

# CENTRAL INFORMATION COMMISSION

**CIC Bhawan, Baba Gangnath**

**Marg, Munirka, New Delhi -**

**110067.**

## **A STUDY TO PROMOTE PAPERLESS FILING OF APPEALS BY SIMPLIFYING THE ONLINE PROCESS AT CENTRAL INFORMATION COMMISSION**



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## TABLE OF CONTENTS

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<b>ACKNOWLEDGEMENT .....</b>	<b>2</b>
<b>TABLE OF CONTENTS .....</b>	<b>3</b>
<b>LIST OF ABBREVIATIONS .....</b>	<b>4</b>
<b>ABSTRACT .....</b>	<b>5</b>
<b>INTRODUCTION .....</b>	<b>6</b>
<b>ANALYSIS OF RTI Rules 2012 and Online Filing Process.....</b>	<b>7</b>
<b>STUDY OF RELEVANT DATA .....</b>	<b>11</b>
<b>CONCLUSION AND SUGGESTION .....</b>	<b>19</b>

## **LIST OF ABBREVIATIONS**

RTI	Right To Information.
CIC	Central Information Commissioner.
CCI	Competition Commission of India.
SIC	State Information Commissioner.
CPIO	Central Public Information Officer.
FAA	First Appellate Authority
SPIO	State Public Information Officer.
IC	Information Commissioner.
SC	Supreme Court.
HC	High Court.
Ltd.	Limited
Co.	Company
Ors.	Others
Anr.	Another
Vs.	Versus
sec.	Section

## **ABSTRACT**

Right to Information Act, 2005 is considered to be a revolutionary legislation and very pertinent one in re-vitalizing the world's largest democracy. A democracy is primarily a people centric form of government where people's participation in the government is innate and inevitable. Right to Information was given the designation of Legal Right through this legislation of 2005. The main objective of this legislation was to bring transparency and accountability in the governance and to make it more inclusive. Also an effort was made to establish an informed citizenry which would be responsible enough to take steps towards development of country by containing corruption and making Governments more accountable to the governed. The theories of Jurisprudence and the experiences in law have clearly established that, when a law is written in black and white then a mechanism is definitely required to make it followed on ground. Thus the RTI Act also contain a setup containing three forums of appeal in a well-established hierarchy. Having CPIO at the lowest level in any public authority then comes FAA in the same public Authority and then is the CIC, the forum of 2<sup>nd</sup> appeal. CIC is a quasi-Judicial forum which has enormous powers vested in itself by the RTI Act. These powers enable CIC to ensure effective implementation of the RTI Act. This paper will exclusively deal with the procedures of filing the second appeal/complaint and need to promote paperless filing by simplifying the online process at the CIC.

## INTRODUCTION

The legislative intent behind the enactment of the RTI Act was to foster transparency and accountability in the working of every Public Authority, bridge the gap between the information provider and the information seeker, enhance efficiency in administration of public authorities, mitigate corruption and promote good governance. Good governance is, in turn, a replica of people's participation, accountability, and constitutional governance. Talking of Constitutional Governance, the Constitution of India has enshrined the principles of democracy, especially by guaranteeing to its citizens Fundamental Rights which inter-alia include the people's right to know everything done by the public functionaries. This right is implicit in Article 19(1) (a) and Article 21 of the Constitution of India. This very Right i.e. 'Right to Information' gives the common citizen of the country, power to participate in the process of governance of the government chosen by them and in turn make the concept of democracy meaningful.

## **ANALYSIS OF RTI RULES 2012 IN PERSPECTIVE OF ONLINE FILING**

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The Commission's website has laid down Provisions of RTI Rules, 2012 as under:

### **SECOND APPEAL GUIDELINES**

**The Commission has decided to issue the following guidelines for registration of Second Appeal as prescribed under Rule 8 and 9 of the RTI Rules, 2012:**

1. Mandatory documents required for registration of Second Appeal :
  - a) The second Appeal duly signed and addressed to the Commission
  - b) Copy of the RTI application submitted to the Central Public Information Officer
  - c) Copy of the first appeal made to the First Appellate Authority
  - d) RTI, First Appeal and Second Appeal shall be related to each other
  - e) Above three documents must be legible
  - f) Above three documents must be in Hindi /English or a translated version in Hindi/ English should be provided
2. Other Mandatory documents required for proper presentation of Second Appeal, if available
  - a) Copy of reply received from the CPIO
  - b) Copy of the order received from the First Appellate Authority
  - c) Copies of other documents relied upon by the appellant and referred to in his appeal
  - d) An index of the documents
  - e) All the documents shall be duly authenticated and verified by the Appellant
3. The mandatory time period for filing the Second Appeal:
  - a) The Second Appeal can be filed after forty –five days after filing of First appeal or immediately after First Appellate Authority decision
  - b) The Second Appeal must be filed within 90 days from the date on which the First Appellate Authority decision was actually received by the Appellant or within ninety days after expiry of 45 days of filing of First Appeal in cases where no reply has been received
  - c) Condonation of Delay: If Second Appeal is filed after 90 days from the date on which first Appellate Authority's decision was received by the

appellant , the Commission may admit the Second Appeal if is satisfied that the appellant was prevented by sufficient cause from filing the Second Appeal in time.

## **COMPLAINT GUIDELINES**

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**The Commission has decided to issue the following guidelines for registration of Complaint as prescribed under Rule 8 and 9 of the RTI Rules, 2012:**

1. Documents required for registration of Complaint:
  - a) Complaint duly signed and addressed to the Commission
  - b) Copy of the RTI application submitted to the CPIO or the RTI application which could not be submitted
  - c) RTI and Complaint shall be related to each other
  - d) Above two documents must be legible
  - e) Above two documents must be in Hindi/English or provide a translated version in Hindi /English
2. Other documents required for proper presentation of complaint, if available
  - a) Copy of reply received from the CPIO
  - b) Copy of the order received from the First Appellate Authority
  - c) Copies of other documents relied upon by the Complainant and referred to in his Complaint
  - d) An index of the documents
  - e) All the documents shall be duly authenticated and verified by the Complainant
3. The mandatory time period for filing Complaint:
  - a) Complaint can be filed immediately if CPIO of Public Authority refuses to accept RTI Application as per RTI Act 2005.
  - b) After receipt of reply to RTI application or thirty days after filing of RTI application and if no reply received
  - c) After receipt of reply from First Appellate Authority or forty-five days after filing of First appeal, if the Complainant had chosen to file first appeal and no reply had been received.
4. Registration of Complaint as second appeal
  - a) During scrutiny of Complaint, if it is found that Complainant has requested for the information along with the imposition of penalty, the complaint would be registered as Second Appeal, provided first appeal had been filed by the Complainant.

5. Complaint will not be registered if any of the following condition exists
  - a) - If the Complaint has already been registered by the Commission with same RTI(Duplicate Case)
  - b) Body mentioned as a Public Authority in the Complaint is not registered with the Commission as Public Authority and justification for declaring the body as a Public Authority has not been given by the Complainant
  - c) Complaint relates to State information Commission. In such a case, the Complaint shall be sent to the concerned State Information Commission.
  - d) Complaint relates to multiple RTI application /CPIO's replies /First Appeals. In such cases the Complaint shall be returned along with all the documents.
  
6. In case of offline Appeal/Complaint filed by the applicant, he/she will be informed by the dealing official whether the same prime facia fulfils the requirements for its registration.
  
7. Additional guidelines for facilitating disposal of the case:
  - a) If the complaint is being filed without submission of RTI application to the Public Authority , the reasons of non -submission of RTI application should be mentioned
  - b) The complainant should mention the specific sub- section of section 18 of RTI Act under which the complaint is being filed .
  - c) Provide a copy of proof of submission of copy of complaint to the Public authority, if available
  - d) If the complaint is made on the ground that information concerning life or liberty was not given within 48 hours as per proviso to Section 7 (1), it should contain reasons for considering the information requested as concerning the life or liberty
  - e) To give reasons for considering a body as Public authority ,if the ground of complaint is that the concerned body was not considering itself to be Public authority

**To promote the use of technology and paperless filing of appeals/complaints at CIC, it was decided to analyze the reasons for issue of FMs for online appeals/complaints being returned back by CIC.**

### **Salient features of filing appeal online**

- **Available 24x7** all through the year for filing/tracking of RTI/appeal request and first appeal.
- Savings in terms of time and money.
- Bilingual (English & Hindi).
- Enables filing RTI request /first Appeal online.
- Payment of fee online: debit/credit card & Net banking.
- **Tracking the status of RTI** request/ appeal online
- Facilitating monitoring of pending requests/appeals .

### **Drawbacks of Manual Process**

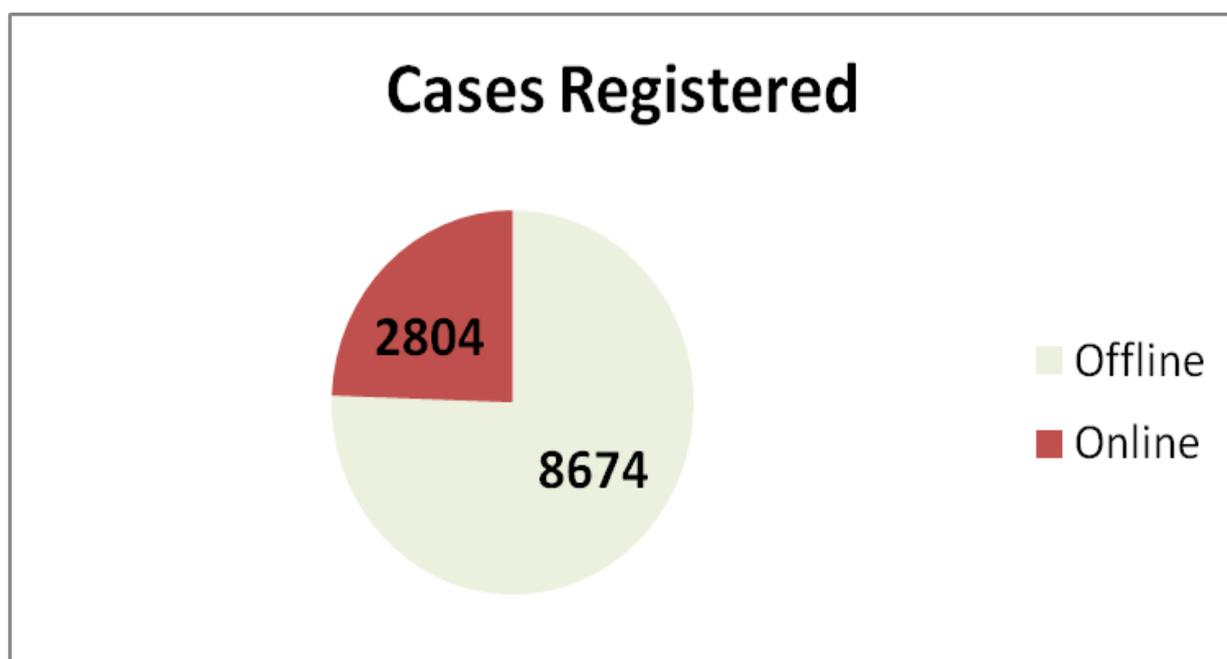
- Delays in filing RTI request due to :
  - Payment of RTI fees (through DD, Banker's cheque, IPO etc.)
  - Postal or in transit delays.
- Delays in replying to RTI requests due to internal processing :
  - Inter-organisational transfers of requests as per provision of the ACT
  - Collating information from various sections and departments
  - File movements
  - Preparing draft reply and sending reply by post
  - Cataloguing of replies and storage of the same for record keeping.
- Additional costs involved
  - For citizens: typing and sending by posts & opportunity cost
  - For CPIO/ Appellate Authority: Typing/ copying and sending by post
- Miscellaneous Issues
  - Delays in seeking of additional documents from RTI applicant
  - Encashment of RTI Fee received by public authority in the form of DD and IPO
  - Constraints for filing RTI application from inaccessible areas
  - Lack of uniformity across Public Authorities

## STUDY OF RELEVANT DATA

**Data of the six months i.e from December 2018 to May 2019**

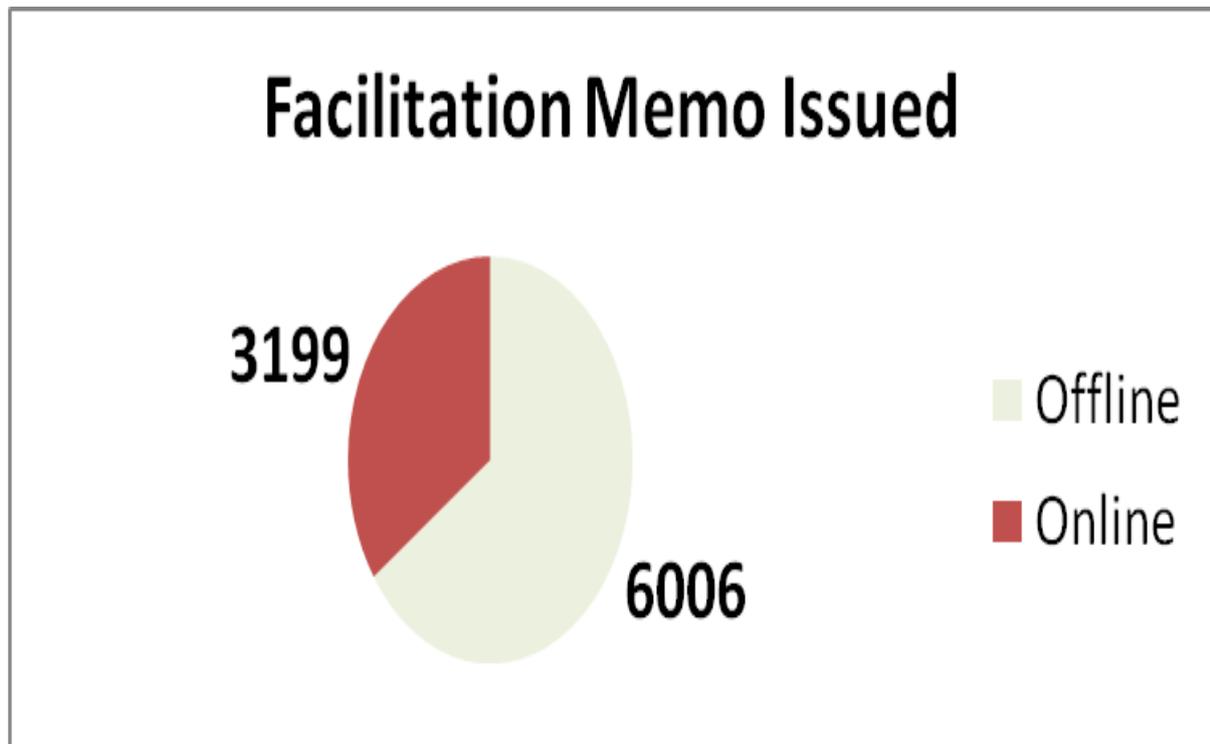
### **Cases Registered:**

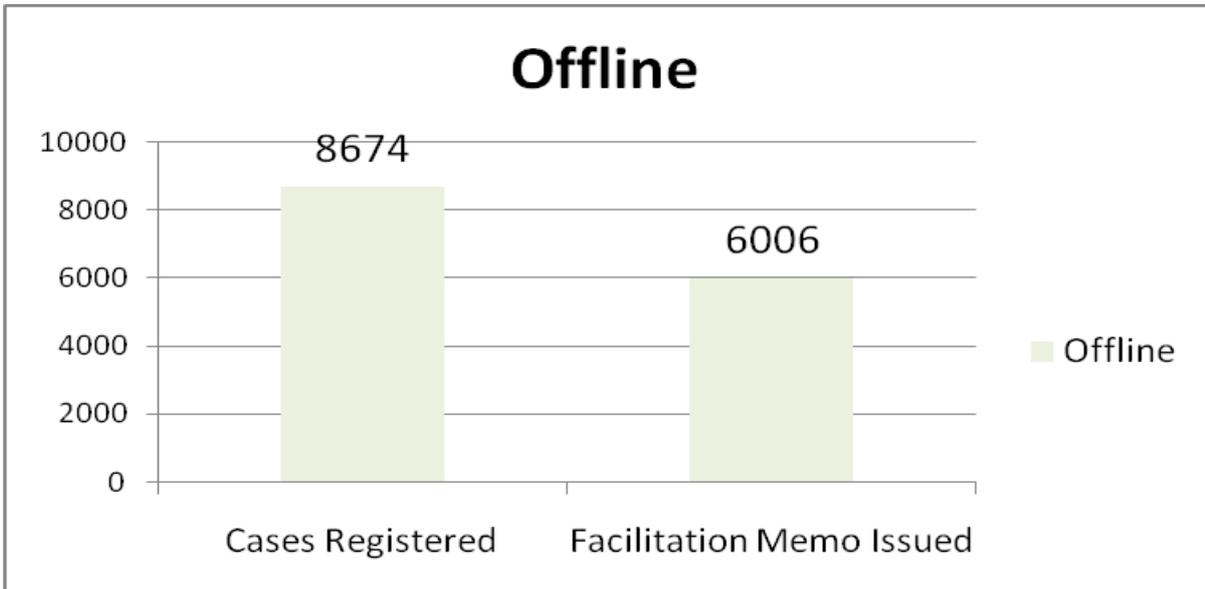
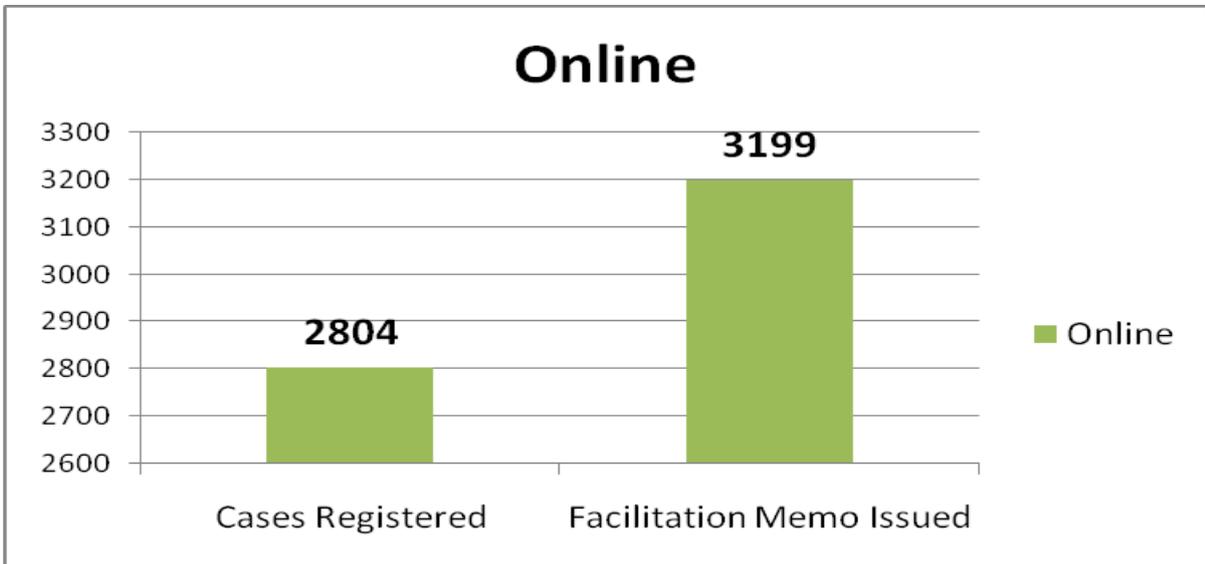
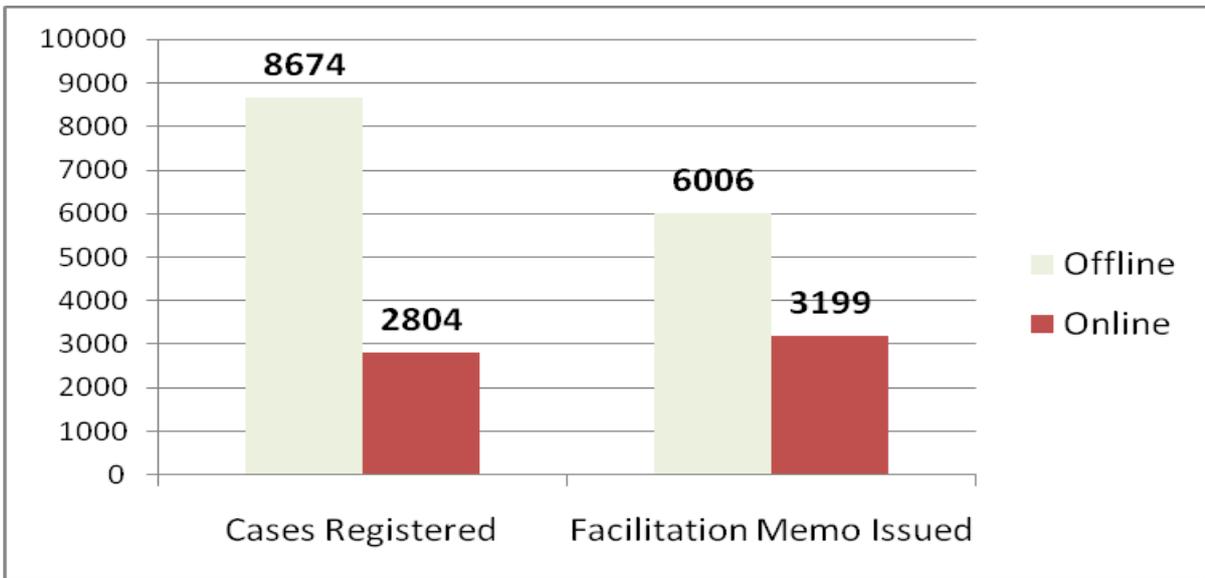
<b>S. N.</b>	<b>Cases Registered</b>	<b>Number</b>
1	Offline	8674
2	Online	2804
	Total	11478

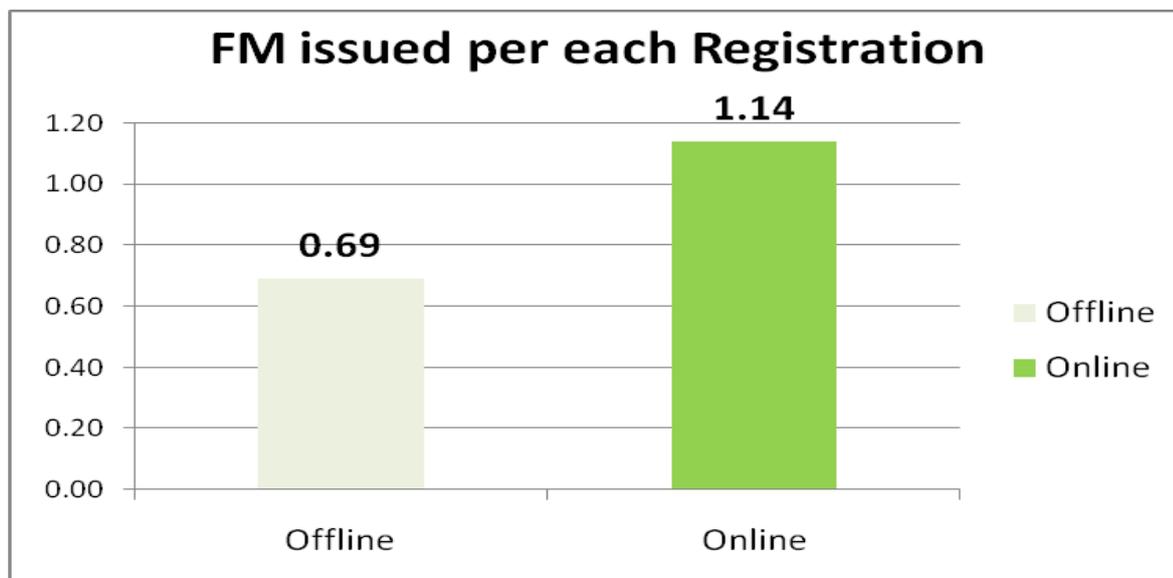


### Facilitation Memo Issued:

S. N.	Facilitation Memo Issued	Number
1	Offline	6006
2	Online	3199
	Total	9205







### **Analysis of the above data:**

From the above graph it is seen that for every case registered through offline mode, there is 0.69 FM issued. However, for online mode, there is a substantial increase to 1.14 FMs issued.

Thus, we can conclude that there are 65% ( $1.14/0.69$ ) more FMs issued in online cases as compared to offline cases.

The trend is baffling as online users are perceived to be more educated.

In case of DOPT website, there is no FM generated as all RTI applications and first appeals are registered. No documents including the RTI application is required to be submitted as appeal is linked to the RTI application already registered.

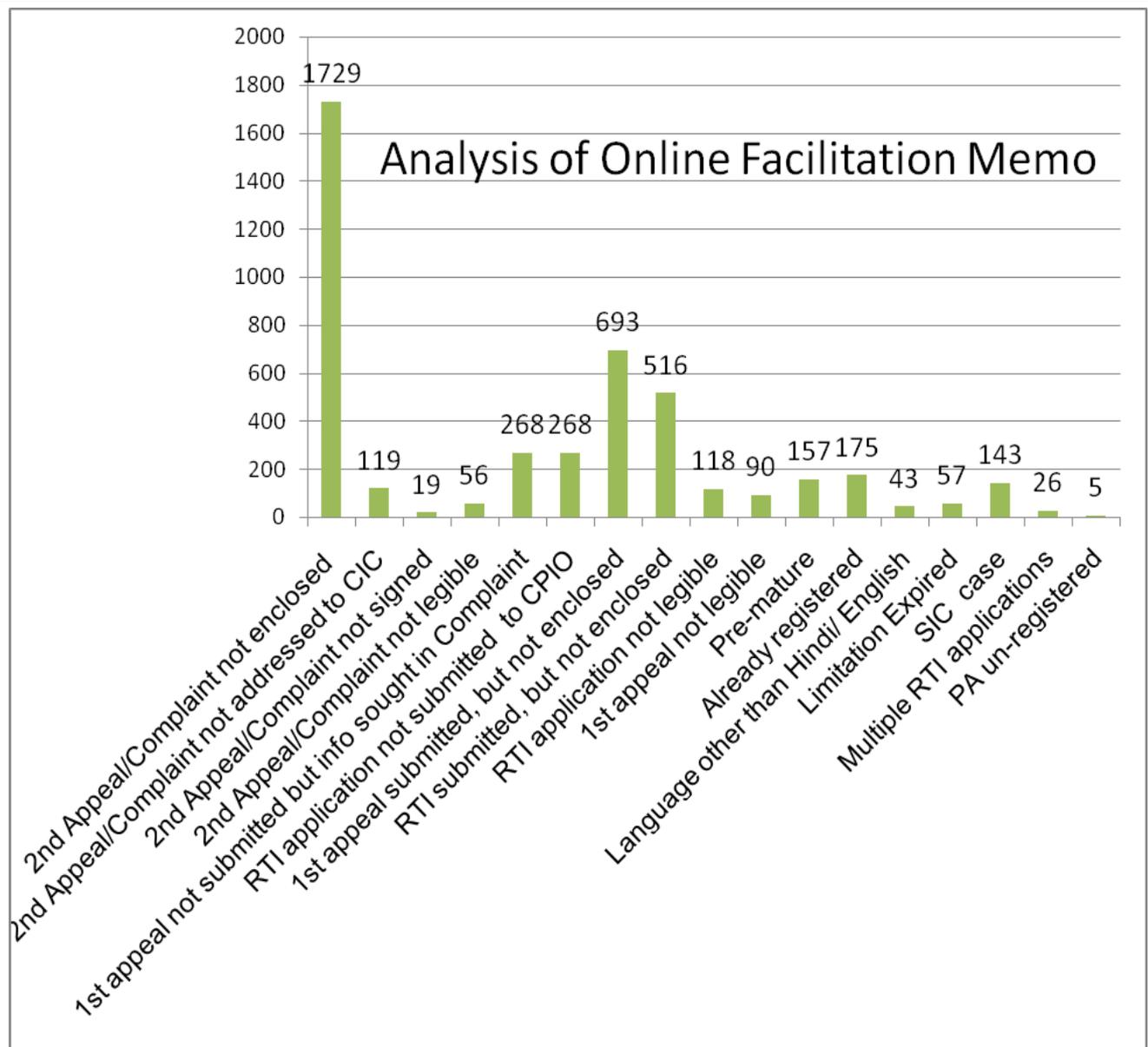
Thus, 100% online first appeals are registered with the concerned first appellate authority.

Even it is not mandatory to login on the DOPT website and one can directly file the RTI application under 'Submit Request' by filing your personal data. Even the mobile number is not a mandatory requirement here as is the case when done through your login.

Online first appeal can only be filed against previously filed online RTI application. However, in case of CIC, the second appeal/Complaints can be filed online even for previously offline filed RTI Applications as well as first appeals.

### Reasons for Online Facilitation Memo at CIC:

<b>SN</b>	<b>Reason for Return (FM)</b>	<b>Number</b>
1	2 <sup>nd</sup> Appeal/Complaint not enclosed	1729
2	2 <sup>nd</sup> Appeal/Complaint not addressed to Commission	119
3	2 <sup>nd</sup> Appeal/Complaint not signed	19
4	2 <sup>nd</sup> Appeal/Complaint not legible	56
5	1 <sup>st</sup> appeal not submitted but info sought in Complaint	268
6	RTI application not submitted to CPIO	268
7	1st appeal submitted, but not enclosed	693
8	RTI submitted, but not enclosed	516
9	RTI application not legible	118
10	1st appeal not legible	90
11	Pre-mature	157
12	Already registered	175
13	Language other than Hindi/ English	43
14	Limitation Expired	57
15	SIC case	143
16	Multiple RTI applications	26
17	PA un-registered	5



### ANALYSIS OF ONLINE FACILITATION MEMO:

- From the above information, it is seen that the **major cause of FM generation is 2<sup>nd</sup> appeal not enclosed.**
- The reason for return of 2<sup>nd</sup> appeal is **amusing** as the appellant has **just filed 2<sup>nd</sup> appeal online** on CIC website
- A person who files the RTI application online on DOPT RTI portal:
  - gets the copy of **RTI application generated through the portal** itself
  - **does not have to upload** scanned copy of **physical RTI application**
  - **Same** is the case while filing the **1<sup>st</sup> appeal**
  - He **creates own login user account** at DOPT RTI Portal to file any RTI application or first appeal

- On CIC website, no **2<sup>nd</sup> appeal** is generated.
- Appellant has to write the 2<sup>nd</sup> appeal, sign and scan the same before uploading it on the CIC website portal while filing the 2<sup>nd</sup> appeal
- However, these instructions on the portal page are not clearly mentioned.
- Thus, 2<sup>nd</sup> appeal **non-uploading** has become the biggest cause of return of 2<sup>nd</sup> appeals as seen from the data
- This shows that the appellants are confused about the filing procedure of online 2<sup>nd</sup> appeal.

## COMPARISON OF DOPT AND CIC RTI WEB PORTAL

S. N.	Description	DOPT	Central Information Commission
1	Online RTI web portal	<a href="http://rtionline.gov.in/">rtionline.gov.in/</a>	<a href="http://dsscic.nic.in/online-appeal-application/onlineappealapplication">dsscic.nic.in/online-appeal-application/onlineappealapplication</a>
2	Used for Filing	<ul style="list-style-type: none"> <li>• RTI Application</li> <li>• First Appeal</li> </ul>	<ul style="list-style-type: none"> <li>• Second Appeal</li> <li>• Complaint</li> </ul>
3	<b>Options for Filing</b>	<ul style="list-style-type: none"> <li>• Direct; or</li> <li>• <b>User Account</b></li> </ul>	<ul style="list-style-type: none"> <li>• Direct (<b>no user account facility</b> available)</li> </ul>
4	<b>Mobile requirement</b>	<b>Optional</b> (Mandatory if using user account)	Mandatory
5	Email requirement	Mandatory	Mandatory
6	RTI application uploading	<b>Not required</b>	<b>Mandatory</b>
7	First appeal uploading	<b>Not required</b>	<b>Mandatory</b> (Second Appeal)
			Optional (Complaint)
8	<b>Text Box</b> for writing	RTI Application - Available	<b>2<sup>nd</sup> Appeal – Not Available</b>
		First Appeal - Available	<b>Complaint – Not Available</b>
9	<b>Second appeal RTI</b> application uploading	Not applicable	<b>Mandatory</b>
10	<b>Complaint RTI</b> application uploading	Not applicable	<b>Mandatory</b>
11	<b>Filing link papers online</b>	<b>On demand</b> by Public Authority	<b>Voluntary</b>
12	Filing online Appeal on offline RTI application	<b>No option</b> to file online if RTI filed offline	<b>Online option available</b> even if RTI/first appeal filed offline
13	Generation of Record by web portal	<b>RTI Application- Yes</b>	<b>Second Appeal – No</b>
		<b>First Appeal - Yes</b>	<b>Complaint – No</b>
14	FACILITATION MEMO	<b>0%</b>	<b>114%</b>

## CONCLUSION AND SUGGESTIONS

**Thus, to promote the use of technology and paperless filing of appeals/complaints at CIC, the following options to reduce the Facilitation Memos are recommended please:**

1. The 2<sup>nd</sup> appeal process may also be incorporated in the DOPT RTI portal already in existence.
  - a. As the appellants already have their logins created in the DOPT RTI portal, there shall not be any requirement of additional database of the appellants.
  - b. The appellants are already well conversant with the process of filing the RTI appeals on DOPT portal
  - c. The 2<sup>nd</sup> appeal shall be generated by the RTI portal itself for the appellant as well as the Commission
  
2. The CIC website may be modified on the lines of DOPT RTI portal, so that:
  - a. There is no requirement of writing the 2<sup>nd</sup> appeals, signature, scan and uploading
  - b. This will reduce the major cause as also the other related reasons for FMs as under:

<i><b>SN</b></i>	<i><b>Reason for Return (FM)</b></i>	<i><b>Number</b></i>	<i><b>% of FMs</b></i>
<i>1</i>	<i>2<sup>nd</sup> Appeal/Complaint not enclosed</i>	<i>1729</i>	<i>54.05</i>
<i>2</i>	<i>2<sup>nd</sup> Appeal/Complaint not addressed to Commission</i>	<i>119</i>	<i>3.72</i>
<i>3</i>	<i>2<sup>nd</sup> Appeal/Complaint not signed</i>	<i>19</i>	<i>0.59</i>
<i>4</i>	<i>2<sup>nd</sup> Appeal/Complaint not legible</i>	<i>56</i>	<i>1.75</i>
	<b>Total</b>	<b>1923</b>	<b>60.11</b>