

**OUTCOME AND  
RECOMMENDATIONS  
OF THE  
NATIONAL CONVENTION  
On  
'One Year of RTI'**

13<sup>TH</sup> TO 15<sup>TH</sup> OCTOBER, 2006

**Central Information Commission**

Block IV, Old JNU Campus, New Delhi - 110067

**Central Information Commission  
Block No. 4, 5<sup>th</sup> Floor,  
Old JNU Campus,  
New Delhi**

Central Information Commission had organized a National Convention on one year of RTI during 13-15<sup>th</sup> October, 2006. Hon'ble President of India Dr.A.P.J. Abdul Kalam had inaugurated it on 13<sup>th</sup> October, 2006 and Dr. Manmohan Singh, Prime Minister of India addressed a valedictory to the Convention.

During the Convention four Panels were formed to deliberate on various topics.

Panel No. 1 consisted of the following :

1. Mr. K. K. Misra, Chief Information Commissioner, Karnataka :  
**Chairperson**
2. Dr S. V. Joshi, Chief Information Commissioner, Maharashtra
3. Dr. Kaustuv Bandhopadhyay, National Coordinator, PRIA
4. Mr Biswajit Bhattacharya, Advocate, Supreme Court
5. Commissioner of Police, Delhi represented by Ms. Sonali Singh, DCP

Panel No. 1 deliberated on "**One year of RTI – Taking Stock - Its Success and Shortcomings**"

Panel No. 2 consisted of the following :

1. Dr. R. S. Tolia, Chief Information Commissioner, Uttaranchal, :  
**Chairperson**
2. Mr. B.N. Yugandhar
3. Ms. Shailaja Chandra
4. Mr. Sarabjit Roy
5. Mr. Trilochan Shastry
6. Mr. V. Ramachandran
7. Mr. K. Balkrishnan
8. Prof. M.M. Ansari, Information Commissioner, CIC

Panel No. 2 deliberated on "**Approaches to maximum Disclosure and promotion of open Government especially with emphasis on Improving Information Storage, maintenance and thereby faster Retrieval**".

Panel No. 3 consisted of the following :

1. Mr. Anna Hazare : **Chairperson**
2. Mr. Shailesh Gandhi
3. Lt. Gen. S. Pattiburman
4. Mr. Anand Swarup
5. Mr. M. Sridhar
6. Mr. S. C. Khuntia

Panel No. 3 deliberated on **“Dealing with the Challenges before the RTI and Chalking out a Roadmap for the future, including creating awareness till the grassroots level and simplification of procedures”**.

Panel No. 4 consisted of the following :

1. Mr. S. Ramakrishnan, CIC, Tamilnadu
2. Justice Mr. Mohd. Asgar Khan, CIC, UP
3. Mr. G. Madhavan, CIC, Haryana
4. Mr. P. Talitemjen Ao, CIC, Nagaland
5. Mr. Rajan Kashyap, CIC, Punjab
6. Mrs. Padma Balasubramanian, Information Commissioner, CIC

Panel No. 4 deliberated on **the issues raised by Chief Information Commissioners and Information Commissioners of various States of the country.**

The reports presented by these Panels are placed at Appendix 1, 2, 3 and 4 respectively. There was a Session of the "Citizens' Speak" where citizens were given an opportunity to present their views during the Convention either on the stage or in writing. Views of some of these are placed at Appendix - 5.

**NATIONAL CONVENTION ON ONE YEAR OF RTI**

**REPORT OF PANEL - I**

(13-15 October 2006)

**ONE YEAR OF RIGHT TO INFORMATION: TAKING STOCK- ITS  
SUCCESS AND SHORTCOMINGS**

Members:-

- 1. Mr. K.K. Misra, Chief Information Commissioner, Karnataka :  
Chairperson**
- 2. Dr S.V. Joshi, Chief Information Commissioner, Maharashtra**
- 3. Dr. Kaustuv Bandhopadhyay, National Co-ordinator, PRIA**
- 4. Mr Biswajit Bhattacharya, Advocate, Supreme Court**
- 5. Commissioner of Police (Represented by Ms Shalini Singh Dy. CP Delhi Police)**

Mr P K Gera, Registrar, Central Information Commission was the Rapporteur for the panel.

The Right to Information Act which came into effect from 12 October 2005 promised to empower the people of India with free flow of information from the government. The first year of its existence saw a mixed bag of experiences for all stakeholders including the public, the civil society, the public authorities as well as the Information Commissions.

With the views that have emerged from different stake-holders and the proceedings of panel's discussions, this report focuses only on the shortcomings in the working of the Act so far and the roadmap for the

future<sup>1</sup>. The shortcomings have been identified vis-a-vis the benchmark of public expectations that the Act would help them in securing services from Government such as water and electricity connections and, ration cards, driving licences, passports etc. The following emerged as the main areas of concern.

1. **Appointment of Public Information Officers by Public Authorities u/s 5(1):** While Public Information Officers have been appointed by most of Public Authorities and the process of accessing information by people has started, there are still many public authorities that are yet to designate/notify PIOs.<sup>2</sup> Even where they have been designated/notified, particulars of all such functionaries is still not available at one place. Most public authorities, particularly at the district level, do not display names and details of PIOs on their notice boards etc. making it difficult for the public to know where the application is to be submitted. Officials who do not have easy access to information or are too junior are often appointed as PIOs.<sup>3</sup> There is also a lack of uniformity in the States in identifying the competent levels of officials for discharge of this function.<sup>4</sup>

2. **Suo moto Disclosures u/s 4:**

In the Central government, 43% Ministries/Departments/Public authorities are reported to have less than 50% compliance, 26% have between 50-70% compliance and only 17% of Ministries/Departments/Public authorities have complied with more than 70% of the provisions of Section 4. No compliance data is available for 14% of Ministries/

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<sup>1</sup> Reported data of a study by CMS has been used. Inputs have also been received from State Information Commissions (SIC), NGOs, etc. The findings of a significant study conducted by the NGO PRIA on how the Act has been functioning in 12 States have been noted in the report.

<sup>2</sup> 53% of public authorities do not provide any information at all about their PIO.

<sup>3</sup> Punjab Police has appointed the SSP as PIO at the field level whereas at the HQ, the PIO is an IG rank officer.

<sup>4</sup> In Uttaranchal, Sarpanch is the PIO; in Himachal Pradesh, BDO is PIO even for Gram Panchayat]. PIOs are not being appointed according to requirement. [In Kerala, DoPT has 42 PIOs but Kerala Water Authority has only 1 PIO.

Departments/Public authorities. States and union territories have averaged a compliance of 29%. only.<sup>5</sup>

- There is no systematic monitoring of the voluntary disclosures for their quality.
- Incomplete/insufficient disclosures have no penal consequences for public authorities
- There has also been no compliance of Section 4(2), which requires public authorities to explore what information is needed by the citizens and *suo-moto* disclose it.

### 3. **Experience of seeking information from Public Authorities:**

- Fees charged and the manner of payment are not uniform. Some States charge very high fees which is against the spirit of the Act.<sup>6</sup> There is confusion about the head of accounts to which the application fee is to be credited. Bank drafts prescribed in some States mean Rs.35 commission for an application fee of Rs. 10.<sup>7</sup> Payment by way of postal Orders and non judicial stamps is applicable only in few states.
- Applicants have to resort to sending their applications by registered post since officials avoid accepting their applications in person. Most of the PIOs at state level and district level are not cooperative and they sometimes threaten the applicants forcing them to withdraw applications.

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<sup>5</sup> The top five states and union territories are Madhya Pradesh (87%), Uttaranchal (76%), Chandigarh (70%), Punjab (64%) and Delhi (54%). Of the most useful information to citizens, only 37% gave the details of department budgets, 20% published the manner of execution of subsidies and 23% listed the projects undertaken by the department.

<sup>6</sup> States like Haryana and Tamil Nadu charge Rs 50, whereas Maharashtra and Orissa charge Rs 25 for an appeal. Andhra Pradesh charges no fee at the village level. The mandals and the district-level organizations charge a slightly higher amount.

<sup>7</sup> In UP, only a few departments accept fees in cash and issue proper receipts. Most departments ask people to submit the fees through Chalan in the Treasury, something which is not provided for in the rules. Some applicants have been directly attaching a Rs. 10 note with their application and sending their applications by post which are being accepted.

- People in rural areas find the appeal process expensive as they have to come to the capital for the hearings.<sup>8</sup> The location of the Commissioners in the State and Centre at the capital cities discourages the poor from filing appeals.
- Very often the information provided is turning out to be incomplete, misleading and unclear. The government departments don't always comply with the orders of the Information Commission. The process to be adopted by the Commission to enforce its orders is unclear.
- Since the Act has not been publicized very well, the users are largely government employees and the educated urbanites. BPL exemptions are being misused by unscrupulous elements.<sup>9</sup>
- The judiciary is expected to frame its own rules for dissemination of information under the Act. Apart from the Supreme Court, only a few High courts in the country like Karnataka have framed the rules and designated PIOs and AAs as required by the Act. Some, like the Bombay High Court, have still not complied with the provisions. Supreme Court has suggested amendment to the act so that the second appeal in their cases may not lie before the Central Information Commission but with the Registrar General of the Supreme Court.
- The Police is flooded with requests from lawyers and the media which may hamper investigations and affect security. The Delhi Police and the CBI wish to be included in the Second Schedule as exempted organisations.

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<sup>8</sup> Fees for appeal exist in MP, Orissa, Maharashtra and Chattisgarh.

<sup>9</sup> Haryana SIC has interpreted the provision as granting of exemption only for payment of application fee and not for the cost of the information.

4. **Experience with Appellate Authorities and the Information Commission:**

- Identification of First Appeal Authority is difficult particularly in cases where applicants do not receive information within the stipulated time frame and have to file the first appeal. Under section 7(8) of the Act PIOs are duty bound to provide details of the appellate authority if they refuse information. But not all PIO provide these details, particularly, when they have provided incomplete information or have sent only an interim reply to the RTI request. Only a very few are finally able to approach the Information Commission.<sup>10</sup>
- The reluctance of the Information Commissioners to use the penalty clause against officials providing wrong or no information has been an issue of discontent.<sup>11</sup> The Commissioners feel that indiscriminate use of the clause may lead to collapse of the administrative machinery more so because these are still early days of implementing a whole new concept of governance. There is a misunderstanding that the penalty is fixed and automatic, but the Act requires the Commission to follow principles of natural justice. The panel noted that once it is decided to impose the penalty the Act in present form does not provide discretion to the Commissioners to determine the amount. The Commissioners should be given some discretion in imposing penalty under section 20 of the Act as the fine imposed on the PIO not only damages his career prospects but also hurts him financially. In present form, the Commissioners may be forced to impose penalty that will appear to be disproportionate to the lapse. The suggested

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<sup>10</sup> In Karnataka, the SIC has adopted a policy of not insisting that the complainant must avail the remedy of first appeal before lodging a complaint u/s 18 of the RTI Act. Whenever a request for information is rejected, section 19 provides the applicant with the remedy of first appeal to the officer, senior in rank to the PIO. However, the applicant can also make a complaint to the Commission under section 18 of the Act.

<sup>11</sup> Very few States, barring Goa and Karnataka, have invoked the clause. In Delhi, the CIC invoked the clause in two cases and later withdrew the penalty in one case.

discretion may encourage the Commissioners to impose penalties in more number of cases.

- NGOs alleged that while Commissioners dismissed a case if the complainant didn't show up or was late for some reason, the government departments from whom the information was being sought were given a number of chances to appear and not penalized if they failed to provide the desired information. As a result, an impression was being created that the government departments needn't take this Act very seriously. The rules must provide that the appeals/complaints under the Act shall not be dismissed due to non-appearance of appellants/complements but shall be decided on merits in all cases based on available material.
- The Information Commissions are also not playing any role in overseeing the proper implementation of the Act or preparing the PIOs to fulfil their duties and responsibilities in accordance with the Act.
- The powers under the Act for enforcing the Commission's orders are limited in the face of sometimes open recalcitrance of public authorities. ICs have also not been following up on the directions to check compliance.<sup>12</sup>

#### 5. **Appointment of Information Commissioners and their Autonomy:**

- Most of the states surveyed in the CMS study had only two Information Commissioners (IC), while States like Gujarat, Madhya Pradesh, West Bengal, Himachal Pradesh and Maharashtra had appointed only one IC.<sup>13</sup>

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<sup>12</sup> In Punjab, the SIC does not close a case unless compliance is confirmed.

<sup>13</sup> State Information Commissions have been constituted in all states (except Arunachal Pradesh), but in some states like Bihar, Jharkhand, Uttar Pradesh, Himachal Pradesh, Haryana and Rajasthan, the constitution of SIC was delayed by several months.

- The Commissions have not been provided with adequate infrastructure e.g. office, computers, staff, funds etc. There is no clarity on their administrative and financial powers. Governments have not kept up with their obligations u/s 13(6) of the Act to provide adequate staff. The Commission has to rely on the government for all its infrastructure including physical, financial and manpower, etc.<sup>14</sup> The Commissions' autonomy is therefore compromised and they are unable to function *autonomously without being subjected to directions by any other authority under this Act* [s.12(4) and s.16(4)]. The restrictions on recruitment imply that the Commissions are understated. Their budgets are also subject to approval by the administrative departments to the extent that the CIC and some SICs have no powers of re-appropriation.
- The government is still to define the warrant of precedence issue with regard to the ICs.

#### 6. **Public Authority:**

Even enumeration of public authorities is a herculean task given the huge numbers of public authorities<sup>15</sup> Various Public Authorities like the electric distribution companies of Delhi (known as DISCOMS), and Association of Indian Universities have dragged the Central Information Commission to the High Courts on being declared as Public Authorities under the Act. Governments need to notify all its authorities specifically u/s 2(h) to dispel all doubts in this regard.

#### 7. **Monitoring of Performance under the Act:**

There is clearly a need for effective monitoring, review and auditing of the implementation of the Act. Annual Reports by CIC/ SICs under s.25 is based on information furnished by the Government departments without

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<sup>14</sup> In CIC, 72 posts have been created but not all have been filled.

<sup>15</sup> In Karnataka alone, there are about 55000 registered Co-operative Societies, 25000 aided educational institutions and 5652 Gram Panchayats taking the total number of public authorities well beyond 1,00,000.

the benefit of any independent cross-check. The Commissions need to be given a separate set up with adequate staff for effective monitoring of its orders and for conducting cross-checks wherever necessary. Perhaps the Commission could engage the services of retired officers and renowned members of the Civil Society for this purpose.

8. **Creating Awareness u/s 26:**

- Very little action has been taken under this section. Nodal agencies in the states have initiated the process of training PIOs in Uttarakhand, MP, Chattisgarh, Andhra Pradesh, Rajasthan and Kerala. Centre for Good Governance, Yashada (Pune) and Public Administrative Training Institutes are handling the training of PIOs. This itself is a huge task and necessary budget needs to be provided.<sup>16</sup>
- Nodal agencies in some states (AP, MP, Uttarakhand) have prepared learning materials on RTI (in English, Hindi and local languages) and template for suo moto disclosure of information.
- Government has not undertaken any campaign, either in electronic or print media for making RTI popular among citizens, while it regularly launches campaigns on achievements of railways, health programmes, etc. This gap has so far been partly filled by NGOs and the media by publishing handouts.

This historic piece of legislation can be said to have been only partially successful. Public Authorities and Public Information Officers are becoming aware of their full responsibilities. Citizens are learning of the power of information in their hands. It has been a learning experience for each entity involved in the working of the law. But there is still need to tap the full potential of the Act. RTI activists are optimistic despite the initial hiccups and believe that the Act has indicated that it is a powerful weapon to change

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<sup>16</sup> In Uttar Pradesh alone, Panchayat secretaries of 52,000 GPs (Gram Panchayat) are to be trained and the budget of SIC (UP) is Rs. 10 lakhs per annum.

the work culture in Government. Much would hinge on the seriousness of Central and State Governments and Public Authorities in fulfilling their obligations under the Act and ensuring removal of difficulties in the functioning of the Act including the important aspect of autonomy of the Central and State Information Commissions.

### **Recommendations :**

#### **Roadmap for the future:**

- The definition of 'Information' under sec 2(f) needs to be interpreted in the spirit of proviso to Section 8(1)(j). Citizen's charters should be included under Section 4(1)(b), as a large number of RTI requests emerging in States were due to failure of various public authorities to provide delivery of services expected from them.
- The Competent authority under the Act should notify all its public authorities under sec 2(h) of the Act to remove any ambiguity in this regard.
- Effective implementation of s. 4(1) (a) requires records management policies and procedures made compatible with the RTI Act. In the spirit of this Act, the disclosure of the decisions should be the norm; the public authorities should initiate measures so that as far as practicable, all its decisions are mandatorily disclosed on its website. Extensive computerisation and networking is essential. Each Public Authority must provide for a certain percentage of their budget for this purpose till the Commission is satisfied with state of computerisation of records of the Public Authority.
- Disclosures under Section 4 and their adequacy (including the citizens' charter) should be made enforceable either through the Head of the Public Authority or through the PIO who in these circumstances needs to be of a sufficiently senior rank.

- The Commission should be empowered to enforce its decisions including penalising the Head of the Public Authority for continued contempt of its orders.
- Disclosures under Section 4 should be printed and periodically updated. It should be obligatory for the public authorities to publish the disclosures in their Annual Reports.
- The scope of "suo moto" disclosure of information by public authorities needs to be expanded to minimise citizen's resort to RTI to get information needed by them. Citizen's charter should therefore form an integral part of s. 4(1)(b) disclosures so that the public is aware of the commitments of a Public Authority towards the Citizen.
- PIOs need to be of adequately senior in rank in the organisation having adequate infrastructure to meet the demands of information sought under the Act. PIOs need training to be sensitive to the needs of the people and informed about their functions. For this additional work, they could be suitably compensated. A reference to this effect may be made to the Sixth Pay Commission set up by the Central Government.
- As regards penalties which can be imposed u/s 20, Commissions should be given overriding powers to decide the quantum within the parameters of the provisions of this section.
- Each Public Authority should fulfil its obligations u/s 26 of dissemination of knowledge amongst citizens. Adequate budget for this purpose must be provided.
- Independence of Commissions and effective discharge of their duties cannot be guaranteed without granting them full financial and administrative autonomy. The expenditure of the Commission should

therefore be 'charged' upon the Consolidated fund of the State and Centre for respective Commissions.

- The Commissions should put in place mechanisms for Monitoring/review/auditing of information/orders with sustained follow-up to overcome deficiencies in implementation.
- Each Public Authority needs to frame time-bound action plan for the implementation of RTI Act, with outcome budget and clear-cut physical targets. They should also be made accountable for not fulfilling the obligations u/s 4 and 5.
- The judiciary needs to initiate measures for effective implementation of the RTI for which it should frame rules as required under the Act.
- The judiciary could also consider giving priority to disposal of cases where Public Authorities have withheld Information on stay of Commissioners' orders.
- The civil society must continue building pressure on public authorities to ensure the implementation of the Act in letter and spirit. There is need for formal involvement of intermediary civil society organisations to train the PIOs and APIOs in collaboration with other government nodal agencies.
- Section 30 provides for issuing notifications for removal of difficulties within two years of the commencement of the Act. A Committee of Information Commissioners of Centre and State having representations from all stake holders may be formed to suggest suitable modifications including amendments to the Act. . If any amendments to the Act are required, appropriate legislative measures could be taken up.

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**NATIONAL CONVENTION ON ONE YEAR OF RTI**

**REPORT OF PANEL - 2**

(13-15 October 2006)

**APPROACHES TO MAXIMUM DISCLOSURES AND  
PROMOTION OF OPEN GOVERNMENT ESPECIALLY WITH  
EMPHASIS ON IMPROVING INFORMATION STORAGE,  
MAINTENANCE AND THEREBY FASTER RETRIEVAL.**

Panelists: **Dr. R.S. Tolia, CIC, Uttaranchal, Chairperson**

**Mr. B.N. Yugandhar**

**Ms. Shailaja Chandra**

**Mr. Sarabjit Roy**

**Mr. Trilochan Shastry**

**Mr. V. Ramachandran**

**Mr. K. Balkrishnan**

**Prof. M.M. Ansari**

General: As most of the participants, who attended the Panel discussions belonged to the Central Ministries/Departments/Public Sector Undertakings, the issues and questions raised related to the Central Public Authorities. State issues remained under-represented.

2. Publication of the 16 theme Manuals, as given in section 4 (1) (b), and dissemination widely in a suo moto mode is the most important obligation of all Public Authorities and the same has been found to have been done in an unsatisfactory manner. It is evasive, incomplete and mostly not adequate

for the purpose for which it is required. This requires immediate attention and supervision.

3. The Central Information Commission and the State Information Commissions must use the Monitoring and Reporting powers given to them under section 25 of the RTI Act and ensure their satisfactory compliance as is being done by Uttaranchal Information Commissioner. This has also been recommended by the Second Administrative Reforms Commission in their first Report which is on RTI Implementation.

4. For a satisfactory compliance of the provisions of section 4 it is also essential to re-visit and review the way the Public Authorities conduct their business, as without such a thorough review it would not be possible to undertake a satisfactory compliance of suo moto disclosures.

5. All Public Authorities must immediately update, multiply and develop hard and soft copies of all Acts, Rules, Manuals, Codes, Regulations, Govt. Resolutions/Government Orders, as section 4 (1) (b) (vi) covers this category of documentation. In many cases the Acts have not been updated, or taken off the Statute books or printed in an updated manner. The Public Authorities (Ministries/Departments) who are administratively responsible to undertake it must be made accountable to complete the task and report it to the CIC or the SIC, as the case may be.

6. All Public Authorities must also re-visit their processes (viz. their decision-making systems/processes) as section 4 (1) (b) (iii) provides for its disclosures and which has been found wanting in most of the so-called suo moto disclosures put on the web so far. This is a major task which all Public Authorities must complete on a top-priority basis.

7. The present status of record maintenance and destruction is in a state of utter neglect both in the Centre and the States. The weeding Rules which should have been drafted, and kept updated, are either in a state of utter neglect or non-existent in most of the Public Authorities. All Public Authorities must quickly review it. Their existing weeding Rules framed under the Destruction of Records Act, 1917. These weeding Rules Must provide the period of retention of each type of records maintained by each Public Authorities. The condition and maintenance of Record Rooms need to be improved at once, to facilitate quick retrieval of record demanded. Wherever any record/document is not traceable its absence must be explained in context of the Weeding Rules in place in a particular Public Authority. Clear out accountability must be fixed for delays or non-traceable list of any document with reference to the Weeding Rules.

8. Each Public Authority must review its decision relating to nomination of the Public Information Officer to ensure that PIOs are not over-loaded with the RTI work and they share it equitably within the organization. No standard prescription can be made in this regard as the P.A.s vary in size, spread, resources and transaction of documents. The Chief Executive of the P.A.s must judiciously divide the PIO work.

9. As Ministries and Departments annually prepare their Annual Reports and present it to the Hon. Members of Parliament & State Assemblies. The contents and scope of these Annual Reports could also be suitably modified to address some of the suo moto disclosure information prescribed under section 4 (1) (b) (i) to (xvi). Public Authorities may consider this recommendation 4 (1) (b) provisions.

10. Extensive use of I.T may be resorted to satisfactory address the Obligations related to suo-moto disclosures and this task may be taken on a Mission Mode during the Eleventh Plan Period.

11. A massive round of training of CPIOs/SPIOs must be undertaken to achieve the Objective of Maximum Disclosure and Promotion of Open Governance. In this regard particular attention of the CPIOs and SPIOs be drawn towards the provision contained in section 25 (5) wherein they are expected to exercise their functions conforming to "the provisions or spirit of" the RTI act. They must not be over-technical in meeting the demands made on them out also look at the spirit and intent behind asking the question. This alone would promote an open-governance regime, one of the intended objective of the RTI Act.

12. As regards various clarifications e.g. definitions of public authority or individual or substantially financed self-governing institutions etc. The CIC and SICs should act in a pro-active manner as only through such a process many of the existing grey areas would get defined more clearly.

13. The Central Information Commission and the State Information Commissions will have to pro-actively take initiatives and fill a perceived space, if one is perceived. They must use the provisions like the one contained in section 25 (Monitoring and Reporting) to take a lead themselves, if the appropriate government is failing to take initiative. They are expected to precipitate issues if there exists a doubt or clarity is wanting in the Act.

14. Effective measures be taken urgently to ensure that compliance of section 4 RTI reaches to the levels closer to the villages.

“सूचना के अधिकार का एक वर्ष – राष्ट्रीय सम्मेलन

पैनल 3 की रिपोर्ट

पैनल का विषय : “सूचना का अधिकार अधिनियम के सामने आनेवाली चुनौतियों से निपटना और निचले स्तर तक जागरूकता लाना तथा योजना तैयार करना”

पैनल मੈम्बर

1. श्री अन्ना हजारे
2. श्री शैलेश गोंधी
3. लै० जनरल एस. पट्टीबर्मन
4. श्री आनंद स्वरूप
5. श्री एम. श्रीधर
6. श्री एस.सी.खुंटिया

1. सर्वप्रथम 10 रूपये का एक पोस्ट स्टाम्प सूचना के अधिकार के लिए बनाया जाए जो कि सभी डाकघरों में प्राप्त हो सकें। पूरे देश में एक ही तरह का प्रपत्र चलना चाहिए ताकि लोगों को अधिक सुविधा प्राप्त हो सके।

स्टाम्प के माध्यम से निर्माण होने वाला निधि सूचना अधिकार अधिनियम के प्रचार प्रसार के लिए उपयोग किया जाए।

2. सूचना अधिकार अधिनियम के प्रचार प्रसार के लिए यह आवश्यक है कि हम आकाशवाणी, दूरदर्शन, रेडियो आदि जो कि गांवों और कस्बों में लोगों की जानकारी का साधन है, का अधिक उपयोग करें। साथ ही पोस्टर पत्रिकाएं भी लोगों की मातृ भाषा

में हो और वह सरकार द्वारा सरल भाषा में प्रकाशित हो । यह प्रकाशन सामग्री सभी डाकघरों, तहसीलों, ग्राम स्तर के पंचायत कार्यालयों तथा बैंकों में लगनी चाहिए और वितरित किये जाने की सुविधा हो ।

3. विद्यालयों में सूचना के अधिकार के बारे में जानकारी पाठ्यक्रमों में होनी चाहिए ताकि बच्चे विवकेशील हों तथा इस अधिकार को पहचान सकें। इसके अलावा नुक्कड़ नाटकों,समाओं तथा प्रतिस्पर्धाओं द्वारा इसको अधिक से अधिक प्रसारित करना चाहिए। स्कूलों में अध्यापकों को इसके बारे में प्रशिक्षित किया जाना चाहिए ।

4. इस अधिकार के बारे में जागरूकता बढ़ाने के लिए सरकार को स्वयं सेवी संस्थाओं को बढ़ावा देना चाहिए तथा जो भी स्वयं सेवी संस्थाएं इस कार्य में लगी हैं उनका सहयोग लेकर इस कार्य को आगे बढ़ाना चाहिए ।

5. अपीलीय अधिकारी के स्तर पर जो निर्णय होते हैं वह कई बार मौखिक रूप से कहे तथा सुनाए जाते हैं। अपीलीय निर्णय लिखित होने चाहिए ।

6. कई संस्थाओं में यह पाया गया है वे कि जो नियम बना रहे हैं ये सूचना अधिकार अधिनियम, 2005 कानून के दायरे में नहीं आते ऐसे भी सूचनाये (परिपत्र) निकाले जा रही है । प्रत्येक संस्था को यह अधिकार दिया जाना चाहिए की वह अपने नियम बनाए परन्तु जो भी नियम बनता है वह सूचना अधिकार अधिनियम, 2005 कानून के दायरे में ही होना चाहिए। जो भी इसका उल्लंघन करें तो केन्द्रीय सूचना आयोग को इसका ध्यान लेकर सही आदेश पारित करना चाहिए।

7. जो भी आयोग के ऐसे निर्णय हों चाहे वह राष्ट्रीय स्तर पर हो, राज्य स्तर पर जहाँ अगर सूचना नहीं दी जा रही हो तो ऐसा करने के कारणों को अधिनियम के प्रावधानों के अंतर्गत स्पष्ट किया जाना चाहिए।

8. आयोग के निर्णय अधिक से अधिक 90 दिनों में पारित होने चाहिए तथा यह भी आवश्यक होना चाहिए कि यदि सुनवाई 90 दिनों में नहीं होती है तो यह माना जाय कि जो सूचना मांगी गई है वह देनी अनिवार्य है ।
9. जो भी सूचना अधिकारी सूचना की अर्जी लेने से इंकार करता है उस पर सख्त से सख्त कार्यवाही होनी चाहिए जनता/नागरिक जब सूचना अधिकारी के पास जाए और उसकी अर्जी को स्वीकार ना किया जाए तो एक रजिस्टर में इसकी प्रविष्टि चाहिए और वह 02 गवाहों के सामने की जाए। आयोग को इसके ऊपर प्रभावी कार्यवाही तत्काल करनी चाहिए।
10. सूचना अधिकारी, अपीलीय अधिकारी, सहायक सूचना अधिकारी, तथा नागरिक सूचना देने के लिए विभिन्न कार्यालयों में जो भी जवाब लिखने वाले अधिकारी हैं, उनको प्रशिक्षण दिया जाना चाहिए।
11. एक साल हो गया यह कानून बने लेकिन कई कार्यालयों में कार्यालय के बाहर सूचना अधिकारी और अपीलीय अधिकारी का नाम,पता, टेलिफोन नम्बर आदि का बोर्ड नहीं लगाया गया है । मुख्य आयुक्त को इसका जायजा लेना चाहिए कि कौन-कौन से कार्यालयों द्वारा यह नहीं किया गया है तथा इस पर कार्यवाई होनी चाहिए।
12. एक साल हो गया कानून को बने किंतु अभी तक कई विभागों ने अपनी वेबसाइट इन्टरनेट (Internet) पर उपलब्ध नहीं कराई है । इसका जायजा भी लिया जाना चाहिए ।
13. एक वर्ष के बाद भी कई राज्यों ने कानून के अनुसार कमिश्नर नियुक्त नहीं किए हैं । केन्द्रीय आयुक्त इसके विषय में राज्यों के मुख्यमंत्रियों को लिखें ।

14 अधिनियम की धारा 5 के अंतर्गत मुख्य सूचना आयुक्त तथा सूचना आयुक्त, कानून, विज्ञान, समाज सेवा आदि क्षेत्रों से लिए जाने चाहिए व अनुभवी होने चाहिए किंतु यह देखा गया है कि अधिकतर आयुक्त सेवा निवृत्त अधिकारियों को बनाया गया है यह उचित नहीं है। अन्य क्षेत्रों के अनुभवी विशिष्ट जनों को भी अवसर मिलना चाहिए।

15. विविध प्राधिकरणों की कौन कौन सी संस्थाएँ इस कानून के अंदर आती हैं इस पर एक –मत नहीं दिखाई देता सरकार ने इस लिखित है । इसे सुस्पष्ट करने की आवश्यकता है ।

16. अंतिम निर्णय देते समय कमिश्नरों ने दोनों पार्टियों का पक्ष सुन कर ही निर्णय देना चाहिए।

17. जो कानून बना है उसमें संशोधन की आवश्यकता नहीं है उसमें बदलाव नहीं लाना चाहिए।

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# **NATIONAL CONVENTION ON ONE YEAR OF RTI**

## **REPORT OF PANEL - 4**

(13-15 October 2006)

### **IMPLEMENTATION OF THE RTI IN THE STATES**

Members:-

1. Shri S. Ramakrishnan, CIC Tamil Nadu
2. Justice Shri Mohd. Asgar Khan, CIC, U.P.
3. Shri G. Madhavan, CIC, Haryana
4. Shri P. Talitemjen Ao, IAS, CIC, Nagaland
5. Shri Rajan Kashyap, CIC, Punjab
6. Mrs. Padma Balasubramanian, Central Information Commissioner

Implementation of RTI in States was also discussed at Institute of Secretariat Training Management Old JNU Campus New Delhi on 13.10.2006. Almost all the State Information Commissioners participated in the deliberations. They expressed their views in respect of these issues concerning their states. The following are the recommendations in brief on implementing the RTI in the states:-

#### 1. **AWARENESS ON RTI**

Awareness on RTI has come in the urban areas but the impact of a RTI is much less in rural areas. There is a need to take RTI at the grassroots level. The following steps may be taken in this regard:

- i) There should be training programme for both the information seekers and the information providers.

- ii) Multimedia should be used in the information dissemination.
- iii) Best practices in RTI should be show-cased.

## 2. **DISCLOSURE BY THE PUBLIC AUTHORITIES**

Public Authorities should provide maximum information as stipulated u/s 4 of the Act on their websites. Proactive disclosure will help people in active participation in the governance.

## 3. **AUTONOMY OF THE COMMISSIONS**

The Information Commissions both at the centre and the States should have financial autonomy so that they need not go to the Finance Department or to the concerned Administrative Department for funds.

The Commission should also have autonomy in matters of creation of posts and recruitment of the personnel. There is a need to augment the power of the Commission so as to enable the Commission to enforce its decisions. The Commission already has powers of a Civil Court for limited purposes. This power should be widened so as to enable the Commission to appropriately deal with contempt matters.

## 4. **UNIFORMITY OF RULES AND PROCEDURES**

The RTI Act gives power of framing rules to competent authority which include the Central Government, State Government and the High Courts and the Supreme Court. It is necessary that uniformity is maintained in formulating the rules and devising procedures.

## **5. ACCOUNTABILITY OF PUBLIC FUNCTIONARIES**

All public authorities should take a pro-active role in disclosing information as mandated u/s 4 and should facilitate access of information by the citizens. The responsibility should not be left alone on PIO. The public authority itself and the first Appellate Authority within the Department should also be equally responsive and accountable.

**CITIZENS' SPEAK**

During the National Convention all citizens present were given opportunity to present their views. Due to paucity of time everyone could not get opportunity to speak from the dais, they were requested to submit their views in writing. The contributors were given freedom to indicate or withhold their names and other details. Some of the views submitted were as follows:

1. Additional Director and Deputy Director of Administrative Training Institute, West Bengal gave various suggestions including:
  - (a) The public authorities were facing enormous difficulties in cataloguing and indexing of records of all administrative units. The State Information Commission should be made powerful and functional in ensuring that public authorities take initiative in this regard and direct the Government for training the staff and rendering necessary support to SPIOs.
  - (b) Social audit of certain public authorities by NGOs, Citizens Forum and Civic Bodies of repute would help in fighting corruption.
2. PIO is the weakest link under the RTI Act. He/She can only be penalised under the Act. PIO needs to be provided complete infrastructure of photocopier, fax and accommodation for enabling him/her to handle the responsibility placed upon him/her.
3. Mr. Yogesh Kumar of Samarthan, Bhopal, had suggested that there was a need to create a budget line to strengthen infrastructure for CPIOs, mechanism for filing RTI applications needs to be simplified and a centralized system of monitoring the applications with a facility of citizens to check the status of their applications through internet should be put in place.
4. ED (Finance) of CONCOR suggested that PSUs were operating in a competitive environment and to enable them to have a level playing field and in the interest of running their businesses on profitable lines, they should be allowed to interpret exemption available under section 8(1)(d) of 'commercial interests' broadly.
5. Mr H.Purushotham suggested working out mile stones to be achieved by CIC/RTI in the next 5 to 10 years. He also suggested that all decision-making officers should sit in transparent rooms so that the

bribe they were receiving could be watched by any one. This could perhaps reduce corruption in public offices.

6. Mr. D.N.N. Yadav emphasised that on setting up a 'practical regime' under RTI as envisaged under the RTI Act. for which Governments to work hard in creating general awareness about the provisions of RTI Act.
7. Mr. Ramakrishnan had sought clarification if a company established under the Companies Act which is a central law should become a 'public authority' as section 2(h)(b) gave an impression that any body or institution established under any law made by the Parliament would constitute a public authority.
8. Mr. Pankti Jog attended the panel discussion on the subject 'Dealing with Challenges before RTI ....' and felt that the entire discussion was focused on the office of State and Central Chief Information Commissioners and other stakeholders did not get time to state their views.
9. Mr. B.L. Ghasolia of ONGC suggested that the procedure to be followed by the public authority should be incorporated in the Act which should have provisions for denying information on vexatious requests.
10. Mr. Ajay Kumar Goel of Health Care Foundation, Delhi, suggested that a separate cadre in civil services like IPS, IAS may be formed and named Indian Public Information Officer. The Central Information Commission should form a bench of more than one Commissioner to take up review of the decisions made by single Commissioner. There should a time-limit fixed in the Office of Central Information Commission which should suo moto take up issues requiring disclosure of important information like availability of medicine blood platelets in Government hospitals during Dengue, etc. through their websites.
11. Mr. Hemanth Gupta , CPIO, HEC, Ranchi suggested that CIC should not issue notice to CPIO as the appeal was disposed of by the Appellate Authority. More over he had to collect this information from various offices which should be given show cause notices.
12. Mr. Mukesh Kumar wanted Government to take steps to propagate this Act in the illiterate population living in the village and train Village Sarpanch, District President and other elected officials of local bodies.

13. Ms. Anita Karwal, Secretary, Government of Gujarat suggested that central grants to States should be linked to procedural implications and increasing use of IT/e-governance. Records in the Government offices need to be digitized and indexed for easy retrieval. Video Conferencing should be used extensively for hearing the appeals. List of organizations owned/controlled/substantially financed should be compulsorily revealed in the proactive disclosure. Proactive disclosure of public authorities should be audited by a team of Government officials and NGOs. Compulsory training of officers of central and states on RTI should be provided.
14. Mr. Vandana Sharma of Delhi suggested that to gain appropriate benefit of the Act training programmes for citizens at large be organized so that they could ask right questions for seeking the information they were looking for.
15. Mr. Dharendra Krishna felt that the National Convention was not organized properly as the time management was lacking. The speakers were allowed beyond the time limits. There was no provision for feed back. Cultural programme was not required. Each session should have a presiding officer whose job was to ensure that the time allocated was strictly adhered to.