

RTI TIMES

Volume I Issue X

November 2007

Contents

- ✓ CREAT-CHRI Study Points at Lacunae in Implementing Some Key provisions of 'RTI Act, 2005'.....2
- ✓ Next Steps for Reinforcing Implementation of 'RTI Act, 2005' in Andhra Pradesh.....5
- ✓ "Jan-ne Ka Haq": An Ode to RTI.....6
- ✓ CBAI Focus State: Karnataka.....6
- ✓ Right to Information Quiz and Trivia.....7
- ✓ Editorial & Design Team and Featured Resources.....8

Book Post

From the Editor's Desk

Dear Reader,

Is it possible that even after more than two years have passed since the 'RTI Act, 2005' has been enacted, some 'Public Authorities' (PAs) would not have designated Public Information Officers (PIOs) and Appellate Officers (AOs)?

YES. IT IS POSSIBLE, except that the number (of such PAs) has been found to be quite large.

A very recent study conducted in *Karnataka* by the CREAT-CHRI combine pegs it at 38.14%. The study carried out in 17 locations – in, both, urban and rural areas – found that only 180 out of 291 PAs surveyed had designated PIOs and AOs. In *Bijapur (Chadachana)* all the 8 PAs covered had failed on this count.

The survey also came across PAs that – though they had designated PIOs & AOs – had not displayed their names and other contact details. The survey findings have been summarised in this issue. They point to glaring violations of S. 4(1)(a) & (b).

Not providing information about where to look for and / or how to access "information" / "record" (as defined under the 'RTI Act, 2005') strikes at the very roots of the RTI regime envisaged by the Act.

The survey was carried out in just one State, on a pilot scale, covering a small sample. Hence, it would be tempting to dismiss the survey findings as exceptions and not the norm. However, we would like to reiterate that it may not be right to dismiss them. We had voiced a concern – citing another study in an earlier issue of 'RTI TIMES' – that S. 4 violations are quite rampant.

Clearly, the Central Information Commission shares our concern. This can be inferred from its recommendation – emerging from its Conference with State Information Commissioners – to the Central Government about *'issuing strict directions to State Governments / Public Authorities to fulfill the obligations laid down under S. 4 of the 'RTI Act, 2005'... (and stating that) Secretary of the Department may be held responsible...and be clearly held culpable in case of non-compliance...'*

The way forward is for the 'Appropriate Governments' to, meticulously, ensure compliance and for the 'Information Commissions' to, uncompromisingly, enforce it... whatever else they may do to reinforce the RTI regime in the country.

CREAT – CHRI Study Points at Lacunae in Implementing Some Key Provisions of ‘RTI Act, 2005’

About the Organisations Conducting the Study

The ‘*Consumer Rights Education and Awareness Trust*’ (CREAT)* has been undertaking a campaign to strengthen the ‘Right to Information (RTI) Movement’, particularly in *Karnataka*. CREAT has been working on RTI since the year 2000 after the enactment of the ‘*Karnataka Right to Information Act*’ (KRIA).

Over the last two years, CREAT has collaborated with the ‘*Commonwealth Human Rights Initiative*’ (CHRI), *New Delhi*** to work on several initiatives to reinforce its RTI campaign.

About the Study

One of CREAT–CHRI consortium’s more recent initiatives (September – November 2007) was conducting a pilot study to ‘ascertain compliance with basic elements of implementation of the ‘RTI Act 2005’ especially in ‘Public Authorities’ (PA) at the district and *taluk* levels. Essentially, the pilot focussed on:

- Did the PAs comply with the requirements of Section 4(1)(a) of ‘RTI Act, 2005’?
- Did the PAs comply with Section 4(1)(b) of the ‘RTI Act, 2005’?
- Did the PAs designate officials as required under the ‘RTI Act, 2005’ and did they take steps to disseminate the information to the public?

As a first step, CREAT tapped its network of local Civil Society Organisations (CSOs) to identify willing partners. Thereupon, the consortium identified cities & towns and *taluks* & villages such that, both, urban and rural areas were fairly covered. A ‘Survey Kit’ including, questionnaires in *Kannada* and English; necessary guidelines; letter formats for seeking information; and Section 4(1)(b) templates was prepared and appropriate training was provided to the prospective surveyors.

* CREAT started as a consumer advocacy group. It is based in *Bangalore*, *Karnataka* State, India.

** CHRI is a reputed international Non Government Organisation (NGO) promoting access to information, access to justice, constitutional reforms and police reforms.

Key Findings of the Study

The findings of the study*** indicate a saddening state-of-compliance with the aforesaid key provisions of the 'RTI Act, 2005'. The matrix presented below will make this clear.

Location	No. of PAs visited / suited	No. of PAs to have complied with Section 4(1)(a)	No. of PAs to have complied with Section 4(1)(b)	No. of PAs to have nominated PIO(s) / APIO(s) / AA(s)	No. of PAs to have exhibited details of PIO(s) / APIO(s) / AA(s)
(i)	(ii)	(iii)	(iv)	(v)	(vi)
<i>Chickmagalur</i>	37	5	11	22	18
<i>Narasimharajapura</i>	3	1	1	2	1
<i>Chintamani (Kolar)</i>	9	0	2	9	7
<i>Mangalore</i>	13	5	6	6	1
<i>Haveri</i>	16	5	8	16	15
<i>Gulbarga</i>	11	0	4	11	6
<i>Hospet</i>	13	1	4	13	13
<i>Shimoga</i>	24	13	24	24	24
<i>Belguam</i>	79	16	11	19	17
<i>Khanapur</i>	11	11	4	11	6
<i>Ranebennur</i>	21	0	0	9	9
<i>Bijapur (Chadachana)</i>	8	0	0	0	0
<i>Tumkur</i>	3	3	3	3	3
<i>Sagar</i>	16	0	0	15	1
<i>Magadi</i>	11	7	3	7	4
<i>Kanakapura</i>	11	5	2	8	4
<i>Mysore</i>	5	2	4	5	5
Total	291	74	87	180	134

Compliance with Section 4(1)(a) in the PAs covered could possibly be worse than that depicted in column (iii), for these numbers are based on the oral responses received from those PA officials with whom the surveyors interacted. The compliance claims were not actually verified by the surveyors. As for compliance with Section 4(1)(b), it is usually the Office of 'Deputy Commissioners', autonomous institutions and 'Urban Local Bodies' that had brought out the various publications (as required). In case of the other PAs, that had attempted to release these publications, the latter were either incomplete or not according to the requirements of the Act.

Only a handful of PAs had websites of their own and the only information – pertaining to 'RTI' – available on many of these websites was a link to the RTI Portal of Government of India. Many PAs have not issued necessary circular(s) for designating PIOA(s) / APIO(s) / AAs and officials are unaware of such circular(s), even where they have been issued.



*** CREAT has shared the study findings with 'RTI Cell, CGG'.

Many officials are yet to be sensitised about the 'RTI Act, 2005' through good training. None of the PAs covered had prepared any training manuals or given specific instructions about the procedure(s) to be followed in dealing with applications received under the 'RTI Act, 2005'.

Of the 254 PAs that were asked if they had established separate counters / facilities to receive RTI applications, it was found that none had done so. Relevant circulars of the 'Department of Personnel and Administrative Reforms' (DPAR) have not reached the officials concerned in the PAs. The 'First Appeal Process' was found to be ineffective in many PAs. Many PAs still carry notice boards related to KRIA, which has been repealed by the State Government after the enactment of the comprehensive 'RTI Act, 2005'. The report refers to instances of PIOs complaining about misuse, harassment, purposeless applications and poor records management in their organisation.

Recommendations Deriving from the Findings

- The government should take initiative in getting quality education and training material prepared in the local language (*Kannada*), which should be distributed extensively. Services of professional organisations and well-meaning CSOs could be sought toward this as well as toward organising quality training and awareness programmes.
- Training should not be restricted to PIO(s) / APIO(s) / AA(s) alone but should be imparted to all public officials – which should also ensure strengthening of the 'First Appeal' mechanism in PAs. The Government should also prepare 'guidance notes' on every section of the 'RTI Act, 2005', which should be made available to all PAs.
- PIO / APIO / AA details should be prominently displayed within a PA's premises.
- DPAR should ensure that its notifications reach all PAs and to the officials concerned therein.
- The Government should compile a directory of PIO(s) / APIO(s) / AA(s) at the district level and make it available – in print and electronic format – in the office of the Deputy Commissioner.
- Deputy Commissioners should hold monthly / quarterly review meetings on the implementation of the 'RTI Act, 2005'.

	<p>We are appreciative of the effort of conducting this important study. We thank Mr. Y. G. Muralidharan, Director CREAT for sharing the findings and recommendations of the study with CGG, Hyderabad. We wish CREAT-CHRI all the very best in rolling out the methodology to cover other 'Public Authorities'.</p>	
<p>CREATs' Logo</p>		<p>CHRI's Logo</p>

Next Steps for Reinforcing Implementation of 'RTI Act, 2007' in Andhra Pradesh

A stakeholder conclave was recently organised by the 'Social Audit Council for Information Right' (SACIR) – a State-wide network of CSOs working on key social issues – to take stock of the state-of-RTI in Andhra Pradesh – two years into the implementation of the 'RTI Act, 2005'. The conclave was attended by the Chief Information Commissioner, the State Chief Information Commissioner, senior officials of the State Government and representatives from member organisations of SACIR. The 'Action Points' emerging from the conclave are as follows:

- Social activists need to continue with their vibrant awareness generation (addressing, mainly, the public); Information Commissioners need to play an effective watchdog role vis-à-vis the executive organs of the Government; and capacity building agencies should intensify their awareness and training efforts even as they attempt to mobilise resources from the Government to keep scaling up and building on these efforts.
- The State Government should consider appointment of two more Commissioners (to the State Information Commission). The workload in the Information Commission should be so distributed that Information Commissioners can hold hearings in districts.
- Public Authorities should be encouraged to improve electronic access to information and should upload and / or upgrade their websites / web-pages (on State Government websites) accordingly. They should continue improving upon their 'Proactive Disclosure' of Information as well. It was suggested that Information Commissions should take serious note of lapses in this regard and that they should impose exemplary penalties where they are applicable.
- In the near future, training should be arranged for officials / functionaries of the Police, Revenue, Excise and Town Planning Departments; Engineering sections of different Departments; and the lower courts.
- Extensive computerisation, digitisation, micro-filming and other ICT-related good practices were suggested for the areas concerning land ownership, ULC, construction and public works contracts – areas where manipulation and falsification of records is rampant.
- Noting that the State Information Commission's report was not discussed in the State Legislature; an annual forum has been proposed to discuss, in detail, the Commission's report after its release next year.
- A quarterly consultation, by the State Information Commission, with NGOs active in the field has also been proposed in order to help promote healthy practices. These consultations at the State and district levels can be very informal, but should be systematic.
- Transparency in Government cannot be promoted and sustained, unless there is a general culture of transparency and an ethos of openness in the society. Governments, public sector organisations and CSOs (including Media Organisations) should aspire to promote such ethos in their functioning.

13th October, 2007.

Note: Readers are requested to share their observations opinion s on the aforesaid points on the discussion forum on www.rti.org.in.

“Jan-ne Ka Haq”: An Ode to RTI



[Source: www.indiatogether.org]

A group of activists striking the right note for the ‘Right to Information’

A vigorous, emotive and eloquent song titled – “Jan-ne ka Haq” – was produced to mark the ‘Second National Convention’ for the people’s right to information that took place in October 2005. This was about the same time when the ‘RTI Act 2005’ was to come into full force. The song makes a case for accountability. It brings out the aptness in the demand for people’s right to information.

This song has been and continues to be extensively used during training programmes and awareness campaigns on Right to Information. The song can be viewed on and downloaded from www.indiatogether.org

A soft copy of this song can be requested by writing to mkssrajasthan@gmail.com

CBAI Focus State: Karnataka

- Karnataka is one of the 12 States in the pilot phase of the CBAI Project. The districts identified under the project are *Chitradurga* and *Bidar*.
- In Phase – I (Jan. 06 – Mar. 07), the cumulative physical progress achieved by the ‘Administrative Training Institute (ATI), Mysore’ [the State Implementing Agency (SIA)] included training of 55 Resource Persons, 345 PIOs / APIOs / AAs / other officials and 240 CSO (including Media) representatives. The Directory brought out by the SIA covered 30 Public Authorities.
- In the first quarter (Apr. – Jun. 07) of Phase – II, the key achievements include training of 30 PIOs / APIOs / AAs / other officials and conduct of an ‘Audit of ‘Proactive Disclosure’ under Section 4(1)(b)’ which covered 6 Public Authorities.
- In the second quarter (Jul. – Sep. 07) the SIA trained 88 PIOs / APIOs / AAs / other officials and 25 CSO (including Media organisation) representatives. The Directory now covers 1,500 Public Authorities. Audit of ‘Proactive Disclosure’ of 11 other Public Authorities has also been conducted.
- Both the districts too have done well so far, though their activities revolve, primarily, around training of various stakeholders. Proactive disclosures of 2 Public Authorities were audited in both the districts. The districts are yet to report their activities during the latest quarter.

Right to Information Quiz

1. What is the provision regarding 'Bar on jurisdiction of courts' in the 'RTI Act, 2005'?
2. Who would be the 'Competent Authority' – under the 'RTI Act, 2005' – for Union Territories?
3. Can the Information Commissions establish offices in other places?
4. Does a 'Third Party' have a right to appeal the decision of a 'Public Information Officer' (PIO) about disclosure of information related tot the 'Third Party'?
5. What is the 'Severability' provision under the 'RTI Act, 2005'?
6. What are the key considerations for a 'Public Authority' for dissemination of information under Section 4 of the 'RTI Act, 2005'?
7. Does the 'Appropriate Government' have a role in facilitating programmes to help 'Public Authorities' secure compliance with the 'RTI Act, 2005'?

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

Please visit 'R2I NET' for a detailed account of our activities and related updates at www.rti.org.in or at www.r2inet.org

Right to Information: TRIVIA

A project is underway to examine "*Legislative Transparency*" in 20 countries. The purpose of this study is to determine the essential elements of legislative transparency and to document the diverse approaches to transparency in different countries.

The study is being conducted by *Maria Baron*, a leader of Argentina's '*Openness Movement*'. It is based on the premise that National Legislatures play a crucial role in promoting transparency and good governance. This is so because they are the only institutions in a country representing the entire citizenry and having the authority to control other State agencies. Legislative transparency could thus be an important norm and practice for others to follow.

Each 'Country Report' is to start with a brief country profile and include such aspects as *openness of floor sessions; working of committees; functioning of legislative groups; control mechanisms; and citizen access to the legislature*. This work follows part of the guidelines set by the '*Policy Division, Department for International Development*' (DfID) on "*Helping Parliaments and Legislative Assemblies to Work for the Poor*" (July 2004).

Till date, '*Legislative Transparency Reports*' have been published for three countries – *Argentina, Chile and Sweden*.

Source: www.freedominfo.org/features

Editorial & Design Team

Dr. Rajiv Sharma, IAS

DG & ED, CGG

Mr. Vardhaman Vaidya

NIA Advocacy / Dissemination / Training, CBAI

Dr. P. Geeta

NIA Training & Capacity Building, CBAI

Dr. Sharma S. Mantha

Programme Coordinator, CGG

Answers to Quiz in Issue IX

1. A Central / State Information Commissioner is not eligible for reappointment as such. A Central / State Information Commissioner can, however, be appointed as the Chief Information Commissioner or the State Chief Information Commissioner (of that State) respectively, provided that the terms of office, in both these positions, shall not be more than five years in aggregate.
2. The 'Competent Authority' for the Supreme Court of India is the Chief Justice of India. For a High Court, it is the Chief Justice of that High Court.
3. Section 22 of the 'RTI Act, 2005' says that 'the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act'. This is the "overriding effect" of the Act.
4. As per the 'RTI Act, 2005', the salaries and allowances and other terms and conditions of service of the:
 - Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;
 - Central Information Commissioner and the State Chief Information Commissioner shall be same as that of an Election Commissioner; and
 - State Information Commissioner shall be the same as that of the Chief Secretary to the State Government.
5. The '*FIRST SCHEDULE*' of the 'RTI Act, 2005' sets out 'the form of the oath / affirmation to be made and subscribed' by all Central and State Information Commissioners, before entering upon the office.

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

Featured Resource

- '*V. K. Puri's Digest of CIC Decisions under RTI Act, 2005*' by Prakash Kumar, IAS and Dr. K. B. Rai – 1st Edition [June 2007] – Jain Book Agency (JBA) Publishers, New Delhi. www.jba.in
- www.creatindia.org

5. Sections 14 & 17 of the 'RTI Act, 2005' contain provisions regarding removal of Central & State Information Commissioners respectively.
7. The '*SECOND SCHEDULE*' of the 'RTI Act, 2005' specifies the intelligence and security organisations established by the Central Government. The provisions of the Act do not apply to these organisations. However, information pertaining to allegations of corruption and human rights violations shall not be excluded. Information regarding allegation of violation of human rights shall only be provided after approval of the CIC and within 45 days of the receipt of such request.

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.