

News on Right to Information

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SC firm on not baring CJI assets

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The Supreme Court on Monday challenged a Delhi High Court order directing it to reveal information on assets of judges held by the Chief Justice of India (CJI). But it stopped short of claiming immunity for the office of the CJI from disclosing information under the Right to Information (RTI) Act.

Justice S. Ravindra Bhat of the Delhi High Court had on September 2 ruled that the office of the CJI was within the ambit of the RTI Act and had directed the Supreme Court registry to respond to a query by an RTI applicant seeking to know whether judges declared their assets to the CJI according to a 1997 resolution.

In its petition before the high court seeking to set aside the judgment, the apex court registry contended that Justice Bhat failed to appreciate that information on "voluntary" declaration of assets by the judges to the CJI could not be sought under the RTI Act.

Saying there was no law providing for declaration of assets to the CJI, it said information could be sought under Section 2(j) of the Act only if it was held by or was under the control of any public authority under the provision of any statute or any law.

Citing Section 2(f) of the Act, the registry argued that only information in the "public domain" could be sought under the RTI. Stopping short of claiming complete immunity for the office of the CJI, the registry, in its petition settled by Attorney General G.E. Vahanvati, said Justice Bhat erred in holding that "all" information received by the CJI was within the purview of the Act.

Defending itself against a sound judgment by Justice Bhat, the Supreme Court - after putting forth arguments on points of law - went on to narrate the consequences of the judgment to prove its point. It said Justice Bhat failed to appreciate that there "is a plethora of information" which is available with the judiciary but cannot be made available in the public domain.

The registry then went on to point out that according to the judgment, medical records of a judge could be sought under RTI. "This can have disastrous consequences," it said.

In an unnecessary elaboration, it said that an RTI applicant could seek medical records saying that the treatment was exaggerated or that the payment made was in excess and "this opens the judge to unnecessary harassment". The registry, thereafter, said judgment could also entitle an RTI applicant to seek "notes and draft judgments" of the learned judges. The Supreme Court further said Justice Bhat failed to appreciate the true scope and ambit of Section 8(1) (j) which exempted disclosure of personal information. Justice Bhat had, however, pointed out that the Act allowed parting with such information if it was in public interest.

October 1, 2009



Beyond RTI - The use of information

Shyam Ponappa:

Govt and regulatory focus needs to be on the use of available information for better results

New Delhi , Business Standard

The principle of the Right To Information, once established and accepted, opens up a wide range of practical applications. There are, however, many potential areas of information usage for better management for which the data are already there, although perhaps not in an easily accessible form. Some examples are: the supervision of bank loans by the Reserve Bank of India for each sector, eg, housing, commercial real estate, the priority sectors including SMEs, and specific aspects of infrastructure; the acquisition and distribution of electricity; and communications. Consider some aspects of communications where the use of available data could result in better delivery through regulatory intervention.

Two areas relating to information use in communications are (a) spectrum management, and (b) monitoring and administering the Quality of Services, eg, interconnection. Both areas require clarity regarding regulatory powers to enforce compliance and impose penalties before smart applications are feasible, as well as augmenting the powers of the regulator, in this case, the Telecom Regulatory Authority of India (Trai), to supervise usage, ensure compliance, and impose penalties where necessary. However, as described below, the data are already available for hands-on spectrum management. The data on interconnection may be there, although perhaps not yet compiled in an accessible form.

Spectrum Management

[Figure 1](#) is a graphic representation of spectrum allocation and usage in January 2009.

This report was compiled by JP Morgan for equity investors, but there are good reasons for regulators to use similar graphics to track status and resource use among operators on a real-time basis.

The darkest squares (blue on a colour screen) indicate existing operators who are using their allocated spectrum. The next darkest (green on a colour screen) have been allocated spectrum, but have not begun operations. The next lighter shade (yellow on a colour screen) with a 'Y' denotes that licences have been obtained while spectrum allocation is awaited; 'A' indicates that licences have been applied for and awaiting both licence and spectrum. The lightest shade (white in colour) indicates no licence and no spectrum.

It is evident at a glance from the colour coding that the green squares (second-darkest) indicate possession of spectrum that is not in use, ie, either the legitimate condition of awaiting a network rollout, or the speculative state of 'spectrum squatters'. This highlights the set that requires hands-on monitoring, facilitating time-bound stipulations for usage, followed up with incentives and penalties. Once such systems are set up online, real-time status reports will be readily available for assessment and action, facilitating regulatory intervention to yield improved service quality for users. There is every reason for such information and graphics to be collated and made available in the public domain.

Interconnection

The quality of service in communications can fall short of optimal levels for a variety of reasons. In urban areas with heavy traffic, the problems of

congestion may be aggravated by a shortage of spectrum, ie, the limited allocation of radio frequency spectrum to operators. But there may be self-induced problems as well, such as inadequate infrastructure, including poor interconnections with other networks.

I was recently in an area northwest of Uttarkashi where the only phones that could operate were on the Idea Cellular network. The curious and disabling circumstance was that Airtel and Vodaphone users could not connect with any network. The question is why, given that the Trai's charter is to ensure that all users of any network should be able to connect to any other network. As far back as 2003, the Trai had ruled that all operators must provide interconnection to Tata Teleservices. In August 2008, the Trai directed GSM operators to provide interconnection facilities to Reliance Communications within seven days. If my understanding is correct, the implication is that users of any network, such as Airtel or Vodafone as in our group, should have been able to connect to the Idea network. Yet, here we were, not able to access the communications network except for subscribers to Idea Cellular.

It should be possible for the Trai to monitor Points of Interconnection (POIs) in real-time and track the extent of congestion, instead of doing one-off reports as in November 2005.* Such information, once collated as in the spectrum status report and made available on an ongoing basis, would enable remedial action to ensure that users have convenient access to networks at all locations where any network is accessible.

These are indicative examples of how the imaginative presentation of available information can be used to improve delivery. Government agencies and regulators can apply imagination and initiative in designing and applying such tools for effective management and results.

3rd Oct 2009

Veteran Wajahat back to J&K on work

The Indian Express

Chief Information Commissioner Wajahat Habibullah is returning to the Valley on a new assignment in which he is expected to bring the formidable weight of his experience to a range of issues of governance.

Habibullah confirmed to The Indian Express today that Jammu and Kashmir Chief Minister Omar Abdullah has "personally requested" him to come to Srinagar as the state's Chief Information Commissioner and he has accepted the offer.

His appointment was cleared on Thursday by a three-member panel in the state headed by the Chief Minister and which included Deputy CM Tara Chand and Opposition leader Mehbooba Mufti of the PDP. His office will be on the payroll of the state government.

Ostensibly, his brief is to strengthen the Right to Information systems in the state. Because of the state's special status, the RTI Act enacted by Parliament in 2005 was not applicable to the state which passed its own version in March 2009. As the state's Information Commissioner, Habibullah, 64, will interact with all government departments. It's not clear when he will step down as CIC.

His move could have wider implications at a time when the Omar Abdullah government has been criticised for its "knee-jerk" responses to a string of recent crises including the Shopian tragedy. Omar has also been under attack for being a "non-resident" CM.

“With Wajahat Habibullah being there, on Omar’s request, the government could benefit greatly from having someone like him in the system,” said a senior officer in the Valley.

Not without reason. An IAS officer, Habibullah served in J&K between 1968 and 1982. He returned to the state twice to handle sensitive assignments. His most recent formal posting was in 1994, when he is known to have been a key negotiator in the Hazratbal siege by militants. His tenure then was cut short by a near-fatal car accident.

Sunday, October 4, 2009

'RTI Week' to be observed from October 6 to 12

PTI - DNA

Mumbai: The 'Right to Information (RTI) Week' would be observed from October 6 to 12 to mark four years of the RTI Act.

Quiz, drawing, essay and elocution competitions on RTI Act will be held and seminars and debates would be organised in schools, colleges, universities and other educational institutions by school education department and higher and technical education department from October 6 to 12, an official release said.

Poster, elocution, essay competitions, discussions, debates and other projects will be organised at district level with the co-operation of all district collectors for social workers and other groups with the help of local self government and non-government organisations, the release said.

Awards will be arranged at local level with the co-ordination of social organisations like Lions Club, Rotary Club and responsibility of implementing the projects at district level has been entrusted to all district collectors, it said.

October 4, 2009

NGOs, Govt., to spread RTI message

Paul John & Kumar Manish

TNN, The Times of India

AHMEDABAD: For the first time without confronting each other, members of civil society groups and government agencies would jointly celebrate four years of implementation of Right To Information (RTI) act in the state. The event is being pepped up with traditional art forms of puppet shows, streetplays and community sheri garbas to convey the importance of the law.

Harinesh Pandya of Mahiti Adhikar Gujarat Pahel, a member partner of the festival, said, "The whole RTI campaign will focus on proactive disclosure by government organizations under RTI and mass sensitisation programme for all the stockholders in RTI."

"The campaign will address technical problems faced while filing RTI applications and proactive disclosures by government departments," says Pandya. The RTI Act came into force on October 12, 2005.

In the city, Ahmedabad Municipal Corporation (AMC) has designed an elaborate programme to celebrate RTI in a big way between October 5 to October 12. The focus would be reaching out to masses and also training officers of various wards.

Deputy municipal commissioner, AMC, MS Patel said, "We would encourage and inform people about the RTI act in our campaign." "We will be conducting a lot of interactive sessions including a mini workshop on RTI where AMC employees including some representatives from general public will be trained in the modalities of RTI Act", he says.

In other parts of Gujarat a multi-stakeholders RTI consultation programme will be held in Panchmahal district. For the first time members from Commonwealth Human Rights Initiative CHRI, and NGOs like Anandi, MAGP would partner with district officials like the DDO, district education office and Sardar Patel Institute of Public Administration in propagating the RTI message among rural population and the importance of proactive disclosures amongst government institutions.

Vapi collector's office will hold a day's training programme for its own officers.

October 4, 2009

Charity chief can't deny info in age of RTI'

Nauzer Bharucha

TNN, The Times of India

MUMBAI: In the age of the Right to Information Act, the charity commissioner could not refuse to furnish documents under the cover of the Official Secrets Act, said the Bombay Parsi Panchayat (BPP) on Saturday. Charity commissioner (CC) M K Choure was hearing an application by the BPP, which opposed his decision not to supply the charitable trust a copy of a preliminary inquiry report ordered by him to look into the BPP's accounts.

On the basis of this inquiry report, Choure had ordered a special audit of the BPP's accounts and directed the trust to immediately shell out a fee of Rs 1.2 crore to an auditor appointed by him. When the BPP refused, Choure warned that he would suspend the entire board comprising the seven trustees.

During the hearing in the CC's office on Saturday, BPP advocate Percy Gandhi quoted a Supreme Court judgment, stating that a party against whom a special audit was ordered, had to be given an opportunity to be heard and provided with all material.

The embattled BPP, which looks after the welfare of Parsis, is defending charges levelled against it by Percy Patel of Alert Zoroastrians' Association, who alleged various malpractices in the trust.

Gandhy told the CC that his order directing the BPP to pay Rs 1.2 crore for a special audit was itself bad because it was passed ex-parte "without hearing us or giving reasons for such an order".

"In one case, the Supreme Court had overturned a ruling which sought to levy a fee of just Rs 1.5 lakh on a party for a special audit. The BPP likewise is a charitable trust and its funds are meant for the community's poor. Such a large amount cannot be diverted to pay the fees for a special audit," he said.

As against the fee of Rs 1.2 crore that the CC has directed the BPP to pay for auditing its accounts between 1998 and 2008, the punchayat said its own auditor, Kalyaniwalla & Mistry, charged just Rs 90,000 a year. The BPP counsel also questioned the time-frame of the special audit ordered by the CC, and protested that even under the tax law, investigations were for a seven-year period. "So, on what basis had the CC ordered a special audit for 11 years," he asked.

October 4, 2009

SMC spends Rs 1.5 crore on inauguration, festivals

The Times of India

SURAT: Like the Surti lala' a nickname earned by the spendthrift Surti who lavishly empties his pocket during festivals and celebrations, the civic body is not far behind.

A Right to Information (RTI) Act application by chief accountant of Surat Municipal Corporations (SMC) has shown that in the last five years, the civic body has spent Rs 1.5 crore on festivals and inaugurations.

When a new project is being inaugurated or a minister is in town, huge hoardings to announce the project or welcome the minister are put up. During festivals, bridges are decorated with lights.

Figures provided by SMC account department says it spent Rs 7,41,55,000 in five years from 2004 to 2008. A yearly average comes to Rs 1.48 crore per year. Of this, Rs 12 lakh are spent on festivities.

SMC also spends a lot of money behind experts every year. Every year, on an average, Rs 1.78 lakh is spent in paying experts. SMC paid Rs 2.39 lakh in 2004, Rs 1.05 lakh in 2005, Rs 1.06 lakh in 2006, Rs 3.29 lakh in 2007 and Rs 92,000 in 2008.

October 8, 2009

3-judge HC bench to decide if RTI covers CJI

ET Bureau – The Economic Times

NEW DELHI: A three-judge bench of the Delhi high court will decide whether the office of the Chief Justice of India (CJI) falls within the ambit of the Right to Information (RTI) Act and whether the declaration of assets by apex court judges was subject to the provisions of the transparency law.

A division bench comprising Chief Justice A P Shah and Justice S Muralidhar, while admitting the appeal of the apex court on Wednesday remarked: "If the resolution (of declaring assets) is not binding, then the resolution passed to maintain judicial values in court proceedings can also be said to be non-binding and a judge, against whom an in-house inquiry is conducted in case of deviation, can object to it."

Attorney-General G E Vahanvati, appearing for the apex court, was trying to convince the bench that the resolution passed by the Supreme Court judges in accordance with the resolution passed by the apex court in May 1997 to declare their assets to CJI was voluntary in nature and not binding.

The court after hearing the preliminary plea, ordered for the Constitution of a special 3-judge bench to decide the appeal filed by the Supreme Court.

The Supreme Court in its appeal maintains that the office of the Chief Justice of India falls outside the purview of the Right to Information Act challenging order of the single judge bench of the high court which had said that the CJI is a public authority and his office falls within the purview of the transparency law.

The court fixed November 12 and 13 to decide the appeal. It did not stay the order of the single judge bench. Mr Vahanvati did not press for a stay on the order.

However, the appeal of the Supreme Court in the matter was opposed by the counsel for RTI applicant seeking disclosure of the information on assets of the apex court judges. Advocate Prashant Bhushan appearing for the applicant said, such appeal (SC appeal) would bring disrepute to the system.

Mr Vahanvati, however, objected and said "we are capable of taking care of our system and we can take care of the consequences of filing appeal in this matter."

In landmark verdict passed on September 2, Justice R Ravindra Bhatt had said, "CJI is a public authority under RTI Act and CJI holds the information pertaining to assets declaration in his capacity as Chief Justice. That office is a public authority under the Act and is covered by its provisions."

Justice Bhatt had said, "declaration of assets by Supreme Court judges is an information under Section 2 (f) of the RTI Act. The information pertaining to declaration given to CJI and the contents of such declaration are information and subject to the provisions of RTI Act."

However, CJI Balakrishnan has been maintaining that his office does not falls within the purview of RTI Act. "The office of the Chief Justice is privy to so much of information like privileged communication between various constitutional authorities, complaints against judges etc. How can all this information be disclosed (under RTI Act)," Justice Balakrishnan had said.

The apex court had filed an appeal in the high court alleging the

judgement of the single-judge bench was "bad in law" and "deserves to be set aside".

Pointing out 58 "errors" in the 71-page verdict of the single bench, the appeal filed by the Supreme Court registry said, "the analysis of the single-judge is essentially wrong and conclusions reached by him are unjustified in law and constitutional theory."

"The single-judge erred in law in holding that all the information received by the CJI falls under the purview of the Act" said appeal, adding, the judge was wrong in coming to the conclusion that office of the CJI and the registry are one and the same public authority.

It said, the high court findings that the 1997 resolution passed by the judges on disclosure of assets to CJI was binding and had the "force of law" was erroneous.

"The judge failed to appreciate that the information regarding the declaration of assets by the Supreme Court judges was not covered under RTI Act," said apex court in its appeal.

According to the apex court, the voluntary declaration of assets by judges cannot be said to be held under the control of any public authority.

Justice Bhatt, however, upholding the Central Information Commission's order directing the Supreme Court to disclose whether judges are declaring their assets to CJI or not, had said, "the holders of power" are expected to live by the standards they set and the judiciary is no exception to it.

He had dwelled upon the importance of RTI Act-2005 and said "the Parliamentary intention in enacting this law was to arm citizens with the

mechanism to scrutinise government and public processes and ensure transparency."

The transparency law, which illuminates unlit corners of state activity, is the most important piece of legislation in the post independence era to effectuate democracy, high court had remarked.

Thursday, October 8, 2009

**Policemen transferred on Goa CM's instructions: Social activist
*PTI – DNA***

Panaji: An application moved under Right to Information Act (RTI) by a social activist has exposed Goa chief minister Digamber Kamat's interference in the transfer of four police officers.

The file noting made by then Goa director general of Police BS Brar mentions that Goa CM had requested to transfer four police officers from their existing postings.

The notings were made available to social activist Aires Rodrigues responding to his application under RTI.

"Placed in the file at page 38/c is a letter dated 25-02-2008 received from special secretary (Home) enclosing herewith a note from chief minister of Goa requesting to issue transfer orders in respect of police officers mentioned at serial number one to four," DGP's note reads.

Superintendent of Police (Headquarters) Vishram Borkar in his noting too had clearly mentioned that the transfers are done after the letter from the chief minister.

Rodrigues, who had dug out the information under RTI, said that such a political interference is a violation of Supreme Court order which had slammed political interference in the police transfers.

When contacted, Goa chief minister Digamber Kamat, said that he does not remember sending any such request.

"I might have sent. I sign so many files everyday, how can I remember everything," he said replying to a question.

October 9, 2009

Information commissioners to get more powers

The Indian Express

PATHANAMTHITTA: State Information Commissioner P N Vijayakumar has said that the Central and State Information Commissioners will soon get the power to declare compensation on erring Government officials who violate the law.

Inaugurating the seminar on Right to Information Act and its achievements, organised by the district information office in association with the district administration as part of the Gandhi Jayanti Week celebrations at collectorate conference hall here on Thursday, Vijayakumar said that steps were taken to give independent powers to the Central and State Information Commissioners to impose fine on those who violate the law.

Vijayakumar said that the applicants, who seeks information under the law, should be treated in a friendly manner.

The Right to Information Act would be a milestone in a democratic system, he said.

To achieve perfection and transparency in a democratic system, the right to information holds a key position, Vijayakumar said.

He said that a major section of the public was still in the dark on the Information Law. The commissioner said that under the law, the information should be made available to the complainant within 30 days. The law will ensure accountability and best service to the common people, he said.

Action taken against 45 officials: Vijayakumar said that action was taken against 45 Government officials under the law and imposed a fine of Rs 6 lakh during the past four years of its operation.

State Literacy Mission faculty member K Bhaskaran, while presenting a paper, said that the Right to Information Act would go a long way in ensuring transparency in the functioning of the Government departments.

District Collector T T Antony presided over the function. District Information Officer N Radhakrishna Pillai and Hosur sirasthadar G Raghunatha Pillai spoke.

October 11, 2009

Not yet a strong tool

The Times of India

BANGALORE: While the Right to Information Act has done its bit to ensure India is a successful working democracy, its implementation leaves a lot to be desired. Sadly, many citizens are still unaware of how to file applications. The suo motu disclosure should have been implemented within 120 days of enforcement of the Act, but it's still pending.

The Commonwealth Human Rights Initiative (CHRI), along with organizations like CIVIC, CREAT, Kria Katte and PAC, organized a discussion on Saturday to assess how well the Act has been utilized in the past four years.

CHRI programme coordinator Venkatesh Nayak said a study is needed to find out if it has affected government operations. RTI has worked best in tackling corruption and holding officers accountable, he pointed out. "The first two objectives of creating informed citizenry and transparency in government functioning haven't improved much."

"Even if RTI Act has helped expose corruption, there is no plan to deal with such cases. They remain pending for long, till people forget about it. Gujarat has a special redressal system which helps deal with them faster," said Nayak.

The government is still secretive about many issues. Citizens need to be vigilant about free trade agreements that the government is entering into with other countries and file RTI applications strategically to understand implications of such policies, Nayak pointed out.

Lokayukta Justice Santosh Hegde said the right to information is as vital as the right to free speech. Though it is a statutory right and has its limitations, it gives citizens many opportunities.

"We receive 20 to 30 cases per day. Since 1986, the composition of our staff has remained the same. We have nine judges and one of them is an information officer. The government has given us other assignments like the Nandguri SEZ, Hassan Ring Road, PWD recruitments, etc, which leaves us with less time to track corruption," he said.

The Comptroller and Auditor General's 2007-08 report points that a whopping Rs 51,000 crore has gone unaccounted for in eight government projects, which include JNNURM and NREGA.

Chief information commissioner K K Mishra stressed on the need for a state-level RTI cell. He said 7,000 cases are pending with the commission. The government had commissioned a private company to review implementation of the Act in the past four years. Others like the National Campaign for People's Right To Information have also reviewed it in several states and the findings have been similar.

"People still find it difficult to file RTI applications. It is pathetic. In all departments there should be a nodal officer to implement the Act," he said. He also recommended that 1 lakh common service centres the government is planning to set up should also accept RTI applications.

* BBMP gets one of the highest number of RTI queries. In two cases from Ward No. 50, huge misappropriation of funds was revealed. In the case of asphaltting of Ramaiyengar Road, Rs 3,60,650 was paid to the contractor but the work wasn't carried out

* In the case of six roadside drains in the same ward, work was done according to the sanctioned estimate of Rs 6.55 lakh, but Rs 16.48 lakh was paid to the contractor.

October 11, 2009

Bring paramilitary forces under RTI Act: CIC

Press trust of India

New Delhi, The paramilitary forces which are enjoying exemption from disclosure under Right to Information Act should be brought under it on the lines of defence forces like Army, Navy and Air Force, Chief Information Commissioner Wajahat Habibullah says as the Act completes its four years into being.

The first Chief Commissioner of the transparency watchdog feels that RTI Act can be strengthened if some organisations are taken-off from those listed in section 24 of the Act which gives blanket cover to 18 intelligence and security agencies from any disclosing any information.

"Yes. The matters concerning national security are already exempted from RTI disclosure. What happens is that matter of personnel management in these forces also get exempted from disclosure," Habibullah told PTI when asked whether paramilitary should be brought under the RTI Act.

October 12, 2009

RTI Act to be mended

NRI to have easy access; more agencies to come into ambit

Nidhi Sharma

New Delhi, The pioneer

As the Right to Information (RTI) Act completes four years of enactment on Tuesday (October 13), here is some good news. The Government is planning to introduce amendments to make it easier for NRIs to seek information, reduce the number of organisations exempt from the Act and make it mandatory for Government departments to voluntarily disclose certain types of information.

Prime Minister Manmohan Singh has directed Minister of State in PMO Prithviraj Chavan to get feedback from the Central Information Commission (CIC), the final appellate authority for RTI Act, on the proposed amendments. Chavan would hold this interaction with all Information Commissioners on Wednesday after the conclusion of a two-day convention on RTI in the national Capital.

Speaking exclusively to The Pioneer on the eve of fourth anniversary of the RTI Act, Chief Information Commissioner Wajahat Habibullah said, "I met the Prime Minister over the proposed amendments. I discussed with him in detail the need for consulting Information Commissioners over this move. Now, the Minister of State will have an interaction with the Central Information Commissioners on Wednesday after we are done with the two-day convention."

Habibullah clarified that there was no attempt to increase fee or exempt file notings through the proposed amendments. "There was a lot of fear about this and that is why I met the Prime Minister. I have seen the

proposed amendments to the Act and there is nothing of this sort. There is absolutely no move to exempt file notings.”

One of the main suggestions of the commission, which has been included in the list of proposed amendments, is that the Act should be made more NRI-friendly. “The NRIs, being Indian nationals, can apply for information under the RTI Act, but the means for access for them are very unsatisfactory. Where do they pay the fee of Rs 10, and how? When they approach Indian embassies, they are seldom helped.”

The proposed amendment would ensure that NRIs are able to pay through the embassies or through electronic transfer.

The Government is also planning to reduce the number of organisations mentioned in the Second Schedule of the RTI Act which are exempt from disclosure norms. At present, there are 22 security and intelligence organisations which do not have the general obligation to disclose information unless it is a matter of human rights violation or corruption. These include RAW, Intelligence Bureau, DRDO, SPG, CRPF and CISF. Sources said organisations like Narcotics Control Bureau (NCB) could be taken off the Schedule.

Another proposed amendment would be to bring some clarity on the issue of benches in the CIC. The Department of Personnel and Training (DoPT) triggered a big controversy when it said there was nothing in the RTI Act that enabled CIC’s Information Commissioners to hold separate hearings. The DoPT had also said the CIC had no powers to constitute separate benches and all Information Commissioners should hear the cases together. This controversy, however, was resolved but it brought to the fore a big lacuna in the Act.

Habibullah said, “If it is followed, we will do just five cases in a day and

150 cases in an entire month. The DoPT has come around and realised this mistake.

But we need to discuss whether it should be brought into the Act or rules framed under it.

The Karnataka State Information Commission, for instance, has included this bench arrangement in its rules. So we need to take a decision on this.”

The Chief Information Commissioner clarified that such issues bring clarity. “This will bring in greater clarity in the law and would be better for all future references,” he said.

October 12, 2009

HC recommends regulator to prohibit obscenity on Internet

Press Trust Of India, Chennai

Business Standard

The Madras High Court has ordered notice on a petition seeking a direction to the centre to appoint a regulatory body to prohibit obscene and pornographic material on the internet and penalise internet service providers (ISPs) and search engine companies for violation of licence conditions.

Issuing the notice on the PIL filed by an advocate R Karthikeyan the First Bench comprising the Chief Justice H L Gokhale and Justice D Murugesan posted the matter for hearing on November 4.

The petitioner alleged that though ISPs were prohibited from disseminating any obscene material, they violated the condition for monetary gains in utter disregard to the moral and psychological well being of internet users. Though the Centre had knowledge of these violation, it closed its eyes, the petitioner claimed contending that there was no prosecution of the offenders.

Stating that he had lodged a complaint with the city police, through the Tamil Nadu police website, he said the reply from the police was that the issue was a nation-wide and inter-State crime, implying that they could not do much in the matter.

Claiming that he had provided sufficient material and evidence to police, he said that in reply to a query under the Right to Information Act seeking to know the action taken on his complaint he was informed that the Cyber Crime Cell had been exempted from the Act.

October 13, 2009

Road alignment altered to save statues

The Hindu

Chennai: Statues lining the Marina beach have forced changes to the alignment of the elevated link road from Light House to Kottivakam along the beach to be developed in two phases. These changes, apart from compromising on locational advantages, have almost doubled the number of people who would be affected by the project.

The entry ramp to the proposed 9.7-km road was earlier planned 100 m south of the Gandhi statue on the beach side. This would have necessitated the relocation of the Kamaraj statue and affected access to the Gandhi statue.

A steering committee constituted by the State government reviewed the proposal and suggested that the alignment be altered to save the statues. Wilbur Smith Associates, consultants to the project, has now shifted the entry ramp to the DGP complex compound located opposite the Kamaraj statue.

Wilbur Smith Associates in its earlier report had emphasised that the starting point of the project near the Gandhi statue was "ideal for commuters who are travelling from places such as Chennai Port, Parry's corner, Secretariat and Marina Beach."

Says K.P. Subramanian, a retired Professor of Traffic Engineering: "This project is flawed in many ways. The new changes have made it worse. Entry to the elevated road from Kamarajar Salai was on the eastern side of the carriageway and along the dominant traffic flow. This was sensible. By shifting it to the opposite side not only will this advantage be lost, but new traffic problems will be created." Professor Subramanian works with

the Save Chennai Beaches Campaign, the group that obtained the report on the changed alignment through a plea made under the Right to Information Act and made it public.

The earlier feasibility report had estimated that 529 residential and three religious structures would be affected by Phase I (Light House to Besant Nagar). But according to the new report, the changes made to the alignment would affect 928 residential and eight religious structures

October, 2009

School dropout is watchdog of public funds

Vijaysinh Parmar

TNN, The Times of India

DHAVADIA (AMRELI): Education is not necessary for empowerment, as many success stories related to the Right to Information (RTI) Act have shown.

Take the case of school dropout Dilip Kataria, 31, from Dhavadia village in Khambha taluka of Amreli district. This spunky villager is doing his bit to ensure that public money is not misused in his village, but utilised for the government schemes it's meant for.

Kataria, who works as an electrician earning daily wages, has filed as many as 1,000 RTI applications in various government departments. They have been mostly related to basic civic amenities like roads and water, and irrigation facilities.

One of them revealed mismanagement of public money in a sanitation project, part of an eco-development plan, in 2006. A pipeline had to be laid two feet under the surface so that it wouldn't cause environmental damage. But, guidelines were not followed by the panchayat. "The state government investigated the matter after I filed the application. Two persons were found guilty and forest officials filed a police complaint against them in Khambha police station in 2008. After that, the rest of the work was done properly, "says Kataria.

It was difficult to fight against his own people in the village, he says. "There has always been social pressure, but I have remained firm."

In 2007, there was a major problem with the mid-day meal programme across the taluka. "In my village, schoolchildren were given meals only thrice a week and the menu was not followed. I furnished the details under RTI," he says.

As a result, a co-ordinator was transferred and now the children are getting food as per government guidelines. "We have also circulated the mid-day meal guidelines to villagers so that they can check in their villages," he adds.

Interestingly, Kataria mainly seeks government notifications. "Generally, people don't know about such things. I use RTI and get them and circulate them among the people. This has helped a lot to create awareness," says Kataria.

He is a member of Khambha-based Mahiti Adhikar Nagarik Mandal, an organization that creates awareness about the RTI Act.

October 14, 2009

CIC hearing today on denial of information by Advani's office

The Hindu

The Central Information Commission is to take up on Thursday a petition filed by activist Subash Chandra Agrawal on the scope of certain information he sought from the Office of Leader of the Opposition in the Lok Sabha under the Right to Information Act.

On a petition from Mr. Agrawal, the CIC in May asked the office to explain denial of information about the correspondence among L. K. Advani, Prime Minister Manmohan Singh and Finance Minister Pranab Mukherjee on the issue of black money stashed away in Swiss banks. Mr. Agrawal had demanded a copy of the letter, its reply, file notings and other relevant documents on the issue.

The matter surfaced during the pre-election debates when the BJP leader promised to make efforts to bring back black money stashed away in Swiss accounts. But as there was no reply from the Office of Leader of the Opposition, which carries the status of a Cabinet Minister, Mr. Agrawal filed the complaint.

"The Commission directs you to offer comments on this complaint clearly giving justification for denial of information," Deputy Secretary Pankaj Shreyaskar wrote to the Public Information Officer, Office of Leader of the Opposition.

According to Mr. Agrawal, in response to the notice, the Office of Leader of the Opposition accepted its being under the purview of the RTI Act by providing the information sought together with relevant documents. "The issues remain now are alleged non-receipt of my RTI petition at the office of Leader of the Opposition, for which an enquiry should be made from

postal authorities, if necessary, and of appointment of a Central Public Information Officer by/for the Office of Leader of the Opposition either by the Leader of the Opposition or by the Lok Sabha Secretariat.”

He said: “Neither the Lok Sabha Secretariat nor the Secretary to Leader of the Opposition has objected to my basic plea of the Office of Leader of the Opposition being a ‘public authority’ as defined under the RTI Act.”

19th October 2009

Govt depts twist RTI clause to reject pleas

The Times of India

Jeeva, TNN, 03:20am IST

CHENNAI: Government departments seem to have found a new way to avoid replying to queries under the Right To Information (RTI) Act. Many public information officers (PIOs) are now rejecting RTI queries by quoting Section 7 (9) of the act which allows the authorities some leeway in presenting data to applicants in case the form in which it is sought is time-consuming.

Section 7 (9) of the act says, "the information shall ordinarily be provided in the form in which it is sought unless it will disproportionately divert the resources of the public authority or be detrimental to the safety or preservation of the record in question."

The Tamil Nadu State Information Commission, quoting Section 7 (9), refused last month to furnish the copies of orders in which it had recommended disciplinary action and imposed penalty against PIOs for turning away applicants without complying with RTI provisions. The commission rejected the plea despite the section stipulating that info should be provided in the format in which it is sought or in the form in which it is immediately available.

20th October 2009

Access to info a fundamental right: HC

The Times of India

TNN 20 October 2009, 05:25am IST

CHENNAI: Access to information is a fundamental right recognized by the Constitution, and the public authority must interpret the Right To Information (RTI) Act 2005, liberally, the Madras high court has said.

A ruling to this effect was passed by Justice MM Sundaresh recently, while passing orders on the writ petitions of three candidates seeking copies of their answer sheets besides the marksheets of all candidates short-listed for motor vehicle inspector posts by the Tamil Nadu Public Service Commission (TNPSC).

The petitioners sought the details on the ground that a fair process was not adopted by the authorities during selection. The TNPSC, however, rejected the plea stating that no candidate would be permitted to scrutinize answer sheets. The internal mechanism of valuation cannot be revealed to public scrutiny, it said.

KM Vijayan, senior counsel for the candidates, assailed the denial of information stating that the right given under the RTI Act cannot be taken away by the TNPSC instructions.

Justice Sundaresh, while refusing to forbear the TNPSC from going ahead with the selection process, said the TNPSC must furnish the details as sought for by the petitioners within six weeks of declaration of final results. He also pointed out that the petitioners wanted only the marksheets of other candidates and not the answer sheets of all the candidates.

Observing that right to information was the pillar of a transparent democracy, Justice Sundaresh said the exemption under Section 8(1) of the RTI Act spoke only about commercial confidence, trade secrets and intellectual property. "By no stretch of imagination could the said clause be made applicable here, since the petitioners want their own documents," he said, adding that as the TNPSC and the home secretary derived their independent powers from Article 320 of the Constitution they will have to conform to the principle of transparency, accountability and fair play.

He said right to information was a part of the fundamental right to freedom of speech and expression, and added, "disclosure of information by public authority is a rule and secrecy is exemption."

20th October 2009

Experts to make people aware of their rights, duties

The Times of India

TNN, 10:11pm IST

RANCHI: The state government is contemplating to educate people about their duties and rights in accordance with the law of the land. The services of senior bureaucrats and legal experts would be taken in this regard.

The state administrative training institute has taken up the responsibility to educate the people of Jharkhand about the law of the land that affects their daily lives.

Director general of the state administrative training institute A K Singh, the brain behind the initiative, said that a large number of people in the state are not aware of their rights, duties and benefits.

"The institute will conduct free classes twice a week for six months to make the people aware of different Acts like the Right to Information Act, forest Act and dowry Act. People can enhance their knowledge on different Acts," Singh said.

Experts from different fields would conduct the classes. The dates for the same would be announced soon.

Social activist R P Sinha hailed the state administrative training institute for taking such a decision. "Many people, including government employees, are not aware of the nitty-gritty of different laws. Ignorance among government employees creates problems to the common man," Sinha said, adding that the masses would be immensely benefited by such a measure.

20thOctober 2009

Public info campaign in Mohali from today

The Times of India

TNN, 03:45am IST

MOHALI: To educate rural masses on various flagship programmes of the Central government, initiated for their welfare, the Press Information Bureau has decided to conduct a five-day Bharat Nirman Public Information Campaign in Mohali district.

The public information campaign (PIC) will be conducted at Block Majri from October 20-24.

According to information, the drive will cover areas like rural development, education, health, social welfare, women and child development, insurance, banking and Right to Information Act.

This will provide people of remote areas an opportunity to directly interact with officials of the state government, who are responsible for executing these schemes.

The concept of PIC has been evolved by the Centre under the media outreach programme to transform ways to disseminate information on various schemes.

The main focus of PIC is to highlight the Bharat Nirman Programme and its six components - rural housing, electrification, safe drinking water, rural roads, telephones and irrigation.

The PIC will also focus on programmes like the National Rural Employment Guarantee Act (NREGA), National Rural Health Mission,

Sarva Shiksha Abhiyaan, Jawaharlal Nehru National Urban Renewal Mission (JNNURM), Right to Information Act, women empowerment, integrated child development services, prime minister's new 15-point programme for welfare of minorities, Aam Admi Bima Yojana, health insurance for poor and the Indira Gandhi Pension Scheme. Around 25-30 information stalls will be set up by various departments.

21 October 2009

PIOs make appellant run from pillar to post

The Times of India

TNN, 02:12am IST

LUCKNOW: The RTI Act is still to ensure common man the right to information in the state. Public Authorities (PAs) have little regard for orders passed by State Information Commission (SIC). There are several cases highlighting the callous attitude of PAs.

One such case is of an applicant, Dev Dutt Sharma, who had sought information from higher education department in 2006 but is still to get complete information. His case has been heard by five different information commissioners (ICs) in 18 hearings.

"In February this year, the case was finally marked for hearing by chief information commissioner," said Sharma. This is the latest status of my case that I know about, he added.

In one of the several orders that have been passed into the matter, director and finance controller, higher education, were directly appointed the public information officers (PIOs) into the matter. But it has not helped much.

Sharma's wife was a lecturer in Shri Narayan Girls Degree College, Unnao. After she expired in 1998, he asked the college authorities to release her arrears to him. However, despite repeated reminders to director, higher education, arrears were not released.

"I then submitted an affidavit requesting authorities to handover the funds to my minor children under my guardianship," he said. However, authorities made a fixed deposit of the money till 2011 under the

guardianship of school principal. Some part of the total money was though released by the department later.

It was on November 27, 2006 that he sought information under the RTI from the director, higher education on 16-points regarding the arrears of his late wife. After failing to receive any reply, he reached SIC with a complaint.

"After I failed to get complete information I questioned the commission if it was not insult of its order that despite being declared PIOs, the officers concerned did not appear in hearing," he said. Sharma had filed an application with the PIO of SIC to know what action will the erring officers invite against them. "But my case was disposed off after being re-directed to first appeals authority," he said.

When contacted, IC, Gyanendra Sharma, who had disposed off the case after re-directing it to first appeals authority, said, "If any order of the commission has not been complied with, the aggrieved applicant can always come up with a restoration application pleading that his case be heard again."

21st October, 2009

Don't dilute Right To Information Act with amendments'

Ashutosh Shukla / DNA

Wednesday, 2:16 IST

Mumbai: The amendments to the RTI Act proposed by the central government have made activists as well as the public information commissioners (PIO) increasingly unhappy.

In a meeting held on Tuesday in the office of Mumbai Chartered Accountants Society at Churchgate, under the banner 'Save RTI Act', activists in Mumbai were briefed by the central information commissioner (CIC) Shailesh Gandhi on the proposed amendments.

The president of India, Pratibha Patil, had first mentioned about the amendments to strengthen the Act in June.

The department of planning and training (DoPT) had made a presentation to over 50 PIOs on last week on the proposed amendments in New Delhi. Many of the commissioners feel that the amendments are not required and will create unnecessary confusions. "There is a general consensus among the information commissioners, at the central and state levels, that these amendments will create confusion."

"Most public information officers (PIOs) are still not well-versed with the Act. I have written to the government not to dilute the Act's definition and to resist the urge to increase exemptions," Gandhi said in the meeting.

The six amendments proposed in the presentation included establishing a division bench instead of a single bench for hearing appeals, reducing the number of exempted organisations in the Act, providing information on

services covered, making provisions to accept applications from abroad, to avoid frivolous and vexatious appeals and removing the discussions/consultations that take place while taking a decision (file noting).

"Having a division bench will only slow down the process of hearing appeals. Others can be implemented by notification or changing rules, as amendments are not required," said Gandhi.

Activists intend to oppose the amendments by various means. Sending a phonogram message, 'Implement RTI; not amend' to the PM, the ministry of DoPT, and to Congress leaders Sonia and Rahul Gandhi is one of them. "Dharnas like the ones taken out in 2006 are also being planned," said Bhaskar Prabhu, an activist.

"Citizens should also approach political parties since our elected representatives, incumbents or the ones in opposition can take up the issue at the appropriate level," said Gandhi.

He also urged citizens to go beyond seeking information on personal problems, and to instead pursue irregularities in public departments.

21st October 2009

Karnataka ranks top in providing information under RTI

Press Trust of India

Chennai, Oct 21 (PTI) National RTI Awards Secretariat, a non-governmental initiative which has undertaken independent ranking of Information Commissions in the country, has ranked Karnataka Information Commission at the top with a score of 55 per cent of Overall Public Satisfaction (OPS), arrived at after analysing different parameters.

Madhav Vishnubhatta, speaking on behalf of Tamil Nadu Right to Information Campaign, a collective of various organisations working in the sphere of RTI, said the study was based on the feedback of 6,000 of nearly 35,000 respondents and analysing decisions of various Information Commissions.

More than 51,000 orders passed by Information Commissioners in 2008 were analysed but that did not include Tamil Nadu, Uttar Pradesh and Sikkim, he told reporters here.

"Uttar Pradesh did not provide copies of their orders saying they dont have them while Tamil Nadu which claimed to have passed more than 40,000 orders, provided us with copies of only 900 orders.

21st October 2009

Filing RTI request made easy at GPO

The Times of India

TNN, 08:49pm IST

KANPUR: Looking for an easy way out to file an RTI (Right to Information) application: Here is a good new. Now, you can seek any kind of information under this act through internet. But, first you need to visit GPO at Bada Chauraha and provide the details which would be sent directly to the department concerned through an online request form.

The procedure, however, is very simple. Those interested need to provide the details of the independent department, name and the designation of the nodal officer against whom the complaint has to be filed. A receipt would be handed over to the person filing the complaint. Later, the officials concerned would feed the data online on 'Information Request Form' as per the requester's details and the application would be forwarded to the department concerned.

A printout of the acknowledgment would be provided to the recipient and the current status would also be checked. For filing an online RTI application form, the requester needs to pay a minimal amount of Rs 10. Besides, one can seek help through help desk via email id- rtidesk@indiapost.gov.in.

Generally for filing an RTI application, one needs to apply on a plain paper format-- postal order of Rs 10 (at the maximum, one can ask five questions at one time. If number of queries more than five, then pay extra Rs 10). In case of matter pertaining to judicial query, per question Rs 500 is the fee, addressed to the city magistrate. If further fee is required, then the same must be intimated in writing with calculation details of how the figure was arrived at.

Moreover an applicant can seek review of the decision on fee charged by the public information officer (PIO) by applying to the appropriate appellate authority.

Detailing about the advantages of filing an RTI application form , chief post master KK Yadav told TOI: "It is an easy way out to avail of the Fundamental Right under which every citizen has freedom of speech and expression and the right to know how the government works, what role does it play, what are its functions and so on."

"Normally, after filing an application form, one cannot check the status of their application which is now possible through online procedure. Secondly, the request can only be sent to the department and the officer of the Central government. Here it can also be sent to the Central intelligence and security agencies specified in the second schedule like IB, R&AW, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau and other government offices."

22nd October 2009

Four years of RTI' to be discussed on Friday

PUNE: India's chief information commissioner (CIC), state's CIC and the Pune division information officer will for the first time come together on one platform to discuss four years of completion of the right to information (RTI) act.

The event, to be held on Friday, is being organised by the Public Concern for Governance Trust (PCGT), Pune chapter, which works towards creating awareness about RTI among citizens. A panel discussion will also be held on the experiences of RTI activists so far.

Addressing a press conference on Wednesday, Major Gen S Jathar, member of the advisory council, PCGT said, "the RTI act was introduced to ensure transparency and contain corruption. However, more than 90 per cent of the requisitions under the RTI are either for personal or constitutional grievances and not for containing corruption. The discussion will aim at making suggestions so as to what manner RTI can be implemented for achieving its main objectives." Top RTI activists in the city including Vivek Velankar, Vijay Kumbhar and Vihar Durve will participate in the panel discussion.

Dinesh Castellino, convenor of PCGT, said, "Our aim is to spread awareness among citizens about the benefits of the act. We have been successful in doing so which is evident from the responses we have got at the RTI clinics."

Former cabinet secretary B G Deshmukh will also be present for this function.

22nd October 2009

RTI Act: TN commission not facilitating access to info, say NGOs

The Times of India

CHENNAI: The Tamil Nadu Right To Information Campaign (TNRTIC), a group of NGOs working in the area of the Right To Information (RTI) Act, on Wednesday criticised the State Information Commission for giving false information pertaining to the availability of order copies.

Releasing a report here on a national-level study conducted by National RTI Awards Secretariat, a Delhi-based NGO, on the functioning of 28 information commissions from across the country, TNRTIC coordinator Ossie Fernandes said that the Tamil Nadu State Information Commission was not included in the study since it had given false information to an RTI application filed by the National RTI Awards Secretariat in June this year.

In its reply, the commission said that it had disposed off 40,400 complaints and appeals during 2008 and that all orders were uploaded on its website, while earlier it had uploaded only 900 orders, the TNRTIC coordinator pointed out. "The discrepancy between the disposal of 40,400 cases and the availability of only 900 orders lies at the crux of the Tamil Nadu State Information Commission's ineffectiveness in facilitating citizens' access to information," he added.

Stating that the Tamil Nadu commission was passing orders without conducting hearings in 90% of the cases, Nithyanand Jayaraman, one of the coordinators, said that no other commission in the country followed such a procedure.

"We urge the commission to conduct hearings whenever there is a prima

facie case of delaying, refusing or providing incomplete or wrong information. In the absence of a hearing, public information officers will not take the commission's order seriously," Jayaraman said.

"Although 70% of the orders of the commissions in the country are in favour of disclosure of information, many public authorities don't abide by it. The study revealed that RTI appellants before the information commissions have only 27% chance to get information; it did not beyond 40% even if the commission concerned ordered for it (disclosure)," said V Madhav, another TNRTIC coordinator.

The study parameters included overall public satisfaction, effectiveness, deterrent impact and pro-disclosure. It analysed 51,000 orders passed by the commissions and responses from about 6,000 appellants from across the country. The Karnataka State Information Commission topped in terms of overall public satisfaction, while the West Bengal State Information Commission was placed at the bottom.

23rd October 2009

BDA file related to ISKCON property goes missing

The Hindu

Krishnaprasad

Pages missing in another file on land allotment to society

BDA got wind of the missing file in September 2008

A dispute is on over the ownership of the ISKCON property in Bangalore

— Photo: K. Gopinathan



In focus: The ISKCON temple in Bangalore.

Bangalore: A file in the Bangalore Development Authority (BDA) relating to the building plan sanctioned for the International Society for Krishna Consciousness (ISKCON) for construction of its temple in 1991-92 has gone missing. Also, another file related to allotment of land to ISKCON has been allegedly tampered with as some pages in the file are missing.

The BDA got wind of the missing file in September 2008 when some persons sought details, under the Right to Information Act, of the plan sanctioned for construction of the ISKCON temple.

Acting on it, the BDA Commissioner referred the matter to the Vigilance Wing, headed by a Superintendent of Police, for prosecuting employees and officers responsible for the loss. But the Vigilance Wing has so far not made any headway in locating the file.

Copies of the ISKCON temple's sanctioned plan surfaced in the Engineering Cell of the BDA soon after the matter was referred to the

Vigilance Wing, but the original file with all other documents is still missing.

Speaker of the Legislative Assembly Jagadish Shettar last week constituted a House Committee to look into the activities of ISKCON, Bangalore, including alleged financial irregularities, involvement in real estate business, misuse of funds granted under the midday meal scheme, and illegal collection of donations. All these charges have been levelled against it by a section of legislators.

The missing file has also raised concerns about safety of files and documents pertaining to BDA properties.

A dispute is on over the ownership of the ISKCON property in Bangalore between those who are currently managing it and ISKCON, Mumbai. While ISKCON, Mumbai, claims that ISKCON, Bangalore, is one of its branches, those managing the affairs of the latter claim it is an independent society and not a branch of ISKCON, Mumbai, which is the headquarters of the society in India.

Meanwhile, the Vigilance Wing has identified an engineer who served in the BDA's Engineering Cell from 1990 to 1999 and who was in charge of the documents in the authority. However, there are still no answers to the question of who could have benefited from the missing file.

A senior official of the BDA told *Hindu The* that the missing file might serve as an important document in the case related to the ownership dispute. The BDA is not a party in the case. "As the instance of the missing file has pointed fingers at security of documents in the BDA, our priority is to trace the file and punish persons responsible for the loss," said the officer.

24th October, 2009

26/11 hero's wife gets RTI order to seek police record

The Hindu

Mumbai: The Maharashtra chief information officer (CIO) has asked city police to allow Vinita, widow of slain police officer Ashok Kamte, scrutiny of the original transcripts of telephone calls between control room and police officers on the day of terror attacks last year. CIO Suresh Joshi has also asked the police to provide copies of original transcripts of telephone calls and control room log book and documents to Kamte within 30 days. The order was passed on Kamte's appeal against the order of a deputy Police commissioner who allowed her scrutiny of documents but refused to provide copies of the originals.

Kamte and two other police officers, Hemant Karkare and Vijay Salaskar, were shot dead by terrorists Abu Ismael and Ajmal Kasab on November 26 last year.

Kamte told PTI, "there were too many discrepancies in reports on the shootout in which my husband and two other senior officers were killed. Unfortunately, police never told us what had happened. According to a news report, the police control room was not aware that bodies of the slain officers were lying for 40 minutes behind Cama Hospital after the shootout".

"Only when I went to the spot and talked to people and officers I learnt that there was an exchange of fire between terrorists and the three officers. Police clarified this later but it was a half-hearted explanation. Therefore, I was curious to know what had happened on that night," she said.

Kamte clarified she was seeking details of control room records only for her own satisfaction, and that she had not embarked on a blame game exercise.

Kamte said, initially, she wrote a letter to the city Police commissioner seeking details. He forwarded her letter to joint Police commissioner Rakesh Maria but there was no response. Kamte then filed an application through Right to Information (RTI) Act to get details.

The RTI officer rejected Kamte's application. He attached a letter from Maria, saying the case was on and the matter was sub-judice, Kamte said, adding she filed an appeal before the DCP who allowed her scrutiny of documents but refused to provide the originals.

Kamte said she then filed another appeal which has now allowed her scrutiny of origin

25th October, 2009

Amendment to RTI Act 'an obviously retrograde step'

The Hindu

More than 200 eminent citizens have urged Prime Minister Manmohan Singh to abandon the "ill advised move to amend the RTI Act". This is the full text of the letter signed by Aruna Roy, Magsaysay Award winner, and others.

Dear Dr. Manmohan Singh,

We are alarmed and distressed to learn from media reports that the Government of India proposes to introduce amendments to the RTI Act. This is despite categorical assurances by the Minister of State, DoPT that any amendments, if at all necessary, would only be decided upon after consultations with the public. We are further dismayed to read that far from strengthening the RTI Act, as stated by the Honourable President of India during her speech to the Parliament on 4th June 2009, the government's proposition would in fact emasculate the RTI Act. The proposed amendments include, introducing an exemption for so-called "vexatious and frivolous" applications, and by excluding from the purview of the RTI Act access to "file notings" and the decision making process, this time by excluding "discussion/consultations that take place before arriving at a decision".

Two current nation-wide studies, one done under the aegis of the Government of India and the other by people's organizations (RaaG and NCPRI), have both concluded, that the main constraints faced by the government in providing information is inadequate implementation, the lack of training of staff, and poor record management. They have also identified lack of awareness, along with harassment of the applicant, as two of the major constraints that prevent citizen from exercising their right to information. Neither of these studies, despite interviewing

thousands of PIOs and officials, has concluded that the occurrence of frivolous or vexatious applications is frequent enough to pose either a threat to the government or to the RTI regime in general. Certainly no evidence has been forthcoming in either of these studies that access to "file notings" or other elements of the deliberative process, has posed a major problem for the nation. On the contrary, many of the officers interviewed have candidly stated that the opening up of the deliberative process has strengthened the hands of the honest and sincere official.

We strongly believe that it is impossible to come up with definitions of "vexatious" and "frivolous" that are not completely subjective and consequently prone to rampant misuse by officials. We also feel that it is a hollow promise to have legislation for ensuring "transparency" and encouraging "accountability" in governance which excludes the basis on which a decision is taken. Would it be fair to judge a decision (or the decision maker) without knowing why such a decision was taken, what facts and arguments were advanced in its favour, and what against? Can one hold a government (or an official) accountable, just on the basis of what they did (or did not do) without knowing the real reasons for their action or inaction? We, the people of India, already directly or indirectly know the decisions of the government, for we are the ones who bear the consequences. What the RTI Act facilitated was a right to know why those decisions were taken, by whom, and based on what advice. This right is the bedrock of democracy and the right to information, and cannot be separated or extinguished without denying this fundamental right.

In any case, in case the government has credible evidence, that despite the findings of the earlier mentioned studies, and despite the safeguards inherent in the RTI Act, "vexatious and frivolous" applications, and access to the deliberative process, are posing a great danger to the Indian nation, these should be placed in the public domain. We are confident that the involvement of the people of India will result in evolving solutions

that do not threaten to destroy the RTI Act itself. For a government that has been repeatedly appreciated for bringing about this progressive legislation, such a move would strengthen the spirit of transparency and public consultation. Surely that is the least that can be expected of a government that propagates the spirit of transparency.

It is significant that even among the collective of Information Commissioners from across the country, whom the government recently "consulted", the overwhelming view was against making any amendments to the RTI Act at this stage of its implementation. These Commissioners, all appointed by the government, have a bird's eye view of the implementation of the RTI Act. They have the statutory responsibility to monitor the implementation of the Act, and the moral authority to speak in its defence. Since the government works with the democratic mandate of the people, the collective wisdom, of people across the board who use and implement the law with an ethical base cannot be put aside. In any case we feel the advice of the information Commissioners should be taken into account.

We urge the government to therefore, abandon this ill advised move to amend the RTI Act. Instead, we request it to initiate a public debate of the problems that it might be facing in the implementing of the RTI Act and take on board the findings of the two national studies that have recently been completed. It is only through such a public debate that a lasting and credible way can be found to strengthen the RTI regime.

This government gave its citizens the RTI Act, and there has been no crisis in government as a result of its enactment. In fact the Indian state has, as a result greatly benefited, and the RTI Act and its use by ordinary people is helping change its image to that of an open and receptive democracy. An amendment in the Act would be an obviously retrograde step, at a time when there is a popular consensus to strengthen it

through rules and better implementation and not introduce any amendments. We strongly urge that an unequivocal decision be taken to not amend the RTI Act.

With regards,

Aruna Roy, Shekhar Singh, Nikhil Dey

1. Justice P. B. Sawant - **Signed**
2. Anil B. Divan - Senior Advocate Supreme Court - **Signed**
3. Prashant Bhushan - Senior Advocate Supreme Court - **Signed**
4. Smita Divan - **Signed**
5. Dr. Azgar Ali Engineer - Writer & Activist, Centre for Study of Society and Secularism
6. Swami Agnivesh - Social Activist
7. Sanjit Bunker Roy - Social Work Research Centre, Tilonia, Rajasthan
8. Tarun Tejpal - Editor-in-Chief, Tehelka
9. Arundhati Roy - Writer and Activist
10. Neelabh Mishra - Editor, *Outlook* (Hindi)
11. Ram Jethmalani - Senior Lawyer
12. Medha Patkar - **Signed**
13. Mallika Sarabhai - Cultural and Political Activist & Danseuse
14. Sandeep Pandey - Human Rights Activist & AASHA Parivar, UP
15. Arvind Kejriwal - Parivartan, Magsaysay Awardee
16. Muzaffar Bhatt - RTI Activist, J&K
17. Prabhash Joshi - Eminent Senior Journalist
18. Bharat Dogra - Freelance Journalist, New Delhi
19. Amitabh Behar - Director, NCAS
20. Prof. Jagdeep Chhokkar - IIM-Ahmedabad (rtd.)
21. Alok Mehta - Editor-in-Chief, *Naiduniya*
22. Binayak Sen - General Secretary, PUCL, Chattisgarh - **Signed**
23. Prof. Trilochan Sastry - IIM- Bangalore
24. Harsh Mander - Supreme Court commissioner, Right to Food
25. Kuldeep Nayar - Eminent Senior Journalist
26. Soli Sorabjee - Former Attorney General of India
27. Nandita Das - Cultural and Political Activist & Film Maker & Actor
28. Ajit Bhattacharjee - Senior Journalist & National Campaign for People's Right to Information - **Signed**
29. Prof. Jayati Ghosh - Jawaharlal Nehru University
30. Dunu Roy - Director, Hazard Centre Delhi
31. Kamla Bhasin- SAHR
32. E.A.S. Sarma - Former Secretary, Ministry of Finance
33. Admiral Ramdas - Former Chief of Naval Staff
34. Venkatesh Nayak -Commonwealth Human Rights Initiative
35. O. P. Jain - **Signed**

36. Lalita Ramdas - Social Activist
37. Sharda Jain - Educationist
38. Anand Patwardhan - Film Maker
39. Maja Daruwala - Commonwealth Human Rights Initiative
40. Prof. Jagmohan - National Campaign for People's Right to Information
41. Anjali Bhardwaj - National Campaign for People's Right to Information
42. Teesta Setalvad - Lawyer and Human Rights Activist
43. Lalit Mathur - Former Director General NIRD
44. Jean Dreze - Visiting Professor G B Pant University, Allahabad
45. Admiral Tahiliani - Former Chief of Naval Staff
46. Leela Samson - Director Kalakshetra
47. Prof. J. G. Krishnayya - Director, Systems Research Institute, Pune
48. P.S. Appu - Former Director LBS National Academy for Administration
49. B. Yugandhar - Former Member Planning Commission
50. Vinita Deshmukh - Editor, *Intelligent Pune*
51. Arundhati Dhuru - Right to Food Campaign, UP
52. Sumit Chakravarty - Editor, *Mainstream*
53. Baba Adhav - Eminent Socialist and Social Activist, Maharashtra
54. Romila Thapar - Historian
55. Julio Ribeiro - Retired I.P.S Officer and Civil Servant
56. Vrinda Grover - Lawyer and Human Rights Activist
57. Amar Kanwar - Film Maker
58. S. R. Sankarna - Former Secretary Rural Development & Human Rights Campaigner
59. Kavita Srivastav- General Secretary, PUCL
60. Pamela Philipose - Senior Journalist
61. Commodore Lokesh Batra - RTI Activist - **Signed**
62. Vinay Mahajan- Loknaad & National Campaign for People's Right to Information
63. Charul Bharwada - Loknaad & National Campaign for People's Right to Information
64. Kamini Jaiswal - Senior Advocate Supreme Court
65. Shanti Bhushan - Former Law Minister
66. Harsh Sethi - Editor, *Seminar*
67. Justice Dave - Supreme Court Justice (retd.)
68. K. S. Subramaniam - IPS (retd.) - Signed
69. Partho Kumar Dey - Air Marshall (rtd.), Indian Air Force
70. Dr. Amita Baviskar - Academic
71. Prof. Kamal Mitra Chenoy - Jawaharlal Nehru University
72. Madhu Bhaduri - Former Ambassador GoI
73. Shomi Das - Educationist
74. Sowmya Kidambi - RTI activist
75. Major General S.C.N. Jatar (retd)
76. Kamal Jaswal - Director, Common Cause, India

77. Suren Khirwadkar
78. Shahid Burney - RTI activist, Pune
79. Avinash Murkute- RTI activist, Pune
80. Roda Mehta
81. Sanjay Shirodkar - RTI activist, Pune
82. Yogendra Yadav - Fellow, Wissenschaftskolleg Zu Berlin (Institute for Advanced Study)
83. Annie Raja - General Secretary NFIW - **Signed**
84. Shyam Benegal - Film maker
85. Madhu Kishwar - Editor *Manushi*
86. Ashim Jain
87. S.R. Hiremath - NCPNR
88. Suman Sahai - Gene Campaign & NCPRI
89. Prof. Nandini Sundar - Delhi School of Economics
90. Justice J.S. Verma - Former Chief Justice of India
91. Sanjay Kak - Film Maker
92. Ashish Kothari - Kalpavriksh
93. Usha Rai - Journalist
94. Nitya Ramakrishnan - Senior Lawyer
95. Achin Vanayak
96. Devaki Jain - Economist
97. Vandana Shiva - Navadanya
98. Prof. Hargopal - University of Hyderabad - **Signed**
99. Harish Dhawan - Professor, Delhi University & People's Union for Democratic Rights - **Signed**
100. Prof. Randhir Singh - Professor (retd.), Delhi University - **Signed**
101. Manoranjan Mohanty - Professor (retd.), Delhi University - **Signed**
102. Pushkar Raj - General Secretary, PUCL - **Signed**
103. Ravi Hemadri -The Other Media - **Signed**
104. Suhas Borker - Convener, Working Group on Alternative Strategies - **Signed**
105. Mukul Mangalik - Professor, Delhi University - **Signed**
106. Apoorv Anand - Professor, Delhi University - **Signed**
107. Mukul Priyadarshini - Professor, Delhi University - **Signed**
108. Shashi Saxena - Professor, Delhi University - **Signed**
109. Moushumi Basu - Professor, Jawaharlal Nehru University - **Signed**
110. Rajni Bakshi - Citizens for Peace - **Signed**
111. Deepika Tandon - People's Union for Democratic Rights - **Signed**
112. Ranjoy Kumar Reddy - Researcher, Delhi University - **Signed**
113. Shahana Bhattacharya - People's Union for Democratic Rights - **Signed**
114. Amrapali Basumatary - New Socialist Initiative - **Signed**
115. Madhu - Jagori - **Signed**
116. Mayil Samy- Advocate - **Signed**
117. Kalaiyarasan - JNU DSU
118. Deepti Bharti - NFIW - **Signed**
119. Surendra Mohan - **Signed**

120. Sudhir K. Sahu - **Signed**
121. Anil - PDFI, Delhi - **Signed**
122. Jeevan - PDFI - **Signed**
123. Mamata Dash - NFFPIW - **Signed**
124. Manas Ranjan - Journalist, *The Tribune* - **Signed**
125. Kiran Shaheen - Media Action Group - **Signed**
126. Sunita Kumari - Daanish Books - **Signed**
127. Ramchandra Prasad - ICAN INDIA - **Signed**
128. Bipin Chandra - Historian and Director, National Books Trust
129. Kiran Bhatta - UNICEF - **Signed**
130. V.M. H. Banna - Journalist, *Madhyamam* Daily - **Signed**
131. Surinder Singh
132. Shailesh Haribhakti - **Signed**
133. Sarwar Kashani
134. Madhav Godbole
135. Diwan Singh - Ridge Bachao Andolan
136. Yogendra Narain - ICAN INDIA
137. Arundhati Roy - Writer
138. Suma Josson - Film Maker
139. Ramaswami Iyer - Former Secretary, Water Resources Ministry
140. Ramchandra Prasad - ICAN-India
141. Pradeep Ghosh - Ashoka Fellow & OASiS
142. Ashwani Goyal
143. Manish Jain
144. Siddhartha Basu
145. Dr. H. Sudarshan - Karuna Trust & VGKK, Bangalore
146. A.L. Ragarajan - Rejuvenate India Movement, Chennai
147. Vijayan Menon - Kormangla Initiative, Bangalore
148. Urvashi Sharma - Social Worker, RTI Mahila Manch UP
149. Prithvi Sharma - MD, FACC, USA
150. Surekha Sharma - MD, FAAP, USA
151. Prof. Mridula Mukherjee - Director NMML
152. Swapan Ganguly - PBKMS, West Bengal
153. Y. Singh N. Rajput - Gujarat
154. Nitin Sonawane - IFA
155. Sampad Zantye
156. Dr. Hari Dev Goyal - Indian Economic Service (Rtd.)
157. Ajay Pandey - Assc. Professor of Law, Jindal Global Law School
158. Chitragada Choudhury - Journalist
159. Mahendra K. Gupta
160. Dr. Ashok Sharma
161. Gayatri Sahgal - Centre for Equity Studies
162. Chandra Krishnamurthy
163. Biswajit Mohanty - FCA
164. Vijay Kapoor
165. Paromita Vohra - Film Maker
166. Vijendra Singh - UP

167. Ravi Duggal - Research & Activist - International Budget Partnership
168. Joyjeet Pal - Academic
169. Ashok Gokhale
170. Tara Warrior - Pune
171. Damodar Warrior- Pune
172. Col Mohite (rtd.)
173. Dr. Anand Lakshmi
174. Geeta Mohite
175. Dr. Renu Singh - Save the Children, India
176. Alankrita Isha Mrigakshi - Institute of Aerospace Medicine, Koln, Germany
177. Himanshu Thakkar - South Asia Network on Dams, Rivers and People, Delhi
178. Arindam Jit Singh - Tema Nishant
179. Prof. Rajinder Chaidhary - Dept. of Economics, University of Rohtak, Haryana
180. Sandeep Thakur
181. Dr. Kamla Ganesh - Prof. and Head of Department, Sociology, University of Mumbai
182. Sindhu - National Election Watch, Karnataka
183. Amit B. Jethava - President, Gir Nature Youth Club, Gujarat
184. Amman Madan - Assc. Professor, Department of Humanities and Social Sciences, IIT Kanpur
185. Malay Bhattacharyya - West Bengal RTI Manch
186. Rahul Varman - Department of Industrial and Management Engineering, IIT Kanpur
187. Ghyansham Shah
188. Hansababen
189. Daniel Mazgaonkar
190. G.L.N. Reddy - Hyderabad
191. Girish Mahajan
192. Anil Taparia
193. Dr. Vednata Kabra
194. S. L. Chowdhury
195. Faisal Khan - NAPM, Asha Parivar
196. Saraswati Kavula - Film maker and activist
197. Somesh Bagchi - Indian Statistical Institute, Kolkata
198. Pankaj Joshi - Executive Director, UDRI
199. Dr. Anil Joshi
200. Dhan Raj Bansal - Mumbai
201. Subodh Abhi - Jan Ekta Samiti, Ponta Sahib
202. Ramesh Agrawal - Jan Chetna, Chhattisgarh
203. Bardwaj Ananthe - Asha for Education, USA
204. Dr. J.N. Sharma - Advocate and RTI Activist, Lucknow

Original documents

27th October 2009

President Patil's wishful thinking

The Economic Times

Addressing the joint session of Parliament to outline the vision of the newly elected government, President Pratibha Patil made two key promises,

neither of which has been acted upon by the government so far. She promised "a public data policy to place all information covering non-strategic areas in the public domain... (which) would help citizens to challenge the data and engage directly in governance reform."

The importance of such a paradigm shift from the present Right to Information, administered through an Act that has already started to malfunction, to an obligation on the state to publish all non-strategic data is driven home by the controversy over spectrum allocation, which has led to CBI raids in the offices of the department of telecom.

Former telecom secretary D S Mathur had, it now has been revealed, refused to bow to political pressure to allocate spectrum, a valuable national resource, in a non-transparent, arbitrary fashion. Had a Duty-to-Publish policy been in place while this tussle between the secretary and the minister was taking place and being recorded in the files, that wrongheaded policy would have been nipped in the bud. It is time the government delivered on the promise made by the President to the people's representatives. In fact, the government should supplement a Duty-to-Publish policy with a requirement to subject all major policy changes to public consultation and debate.

The finance ministry is doing precisely that with its proposed Direct Tax Code. Sebi and Trai routinely undertake public consultations before drawing up policy. There is no reason why this should not become standard practice for all policymaking.

President Patil also made another far-reaching promise: "As part of process reform, all proposals to the Cabinet will have to report on how the proposal under consideration will enhance the goals of equity or inclusion, innovation and public accountability." To the best of our knowledge, Cabinet notes are yet to reflect this commitment to inclusion and better governance. Perhaps, we should file a query under the RTI Act to find out. Or, better still, the government would put this non-strategic piece of information in the public domain, fulfilling the President's promise!

27th October 2009

Major reshuffle in MC

The Times of India

LUDHIANA: In the first major reshuffle of administrative officials within the municipal corporation in a long time, zonal commissioners of all the zones have been reshuffled and their powers refined to bring in more efficiency.

In his orders issued on Tuesday, MC commissioner AK Sinha transferred the joint commissioners and assistant commissioners posted in the civic body in the four zones. Assistant commissioner VK Sharda, who was looking into B and C zones as zonal commissioner, has been transferred to A zone. Sharda would also look into the license branch apart from dealing with the cases of sale of property and Right To Information related applications in the zone. Similarly, joint commissioner Malwinder Singh Jaggi, who was recently transferred to the civic body, would be the zonal commissioner for zone B. Jaggi would also look into the building and roads (B&R) branch apart from RTI and sale of property branch of the zone.

In the same manner, assistant commissioner AS Sekhon, who was recently transferred to the MC from Bhatinda, has been appointed the zonal commissioner of C zone and PS Ghuman, who was transferred from Jalandhar to the civic body, would be the zonal commissioner for Zone D. Both Sekhon and Ghuman would also look into the RTI and sale of property branches of their respective zones. VC Puri, secretary of the MC, would look after the important agenda branch.

Meanwhile, two other PCS officers, Kanwalpreet Kaur Brar and Mahinder Pal Gupta, have also been given important assignments. While Brar would look after tehbazaari, advertisement, law, light, accounts, buildings and

police branch, Gupta would look into establishment, complaints and enquiry, horticulture, computer, fire brigade, house tax, operation and maintenance, health & sanitation and workshop branches. Gupta would also look after RTI cases on behalf of the commissioner.

The transfers assume significance as for quite some time councillors and people had been complaining about poor functioning of MC office.

28th October 2009

Secretariat, DGP's office refuse to disclose property details

The Times of India

CHENNAI: With the debate about the disclosure of assets by high court and Supreme Court judges still on, the state government in Tamil Nadu has refused to disclose property details pertaining to IAS and IPS officials under the Right To Information (RTI) Act.

While the Secretariat has refused to permit an RTI activist to inspect property statements submitted by IAS officials, including the chief secretary and the home secretary, the office of the director general of police (DGP) has failed to disclose property details of police officials even a month after the Tamil Nadu State Information Commission's directive to do so.

The commission had issued the directive on September 15 to the public information officer at the DGP office, to provide details to V Gopalakrishnan, a resident of K K Nagar, who had filed an RTI application in January this year. The applicant had sought details about police officials, from sub-inspector to IPS officers, who had sought permission from government to buy immovable property from 2006 to 2008.

The DGP office, in its reply given in April, categorically refused to provide the details, stating that they were exempt from disclosure under Section 8 (1)(j) of the RTI Act. Challenging the refusal, the applicant moved the state commission and obtained an order in his favour.

In the case of disclosure of property details relating to IAS officials, the public department in the Secretariat, in its reply to the RTI application filed by V Madhav of Porur in February this year, said that the information sought was personal information such as income-tax returns and, hence,

could not be inspected under Section 8 (1) (j) of the RTI Act as it would amount to unwarranted invasion of privacy of the individuals'.

Madhav wanted to inspect the asset disclosure statements submitted by the chief secretary, home secretary and secretaries of eight other departments, including revenue, industries and the PWD. The applicant filed an appeal with the state commission, saying that disclosure of property details of government servants could not be considered invasion of privacy when MLAs, MPs and high court and even Supreme Court judges disclosed assets.

"Making public the asset disclosure statements of government servants would check accumulation of assets disproportionate to known sources of income. Besides, Section 8(1)(j) of the Act itself says that information cannot be denied to citizens if the same cannot be denied to Parliament or a state legislature," Madhav argued in his submission before the commission.

After hearing the case, the commission has now reserved its orders.

29.10.2009

State fares well in RTI Act implementation

The Indian Express

BHUBANESWAR: If information is king, Orissa is among its kingdoms. The latest appraisal of Right To Information implementation by state commissions has put Orissa among the top four.

Karnataka is right at the top in terms of overall public satisfaction (OPS) while Orissa came fourth. The Public Cause Research Foundation (PCRF), which carried out the assessment, covered 28 Information Commissions analysing the 51,128 orders passed by the panels during 2008.

The key criteria on which the states were evaluated were OPS, effectiveness, deterrent impact and pro-disclosure factor.

At the top slot, Karnataka scored 52 per cent in OPS while Orissa got 37 per cent to be placed at number four.

In terms of effectiveness, the State fared as good to be placed at the same fourth position. Effectiveness metric evaluates the Commission's efficiency in getting its orders implemented. Kerala and Karnataka scored 60 per cent, while Orissa got 43 per cent.

The deterrent impact criterion too put Orissa at the fourth spot. The deterrent impact shows how scared the government officers are of the RTI Act? In fact, it depicts to what extent are the officials, given the high level of corruption and secrecy that prevails, penalised for not disclosing information. North-eastern state Mizoram got the highest points while another state Nagaland of the same region was equally placed. Orissa got 12 per cent.

This meant, NE states were particularly harsh on government officials who hid information.

It is in this deterrent impact category that Chief Information Commissioner DN Padhi has come on top followed by Vijay Baburao Borge of Maharashtra.

However, the State did not figure among the top in the pro-disclosure metric which rated how Information Commissions and Commissioners ordered in favour of disclosures.

At least 98 per cent of orders in Assam were pro-disclosures, while Andhra Pradesh rejected the most applications. So did Uttaranchal.

29th October 2009

IAS/IPS officers' assets: RTI plea rejected

The Hindu

K. Venkateshwarlu

Senior secretaries to discuss issue in New Delhi on Nov. 3

Unwarranted invasion of privacy, says State GAD
'Rejection of RTI application is surprising'

HYDERABAD: Are IAS, IPS and IFS officers duty-bound to disclose their assets that could be kept in public domain much like the MP/MLAs earlier, and now the Supreme Court judges?

Even as a crucial meeting of senior secretaries scheduled on November 3 in New Delhi mulls over the subject, the State bureaucrats wait with bated breath for the outcome as not long ago, an RTI applicant's plea on their asset reports was rejected by the State General Administration Department calling it among other things "unwarranted invasion of privacy".

In the application filed under RTI Act, O.B. Debara of the United Forum of the RTI campaign, sought to know whether all India service officers of the State cadre who are members of Adarshnagar and Kohinoor Mutually Aided Co-operative Housing Societies filed their Immovable Property Reports (IPRs) during 2006-08, as per Rule 16 of All India Services (Conduct) Rules 1968.

He sought copies of their IPRs.

He also wanted to know action taken against those who had not complied with and whether they sought permission to buy land for housing on their names. But the Public Information Officer of the GAD rejected the

application invoking Section 8 (1)(j) of RTI Act. The PIO stated that the applicant has not indicated any public interest to justify such disclosure and that the officers have objected to sharing of the information.

'Violation'

"This is in complete violation of spirit of the RTI Act and amounts to shielding of defaulters by their brethren," said D. Rakesh Kumar of the Forum. They have now gone in appeal to State Information Commission (No. 2485/2009). "The rejection is surprising, as members of the two pillars of democracy -- judiciary and legislature -- could disclose their assets, why the third pillar -- the executive -- should resist it?" he asks. After all, as public servants they were not above public scrutiny and cannot invoke right to privacy on issues of public concern. The objective behind making them file IPRs every year was to make them accountable and track their assets.

Similar cases

The Central Information Commission (CIC) and the Gujarat Information Commission in similar cases have categorically stated that IPRs of the All India Service officers have to be in the public domain and cannot be exempted under Section 8(1)(j) of RTI Act.

The Supreme Court too had held that "when there is a competition between the Right to Privacy and the Right to Information of the citizens, the former right has to subordinate the latter as it serves larger public interest".

29th October 2009

MCC penalized for inaction in settling citizen's grievance

The Times of India

MANGALORE: The Dakshina Kannada Consumer Disputes Redressal Forum has penalized the Mangalore City Corporation for its inaction in settling a citizen's grievance related to excess billing for water supplied.

The consumer forum directed the MCC to refund the entire excess of Rs 8,501 with a penalty of Rs 5,000 and expenses of Rs 1,000 to the complainant within 30 days.

The complainant, Dr Sunil P Shenoy, urologist by profession, and resident of Kadri, had approached the MCC for regularization of water billing for his residence-cum-clinic at Kadri in early 2009.

The Right To Information Act, 2005, was effectively invoked, to get the MCC to admit that excess amount was collected and also in bringing out in the open that the MCC has no clear-cut rules in its charter, with respect to refund of excessively billed and collected amounts from citizens. In the absence of clear-cut guidelines, the officials enjoy unlimited power to take arbitrary decisions. All efforts to get back the refund proved unsuccessful even after the corporation accepted its mistake. Not willing to be a party to undesirable practices in the corporation, the complainant knocked at the doors of the Consumer Forum in August 2009. The MCC did not contest the case.

The Forum chided the MCC for abuse of power and harassment of the complainant, referring to a similar Apex Court case - Lucknow Development Authority Vs M K Gupta, (1994) 1 SCC 243 by the Apex Court: An ordinary citizen or a common man is hardly equipped to match

the might of the state or its instrumentalities. A public functionary if acts maliciously or oppressively and the exercise of power results in harassment and agony then it is not an exercise of power but abuse. Harassment of a common man by public authorities is socially abhorring and legally impermissible. It may harm him personally but the injury to society is far more grievous. Crime and corruption thrive in the society due to lack of public resistance.

30 th October , 2009

CIC in a fix as depts fail to update data

DNA

Gandhinagar: You may be disappointed if you want to know how exactly Gujarat is performing vis-à-vis other states when it comes to the use of the revolutionary tool called the Right to Information Act. The reason: in last four years, not even one annual report has been issued to give out the analysis on how the Act is being used. The report is like a report card as it shows how many applications and appeals under RTI Act were filed in one year and their exact status. However, the information commissioner's office in Gandhinagar finds its hands tied behind as government departments are not forthcoming with the required data.

Gujarat's chief information commissioner (CIC), RN Das, said, "The information is not reaching as the various departments are yet to consolidate the data themselves. In addition, there has been some confusion on their part as to who exactly are the public authorities."

Sources in the state government said, "Initially, most of the departments were uploading the information on the number of RTI applications received at various levels. However, the trend has changed completely in last two years." Most of the departments have not updates even one in 2007-08 and 2008-09 with few barely one or two exceptions like finance department, where over 80% updating has been done.

Surprisingly, the trend is same for all departments -- be it child and woman welfare, which receives few applications or revenue department, which is said to receive the highest, according to the sources. In addition, IT revolution has hardly made a difference for the babus. The state government had got a special software application developed on the state-wide intranet called IWDMS and made the same accessible to the information commissioner. However, in absence of government officials

uploading the basic data regarding RTI Act applications, the CIC has nothing to write a report on.

Not just that, even appointments to the two posts of information commissioners are yet to be made. Even much smaller states like Goa have three information commissioners and Arunachal Pradesh six. Still, in Gujarat, the one-man commission has managed to dispose of over 5,700 appeals since its inception in October 2005 while about the same number of appeals are still pending.

30th October 2009

SIC to award info officers

The Times of India

PATNA: Otherwise known for imposing fine on public information officers (PIOs) for their failure to part with information sought under the Right To Information (RTI) Act, the state information commission (SIC) has now decided to award the PIOs sincerely performing their duty.

At the first such award ceremony, scheduled to be held next month, as many as nine PIOs would be given prizes by chief minister Nitish Kumar. While one PIO would get the first prize of Rs 20,000, three PIOs have been selected for the second prize of Rs 10,000 each and five PIOs for the third prize of Rs 5,000 each. They would also get a citation each.

Prizes would also be distributed among winners of the essay and painting competitions which were organised recently by the SIC in schools and colleges as part of its efforts to generate awareness about the RTI.

"Ours is the first SIC to have launched an award scheme for PIOs in the country," chief information commissioner (CIC) A K Choudhary told TOI on Thursday. He, however, did not name the winners, pleading they would be made public at an opportune time.

Choudhary said the idea is to encourage the PIOs to perform their duty properly and deliver correct information to applicants promptly.

He said the commission is also working on a roadmap to achieve the target of becoming the best performing SIC in the country. "Things like introduction of an interactive website and launch of video-conferencing facility would help us get to the top," he added.

Choudhary said the website, likely to become functional in three to four months, would help information seekers get prior information about the status of their applications. "The video-conferencing facility would save time and money of the applicants," he said.

31st October 2009

Litigation over lapses in purchase of bulletproof vests

Indian Express

Mumbai : A public interest litigation filed before the Bombay High Court has sought a full-fledged inquiry into the purchase of bulletproof vests by the state.

Petitioner Santosh Daundkar, a social worker, states that he had come to learn about the irregularities in the purchase following an RTI application. Besides the loss of a sensitive file, containing incriminating information against senior public servants, the petition has pointed out 16 alleged violations of prescribed rules during the time of purchase.

Noting that the lapses have led to the death of senior police officers, Daundkar alleges that the government, instead of taking action, has gone all out to protect the delinquent officers. As many as 110 bulletproof vests were found to be sub-standard quality in 2004, following which authorities decided to return the jackets and recover the payment. An amount of Rs 24.71 lakh was recovered, but the company had re-supplied the jackets, stating that they were of proper quality.

“These bulletproof jackets were worn by senior police officers under the impression that they would be able to fight the terrorists with adequate protection. However, when the terrorists fired at the cops, the bullets pierced through the vests, killing three officers — Hemant Karkare, Ashok Kamte and Vijay Salaskar,” the petition says.

Daundkar has urged the court to direct a proper inquiry by an independent committee or the CBI so that the delinquent public servants are made accountable. He also seeks the testing of these vests by a neutral authority like the DRDO or the Army, or by honest police officers to check if they complied with the prescribed specifications.

The petition will come up for hearing after the court vacation.

31st October 2009

LIC-promoted entities under RTI purview: CIC

The Times of India

NEW DELHI: In a decision that is likely to have far-reaching impact on thousands of people, the Central Information Commission recently ruled that LIC Housing Finance Ltd and LIC Mutual Fund Asset Management Company Ltd, both entities promoted by LIC, and GIC Housing Finance come under the purview of RTI Act.

The decision will mean that citizens can ask for information regarding their loan applications or investments and will ensure greater transparency in financial dealings. LIC is one the major players in the home loan and mutual fund market.

The commission had received nearly 10 complaint petitions and four appeals seeking information from the three organisations.

In a full Bench order, chief information commissioner Wajahat Habibullah said, "We decide that all the three respondents, LIC Housing Finance Limited, LIC Mutual Fund Asset Management Co Limited and GIC Housing Finance Limited are public authorities as described under the RTI Act."

It added, "All of them are, therefore, obliged to take all necessary steps to carry out their duties and responsibilities assigned by the Act."

All the three companies had contended that the holdings of government or PSU in them was below 50%, and they were not "substantially" financed by the government. Therefore, they did not fulfil the criteria under the Act to be declared as 'public authorities' liable to give information sought by applicants.

In its order, the commission said that government owned LIC's control of its housing finance section was "explicit and effective" despite claims that the latter worked as an autonomous organisation. It held that since the government was the majority stakeholder, the organisation must be seen as a public authority. It held a similar argument for LIC Mutual fund.

On the issue of whether GIC Housing Finance Limited was a public authority or not, the CIC said that since shareholding of six public authorities in GIC was 47.68% and coupled with the control that these authorities had over GIC, it was enough evidence to bring the organisation under the ambit of the RTI Act.

The organisations have been given three weeks to provide appellants with the required information.