

TRACKING THE PROGRESS OF RIGHT TO INFORMATION IN 12 STATES

Abridged version of a Study conducted by PRIA

(Society for Participatory Research in Asia) in August 2006.

Indian democracy has witnessed crises of governance at all levels of decision making as some key components of democracy viz accountability and transparency in governance have not been given adequate attention. Internal accountability mechanisms [CBI, CAG, CVC etc] have not functioned effectively as they lack requisite autonomy and powers, while external accountability viz. social accountability except in some places has not grown in India. The Right to Information Act has provided an instrument in the hands of the citizens with which they can fill this *accountability gap* by utilization of the Act on large scale.

RTI Act 2005 came into effect on 12th October 2005. It is time to assess the extent of its success in achieving its objectives. In order to track the progress of RTI Act in 12 states (Himachal Pradesh, Haryana, Rajasthan, Jharkhand, Madhya Pradesh, Uttar Pradesh, Uttaranchal, Chattisgarh, Andhra Pradesh, Kerala, Gujarat and Bihar), PRIA decided to conduct a study on a set of indicators namely the constitution of State Information Commission and its role, role of Nodal agencies, appointment of PIOs, experience of seeking information from PIOs, mandatory disclosure under section IV of RTI Act and role of government in educating people under Section 26 of the Act.

FINDINGS OF STUDY:

I. Constitution of State Information Commission and its role

1. State Information Commissions (SIC) 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.
2. State Information Commissions were not provided adequate infrastructure e.g. office, computers, staff, funds etc. e.g. Uttar Pradesh SIC function under heavy workload but only two Information Commissioners have been appointed, Bihar CIC has recently taken oath and official address is not available even on website, Rajasthan SIC is functioning from one room.
3. State Information Commission are very reluctant to penalize PIOs for dereliction of duty i.e. denial of information to public. There have been very few instances of penalty (Uttaranchal, AP & Uttar Pradesh have some penalty cases). SIC often say that PIOs are in a learning stage; can there be some clarification on the time frame of the learning phase of PIOs?
4. People in rural areas feel that the appeal process is very expensive (fees for appeal exist in MP, Orissa, Maharashtra and Chattisgarh) as they have to come to the city in case of hearings. There is a provision for sending the appeal by post but people feel that in their absence, their side would not be presented properly.
5. Application fee is high in Haryana (Rs. 50) and photocopying fee is very high in HP (Rs. 10 per page). State governments should take cues from AP where there is no fee at GP level, Rs. 5 at Mandal level and Rs. 10 at district level. The mode of fee payment is complicated – payment in cash made against a treasury head and PIOs have no information on it, bank draft is expensive, postal order and non judicial stamps payment applicable only in few states. (HP has notified common treasury head for all departments)

II. Role of Nodal Agencies

1. Nodal agencies in the states have initiated the process of training of PIOs in Uttaranchal , MP Chattisgarh, Andhra Pradesh, Rajasthan and Kerala. Centre for Good Governance, Yashada (Pune) and Public Administration Institutes are handling the training for PIOs in the surveyed states. Training of PIOs, particularly BDOs and officials of line department is not sufficient, as most of them are simply

not aware of the act. Uttar Pradesh, Bihar, Jharkhand, Himachal Pradesh and Haryana are lagging behind in training of PIOs.

2. How the nodal agencies are planning to take up training of BDOs and Panchayat secretaries is not clear – no time frame or road map has been prepared. 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.
3. Nodal agencies in some states- AP, MP, Uttaranchal, have prepared learning materials on RTI (in English, Hindi and local languages) and template for *suo motto* disclosure of information; while other states are very slow on this front. In Kerala, the RTI Act in Malayalam is so tough that even educated person find it difficult to understand it.
4. Nodal agencies have prepared directories of PIOs which in most states is available on web site, but in several instances, the list is incomplete with several omissions – some departments / districts or PIOs are missing. Directories should be made available in printed form.

III. Appointment of PIOs

1. Public Information Officers have been appointed in most public authorities in the states. The process of accessing information by people has started slowly through Right to Information Act.
2. There exists great confusion in definition of public authority - in some states like Kerala, several public authorities example Cooperative Banks, aided educational institutions – schools and colleges claim that they are not covered under RTI Act. similarly private builders of dams in Himachal Pradesh & Uttaranchal and private banks claim that they do not fall in the purview of act. This issue needs clarification from the Central Information Commission and SIC. There is no PIO in high courts of Haryana & Punjab, despite the fact that it is a public authority.
3. Sometimes, officials / persons who do not have easy access to information are appointed as PIO. In Uttaranchal, Sarpanch is PIO ; in Himachal Pradesh , BDO is PIO even for GP (Gram Panchayat); PIOs are normally junior officers in the department, they find it difficult to get information from senior officers.
4. PIOs are being appointed but not according to the requirement of public authorities. In Kerala , DoPT has 42 PIOs but Kerala Water Authority has 1 PIO. Nameplates of PIOs are not there in most public authorities particularly at the district level, so people simply do not any idea where the application is to be submitted.

IV. Experience of Seeking Information from PIOs

1. Most of the PIOs at state level and district level are not cooperative and they sometimes threaten applicants to withdraw applications. In Haryana, our activists were threatened by PIOs for seeking information. In Uttar Pradesh , Madhya Pradesh , Rajasthan and Chattisgarh, there are several instances of PIOs refusing to accept applications.
2. PIOs often say that they do not know under which head the application fee is to be deposited. They are frequently absent from office and no body accepts application in his absence. In Uttar Pradesh , Bahraich district , PIOs have refused to accept the fee by postal order saying that they do not have Government Order for the same whereas the Government has already passed the order that fee can be paid by postal order. In the same district, PIOs do not accept application but they provide information, which, is most of times, partial.
3. PIOs should be given more training so that they are sensitive to people's need and PIOs who are guilty of deliberate denial of information should be penalized.

V. Mandatory disclosure under Section IV of RTI act

1. Our study shows that most of the ministries and directorate level offices in Madhya Pradesh, Uttar Pradesh, Uttaranchal, and Andhra Pradesh have disclosed information about their activities on their website while some government departments (ministries and directorate level) in Himachal Pradesh, Haryana, Jharkhand, Rajasthan and Bihar have still not taken steps to implement Section IV of RTI Act. Department of Agriculture (Rajasthan , UP, Uttaranchal , AP) have done well in self disclosure, they have covered most of the items of Section IV RTI Act.
2. Self-disclosure by ministries and directorate level offices in some states are poorly presented – only 6-7 items out of 17 items of Section IV RTI Act are disclosed e.g. only targets and outline of schemes are

given, list of officials and PIOs are not there, expenditure details only in broad heads, district and block wise dispersal of funds not available, date of update is not mentioned (eg Department of Education & Department of Dairy, Rajasthan).

3. It is surprising to find that self-disclosure at district, block and panchayat level have not started in the twelve states, so the departments, which are closer to the people are still lagging behind in implementing Section IV of RTI Act.

VI. Role of Government in educating people under section 26 of the Act

1. Our experience of training programmes, campaign on RTI shows that large percentage of people (nearly 90 percent) is not aware of the Act and they cannot file the applications. Use of RTI is restricted to educated sections particularly government servants. In Haryana, 70 percent of appeals filed are by Govt. employees and nearly all of them are from urban centers. Utilization of RTI in rural areas is far less in all the states.
2. Government has not undertaken any campaign, either in electronic and print media for making RTI popular among people, while it regularly launches campaign on achievements of railways, health programmes and birthdays of politicians. So far only one large-scale campaign has been launched on RTI, which was organized by NGOs and media.
3. Governments, both central and state level, have neither allocated adequate funds to Nodal agencies to organize campaign on RTI nor given support to such activities in any other way.

*Since last two decades, **PRIA (Society for Participatory Research in Asia)** has been undertaking development initiatives to positively impact the lives of poor, marginalized and excluded sections of society, by encouraging and enabling their participation in the processes of governance.*