Activist, Law Student, Campus Law Centre, Faculty of Law, University of Delhi focused on Implementation of RTI Act *in* Ministry of Human Resource Development. He stated that Department of Personal Training (DoPT) RTI Internship Programme helps in consolidating and documenting its experience in the implementation of RTI, its successes, constraints in implementation and further suggests what needs to be done to help achieve the objectives of the Act. Summer Internship Programme 2018 helped him analyze a sample of the RTI applications received in the calendar years 2017 and 2018, and accordingly identify the areas which need more attention and make recommendations. The Methodology or study included details of training of CPIOs, use of RTI-MIS, information about updating of suo-motu disclosure, penalty imposed upon CPIOs or the disciplinary proceedings recommended by CIC. He pointed out that there is no uniformity in acceptance of Fee in MHRD – Some CPIO accept the fee, though not addressed properly to the concerned person i.e. Pay & Account Officer, MHRD, while some do not. Other issues highlighted included not mentioning details of FAAs in RTI replies – Majority of RTI replies did not contain the details of the FAA; Not disposing Online RTI applications in time – Online RTI's were not checked regularly; The speaker further suggested that all the CPIOs should take uniform action on the RTI applications, received with IPOs not in favour of “Pay & Account Officer, MHRD”. Indian Postal Orders should either be deposited in the bank account or returned to the RTI applicant, but in no case kept in the files. Replies to RTI applications must necessarily mention the details of First Appellate Authority and RTI applications forwarded to different sections of MHRD through RTI-MIS must be disposed off in time.

12. The take – aways from the seminar are summarised below:

- i) To become a developed nation, for citizens to have access to quality education dissemination of information to the citizen is necessary and there is an urgent need to make disclosures Suo-moto.
- ii) It emerged from the discussion that state education board and CBSE, while granting permission to private school should impose a condition on them to make RTI Act applicable on them.

- iii) The information relating to recruitment, promotion and transfer policy of government servant and school recognised by school board of CBSE (both aided and unaided) should be placed in the public domain.
- iv) The facilities provided by States and Central Government for the students covered under EWS categories should be specially disclosed.
