



Volume I Issue V

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From the Editor’s Desk

Dear Reader,

A “Collectors’ Workshop” (under the CBAI Project) was organised at the Uttarakhand Academy of Administration, Nainital on 29th & 30th June. This workshop helped reemphasise the key challenges to making the RTI regime in the country more effective.

It also brought to light several new challenges and provided some new ideas to deal with these challenges in order to progressively move toward a robust regime of people’s right to information and beyond.

This was largely on account of the participation of a wide range of stakeholders including the Vice Chancellor of Kumaon University; the Uttarakhand State Chief Information Commissioner (CIC); the heads of some of the State Administrative Training Institutes – partnering under the CBAI Project – & trainers and practitioners from some others; Collectors (as heads of District Implementing Agencies) from districts covered under the Project; and representatives from the United Nations Development Programme (UNDP), the Department of Personnel & Training (DoPT) and the National Implementing Agency (NIA) involved with the CBAI Project.

Two crucial issues, among others, that were discussed during the workshop related to the efficacy or impact of ‘Mass Awareness Campaigns’ and the imperative for good ‘Records Management’ (rather the need for streamlining ‘Records Management’)

The workshop also offered an occasion and an appropriate platform for the release of the **‘Handbook for Public Information Officers under the RTI Act’** authored by **Dr. R. S. Toliya**, State CIC, Uttarakhand.

We would like to express our gratitude toward Mr. S. Raju, Director, Uttarakhand Academy of Administration and his entire team for all their efforts in organising the said Workshop. The Workshop was indeed a learning experience!

Kindly note the new URL of our Online Networking Forum – ‘R2I NET’. The URL is:

www.rti.org.in

Please visit ‘R2I NET’ for a detailed account of our activities and related updates.

An Overview of the Collectors' Workshop (under the CBAI Project)

The 'National Workshop for District Collectors' was envisaged as part of the 'Multi-stakeholder Workshops' component of the CBAI Project. The purpose of the workshop was to enable the sharing of grassroots experiences on RTI and a stock-taking of various initiatives being undertaken at the State and district levels under the project and otherwise. A total of 46 participants from nearly 20 States participated in the workshop. These included 10 District Collectors, 8 Director-Generals/Directors of National and State level implementing agencies, nodal officers from 12 participating States.

The following achievements of the project in the first phase (Jan 2006 to Mar 2007) were noted:

- ✦ By March 2007, nearly 20,000 persons had been trained under the project which includes Resource Persons at National, State and district level, PIOs/APIOs, other Government officials and representatives from Civil Society & Media Organisations.
- ✦ The project has created a bank of RTI reference material which has found wide usage across all States & institutions such as Handbook and Guides for various stakeholders.
- ✦ Almost all states have translated the RTI Act, 205 and related reference material into the local language and more than 1,00,000 copies have been circulated across different states.



- ✦ Mass awareness activities have been undertaken in various states through various media modes. Nearly 3 lakh pamphlets, 87 Radio programmes, 466 TV advertisements and 100 kalajathas/puppet shows etc across different states.
- ✦ It has brought important stakeholders together on different platforms to discuss and deliberate on key issues. These include the 'National Conference of Information Commissioners', 'National Workshop of Collectors & District Magistrates', 'Workshop of Researchers and RTI Practitioners', various 'Review Workshops' with State ATIs etc.

The workshop was also attended by several ATI representatives. These included Directors-General/Directors or the Nodal Officers handling the project. Some of the ATIs also briefed the participants on the initiatives being undertaken in their States. They also offered suggestions for implementing the RTI Act, 2005 more effectively.

A Summary of Action Points presented by **Mr. Ajay Sawhney, JS, DoPT, GoI** is as follows:

- Training efforts need to focus especially on trainers' expertise and competence and training of PIOs even as sectors are prioritised and relevant training needs are identified;
- The proposed e-learning Module, Distance Learning Programme & Training Film should be made available as widely as possible. It will be important to have locally relevant content for 'Mass Awareness';
- Stocktaking of 'Proactive Disclosure' by Public authorities, at least in the Project districts, will be helpful. Those lagging behind could be provided assistance to catch up;
- Records Management in courts could possibly provide some learning for Records Management in Government on the whole (as suggested by Dr. Toliya). It would be helpful to identify specific gaps and prioritise initiatives, accordingly, for good management of records.

Dr. R.S. Toliya's 'Concluding Remarks' covered some critical observations as follows:



- A (PIO) is the kingpin for implementation of the 'RTI Act';
- Preparation by all 'Public Authorities' to bring office procedures in line with compliance requirements is crucial. Departmental reviews should include RTI implementation;
- There is no such thing as a frivolous application. This calls for an attitudinal shift. There is no reason for doubting the genuineness of the applicant's concerns;

- 'Information Commissions' (ICs) as 'Public Authorities' should be exemplars themselves in the implementation of the Act. The onus is on the ICs to make necessary recommendations to the Government from time to time for effective implementation of the Act;
- There is a need for focused research on 'Application Profiling' to draw inferences about emergent trends and about whether the real objectives of the Act are being met. Such research could be carried out in close coordination with the Information Commissions. Likewise, profiling could be done for processing of applications, penal actions, complaints, appeals etc.

RTI Implementation Makes News – A Mixed Bag?

Good News... Bad News...: Hope; Success; Disappointment; Hope Again!

After 20 yrs, Hashimpura Survivors turn to RTI Act

A delay of 20 years in getting justice has forced the family members of those killed in the Hashimpura (Meerut district, UP) massacre (1987) to turn to their right to Information as their last resort. Applications have been filed with the authorities concerned to know the contents of the CB-CID report in the case and the whereabouts of the 17 Provincial Armed Constabulary men who were involved in the brutal shooting and killing of over 40 innocents. The CB-CID inquiry ordered by the State Government, had submitted its report back in February 1994. The Court Case meanwhile drags on... with only 3 of the 164 witnesses having been interrogated so far... Now the victims are hoping that RTI will help them get at least some answers

Source: *Indian Express* [dt. 26.05.2007]

A Notable Intervention by the Patna High Court

The Patna High court has issued directions to the Bihar Government regarding the delay in appointing Public Information Officers under the Right to Information Act. A division bench of the court comprising Chief Justice Dr J N Bhatt and Justice Shailesh Kumar Sinha issued the directive to the State Government during hearing of a 'Public Interest Litigation'...

Source: www.indialawnews.com

RTI Applicants under Threat in Assam

...those who seek details of a particular road or housing project under the RTI Act here often find themselves subjected to threats, anonymous calls, or even assaults. ... officials say they have never heard of such an (the RTI) Act... (they) even gave in writing that they were) not bound to disclose any information... and relented only after the applicant approached the Information Commission... Two applicants... had to be hospitalised after being attacked with sharp weapons (for seeking information about rural development funds)...

Source: *Indian Express* [dt. 26.05.2007]

Passport Officer in Trouble for Not Giving Information under the 'RTI Act, 2005'

A passport officer with Regional Passport Office (RPO), Ghaziabad, Mr. Shailesh Kumar Yadav was found guilty of delaying – for 145 days – the information sought by one Mr. K. G. Mallia. The latter was denied a new passport. Later, not only did the official neglect Mr. Mallia's four applications over 12 months, but also sent policemen to his house to intimidate him.

A fifth application made to the Ministry of External Affairs did not get any response either. Central Information Commissioner, Dr. O. P. Kejriwal – hearing the appeal – decided to impose a penalty of Rs. 25,000/- on Mr. Yadav for not providing the information applied for. Further, it directed the Foreign Secretary to initiate disciplinary proceedings against the erring officer for sending policemen to threaten the applicant.

Source: *Hindustan Times* [dt. 23.03.2007]

RTI breaks National boundaries:

Inter-American Court Finds Fundamental Right of Access to Information

In the first decision of its kind from an international tribunal, the 'Inter-American Court of Human Rights' ruled yesterday that there is a fundamental human right to access government information. In the case of Claude Reyes and others vs. Chile, the Court found in favor of three environmental activists who in 1998 sought information from the Chilean government about a controversial logging project. By failing to provide access to the requested information, the Court held that Chile had violated Article 13 of the American Convention on Human Rights, which guarantees freedom of thought and expression.

According to the Court, Article 13 contains an implied right of general access to government-held information, and States must adopt legal provisions to ensure the right is given full effect. The Court specifically ordered Chile to provide the requested information about the Rio Condor logging project or to issue a reasoned decision for withholding it, as well as to adopt adequate administrative procedures to protect the right in the future and to train public officials to uphold the public's right to information.

International advocates of transparency in governance and the right-to-know applauded the precedent-setting court decision. "The Court has ruled that freedom of information is a fundamental personal, social, and civic right, and a critical component of a full transition to democracy," said Peter Kornbluh who directs the Chile Documentation Project at the National Security Archive. According to Helen Darbishire, Executive Director of Access Info Europe, the decision "will be invaluable for activists who need government information to defend other human rights, protect the environment, and fight corruption."

Source: (<http://www.freedominfo.org/news/20061012.htm>)

Good Practice: 'Proactive Disclosure' of the National Scheduled Castes Development Finance Corporation (NSFDC)

Section 4(1)(b), in essence, requires a 'Public Authority' to *suo motu* provide information under 17 heads such that this information can be accessed without specifically asking (or applying) for it. It is to be the constant endeavour of a 'Public Authority' to make such information available at regular intervals and through various means of communication including the Internet. Cost effectiveness; easy accessibility – to the extent possible – electronically are other considerations.

The 'Information Manual' brought out by the 'National Scheduled Castes Development Finance Corporation' (NSFDC) [a Central Public Authority] is apt on these counts. The information is distributed into 19 parts (17 as stipulated by the RTI Act, 2005 including 'Other Information').

An introductory section conveys the objectives, vision / Mission of NSFDC, its main activities / functions, the services offered etc. Notably, the decision making process related to various aspects of functioning within the organisation has been clearly stated. The concluding section provides for disclosing certain updated information through 'Quarterly Reports'.

The entire information, despite, being elaborate and detailed is not unwieldy and has been well-presented. This is in stark contrast to the not-so-clear proactive disclosure by several public authorities. This document can be accessed online at <http://nsfdc.nic.in/right.pdf>

CBAI Focus State: Maharashtra

- Yashwantrao Chavan Academy of Development Administration (YASHADA), the State Administrative Training Institute of Maharashtra has been a nodal institution on 'Right to Information' ever since the 'Maharashtra Right to Information Act, 2000' was enacted. Thus, YASHADA's RTI-related work precedes the enactment of the 'RTI Act, 2005'.
- Over the years, it has become a nodal agency on RTI not only in Maharashtra, but also at the national level. It is a partner in the National Implementing Agency (NIA), under the CBAI Project. It has carried out most of the training of 'Resource Persons' (RPs) – at YASHADA & in other States (including in the North Eastern States). RPs trained by the YASHADA team have, in turn, been able to reach out to about 30,000 persons through 'Training and Mass Awareness Programmes'.
- In April 2007, it organised the 'National Trainers' Meet' and brought out a "Evaluation Study Report" on "Assessment of Training of Trainers Programme".
- YASHADA has also developed much resource material on the Right to Information. This material is customised to the needs of various stakeholders on, both, the Demand and Supply side of RTI implementation regime.

Right to Information Quiz

1. Does the 'RTI Act, 2005' have any provision(s) relating to 'Records Management' in 'Public Authorities'?
2. Can an 'Information Commission(s)' recommend disciplinary action (in addition to imposing a fine, as applicable) against an erring 'Public Information Officer' (PIO) or other official?
3. Can a PIO refuse to accept an application for information if it does not concern the 'Public Authority' he / she belongs to?
4. Can an applicant appeal to the "First Appeal Officer" within a 'Public Authority' if he / she feels aggrieved by the further fee charged by the PIO for providing information in a particular form / format?
5. Can an 'Information Commission', in its decision on a complaint, levy a penalty on the 'Public Authority for non-compliance'?
6. Is there a time limit specified in the 'RTI Act, 2005' within which an 'Information Commission' should decide on a complaint?
7. Can a Complaint be made to the "First Appeal Officer" within a 'Public Authority'?

Note: Find answers to this quiz in the next issue.

- For a downloadable 'Soft Copy' of this 'Newsletter' and other information on the 'RTI Act, 2005', please visit www.rti.org.in or www.r2inet.org

Right to Information: TRIVIA

- In a landmark precedence-setting judgment, Gujarat's Chief Information Commissioner Mr. R N Das had ruled that "file-notings" are part of "information" under the RTI Act, 2005, directing the Urban Development Department to let public have access to the notings. In the case of Premshankar Bhatt vs. SPIO UDD, it asked the department to allow Bhatt to inspect the files, and provide information sought...
Significantly, Mr. Das held that the officials' contention that disclosing file notings would be detrimental to an honest expression of opinion by them does not hold ground. To him, It was hypothetical that disclosure of file notings would hinder expression of clear, unequivocal and honest views by officials. Going a step ahead, the judgment observed that the practice of disclosing file notings would, in fact, strengthen expression of honest and clear views on the file.

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We Invite You to Share:

- Your ideas / comments on the 'RTI Act, 2005' or the 'CBAI Project';
- Your experiences in using / implementing the 'RTI Act, 2005';
- Other inputs in the form of relevant photographs / video footages.

You may send your inputs to:

Right to Information Cell (RTI) Cell,
Centre for Good Governance (CGG),
Road No 25, Jubilee Hills,
Hyderabad – 500 033

E-mail: nia@cgg.gov.in

Answers to Quiz in Issue IV

1. Several Central Government organisations (exempted, subject to some caveats) have been listed in the Act itself (2nd Schedule). This list is amendable. As for exemption of State Public Authorities, the 'RTI Act, 2005' authorises the State Government(s) to decide.
2. The PIO should furnish the information asked for in a manner asked for provided it does not amount to unreasonable diversion of the authority's resources. However, the PIO may very well refer the applicant to the Official Gazette put should also provide necessary assistance to the applicant to be able to locate the information.
3. It is NOT necessary that requests for information under the RTI Act, 2005 be typewritten.
4. The 'RTI Act, 2005' does NOT provide for a PIO filing an appeal to an Information Commission against the decision of a 'First Appeal Officer'.
5. The 'RTI Act, 2005' does NOT provide for a 'First Appeal Officer' levying a penalty on a PIO. The First Appeal Officer is only to consider whether the decision of the PIO regarding NOT providing information or charging fees was in keeping with the provisions of the ACT, and if not, reverse the PIO's decision.

Featured Resources

- <http://www.righttoinformation.info/pdf/apios.pdf> [List of CAPIOs across the country]
 - '**Handbook for Public Information Officers under the RTI Act**' by Dr. R. S. Tolia (Chief Information Commissioner, Uttarakhand) – Dehradun: Natraj Publishers, 2007 [www.natrajbooks.co.in]
7. A 'First Appeal Officer' also CANNOT recommend any disciplinary action against a PIO. He / She only has to decide whether a PIO's decision was in keeping with the Act.
 8. A PIO's illiteracy is no excuse or justification for not accepting RTI applications in writing. Nor can a PIO deny providing reasonable assistance to the applicant on this ground.

Disclaimer

While all efforts have been made to ensure that the information presented in this Newsletter is accurate, yet, no warranty is assumed for either its completeness or its fitness for a particular purpose.

All opinions and views expressed in this Newsletter are personal and do not, necessarily, represent any policy or position of any organisation.