

# Issues around the implementation of the RTI Act

Sohini Paul

Commonwealth Human Rights Initiative



# Application Process

- PIOs are frequently absent or unavailable to accept applications and the application fees. Access to PIOs is difficult at times.
- Attitudes of resistance and refusal to accept applications: It is becoming common practice that PIOs refuse to accept the application fee or will accept the applications with the fees but refuse to give receipts on the grounds that they do not have cash receipt books.
- Several instances of overcharging of fees by the PIOs i.e more than the prescribed amount.

# Application Process

- Non-availability of data base with government departments from which to source the information.
- Several instances of citizens facing harassment while seeking information from government.
- Applicants not being given receipts at the time of application and payment of fees (Jharkhand)

# Application Process

- Applications being rejected for not being in the format as prescribed by the state government (MP& Orissa); another cause for rejection is that the information belongs to another department; information not for public interest

# Who & What

- Large proportion of the applicants using RTI are government officials themselves;
- Most citizen users are from the large towns and cities;
- Queries of the government officials are mainly to do with their own personal interest: promotion, enquiry reports on their own misconduct, evaluated answer sheets; In many cases, citizens queries are more general in nature (construction of community centers, resettlement plans for the displaced etc.)

# Appeal Mechanism

- On an average the time being taken for the appeals process varies from 3- 5 months (from the time of application till the decision of the CIC);
- Reasons for appeal: no response from PIO/AA; non-compliance with the time limit of 30 days; denial of information sought

# Application Fee

- Application fee: The minimum application fee is Rs. 10/-: Around 14 states and the Central Government.
- However, states like Haryana, Arunachal Pradesh – Rs. 50/; Gujarat , Orissa – Rs 20/- .

# Fees

- **Cost of information**: The cost for photo copy is Rs. 2 per page; However in Himachal, Haryana this costs Rs 10 per page.
- **Inspection fees**: High inspection fees in some states, as in MP where it is Rs. 50 for the first hour and Rs. 25 for every subsequent 15 minutes
- **Appeal fees**: in Madhya Pradesh and Chhattisgarh- Rs. 50/- to lodge a first appeal and Rs 100/- to lodge a second appeal with the SIC.

# Proactive Disclosure

- Most departments have yet to publish 17 categories of Information required to be published under s. 4 of the RTI Act.
- Apart from publishing the names of the PIO, APIO and appellate authority designated, most departments have not published other information as required under s. 4.
- Government websites are not regularly updated.

# State Information Commission

- State Information Commissions (SIC) have been set up in around 22 states and 1 Union Territory. States such as Jharkhand, Arunachal Pradesh, Mizoram, Manipur, Sikkim are yet to set up the SICs.
- Where SICs have not been set up, there many departments do not find feel compelled to comply with the law.

# SIC & CIC

- Overwhelming number of retired bureaucrats appointed as Information Commissioners across the country.
- Central Information Commission:
  - No. of appeals: 800 (80% from bureaucrats & Delhi residents)
  - No. of complaints: 911 (200 odd complaints disposed off according to CIC)
  - Around 106 decisions taken so far at the CIC.

# Awareness of the Act

- Public awareness: Lack of public awareness about the key provisions of the RTI Act and lack of initiative in taking the Act to the masses. Awareness about the Act is urban-centric.
- Awareness level of government official: Poor knowledge about the Act at the lower levels of administration- Panchayats, smaller towns, blocks level. Lack of awareness and preparedness among officials about their roles and duties regarding RTI.

# Training & Education

- Most Administrative Training Institutes (ATIs) have conducted state level TOTs and trained master trainers. But the subsequent trainings at lower levels have been of very poor quality. The training of PIOs and APIOs has been inadequate and largely superficial.
- Public Education materials: Copies of the Act are not available in all official languages.

# Undermining the Spirit

- In Chhattisgarh, where information sought by BPL person, does not pertain to him or her and it involves photocopying of more than 50 pages or cost of production exceeds Rs 100 then the BPL requester will be asked to inspect the records/files in the office.
- If information sought pertains to “individual life”- Rs. 100 per page (notification on 9 March 2006)