

The Right to Information Act, 2005

A Guide for Civil Society Organisations



NiA

Capacity Building for
Access to Information

A GoI-UNDP Initiative

July 2006

While all efforts have been made to make this Guide as accurate and elaborate as possible, the information given in this book is merely for reference and must not be taken as binding in any way. This Guide is intended to provide guidance to the readers, but cannot be a substitute for the Act and the Rules made thereunder.

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Introduction to the Guide

“In a Government of responsibility like ours where the agents of the public must be responsible for their conduct there can be but a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings.”

*- Supreme Court in **State of UP v Raj Narain** in 1975*

The enactment of the Right to Information Act, 2005 is a historic event in the annals of democracy in India. Information is power and now a citizen has the right to access information “held by or under control of” the public authorities. Concurrently, it is the duty of all public authorities to provide information sought by citizens. A sea change can be achieved towards transparency and accountability in governance by implementing the Act in letter and spirit.

The Act mandates a legal-institutional framework for setting out the practical regime of right to information for every citizen to secure access to information under the control of public authorities. It prescribes mandatory disclosure of certain information to citizens, and designation of Public Information Officers (“PIOs”) and ‘Assistant Public Information Officers (“APIOs”) in all public authorities to attend to requests from citizens for information within stipulated time limits. It provides for appeal to officers senior in rank to Public Information Officers [to be referred to as Appellate Officer (“AO”) in this Guide] against the decisions of PIOs. It also mandates the constitution of a Central Information Commission (CIC) and State Information Commissions (SICs) to inquire into complaints, hear second appeals, and guide implementation of the Act.

In realising the objectives of the RTI Act, the role of Civil Society Organisations (CSOs) assumes considerable importance. As an important actor in the governance process and as a bridge between the community and public agencies, CSOs can not only play an important role in monitoring public service delivery by invoking provisions under the RTI Act but also in generating awareness and building capacity among the community on RTI.

The Centre for Good Governance (CGG), Hyderabad in partnership with Yashwantrao Chavan Academy of Development Administration (YASHADA), Pune, has been designated

as the 'National Implementing Agency' (NIA), under the Department of Personnel and Training (DoPT), Ministry of Personnel, Government of India and United Nations Development Programme (UNDP) supported 'Capacity Building for Access to Information' (CBAI) Project.

This Project intends to promote capacity building activities for implementing the Right to Information Act, 2005 in 24 districts in 12 selected States (2 Districts in each State) in the country over the period 2005-08. Under the project, the NIA is carrying out various activities like training of resource persons (who in turn would conduct training programmes at State and District levels for APIOs/PIOs/AOs, other Government officials and NGOs, CSOs, media representatives etc.), launching the R2Inet - a comprehensive portal/network on Right to Information, conducting workshops with various stakeholders, undertaking research and documentation and other advocacy and dissemination activities.

As a part of the agenda of the CBAI Project, the NIA is publishing guides and manuals for use by various stakeholders including public authorities, Civil Society Organisations, Media and Citizen Groups who are to play a key role in making the right to information a tool for good governance and effective service delivery. This Guide, prepared by the 'CBAI-NIA team' at CGG is part of the activities planned under the project during 2006-08. It attempts to provide valuable inputs to CSOs to comprehend the RTI Act and effectively apply it for enabling accountability in service delivery by public agencies. The specific objectives of the Guide are to:

- Provide background information on access to information and an overview of the Right to Information Act, 2005 with particular emphasis on the role of Civil Society Organisations;
- Enumerate and clarify the roles and responsibilities of NGOs that are substantially financed by the Government as public authorities under the Act;
- Assist CSOs in using the RTI Act as a tool for social accountability, particularly in respect of basic public service delivery; and
- Provide case studies and practices that illustrate the successful application of RTI by CSOs and citizens.

Chapter 1 of the Guide provides national and international perspectives on Right to Information. **Chapter 2** discusses the role of Civil Society in the context of Good Governance and Right to Information. **Chapter 3** presents an overview of the Right to Information Act, 2005. **Chapter 4** examines the statutory role of those Non-Government Organisations who are public authorities as defined by the Act. **Chapter 5** discusses how RTI can be used as a tool for social audit of public service delivery. **Chapter 6** provides different case studies that illustrate the successful application of RTI Act by CSOs.

Appendix 1 contains a list of questions and answers pertaining to the Right of Information Act, 2005. **Appendix 2** contains suggested proforma for public authorities (relevant to NGOs which are deemed to be public authorities) - included therein are formats for record-keeping and monitoring and the registers to be accordingly maintained. **Appendices 3 and 4** provide details on undertaking social audit for which RTI is an enabling precondition. **Appendix 3** gives the operational guidelines for social audit under the National Rural Employment Guarantee Act (NREGA), 2005, while **Appendix 4** gives guidance notes for social auditors. **Appendix 5** gives a list of select resources on 'Right to Information' on the web.

The NIA Team hopes that the contents of this Guide would be of assistance to CSOs in their role as watchdogs and as legitimate actors in the governance process and to those CSOs that are deemed to be public authorities under the RTI Act.

Chapter 1: Perspectives on Right to Information

Everyone has the right to freedom of opinion and expression; the right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through media regardless of frontiers.

Universal Declaration of Human Rights: Article 19

1.1 The Dawn of a New Era

The Right to information Act, 2005 (“the Act”), which came into effect on 12 October, 2005 (on the 120th day of its enactment), is one of the most significant legislations enacted by the Parliament of India. The Act enables the establishment of an unprecedented regime of right to information for the citizens of the country. It overrides the ‘Official Secrets Act’ and similar laws/rules. It strikes at the heart of the paradigm long practised by Government officials and public functionaries that ‘confidentiality is the rule and disclosure is an exception’. The Act seeks to establish that “transparency is the norm and secrecy is an exception” in the working of every public authority. It aims to ensure maximum openness and transparency in the machinery and functioning of Government at all levels: Central, State and Local.

The right to information is expected to lead to an informed citizenry and transparency of information which are vital to the functioning of a democracy. It will contain corruption and enable holding Governments and their instrumentalities accountable to the governed.

The ‘People’s Right to Know’ has a long history of prolonged debates, deliberations, discussions, struggles and movements at both national and international levels.

1.2 Freedom of Information - International Perspective

The importance accorded to Freedom of Information internationally can be gauged from the fact that the United Nations General Assembly, in its very first session in 1946, adopted Resolution 59 (I), which states:

“Freedom of information is a fundamental human right and . . . the touchstone of all the freedoms to which the UN is consecrated”.

Article 19 of the ‘Universal Declaration of Human Rights’, a United Nations General Assembly Resolution 217(III) A of 1948, has laid out equal rights for all people and three fundamental principles governing human rights: these rights are “universal”, meaning that rights apply to everyone whoever or wherever that person is; “inalienable”, in that they precede state authority and are based on the “humanity” of the people; and indivisible in that all rights are of equal importance. The Declaration recognises Freedom of Expression (FoE) - including Freedom of Information (FoI) and Free Press - a fundamental human right. Freedom of Expression includes the right to seek, receive and impart information and right to access information held by public authorities.

Article 19 (2) of the ‘International Covenant on Civil and Political Rights’ (ICCPR), a United Nations General Assembly Resolution 2200A(XXI) of 1966 states:

“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Article I of the UNESCO Declaration on ‘Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War’ [1978] states:

“The strengthening of peace and international understanding, the promotion of human rights and the countering of racism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information.”

Article II of the Declaration states:

“...the exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding...”

Article 13 of the ‘UN Convention against Corruption’, adopted by the United Nations General Assembly on 31 October 2003 identifies: ‘(i) effective access to information for public; (ii) undertaking public information activities contributing to non-tolerance of corruption (including conducting public education programmes) and (iii) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption...’ as important measures to be taken by Governments for ensuring the participation of society in governance.

Article 10 of the ‘UN Convention against Corruption’ states: “... to combat corruption, each (member State) shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes and take measures for:

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- (c) Publishing information, (including) periodic reports on the risks of corruption in its public administration.”

Freedom of Expression and Information has been adopted as ‘Fundamental Human Right’ by Regional Human Right Treaties from time to time e.g. the European Convention of Human Rights, 1950, the African Charter on Human and Peoples’ Rights

1981, the Inter-American Declaration of Principles of Freedom of Expression 2000 and Declaration of the Principle of Freedom of Expression in Africa 2002. These conventions have reiterated Article 19 of the Universal Declaration of Human Rights. For example, Principle IV of the Declaration of Principles of Freedom of Expression in Africa states:

“Public bodies hold information not for themselves, but as custodians of the public good and every one has a right to access this information, subject only to clearly defined rules established by law”.

Principle III of the Recommendations on Access to Official Documents adopted by the Committee of Ministers of the Council of Europe in October 2002 provides:

“Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities. This principle should apply without discrimination on any ground, including that of national origin”.

The World Conference on Human Rights, held in Vienna in 1993 has declared that the Right to Development adopted by United Nations General Assembly in 1986 is a universal and inalienable right and an integral part of fundamental human rights. The declaration recognises that democracy, development and respect for human rights and fundamental freedoms are interdependent, and mutually reinforcing. Right to Freedom of Expression is regarded as closely linked to the Right to Development. The right to seek, receive and impart information is not merely a corollary of freedom of opinion and expression; it is a right in and of itself. As such, it is one of the rights upon which free and democratic societies depend. It is also a right that gives meaning to the Right to Participate which has been acknowledged as fundamental to the realization of the Right to Development.

The fundamental values associated with the concept of freedom of expression and right to information in a democratic society, are widely acclaimed internationally as follows:

- (1) Freedom of expression is essential to the development of an individual's personality. The "Right to Express" and to communicate is central to self-development and realization of one's potentiality as a human being. Any restriction on expression of opinion or access to information can adversely affect individual dignity, integrity and growth.
- (2) If development is to be realized, people need the freedom to participate in public life with full information as "informed" citizens, exercise their "right to say", put forth their views, and demand, without fear of discrimination, that their Governments uphold their obligations and deliver.
- (3) Knowledge is power and freedom of information is vital to the advancement of knowledge society. Enlightened judgment is possible only if one is provided with opportunity to consider all facts and ideas, from whatever source, and to test one's conclusion against opposing views.
- (4) Sustained human development requires that the people, especially the poor have the "right to know" and are provided with access to relevant information, including that relating to the conservation of the environment so that they can take their own "informed" decisions and realise their right to development.
- (5) Free flow of information promotes accountability and transparency, prevents corruption, and strengthens the capacity of community groups and civil society organizations to participate in decision-making. The right to freedom of information is crucial not only in determining policy but also in checking the Government in its implementation of policy.
- (6) The lack of access to information on Government policies, programmes, schemes, benefits and deliveries makes corrupt practices thrive. When corruption siphons off amounts from employment guarantee, unemployment or disability benefit, misdirects public funds for service delivery or delays pension and social security payments, it is usually the poor who suffer the most. Freedom of information can be a potent tool to prevent and fight corruption, i.e. the abuse of public power for private gains.

- (7) Freedom of information is a necessary part of our democratic polity. All power in a democracy belongs to the people who are the masters and the Government is their servant. If the people are to perform their sovereign role and instruct their Government, they must have access to all information, ideas, and points of view. Thus, democracy must extend beyond the ballot box and be deepened through “social citizenship” and “citizen governance”.
- (8) Freedom of information is vital to the process of peaceful social change. It allows ideas to be tested in advance before action is taken, it legitimises the decision reached, and it permits adaptation to new conditions without the use of force or violence.

Realising the importance of the freedom of speech and expression including the freedom to receive and impart information, many countries – Sweden, the United States of America, Finland, the Netherlands, Australia, Canada, the United Kingdom, Japan, South Korea, Jamaica, Israel, South Africa, Thailand, India etc. – have enacted Freedom of/Right to Information Acts. The objective behind these enactments is to ensure that governmental activity is transparent, fair and open. Most enactments are based on the paradigm that except in matters of defence, atomic energy and matters concerning the security of a country, there is no room for secrecy in the affairs of the Government. Whether it is a matter of taking a decision affecting the people or whether it is a transaction involving purchase or sale of government property or whether the matter relates to entering into contracts - in all these matters, the Government should act in a transparent manner. This means that every citizen who wishes to obtain any information with respect to any of those matters should be entitled to receive it.

The impact of the Freedom of Information laws has varied across different countries but the trend towards an access regime is fostering greater Government accountability, and more dramatic headlines. For example:

- Requests under Japan’s 2001 access law revealed that the Government tried to limit the geographic definition of areas affected by “Minamata disease” (mercury poisoning) in order to reduce compensation payments.

- Requests under Mexico's 2002 law are pressuring the Government's Human Rights Commission to address more than 3400 complaints lodged by citizens, of which only a fraction were resolved last year, mostly in secret.
- A request under the 2001 Delhi state-level Right to Information Act for documents on a promised sewer (supposedly under construction since 1983) in the Sunder Nagari neighborhood embarrassed the Government into finally completing the project.
- British journalists waiting for the 2005 implementation of the U.K.'s new access law used Sweden's (the oldest in the world, dating from 1766) to obtain letters from Prime Minister Tony Blair to the Swedish Prime Minister, after Blair's Government refused to release the documents, citing possible damage to foreign relations.
- South African opposition parties used the new South Africa access law to open internal Government documents on a controversial oil contract with Nigeria, all of the benefits from which went to an offshore company rather than to the South African people. Meanwhile, the Nigerian Parliament is on the verge of passing its own access law.
- Irish reporters used their 1997 freedom of information law to show collusion among four private license-holding companies and the Government that has stymied the development of wireless and broadband Internet access in Ireland.
- Israel's freedom of information law compelled the Yad Vashem Memorial Council to open its files showing how it chooses which "righteous gentiles" to honor on its "Avenue of the Righteous" (non-Jews who helped Jews during the Holocaust).
- The Bulgarian NGO, Access to Information Programme, used Bulgaria's Fol law to reveal that the Government's Minister of Science and Education had illegally (and under the table) rented out his agency's lobby to a private company.

1.3 The Indian Context

Article 19 (Chapter III) of the Constitution of India, guarantees to all citizens, among other things, “the Fundamental Right to Freedom of Speech and Expression, subject to certain “reasonable restrictions”, imposed by law, on the exercise of such a right... in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency / morality, or in relation to contempt of court, defamation or incitement to an offence”.

Right to receive and right to impart information have been held to be a part of freedom of speech and expression guaranteed by sub-clause (a) of clause (1) of Article 19 of the Constitution subject of course to the reasonable restrictions, if any, that may be placed on such right in terms of and to the extent permitted by clause (2) of the said Article. It has been held by the Supreme Court in *Secretary, Ministry of I & B, Government of India v Cricket Association of Bengal* ((1995) 2 SCC 161) that:

“The freedom of speech and expression includes right to acquire information and to disseminate it. Freedom of speech and expression is necessary, for self-expression which is an important means of free conscience and self-fulfillment. It enables people to contribute to debates on social and moral issues. It is the best way to find a truest model of anything, since it is only through it that the widest possible range of ideas can circulate. It is the only vehicle of political discourse so essential to democracy. Equally important is the role it plays in facilitating artistic and scholarly endeavours of all sorts. The right to communicate, therefore, includes right to communicate through any media that is available whether print or electronic or audio-visual such as advertisement, movie, article, speech, etc. That is why freedom of speech and expression includes freedom of the press. The freedom of the press in turn includes right to circulate and also to determine the volume of such circulation. This freedom includes the freedom to communicate or circulate one’s opinion without interference to as large a population in the country, as well as abroad, as is possible to reach.”

In 'The Cricket Association of Bengal' case, it was held that the right to impart and receive information from electronic media is a part of the right to freedom of speech and expression.

That the right to information is a fundamental right flowing from Article 19(1) (a) of the Constitution, is now well-settled. Over the years, the Supreme Court has consistently ruled in favour of the citizen's right to know. The nature of this right and the relevant restrictions thereto, has been discussed by the Supreme Court in a number of other cases as follows:

- In *Bennett Coleman*,¹ the right to information was held to be included within the right to freedom of speech and expression guaranteed by Article 19 (1) (a).
- In *Raj Narain*², the Court explicitly stated: 'The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings.'

Further, it is not in the interest of the public to 'cover with a veil of secrecy the common routine business... the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.'

- In *S.P. Gupta*,³ the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described.
- In *P.U.C.L.*,⁴ the right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable. It was also emphasized that governance must be participatory.

¹ *Bennett Coleman v. Union of India*, AIR 1973 SC 60.

² *State of UP v. Raj Narain*, (1975) 4 SCC 428.

³ *S.P. Gupta v. UOI*, AIR 1982 SC 149.

⁴ *People's Union for Civil Liberties v. UOI*, 2004 (2) SCC 476.

1.4 Movement for Right to Freedom of Information

Notwithstanding the Constitutional provisions and Supreme Court judgments, the real movement for right to information in India originated from the grass roots level. A mass-based organisation called the Mazdoor Kisan Shakti Sangathan (MKSS) took an initiative to lead the people in a very backward region of Rajasthan - Bhim Tehsil - to assert their right to information by asking for copies of bills and vouchers and names of persons who have been shown in the muster rolls on the construction of schools, dispensaries, small dams and community centres as having been paid wages. On paper such development projects were all completed, but it was common knowledge of the villagers that there was gross misappropriation of funds with roofless school buildings, dispensaries without walls, dams left incomplete, community centres having no doors and windows, and poor quality of cement being used for construction.

After years of knocking at officials' doors and despite the usual apathy of the State Government, MKSS succeeded in getting photocopies of certain relevant documents. Misappropriation of funds was clearly obvious. In some cases, the muster rolls contained names of persons who either did not exist at all or had died years before.

MKSS organised a *Jan Sunwai* (People's hearing), the first ever in the history of Rajasthan. Politicians, administrators, landless labourers, private contractors were all invited to listen, respond and, if willing, to defend themselves. Popular response was phenomenal, whereas, understandably, most Government officials and politicians stayed away and remained silent.

Between December 1994 and April 1995, several other public hearings were organised. People's anger made one engineer of the State Electricity Board to return, in public, an amount of Rs.15,000 he had extracted from a poor farmer. This grassroots movement spread fast to other areas of Rajasthan and to other States establishing firmly that information is power and people should have the right to official information – how public money is spent and how the same is accounted for. 'Loksatta', an NGO in Andhra Pradesh has undertaken mass awareness campaigns across the State and through a 'post card campaign' made representations to the Prime Minister of India demanding the enactment of a right to information law.

The Rajasthan experience on demanding right to information was echoed in other States. The growing demand for a right to public information from various sections of the society, led by civil society organisations in these States could no longer be ignored. The need to enact a law on right to information was recognised unanimously by the Chief Ministers Conference on “Effective and Responsive Government”, held on 24th May, 1997 at New Delhi. The Government of India, Department of Personnel, decided to set-up a ‘Working Group’ (on the ‘Right to Information and Promotion of Open and Transparent Government’) in January 1997 under the chairmanship of Mr. H. D. Shouri, which submitted its comprehensive and detailed report and the draft Bill on Freedom of Information in May 1997.

The Press Council of India, the Press Institute of India, the ‘National Campaign for People’s Right to Information’ and the Forum for Right to Information unanimously submitted a resolution to the Government of India to amend the proposed Bill in February, 2000.

The Government of India introduced the Freedom of Information Bill, 2000 (Bill No.98 of 2000) in the Lok Sabha on 25th July, 2000. The Bill, which cast an obligation upon public authorities to furnish such information wherever asked for, was passed by the Parliament as the Freedom of Information (Fol) Act, 2002. However, the Act could not be brought into force because the date from which the Act could come into force, was not notified in the Official Gazette.

The United Progressive Alliance (UPA) Government at the Centre, which came into power in 2004, set up a National Advisory Council (NAC). The Council suggested important changes to be incorporated in the Fol Act. These suggestions were examined by the UPA Government, which decided to make the Fol Act more progressive, participatory and meaningful. Later, however, the UPA Government decided to repeal the Fol Act, and enacted a new legislation, the Right to Information Act, 2005, to provide an effective framework for effectuating the right of information recognised under Article 19 of the Constitution of India.

1.5 FoI Legislations in States

Even before the FoI Act was passed by the Parliament, several States in India had enacted their own legislations on Freedom of / Right to Information. The fact that some of the States in the country took a lead in enacting right to information legislations (or codes of disclosure of certain categories of information), and the lessons that were learnt from the implementation of these various legislations were indeed helpful, in framing the provisions of the Right to Information Act, 2005 in detail. A brief overview of the State Acts in operation prior to the enactment of the RTI Act is provided below:

Tamil Nadu was the first State to introduce the Right to Information Act in April 1996. The legislation aimed at ensuring access to information about Government administration. The Bill was modeled on the draft legislation recommended by the Press Council of India. However, the enacted legislation was full of exemptions and inadequacies. So it failed to evoke much response from the public and NGOs and other concerned activists.

Goa was the second State to enact the Right to Information legislation in 1997. The Goa Act contained several provisions, which allowed the State to withhold information without substantiating reasons for it.

The grassroots movement led by MKSS compelled the Rajasthan Government to act in the direction to prepare the Right to Information Bill. Several other sister organisations also joined hands with MKSS to start an agitation on a large scale and declared an indefinite strike. It was called off when a high level committee was appointed to work out the modalities of how photocopies could be provided in relation to the order issued in April 1996. The Rajasthan Right to Information Act, 2000, had 13 sections in all, 10 of which established categories of exemptions. It contained a provision for one internal appeal and also for an appeal to an independent body.

The Karnataka Government took steps to make information available to the public as far back as 1997, starting with many government departments issuing executive orders to provide access to information on development projects undertaken by them and to keep relevant records open for inspection or available for copying for a nominal fee.

In August 2000, the executive orders were supplemented by the Right to Information ordinance recognising the necessity to enact a comprehensive legislation. The State Legislative Assembly was not in session. Hence an ordinance was passed on the matter as a first step.

The Karnataka Right to Information Act 2000 was enacted soon after by the State Assembly in December 2000. Unfortunately, however the Act could not be operationalised properly until July 2002, when the Government of Karnataka notified the Karnataka Right to Information Rules.

The Maharashtra Right to Information Act, 2000 had nine sections in all and 22 categories of exemptions. However, it did not provide for the establishment of an appellate authority which would review refusals. It did not have provisions for providing information proactively, or penalties for withholding or destroying information either.

The Delhi Legislature passed the Delhi Right to Information Act in 2001. This law had been along the lines of the Goa Act, containing the standard exemptions and provided for an appeal to an independent body, as well as establishing an advisory body, the State Council for Right to Information.

Assam passed the 'Assam Right to Information Act' in 2001. Section 4(2) provides 11 exemptions from disclosure of information.

Even, before a bill was introduced in the Madhya Pradesh Assembly, in certain places like Bilaspur and Korba, the local authorities provided access to information. The Divisional Commissioner, Bilaspur initiated it in the matter of the Public Distribution System (PDS) and allowed the citizens to access details of food-grains and commodities allotted to their areas and their distribution. The scheme was soon extended to development programmes and pollution awareness. It was observed that the right to information considerably reduced black-marketing and corruption in the PDS. Moreover, in polluted areas like Korba, the sharing of information on pollution level raised public consciousness. As a result, officials became careful about monitoring and controlling pollution levels. Surprisingly, bowing to popular demand, the Government passed a bouquet of executive orders dealing with right of access to

Government records. The Madhya Pradesh Assembly passed the Right to Information Act in 2002.

Jammu & Kashmir passed the Jammu & Kashmir Right to Information Act in 2004. Section 6 of this Act provides 7 restrictions on right to information.

It needs to be noted that not only is the Right to Information Act, 2005 a landmark legislation in the Indian context, it also places India among a group of some of the more evolved democracies of the world, to have enacted such a law in an effort towards deepening democracy.

It also needs to be noted that the RTI Act is in keeping with the provisions of some of the path-breaking international covenants. However, progress on the part of public authorities towards effective implementation of the Act in right earnest, and the Act's large scale acceptance and use by the people, as an instrument for pressing transparency and accountability of public bodies / officials – will be the true indicator of the success of the Act. In order for the Act to achieve its objectives, all the stakeholders concerned with implementation of the Act – both from supply and demand sides – will have to work in partnership and in a mission mode.

Chapter 2: Civil Society, Good Governance and Right to Information

“A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce, or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own Governors must arm themselves with the power which knowledge gives”

James Madison, 1882

2.1 What is Civil Society?

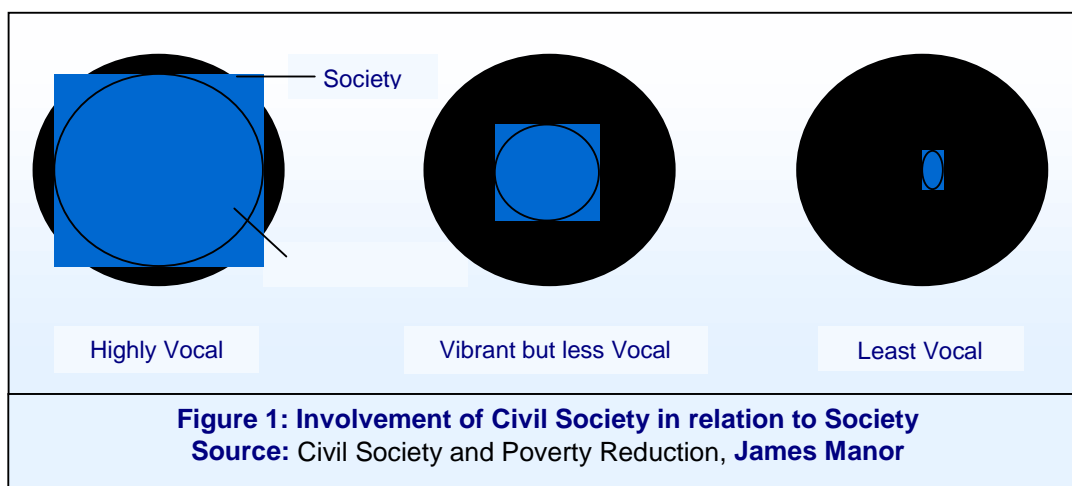
Development needs to become a people-centric and people-driven process. As long as it remains a process fuelled by external forces, designed from the outside with people at its periphery, the chances of its success are remote. There is a growing consensus that it is essential to involve people in the design and implementation of public policies and programmes if desired outcomes are to be achieved.

There is a silent revolution taking place within the development processes in the country. The single most important feature of this revolution is the growing involvement of Civil Society in developing long-term and replicable social and economic development initiatives through public-private partnerships. The ethos of good governance demands that the Government, the Private Sector and the Civil Society work together in cross-sectoral partnerships to advance social progress and equity. The Civil Society is one of the key actors in governance; a pro-active Civil Society is a key instrument for securing good governance.

Civil Society could be defined as those organisations found in the space between the state and the household, which are voluntary in nature, and which have significant autonomy from the state. In the context of welfare this includes trade unions, consumer organisations, Non Governmental Organisations (NGOs) and Community-Based Organisations (CBOs), religious organisations delivering welfare services, social workers in private practice etc. Therefore, any people’s association or organisation can be referred to as a Civil Society Organisation (CSO).

In the present day scenario, CSOs are actively engaged in community mobilisation, economic development and societal transformation. They work at international, national and local levels and play different roles like capacity building, asset creation, representation, lobbying, advocacy, service delivery etc. These organisations and institutions have taken many forms based on their goals and purpose of involvement in the developmental process. They include Non-Government Organisations (NGOs), School Education Committees (for introducing primary education initiatives), Mothers' Committees (for promoting pre-school education and integrated child development), Vana Samrakshana Samithis (for managing forest resources), Eco-development Committees (for protecting and managing wild life sanctuaries and eco-resources), Water and Sanitation Committees (for managing potable water resources), Watershed Management Committees and Water Users Associations (for managing water resources for irrigation), Thrift & Credit Groups (for managing savings among rural and urban women folk), Neighbourhood Action Committees (for managing solid waste and garbage disposal and other civic services) and the like. This shows that the Civil Society's involvement occupies a critical place in the development process as it facilitates people's collective action in attaining sustainable socio-economic outcomes for the common good of the society. Essentially, it is the instrument of people's action and the means of protecting and promoting vital rights of citizens.

Civil Society is not identical with the society, but a part of it. The size of 'Civil Society' in relation to 'society' as a whole (that is, the totality of individuals and groups in a country), varies according to its relationship with the state. Figure 1 below illustrates the involvement of Civil Society within a society. Each of the three large circles represents the whole of 'society', and the smaller circle within it represents the portion of 'society' that can be included within 'Civil Society'. When the Civil Society is highly vocal, then the inner circle is almost as big as the outer circle. When the Civil Society is vibrant but less vocal, then the inner circle is much smaller. If the Government is more hostile to Civil Society, then the inner circle further shrinks showing least participation.



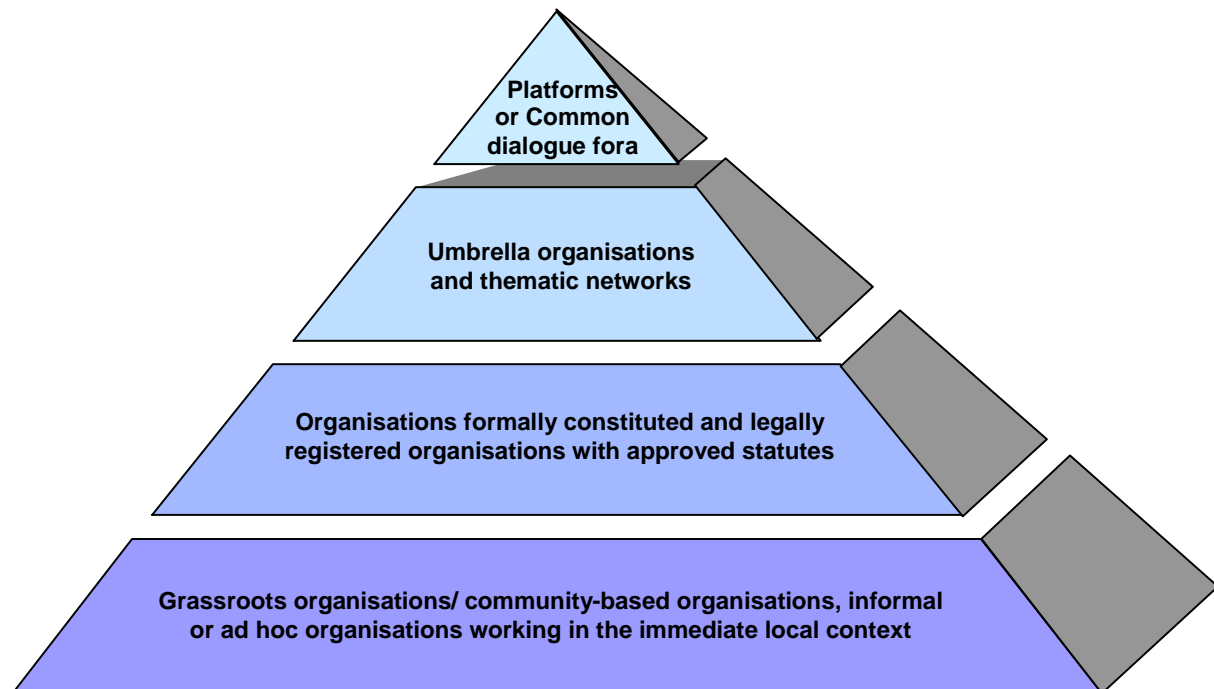
The figure above is also an indication that Governments have an immense capacity to influence the shape and condition of Civil Society. The Government's attitude, regulations, laws and policies can determine the success or failure of Civil Society. This relationship between the State and the Civil Society can become reciprocal when CSOs are empowered with increased opportunities to influence the political and policy processes of the State. This would enhance their awareness, self-confidence, organisational strength, political skills and wider connections. CSOs when empowered act as change agents and influence the processes of the State to make them more responsive, accountable and transparent.

The Civil Society can be divided into four levels:

- At the base level are grassroots or community based organizations which are generally informal groupings that develop coping strategies to address immediate problems affecting the community.
- Formal or structured civil society organisations operating at local, state or national level compose the next level. Such organizations usually support community-based organizations in service delivery, research and advocacy.
- Umbrella organizations and thematic networks such as national associations and federations exist at the next level. Such networks are often mandated to defend common interests, share information, enable strategic planning etc.

Finally, the fourth level is constituted by platforms or common dialogue for various umbrella networks and formal organizations.

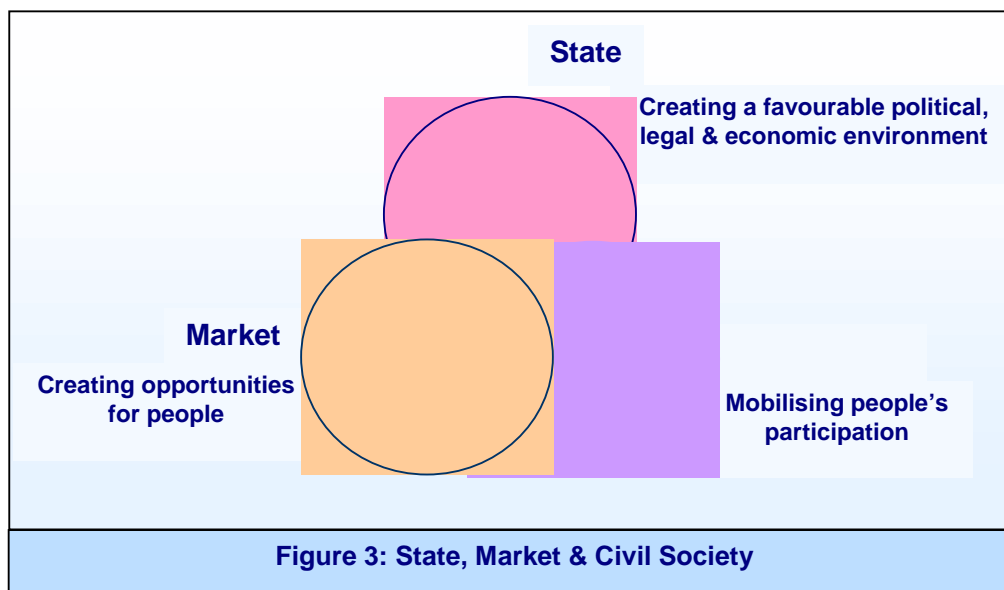
Figure 2: Four levels of Civil Society Organisations



Source: Good Governance Agenda of Civil Society, Herrero Cangas, 2004

2.2 Civil Society and Good Governance

The process of governance encompasses the political, social and economic aspects of life which have an impact on each individual, household, village, region or the nation. Governance improves when the processes of decision-making and implementation of decisions enable the key actors i.e. the Government, the Civil Society and the Market to effectively discharge their respective roles effectively. Good Governance is the equivalent of purposive, development-oriented, citizen-friendly, citizen-caring, participatory and responsive public management committed to improvement in quality of life of the people. It entails equity in access to public services, participation of all stake holders in service delivery process, as well as their full access to information. Figure 2 shows the interplay between the key actors of good governance.



CSOs aid the process of good governance in several ways such as:

- a. **Citizenship Development:** For citizens to be active in public affairs and participate in efforts that promote good governance they need to be motivated, skilled and informed. Creating awareness, motivating the demand for rights, providing skills and improving capacities, are the major functions that can be attributed to the working of many CSOs.
- b. **Policy Formulation and Advocacy:** Influencing the decisions of legislators, other elected representatives, and public administrators is a function that many CSOs undertake. Mounting public relation campaigns, organizing collective action movements designed to influence the creation of laws and public policies, creating forums and structured dialogues in efforts to give citizens direct control of policy-making are means by which CSOs can play a greater role in the governance process.
- c. **Watchdog role:** Civil Society can play a crucial role in evaluating the policies and actions of the Government. CSOs can judge the fairness in how the policies or laws are enacted and enforced. In the context of Right to Information (RTI) legislation, CSOs press for accountability and transparency by facilitating the accessibility of information with government to the public under the law. CSOs can play the role of “watch-dogs” by monitoring the legislative processes and evaluating the impact of public policy decisions.

- d. Welfare Service Delivery:** CSOs can provide the necessary institutional basis for service delivery. Given the respective limitations of the state and market, there is an increased emphasis on Public-Private-People Partnerships (PPPPs) involving CSOs and citizen groups in service delivery. At the same time, grassroots organizations of the people, especially the poor can promote collective action to improve access to and quality of basic service delivery. Beneficiary committees can supervise/monitor public service delivery and report their findings to members of their constituency-base or the public at large, to exert pressure on public service providers.
- e. Impact on Electoral Politics:** Impact on the outcomes of the electoral process is a good governance function that is usually undertaken by many CSOs. Electoral politics can be influenced through social mobilization of citizens and CSOs such as labour unions, media and communication organisations, advocacy and civil rights groups, lobby groups, corporations, trade associations, etc.
- f. Reform and Social Change:** CSOs can also serve as an instrument for reform and social change. Civil rights and advocacy organisations, political organisations, labor unions, professional associations, watch-dog groups, and media organisations can play an important role in influencing the processes of social change.

The above discussion intends to highlight that governance has to extend beyond conventional bureaucracies and it has to actively involve citizens and CSOs at all levels to ensure effective public service delivery and programme execution. CSOs can act as important collective platforms for demanding better services and ensuring that the Government responds to people's needs. A Civil Society that has been alienated and distanced from the process of planning and implementing the developmental programmes ceases to reap the fruits of development. To ensure sustained growth of the society, the involvement of CSOs in the development process has to be more vocal and they must be well-informed about the various initiatives undertaken by the Government. The Civil Society will be in a position to play its role effectively only when it has access to information on the existing developmental programmes and their implementation processes.

2.3 Right to Information and Good Governance

'Right to Information' (RTI) refers to the right of every citizen to access information held by or under the control of public authorities. Information is crucial for good governance as it reflects and captures Government activities and processes. It is said that information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process.

Prof. Amartya Sen has identified five substantive freedoms as being integral to the concept of development, namely political freedom, economic facilities, social opportunities, transparency, and security.

"Transparency guarantees deal with the need for openness that people can expect: the freedom to deal with one another under guarantees of disclosure and lucidity. When that trust is seriously violated, the lives of many people - both direct parties and third parties - may be adversely affected by the lack of openness. Transparency guarantees (including the right to disclosure) can thus be an important category of instrumental freedom. These guarantees have a clear instrumental role in preventing corruption, financial irresponsibility, and underhand dealings"

Development As Freedom, Amartya Sen, 1999

Right to information can be used as an effective tool to usher in a regime of good governance. The major characteristics of good governance include: strategic vision and consensus orientation, participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency and accountability.

Transparency means that decisions are taken openly and enforced in a manner that follows rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media.

Public accountability means that public institutions are answerable to the people and to their institutional stakeholders. In general, an organisation or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency.

In the above background, the right to information can be an instrument to lead to transparency and accountability in the working of public bodies and to good governance. Internationally, the campaign for good governance has included the right to information as a significant element.

A direct relationship exists between right to Information and good governance. For RTI Act to achieve its purpose, the public should have free access to Government information. This provides them the opportunity of being informed of what the Government does for them, why and how it does it. Good governance provides a platform that enables the Government to operate efficiently, effectively and transparently and to be accountable to the public. It aims to put an end to inconsistent Government practices and help in establishing a responsive State. Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of Government, and the like which are the core values of good governance, can be realised only if the right to information is implemented in the right spirit.

The principles of good governance clearly highlight the need for Governments to include Civil Society in the governance process. However, when Governments fail to do so, Civil Society's immediate prerogative on broad political socio-economic issues should be to hold the Government accountable for policies and programmes, particularly those that concern the fundamental rights of citizens. Right to information can be used as a weapon by the Civil Society to make Governments more responsible and accountable.

Box 1: Freedom of Information in the Promotion of Good Governance

Over 50 countries now have freedom of information laws and another 15-20 are actively considering adopting one. These nations are joined by a growing number of inter-Governmental bodies – including the World Bank, European Union and UNDP – that have established FOI policies.

The right to FOI derives primarily from the guarantee of freedom of expression found in Article 19 of the Universal Declaration of Human Rights. It provides that all citizens enjoy rights of freedom of opinion and expression, including the right to “seek, receive, and impart information and ideas, a guarantee now generally considered to include an obligation of openness on the part of Government.

The democratic rationale for FOI legislation is that public bodies hold information not for themselves but as custodians of the public good, and such information must be accessible to members of the public. In this respect, FOI laws reflect the fundamental premise that Governments ought to serve the people. Added to this are many practical benefits – promoting effective democratic participation, controlling corruption, enhancing accountability and good governance, and promoting efficient information exchange between Government and the public. The result is a powerful argument for adopting FOI legislation.

Source: World Bank, “Legislation on Freedom of Information: Trends and Standards,” PREM Note No.93, October 2004.

2.4 Civil Society and Right to Information

The Civil Society Declaration to the World Summit on the Information Society, held at Geneva on 8 December 2003 declared that:

“We are committed to building information and communication societies that are people-centred, inclusive and equitable. Societies, in which everyone can freely create, access, utilise, share and disseminate information and knowledge, so that individuals, communities and peoples are empowered to improve their quality of life and to achieve their full potential.”

“Everyone, everywhere, at any time should have the opportunity to participate in communication processes and no one should be excluded from their benefits. This implies that every person must have access to the means of communication and must be able to exercise their right to freedom of opinion and expression, which includes the right to hold opinions and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

“A democratic perspective on information and communication societies, in which information is crucial for citizens, is necessary in order to make choices grounded on the awareness of alternatives and opportunities. Information and communication are the foundation for transparency, debate and decision-making. They can contribute to a culture and a practice of cooperation, basis for a renewal of democracy.”

The Right to Information Act, 2005 is an important legislation that provides opportunities to CSOs to be involved in governance and social transformation processes by using the Act as a weapon to monitor, review and evaluate Government policies, programmes and schemes. CSOs can infuse greater transparency and accountability in the administration of developmental programmes and arrest the abuse of power and misuse of public resources with the help of the RTI Act. Some of the primary roles that the CSOs can play with regard to RTI are as follows:

1. As CSOs are involved in basic service delivery, they can provide necessary institutional basis to the RTI movement when questions of effectiveness and responsiveness of the State arise.
2. At the local level, CSOs as grassroots organisations can promote collective action using the RTI Act to improve access to basic services like health, education and welfare etc.
3. CSOs can take up education and awareness programmes on RTI Act to help mobilise people and encourage groups to use the Act to access information.
4. CSOs can become effective vehicles for representing and negotiating citizens' interests vis-à-vis the State.
5. CSOs can promote good governance and social equity by accessing information and also monitoring both state and market performance.
6. CSOs can increasingly use the RTI Act in disseminating information on current legislations, public expenditure, policy implementation, achievements and drawbacks in promotion of the rule of law, good governance, and respect for human rights etc.

7. CSOs can use various social accountability tools such as Social Audit in assessing the performance of a public authority.
8. CSOs can assist in the demystification of the Act, Rules and procedural requirements concerning access to information which might deter people making requests.
9. CSOs can systematically persuade Government Departments to prepare for mass divulging of information and address the saying that old habits die hard; they may work closely with 'champions' and 'strategic partners'.
10. The danger of the "Swiss cheese problem" that the exemptions under the Act bite holes in the information accessible, leaving very little left may render the Act a 'closing down' rather than 'opening up' law. CSOs may keep a vigil on how the law is being interpreted by PIOs, Public Authorities and Information Commissions.
11. CSOs may disseminate important decisions of Information Commissions across the country so as to facilitate learning of lessons by public authorities and education among the citizens.
12. CSOs must prompt government organizations towards a "right to know" approach to automatically publish all relevant information rather than waiting for information requests.

Under the RTI Act, Civil Society Organisations can:

- Demand from the Government information pertaining to any of its departments
- Demand photocopies of Government contracts, payment, estimates, measurements of engineering works etc.
- Demand from the Government samples of material used in the construction of roads, drains, buildings etc.
- Demand to inspect any public development work that may be still under construction or completed

- Demand to inspect Government documents - construction drawings, records books and registers etc.
- Demand status of requests or complaints, details of time delays etc.

The RTI Act provides unique opportunities to tackle many corporate issues. The latter may cover exposing unlawful and unjust activities of corporates in the areas of banking, insurance and pensions, eliciting information on status of pollution control, pollution testing and disposal of hazardous/toxic wastes, asking about safety testing and consumer protection, getting information on the costs and quality of drugs, etc.

At the same time, NGOs substantially financed, directly or indirectly, by funds provided by the Government are recognized as 'Public Authorities' under the RTI Act and thus have an obligation to comply with all provisions mandated for public authorities under the Act including appointment of Public Information Officers (PIOs) and Appellate Officers, proactive disclosure of information etc.

There are a number of actions which would need the involvement of CSOs in furthering the cause of RTI. However the primary actions that the CSOs can embark upon are as follows:

Forming partnerships

CSOs can form partnerships with the Government in promoting the RTI Act. Civic engagement and responsible governance both necessitate the establishment and strengthening of participatory mechanisms, including access to information. Further, CSOs can specifically support RTI by:

- Organising local, regional, and national consultations of partners;
- Establish and strengthen Non-Governmental Organisation (NGO) networks working on RTI;
- Strengthen new partnerships between Community Based Organisations (CBOs) and NGOs;

Strengthening participatory mechanisms

CSOs, especially NGOs along with the government at local, national and international levels can facilitate and enable broad-based participation of community organizations in monitoring the implementation of provisions under the RTI Act. CSOs can promote RTI by:

- Organising awareness campaigns on Right to Information;
- Participating in the sessions of the Information Commission or in any such forum (court sessions) that would help in enhancing their information and knowledge base;
- Disseminating the RTI Act with emphasis on all the pro-people provisions and the commitments by Governments;
- Acting as a facilitator to monitor and promote the implementation of the RTI Act;
- Implementing mechanisms to monitor selected aspects of the implementation of the Act at the local, national and international levels;
- Continuously advocating for the right to access information;
- Improving modalities for collaboration of CSOs with Governments, local authorities and other partners;
- Mobilising media to increase public awareness on the RTI Act.;

Promoting capacity enhancement

The effective implementation of the RTI Act requires strengthening of the local authorities, village organizations, neighbourhood committee and NGOs etc. CSOs can undertake capacity building programmes in critical areas like, participatory approaches, implementation and evaluation, research, information and advocacy. CSOs can help build capacities by:

- Preparing model local agendas on RTI and facilitate their implementation;
- Providing training in participation and civic engagement through meetings, workshops etc., at all levels;

- Assisting in strengthening the capacity of the community in understanding RTI;
- Translating provisions of the RTI Act into local languages;
- Facilitating information exchange on all relevant aspects of access to information.

Initiate and promote enabling approaches

CSOs can help retain transparency and accountability on the part of the Government. Under this strategy, CSOs can create a situation in which the potential and resources of all actors involved under the RTI Act can be applied. The CSOs can help to enable:

- Information sharing among various civil society partners;
- Identifying NGOs and individuals who have championed the cause of RTI;
- Active participation of community in various RTI forums and initiatives;
- Promotion of political and legislative means that will allow community to influence the concerned government departments/officials in implementing the RTI Act.

Promotion of Equity

CSOs can ensure that the benefits accrued through the implementation of the RTI Act are reaped by every section of society. This is possible by facilitating and enabling broad-based participation of all people specifically:

- By helping women participate in knowing their rights through access to information;
- By helping vulnerable and disadvantaged groups, including people living in poverty and other low-income groups in using RTI to realise their rightful entitlements;
- Through institutional measures to ensure the promotion of the RTI Act;
- Through such techniques as advocacy training and meetings, including those that develop mediating and consensus-building skills that will facilitate effective networking and alliance formation for propagating RTI

2.5 Strategies for Civil Society Organisations

There are several strategies through which the access of citizens to public information can be enhanced. Some of the strategies suggested for CSOs are:

- a. **Networking:** Interested CSOs, individuals and groups can form networks for sharing development experiences and lessons learnt on a regular basis. The networks can also act as ‘policy watch groups’ for tracking developments in the law, and identifying opportunities for intervening in the policy process. Some examples of networks working on Right to Information issues in India are: NCPRI (The National Campaign for People’s Right to Information), a network facilitating and advocating the people’s right to information, KRIA-Katte, a forum of groups and individuals involved in spreading awareness regarding use of the RTI Act in Karnataka, the Mahadhikar Group (recently renamed as “Hum Janenge”), an apolitical, web-based forum for facilitating interaction among Civil Society members interested in the use of the RTI in India.
- b. **Advocacy:** The RTI presents a strong case for CSOs to engage in advocacy on key issues of public interest. Advocacy by a networked group of CSOs can go a long way in enabling greater access to information and effective implementation of the RTI Act.
- c. **Awareness Generation:** A conscious effort has to be made by CSOs to generate greater awareness among the general public on their right to information and its implications. Apart from mass awareness campaigns, CSOs should also train cadres of social activists on RTI who can speak on behalf of their community and seek accountability and transparency by invoking provisions under the RTI Act.

Songs for reaching out to the masses

In the state of Rajasthan, songs have proven to be an effective tool for awareness generation as well as community mobilization. The *Hela* group from Sawai Madhopur district, for instance, moves from village to village singing songs about the corruption in the Government, people’s rights, accessing information through the Right to Information Act, and examples of how it has been used in other villages. Since the group is a ‘local’ group that sings in the local language about issues that people face in their day-to-day life, it has been able to spark interest among the community and set the stage for collective action.

Source: *Power Tools: API*

- d. **Effective use of the media:** The media brings out several investigative reports on service delivery issues. The perception of the citizens on various schemes of the Government will help Civil Society to probe deeper into the commissions and omissions of public agencies. Simultaneously, CSOs can highlight key issues and expose wrongdoings of public institutions and functionaries through the media on the basis of evidence and information obtained through the RTI Act.

- e. **Capacity Building:** CSOs must develop strong capacity for using RTI to undertake evaluation and audit of Government programmes. Implementation of such programmes and their wide replication requires a cadre of well-trained resource persons at different levels, effective communication campaign for community mobilization, regular impact assessment and evaluation studies and dissemination of case studies and best practices.

Chapter 3: The Right to Information Act, 2005: An Overview

Real 'Swaraj' will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.

Mahatma Gandhi

3.1 Citizen's Right to Information

Section 3 of the Right to Information Act, 2005 states: "Subject to the provisions of this Act, all citizens shall have the right to information". The Act defines "Information", "Record" and "Right to Information" as follows:

Definition of "Information" [Section 2 (f)]

"any material in any form, including:

- records,
- documents,
- memos,
- e-mails,
- opinions,
- advices,
- press releases,
- circulars,
- orders,
- logbooks,
- contracts,
- reports,
- papers,
- samples,
- models,
- data material held in any electronic form and
- information relating to any private body which can be accessed by a public authority under any other law for the time being in force".

Definition of “Record” [Section 2 (i)]

- any document, manuscript and file;
- any microfilm, microfiche and facsimile copy of a document;
- any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- any other material produced by a computer or any other device.

Definition of “Right to Information” [Section 2 (j)]

- right to information accessible under the RTI Act which is held by or under the control of any public authority and includes the right to—
 - (i) inspection of work, documents, records;
 - (ii) taking notes, extracts or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

3.2 Institutional Framework

The Right to Information Act, 2005 envisages a legal-institutional framework to establish and promote the practical regime of Right to Information for every citizen of the country.

This framework comprises some critical authorities as follows:

- Public Authorities
- Public Information Officer (PIO)
- Assistant Public Information Officer (APIO)
- Other Officers
- Designated Appellate Officers
- Information Commission

- Ministries & Departments
- Appropriate Government
- Competent Authority

The roles and responsibilities of various authorities and functionaries under the Act are described below:

3.2.1 Public Authorities

Public Authority is defined under Section 2 (h) of the Act as an authority or body or institutions of self-government established or constituted —

(a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by State Legislature; (d) by notification issued or order made by the appropriate Government; and includes any – (i) body owned, controlled or substantially financed and (ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government. The Act stipulates that every Public Authority:

- shall maintain all its records duly catalogued, indexed, computerized and connected through network [Section 4(1) (a)]
- shall proactively disclose stipulated information [Section 4(1) (b), (c) & (d)]
- shall provide information *suo motu* at regular intervals and disseminate the same widely [Section 4 (2), (3) & (4)]
- shall designate Public Information Officers (PIOs) and Assistant Public Information Officers (APIOs) [Section 5 (1) & (2)] in all administrative units and offices
- shall make information accessible with PIOs [Section 4 (4)]
- shall transfer misdirected requests for information to appropriate Public Authorities [Section 6 (3)]

- shall implement the decisions of the Information Commission, which are binding under Section 19 (7) of the Act - complying with the provisions of the Act, including providing information; designating a PIO; publishing certain information; making changes to record management practices; arranging training for officials; providing the Information Commission with annual report [*suo motu* disclosure under Section 4 (1) (b)]; compensating the complainant for any loss or other detriment suffered; ensuring that the concerned PIOs pay the penalties imposed by the Commission on them; and taking disciplinary action against the concerned PIOs based on recommendations of the Information Commission.

3.2.2 Public Information Officer

Central Public Information Officer or State Public Information Officer designated under the Act:

- to deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, taking the assistance of any other officer, if considered necessary by him or her for the proper discharge of duties [Section 5(3) & 5(4)];
- to render 'all reasonable assistance', where request for information cannot be made in writing, to the person making the request orally to reduce the same into writing [Section 6(1)];
- to dispose request for information under the Act, either providing the information requested on payment of prescribed fee or rejecting the request for reasons to be specified within the time period stipulated under the Act [Section 7(1)].

3.2.2 Assistant Public Information Officer

Central Assistant Public Information Officer or State Assistant Public Information Officer designated under the Act:

- to receive applications for information or appeals under the Act for forwarding the same forthwith to the Central Public Information Officer or the State Public

Information Officer or Appellate Officer or the Central Information Commission or the State Information Commission, as the case may be [Section 5 (2)].

3.2.3 Officer whose Assistance is Sought

Other Officers whose assistance is sought by a Public Information Officer:

- to render all assistance to the Public Information Officer who sought his or her assistance;
- to be treated as a Public Information Officer for the purposes of any contravention of the provisions of the Act.

[Section 5 (5)]

3.2.5 Designated Appellate Officer

Designated Appellate Officer (officer senior in rank to Public Information Officer) shall deal with and dispose

- appeals from any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer [Section 19 (1)]
- appeal by a third party against an order made by a PIO [Section 19 (2)].

3.2.6 Information Commission

Central Information Commission constituted under Section 12 or State Information Commission constituted under Section 15 of the Act:

- shall receive and inquire into 'complaints' from any person relating to access to information held by or under the control of public authorities (may require public authorities to compensate the complainants, impose penalties on erring Public Information Officers and recommend disciplinary action against them [Section 18 (1) to 18(4) & Section 20];
- shall deal with and dispose appeals against the decisions of the designated appellate officers (may impose penalties on and recommend disciplinary ac-

tion against erring Public Information Officers [Section 19 (3) to 19 (5), 19 (7) to 19 (10) & Section 20];

- may make recommendation to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity [Section 25 (5)].

3.2.7 Ministries & Departments

Ministries and Departments in Government:

- shall collect and provide such information in relation to the public authorities within their jurisdiction, to the concerned Information Commission, as is required by it to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes [Section 25 (2)]

3.2.8 Appropriate Government

The Central Government or the State Government, as the case may be, in relation to a public authority, may:

- cause a copy of the report of the Information Commission laid before the Parliament or State Legislature, as the case may be [Section 25 (4)];
- may, to the extent of availability of financial and other resources —
 - (a) develop and organise educational programmes to advance the understanding of RTI, in particular among disadvantaged communities;
 - (b) encourage public authorities to participate in and themselves undertake educational programmes on RTI;
 - (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
 - (d) train Public Information Officers and produce relevant training materials for use by the public authorities themselves (Section 26).

- shall, within 18 months from the commencement of the Act, compile in its official language a guide containing such guidelines or information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in the Act and, if necessary, update and publish such guidelines at regular intervals (Section 26).
- may, by notification in the Official Gazette, make rules to carry out the provisions of the Act [Sections 27].

3.2.9 Competent Authority

The Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union Territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State; the Chief Justice of India in the case of the Supreme Court; the Chief Justice of the High Court in the case of a High Court; the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution; the Administrator appointed under Article 239 of the Constitution (Section 2 (e)).

- may, by notification in the Official Gazette, make rules to carry out the provisions of the Act [Sections 28].

3.3 Proactive Disclosure of Information

Section 4 (1) (b) of the Act provides that every public authority shall:

- publish within 120 days from the enactment of the Right to Information Act
 - i. the particulars of its organisation, functions and duties;
 - ii. the powers and duties of its officers and employees;
 - iii. the procedure followed in the decision making process, including channels of supervision and accountability;
 - iv. the norms set by it for the discharge of its functions;
 - v. the rules, regulations, instructions, manuals and records, held by it or under

- its control or used by its employees for discharging its functions;
- vi. a statement of the categories of documents that are held by it or under its control;
 - vii. the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - viii. a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - ix. a directory of its officers and employees;
 - x. the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - xi. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - xii. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - xiii. particulars of recipients of concessions, permits or authorisations granted by it;
 - xiv. details in respect of the information, available to or held by it, reduced in an electronic form;
 - xv. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - xvi. the names, designations and other particulars of the Public Information Officers;
 - xvii. such other information as may be prescribed;

- update the publications Section 4(1)(b) (i) to (xvii) every year;

Section 4 (1) (c) of the Act requires that every public authority shall publish all relevant facts while formulating important policies or announcing the decisions which affect the public. Section 4 (1) (d) requires that it shall provide reasons for administrative or quasi-judicial decisions to affected persons.

Sections 4 (2), (3) & (4) call for a regime of maximum disclosure on the part of the public authorities *suo motu* so that the public sparingly resort to the use of the Right to Information Act to obtain information. The law stipulates that every public authority shall:

- constantly endeavour to take steps in accordance with publication under Section 4 (1) (b) to provide as much information as possible *suo motu* to the public at regular intervals through various means of communications, including internet;
- proactively disseminate information widely and in such form and manner which is easily accessible to the public, subject to taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area.

3.4 Procedure for Request for Information

Section 6 of the Act stipulates that the request for information may be made to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority or given to the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be. The request for information can be made as follows:

- in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made;
- oral request to be reduced to writing with assistance sought from Public Information Officer, where such request cannot be made in writing;
- to specify the particulars of the information being sought by the applicant;
- to be accompanied by fee as prescribed under the rules made under the Act;
- applicant not to be required to give reason for requesting the information or any other personal details except those that may be necessary for the purpose of contacting.

Suggested specimen format for 'application' is provided below. It is important, however, to note that the law does not specify any format(s). The sample provided below is only for guidance to authorities.

A Model Letter of Application / Request

Date:.....

To,
The Public Information Officer
(Name of the Public Authority)
(Address of the Public Authority)

Sir / Madam:

Sub: Request for Information under the Right to Information Act, 2005

[if applicable] Kindly, provide me the following information:..... (Mention the information you want as specifically and clearly as possible and the period of time to which the information pertains)

- ...
- ...

[if applicable] I request for receipt of the information in the following format(s) – true copy / print out / diskette / floppy / tape / video cassettes / certified copies of documents or records – in person / by post / by e-Mail.

[if applicable] I would like to inspect the following works / documents / records / take notes / extracts..... (Mention clearly and specifically what is wanted for inspection). Kindly inform me the date and time for my visit.

[if applicable] Kindly, provide me certified samples of material (Mention specifically and clearly the material). I request for receipt of the certified samples (Describe)

The details of fees paid by me are as follows (Specify)..... /I belong to the 'Below Poverty Line Category' [if applicable, attach a photocopy of the proof] and I am not required to pay any fees.

Sincerely,
(Applicant's signature/Thumb Impression)

Applicant's Name:
Applicant's Address:
Applicant's Phone Number/e-Mail Address (optional):
Place:
Date:

Note: This is a suggested format, and need not necessarily be adhered to. The RTI Act, 2005 does not specify any 'Model Letter of Application' for requesting information.

3.5 Disposal of Request for Information

Section 7 of the Act makes provisions regarding the disposal of request for information as follows:

- request for information shall be disposed by the Public Information Officer within
- 30 days of receipt in general cases and 48 hours of receipt in cases where the information sought for concerns the life or liberty of a person [section 7 (1)];
- a period of 5 days shall be added in computing the response time where an application for information is given to an Assistant Public Information Officer [Section 5(2)];
- request to be deemed to have been refused by the Public Information Officer, if decision on the request for information is not given within the period specified as above [Section 7(2)];
- where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving (a) the details of further fees representing the cost of providing the information as determined by him or her, together with the calculations made to arrive at the amount in accordance with fee prescribed, requesting him/her to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of 30 days and (b) information concerning the right of the person making request with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms [Section 7(3)];
- where access to the record or a part thereof is required to be provided under the Act and the person to whom access is to be provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection [Section 7(4)];

- where access to information is to be provided in the printed or in any electronic format, the applicant shall pay the fee prescribed [Section 7(5)];
- before taking any decision to provide information, the Public Information Officer shall take into consideration the representation made by a third party [Section 11(1)];
- where a request has been rejected, the Public Information Officer shall communicate to the person making the request —
 - (i) the reasons for such rejection;
 - (ii) the period within which an appeal against such rejection may be preferred; and
 - (iii) the particulars of the appellate authority [Section 7(8)].

3.6 Fees and Costs

The Act prescribes the following fees and costs to be charged from persons making request for information:

- (1) Cost: Section 4 (4) – Cost of medium: electronic or print or print cost price
- (2) Fee: Section 6 (1) – Fee accompanying application of request for information
- (3) Fee: Section 7 (1) – Fee as prescribed under rules for furnishing information
- (4) Fee: Section 7(3) – Further fee representing the cost of providing the information requested as determined by PIO
- (5) Fee: Section 7 (5) – Fee prescribed under rules for supply of information in printed or electronic format.

[Fees under Section 7 (3) and Section 7 (5) can be combined together.]

Other charges and costs, if any, need to be specified while disposing requests for information.

No fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government [Section 7(5)];

Further, the person making request for information shall be provided the information free of charge where a public authority fails to comply with the stipulated time limits for disposal of request applications [Section 7(6)];

The Department of Personnel & Training, Government of India has, under the Right to Information (Regulation of Fees and Cost) Rules, 2005, prescribed an application fee of rupees ten for a request for obtaining information under Section 6(1). This could be in cash against proper receipt or by demand draft or by banker's cheque or by Indian postal order payable to the Accounts Officer of the public authority.

The Government of India Right to Information (Regulation of Fees and Cost) Rules, 2005 provide that the public authority may also charge the following as fees for providing information under Section 7(1):

- a) Rs 2/- for each page (in A4 or A3 size paper) created or copied.
- b) actual charges or cost of a copy in larger size paper.
- c) actual cost or price for samples or models.
- d) for inspection of records, no fees for the first hour; and a fee of Rs 5 for each hour (or fraction thereof) thereafter.

The fee amounts could be paid in cash against proper receipt or by demand draft or by banker's cheque or Indian Postal Order payable to the Accounts Officer of the concerned public authority.

Further, for providing information under Section 7(5), the prescribed fee pattern is:

- a) for information provided in diskette or floppy - Rs 50/- per diskette or floppy.
- b) for information provided in printed form at the price fixed for such publication or Rs. 2/- per page of photocopy for extracts from the publication.

The above fee pattern could be a model for State Governments to determine the structure of fees to be applicable in the respective States.

3.7 Form of Access to Information

Section 7 (9) provides that information shall ordinarily be provided in the form in which it is sought unless it would “disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question”.

3.8 Time Limits for Disposal of Requests

Section 7 (1) requires that the information requested by an applicant to a PIO shall be furnished “as expeditiously as possible”. The time limits prescribed under the Act for disposal of requests for information are as follows:

- 30 days: On receipt of a request for information, the PIO has either to provide information on payment of such fees as prescribed or reject the request with reasons for the same.
- 48 hours: If the information sought concerns the life or liberty of a person, the same has to be provided immediately, in any case, within 48 hours.
- 35 days: 5 more days to be added to the above time limits if the application is submitted to the Assistant Public Information Officer.
- 40 days: Where third party is involved (If the PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by it, the PIO has to give a written notice to such third party within 5 days from the receipt of request inviting such third party to make a submission).
- 45 days: Information pertaining to corruption or human right violations from scheduled security and intelligence agencies.

Under Section 6 (3) of the Act, if a request application is made to a public authority on a subject that pertains to another public authority, the same shall be transferred to that other authority within 5 days from the date of receipt of the application. The other public authority will be subject to time limit for disposal from the date of receipt of the application.

As per Section 7 (3) of the Act, the period intervening between the despatch of intimation to the applicant and the deposit of further fees representing the cost of providing the information shall be excluded from the time limit of 30 days stipulated.

3.9 Inspection of Work/Record/Taking Sample(s)

Right to Information includes, *inter alia*, inspection of work, documents, records, taking notes, extracts and certified samples of material. In consultation with the concerned sections/divisions/offices in Government Departments, PIOs may fix a day or two of the week for applicants to take samples and for inspection of material. Such an arrangement may not disturb the work in the section/division/office and the citizen would also be aware of the days of visit to the PIO/Public Authority.

The General Clauses Act, 1897 defines:

‘document’: shall include any matter written, expressed or described upon any substance by means of letters figures or marks, or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter.

Further, the *Oxford Dictionary of English* (2nd edition revised) defines some of the terms used in the RTI Act as follows:

- ‘inspect’: look at (something) closely, typically, to assess its condition or to discover its shortcomings...;
- ‘material’: the matter from which a thing is or can be made, things needed for an activity, the basic material from which a product is made;
- ‘sample’: a small part or quantity intended to show what the whole is like;
- ‘work’: activity involving mental or physical effort done in order to achieve a result, denoting things or parts made of a specified material or with specified tools... denoting a mechanism or structure of a specified kind...

3.10 Grounds for Rejection of Requests

The grounds of rejection of information as specified by the Act pertain to the following:

(a) Section 8 (1)(a) to 8 (1)(j): Exemptions from disclosure of information unless there are overriding considerations of public interest.

(b) Section 9: Infringement of the copyright subsisting in a person other than the State. This is the only absolute exemption. Here the PIO need not consider the public interest in disclosure.

(c) Section 11: Third party information treated as confidential by the concerned and involving the case of trade or commercial secrets protected by law and other third party information where the public interest in disclosure does not outweigh the importance of any possible harm or injury to the interests of such third party.

(d) Section 24: Information of exempted intelligence and security organisations except information pertaining to allegations of corruption and human rights violations.

3.10.1 Information Exempted from Disclosure

Section 8 of the Act provides a list of 10 categories of information 8 (1)(a) to 8 (1)(j) as follows:

Information Exempted from Disclosure

[Section 8(1)]

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters coming under the exemptions specified in this section shall not be disclosed;

- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

3.10.2 Primacy of Public Interest

Section 8(2) of the Act provides that notwithstanding anything in the Official Secrets Act, 1923, nor any of the exemptions permissible under Section 8(1) of the Right to Information Act, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

3.10.3 Protection of Copyright

Section 9 of the Act provides that without prejudice to the provisions of Section 8, a Central Public Information Officer or a State Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

3.10.4 Non-applicability to Certain Organisations

Section 24 (1) provides that the Act shall not apply to the following intelligence and security organisations established by the Central Government:

Intelligence and Security Organisations established by the Central Government exempted from Right to Information Act, 2005

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

However, the information pertaining to allegations of corruption and human rights violations shall not be excluded. In the case of information sought in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and such information shall be provided within 45 days from the date of the receipt of request for information.

Section 24 (4) of the Act stipulates that the Act shall not apply to such intelligence and security organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify. However, the information pertaining to the allegations of corruption and human rights violations shall not be excluded and further that in the case of information sought for in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and such information shall be provided within 45 days from the date of the receipt of request for information.

3.11 Procedure for Rejection of Requests

A PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request within the time limit prescribed. The Act stipulates that where a request for information is rejected by the PIO, the PIO will communicate the decision to the person making the request along with:

- (i) the reasons for rejection.
- (ii) the period within which an appeal against such rejection may be preferred (within 30 days of the date of the rejection)
- (iii) the particulars of the Appellate Authority.

3.12 Information up to 20 Years

Section 8(3) of the Act stipulates that subject to exemptions relating to information linked to sovereignty, integrity and security matters, breach of privilege of Parliament or the State Legislature and cabinet papers, any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made, shall be provided to any person making a request under the Act. However, where any question arises as to the date from which the period of 20 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Act.

3.13 Access to Part of Record

Section 10 provides that where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record “which does not contain any information which is

exempt from disclosure under the Act” and “which can reasonably be severed from any part that contains exempt information”. Where access is granted to a part of the record the Public Information Officer shall give a notice to the applicant under Section 10 (2), informing-

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the Appellate Officer or the Information Commission, time limit, process and any other form of access.

3.14 Third Party Information

“Third Party” is defined under the Act to mean a person other than the citizen making a request for information and the public authority to whom the request is made. It could be a private individual or a public authority [Section 2 (n)].

Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

If, however such above information is treated as ‘confidential’ by that third party, the following steps will have to be taken:

- The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed or not.
- The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation in writing or orally against the proposed disclosure.
- The PIO can, within 40 days after the receipt of application for information if the third party has been given an opportunity to make representation,

make a decision on disclosure and give a written notice to the third party.

- The third party is entitled to prefer an appeal against the decision of the PIO.

Except in the case of “trade or commercial secrets protected by law”, disclosures involving third party information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8 (1) (j).

3.15 Channels of Appeal

The Act provides two channels of appeals against the decision of a PIO on the request for information by a citizen – an internal or ‘first’ appeal to a designated “officer senior in rank” to the PIO – the first appellate authority (called “Appellate Officer” in this Manual) as notified by the Public Authority and a ‘second’ appeal to the Information Commission. The Act also provides for preferring complaints to the Information Commission regarding non-implementation of the legal provisions.

If an applicant is aggrieved by the decision of a PIO, he or she can make an appeal to the Appellate Officer who, as required by law, would be an “officer senior in rank” to the PIO.

A second appeal, against the decision of the Appellate Officer, lies to the Information Commission.

3.16 Disposal of First Appeals

Section 19 (1) and (2) of the Act stipulate that any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer including communication of fees to be paid may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to the designated Appellate Officer, senior in rank to the Public Information Officer. The Appellate Officer may admit the appeal after the expiry of the period of 30 days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Where an appeal is preferred against an order made by a Public Information Officer to disclose third party information, the appeal by the concerned third party shall be made within 30 days from the date of the order.

A Model of Appeal, which can be used for the First Appeal is placed below:

A Model of Appeal

Date:.....

To,
The Appellate Officer
(Name of the Public Authority)
(Address of the Public Authority)

An appeal under Section 19 of the Right to Information Act, 2005
Ref: [PIO/Appellate Officers' Decision Reference No. & Date, received on
..... (Date)
/Date of Deemed Refusal]

Dear Sir / Madam:

[Please Describe the details about Appeal and Grounds why Appeal is preferred:

Date & Description of the Application:
Name and Address of the PIO:
Details of Decision of the PIO:
Grounds of Appeal:
Decision Requested:

Sincerely,

(Appellant's signature)

Appellant's Name:
Appellant's Address:
Appellant's Phone Number / e-Mail Address (optional):
Place:
Date:

Note: This is a suggested format, and need not be necessarily adhered to. The RTI Act, 2005 does not specify any 'Model of Appeal' for preferring appeal.

The Act prescribes that the appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

3.17 Inquiry into Complaints

Section 18 (1) of the Act stipulates that the Information Commission shall receive and inquire into a complaint from any person —

- (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or Appellate Officer or the Information Commission as the case may be;
- (b) who has been refused access to any information requested under the Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under the Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

The Commission may initiate an inquiry in respect of complaint, if satisfied that there are reasonable grounds to inquire into the matter.

Section 18 further stipulates that while inquiring into a complaint, the Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;

- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Further, the Commission, during the inquiry of any complaint under the Act, may examine any record to which the Act applies which is under the control of the public authority. No such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be.

3.18 Disposal of Second Appeals

Section 19 (3) of the Act provides that a second appeal against the decision of the Appellate Officer shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission. The Information Commission may admit the appeal after the expiry of the period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time;

If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party.

3.19 Onus of Proof

Section 19 (5) of the Act provides that in any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request.

3.20 Decisions in Second Appeals

The Act provides that appeal filed before the Information Commission shall be decided by it in accordance with the prescribed procedure and its decision shall be binding. The Information Commission has the power to—

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including—

- (i) by providing access to information, if so requested, in a particular form;
- (ii) by appointing a Public Information Officer;
- (iii) by publishing certain information or categories of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;
- (vi) by providing it with an annual report in compliance with clause (b) of subsection (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under the Act;
- (d) reject the application [Section 19 (8)].

The Information Commission is legally bound to give notice of its decision, including any right of appeal, to the complainant and the public authority.

3.21 Appeal Procedure

The Department of Personnel and Training, Government of India, has through a notification on 'Central Information Commission (Appeal Procedure) Rules, 2005' prescribed the procedure for deciding appeal by the Central Information Commission. These Rules require that the Order of the Commission shall be pronounced in open proceeding and be in writing duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.

The Central Information Commission (Appeal Procedure) Rules, 2005

Contents of appeal:

- (i) Name and address of the appellant;
- (ii) Name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;
- (vi) Prayer or relief sought;
- (vii) Grounds for the prayer or relief.
- (viii) Verification by the appellant; and
- (ix) Any other information which the Commission may deem necessary for deciding the appeal.

Documents to accompany appeal:

- (i) Self-attested copies of the Orders or documents against which the appeal is being preferred;
- (ii) Copies of documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

Procedure in deciding appeal

- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorised officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

3.22 Imposition of Penalty

Section 20 (1) of the Act provides that the Commission, while deciding a complaint or appeal, shall impose penalty on erring PIOs in cases where the PIO has, without any reasonable cause:

- refused to receive an application for information or
- has not furnished information within the time specified [u/s 7(1)] or
- malafidely denied the request for information or
- knowingly given incorrect, incomplete or misleading information or
- destroyed information which was the subject of the request or
- obstructed in any manner in furnishing the information.

The scale of the penalty to be imposed is Rs.250 each day till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25,000.

The Information Commission is legally bound to give the Public Information Officer a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her.

The burden of proving that a Public Information Officer acted reasonably and diligently shall be on himself or herself.

3.23 Disciplinary Action

Section 20 (2) of the Act provides that the Commission shall, while deciding a complaint or appeal, recommend for disciplinary action against the Public Information Officer under the service rules applicable to him or her in cases where the PIO has, without any reasonable cause and persistently:

- failed to receive an application for information or
- has not furnished information within the time specified or
- malafidely denied the request for information or

- knowingly given incorrect, incomplete or misleading information or
- destroyed information which was the subject of the request or
- obstructed in any manner in furnishing the information,

3.24 Action in Good Faith

Section 21 of the Act provides that no suit, prosecution or other legal proceeding shall lie against any person for action done in good faith under the Act or rules.

3.25 Overriding Effect of Act

Section 22 of the Act contends that the provisions of the 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 the Act.

3.26 Bar of Jurisdiction of Courts

Section 23 of the Act provides that no court shall entertain any suit, application or other proceeding in respect of any order made under the Act and no such order shall be called in question otherwise than by way of an appeal under the Act.

3.27 Report of Information Commission

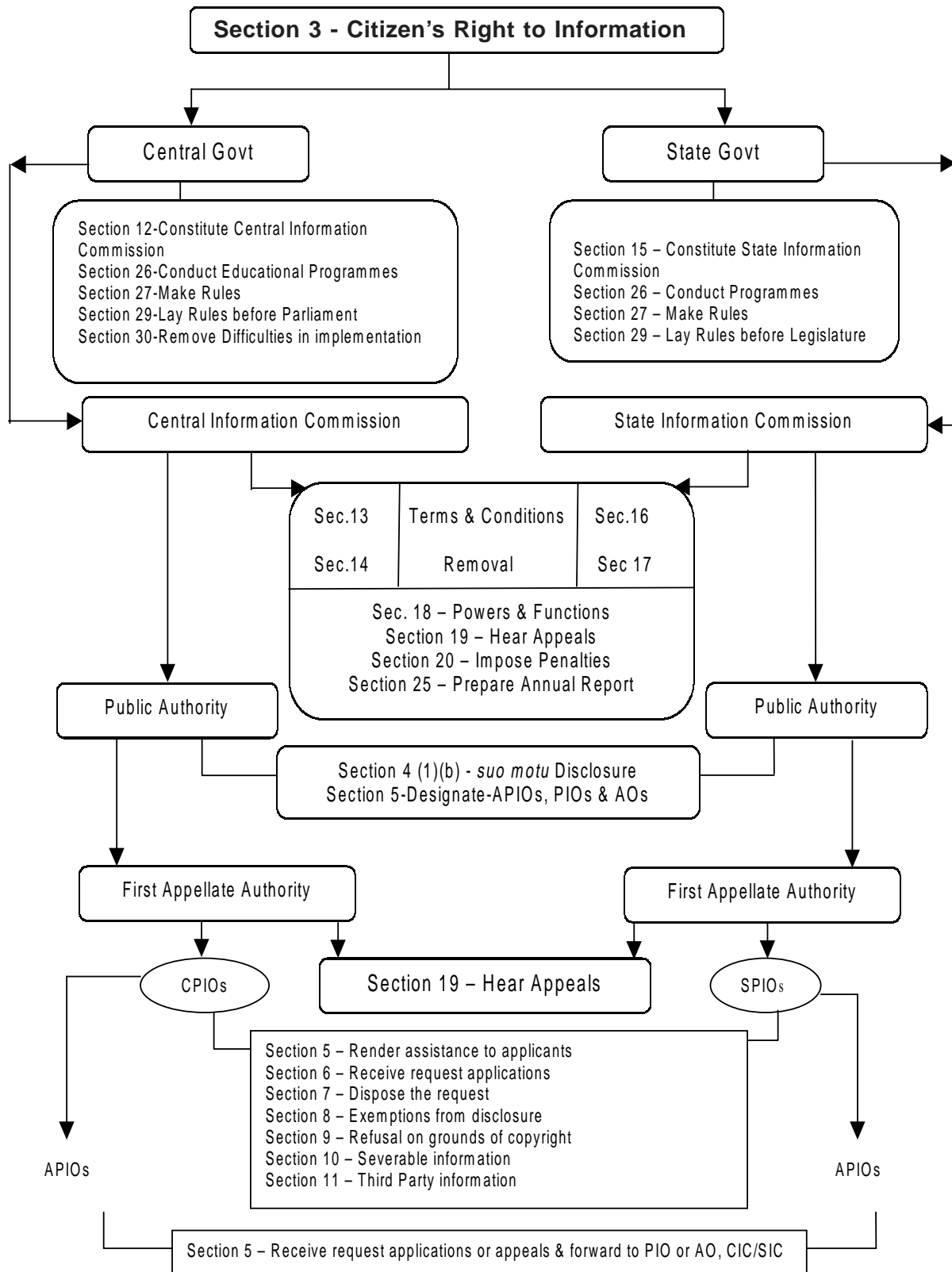
The Right to Information Act 2005 mandates annual reports to be submitted by the Central and State Information Commissions [Section 25 (1), (3) & (4)]. The key provisions in the Act in this regard pertain to the following:

- the Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of the Act during that year and forward a copy thereof to the appropriate Government;
- each report shall state in respect of the year to which the report relates,—
 - (a) the number of requests made to each public authority;

- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
 - (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
 - (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
 - (e) the amount of charges collected by each public authority under this Act;
 - (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act;
 - (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to the Act or other legislation or common law or any other matter relevant for operationalising the right to access information;
- the Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

Section 25 (2) of the Act clearly specifies that each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required by the Commission to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes.

The paradigm of Right to Information as stipulated under the Act is depicted below



Paradigm-Scheme of RTI Act at a Glance

Chapter 4: Non-Government Organisations as Public Authorities

The Act specifies that Non-Government Organisations substantially financed, directly or indirectly by funds provided by the Government are also to be considered as “Public Authorities” [Section 2(h) (ii)]. This mandates such NGOs to comply with the Act provisions as applicable to every public authority.

The obligations of public authorities under the Act are enumerated in the sections below:

4.1 Record Management

Section 4 (1) (a) of the Act stipulates that every public authority shall:

- maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act;
- ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated.

The above provisions of the Act may necessitate a critical review of the existing record management practices, record retention schedules for different categories of records and systems of indexing and numbering of records in public authorities. They may also call for changes in the framework for record management, especially with regard to the creation and destruction of electronic records. The proper cataloguing and indexing of records based on country-wide data/meta data standards is crucially important. Pending the above, appropriate up-gradation of the existing record management systems in public authorities would also be necessary in most cases.

4.2 Proactive Disclosure of Information

Section 4 (1) (b) of the Act provides that every public authority shall publish within 120 days from the enactment of the Right to Information Act.

- i. the particulars of its organisation, functions and duties
- ii. the powers and duties of its officers and employees
- iii. the procedure followed in the decision making process, including channels of supervision and accountability
- iv. the norms set by it for the discharge of its functions
- v. the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions
- vi. a statement of the categories of documents that are held by it or under its control
- vii. the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof
- viii. a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public
- ix. a directory of its officers and employees
- x. the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations
- xi. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made
- xii. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes
- xiii. particulars of recipients of concessions, permits or authorizations granted
- xiv. details in respect of the information, available to or held by it, reduced in an electronic form
- xv. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use
- xvi. the names, designations and other particulars of the Public Information Officers
- xvii. such other information as may be prescribed

update the publications under Section 4(1)(b) (i) to (xvii) every year;

Section 4 (1) (c) of the Act requires that every public authority shall publish all relevant facts while formulating important policies or announcing decisions which affect the public. Section 4 (1) (d) requires that it shall provide reasons for administrative or quasi-judicial decisions to affected persons.

To facilitate disclosure of various categories of information listed out in Section 4(1) (b) of the Act, sets of templates or guidelines have been prepared and circulated by many State Governments to their departments and public authorities. These templates are meant to achieve uniformity among the public authorities in their publication schemes and to facilitate convenient and easy access of information to citizens. There is a need to review these templates and revise the same taking into account the experience gained. Where necessary, individual public authorities may devise their own modified formats, while broadly conforming to the templates and having due regard to the nature of functions being performed by them.

The fact that a public authority is required to proactively publish information under various categories following the comprehensive list included in the Act under Section 4(1)(b), does not prevent the public authority from carrying on its existing publication schemes like bringing out periodicals, annual reports etc. Public authorities may continue their existing disclosure activities with the necessary additions to the information already being published, as per the requirements of the Act.

4.3 Dissemination of Information

Sections 4 (2), (3) & (4) call for a regime of maximum disclosure on the part of the public authorities *suo motu* so that the public sparingly resort to the use of the Right to Information Act to obtain information. The law stipulates that every public authority shall:

- constantly endeavour to take steps in accordance with publication under Section 4 (1) (b) to provide as much information as possible *suo motu* to the public at regular intervals through various means of communications, including internet;
- proactively disseminate information widely and in such form and manner which is easily accessible to the public, subject to taking into consideration the cost

effectiveness, local language and the most effective method of communication in that local area.

All published material may be made available to the public at a reasonable price as determined by the concerned public authority conforming to rules, if any, made under the Act. In addition, information can be communicated through notice boards, news papers, public announcements, media broadcasts, the internet or any other means. Maximum *suo motu* disclosure should be the norm for every public authority. Use of standard formats that facilitate easy access of citizens to public information is highly desirable. Accordingly, all public authorities and departments should undertake standardisation exercises. These assume critical importance in the context of the nation-wide networking of information envisaged under Section 4(1) (a) of the Act so that a citizen can access official information “any where” and “any time”.

4.4 Designation of Information Officers

According to Section 5 of the Act, every public authority shall:

- designate, within 100 days of the enactment of the Act, as many officers as Central Public Information Officers or State Public Information Officers (referred to as “PIOs” in this Manual), as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for information under the Act;
- designate an officer, within 100 days of the enactment of the Act, at each subdivisional/sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer (referred to as “APIOs” in this Manual), as the case may be.

The number and level of officers designated as PIOs would vary from authority to authority. However, in order to be able to meet the expectations of persons requesting for various kinds of information, the number of PIOs designated by a public authority should be reasonably large in keeping with the size and functions of the authority.

Receiving a RTI Request

- A 30 day clock is ticking
- You can ask applicants to clarify what information they require
- Consider whether providing the information will cost a fee as specified by the rules of the Government
- Identify all possible sources of information
- Consider whether an exemption may apply
- Fully document your decisions so that you can explain how they were reached

Since PIO is the point of decision-making on the requests by citizens for information, the rank of the PIOs assumes considerable importance. If they are relatively senior officers then they can take quick decisions, accessing information available with other officers in the authority concerned.

Duty of PIOs to provide Assistance to Applicants

- PIOs have a statutory duty to provide reasonable assistance to applicants
- Applicants do not have to explain why they want the information
- They should however clarify what information they need, if this can help them locate the information

4.5 Availability of Information with PIOs

Section 4 (4) of the Act requires every public authority to make information easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, so that the same can be made available to applicants requesting for information free or at such cost of the medium or the print cost price as may be prescribed. This is important because the PIOs are required under the law to provide information the applicants within 30 days, in general.

Responding to a Request (and Refusing a Request)

- Provide information in the format required by the applicant
- If the information is to be withheld, issue a rejection letter clearly indicating the reasons for rejection
- Record the date response was sent
- If exemptions have been applied, explain this to the applicant
- If information is released, consider publishing it on the website and adding a link to the 'recently released information'

4.6 Transfer of Misdirected Requests

Section 6 (3) of the Act prescribes that every public authority shall transfer request for information (i) which is held by another public authority; or (ii) the subject matter of which is more closely connected with the functions of another public authority, in full or part, as may be appropriate to that other public authority within 5 days of receipt, informing the applicant immediately about such transfer.

4.7 Implementation of Decisions on Appeals

Section 19 (7) of the Act stipulates that the decisions of the Information Commission on appeals “shall be binding”. Thus, every public authority will be required to implement the decisions of the Information Commission regarding taking steps to secure compliance with the provisions of the Act, compensating the complainant for loss or other detriment suffered, imposing penalties on erring Public Information Officers etc. under Sections 19 and 20.

Appeals

- Remember the First Appeal lies with the Appellate Officer senior in rank to the PIO
- The Second Appeal lies with the Central Information Commission or State Information Commission, as the case may be

As per Section 19 (8), the Information Commission may require compliance by a public authority with the provisions of the Act in terms of one or more of the following:

- provide access to information in the form in which it is sought;
- designate a PIO;
- publish information;
- bring in necessary changes in existing systems of maintenance, management and destruction of records;
- organise training of officials for effective implementation; and
- submit annual report.

Similarly, the Information Commission may order payment of compensation to a complainant, impose penalty on and recommend disciplinary action against PIOs.

4.8 Management Information Systems

Under Section 25 (1) of the Act, the Information Commission is required to prepare an Annual Report and the same would be laid before the appropriate Legislature. Section 25 (2) indicates that all public authorities keep records and provide information as required by the concerned Ministry or Department every year in connection with furnishing of consolidated information needed by the Information Commission for its Annual Report. This calls for the adoption and maintenance of appropriate Management Information Systems by public authorities. Proper tracking systems covering aspects such as number of requests for information of different kinds, type and manner of information provided, fees collected, grounds for denial of information, whether any appeals were preferred to Appellate Officer/Information Commission, the decisions on appeal, action taken on those decisions etc. will facilitate consolidation of information for the Information Commission's Report.

Given the requirement of Section 4 (1) (b) in connection with *suo motu* disclosure of information and that of Section 25 (2) in connection with keeping records for providing annual information to the Information Commission, it is suggested that every NGO which is a public authority publish an annual report of its own conforming to the vision, mission and priorities of the authority, the explicit requirements of disclosure under the Act, and those required by the Information Commission. The spirit of the Act requires every public authority to be duty-bound to maintain, store, retrieve, publish and disseminate information as widely as possible. The duty to inform, on the part of public authorities, is integral to the Right to Information.

4.9 Some Important Tips for PIOs

The PIOs need to constantly keep the following in mind:

- Information which cannot be denied to the Parliament or the State Legislature shall not be denied to any citizen.
- Notwithstanding the exemptions permissible under Section 8 (1) of the Act, access to information is to be allowed, if public interest in disclosure outweighs the harm to the protected interest.

- The Right to Information Act, 2005 overrides the Official Secrets Act, 1923.
- Access to information should not involve an infringement of copyright subsisting in a person other than the State.
- Any material relating to occurrence, event or matter, which has taken place, occurred or happened 20 years before the date of the application has to be given to the applicant.
- Information supplied by a third party can be provided by the PIO subject to legal safeguards under Section 11.
- The burden is on the PIO to prove before the Information Commission in appeal that he acted reasonably and diligently. He has to support the same with documentary evidence.
- The PIO is personally liable to pay penalty if the same is imposed by the Information Commission while deciding on complaints and appeals.

The PIOs are required to render reasonable assistance to applicants for information.

The help from the PIO to citizens could be in any form as stated below:

- Where a citizen is unable to make a request in writing, the PIO shall render assistance to the person making the request orally to present the same in writing;
- Where the information sought concerns the life or liberty of a person the PIO shall take all steps to provide the required information within 48 hours of receipt of such request.
- When the person to whom the access to record is to be provided is sensorily disabled, the PIO shall provide necessary assistance to enable access to the information, including such assistance appropriate for the inspection.

- When the right to information includes inspection of records, the PIO will reserve place and time for such inspection. Necessary arrangements have to be made to ensure that the citizen can carry out the inspection without any disturbance or distraction.
- The PIO would also make necessary arrangements for giving material samples, wherever required.

“Justice delayed is justice denied”. There should not be any undue delay in providing information sought by the public. The Act, therefore, stipulates time limits for supply of information. If the requisite information is not provided to the applicant within the stipulated period, the same will be construed as deemed refusal under the Act and the applicant can prefer an appeal against it.

Chapter 5: RTI and Social Audit of Public Service Delivery

5.1 What is Social Audit?

Social Audit is an independent and participatory evaluation of the performance of a public agency or a programme or scheme. It is an instrument of social accountability whereby an in-depth scrutiny and analysis of working of a public authority vis-à-vis its social responsibility can be undertaken. It also enables the Civil Society to assess whether a public authority lives up to the shared values and objectives it is committed to. It provides an assessment of the impact of a public authority's non-financial objectives through systematic and regular monitoring based on the views of its stakeholders.

5.2 Benefits of Social Audit

The primary benefits of Social Audit are:

- a. Complete transparency: In the process of administration and decision-making, Social Audit ensures an obligation on part of the Government to provide full access to all relevant information.
- b. Rights Based Entitlement: Social Audit propagates rights-based entitlements for all the affected persons (and not just their representatives) to participate in the process of decision making and validation.
- c. Informed Consent: Social Audit provides for the right of the affected persons to give informed consent, as a group or as individuals, as appropriate.
- d. Immediate Answerability: Social Audit enables swift and prompt response by the elected representatives and Government functionaries, on their relevant actions or inactions, to the concerned people.
- e. Speedy Redressal of Grievances: Social Audit ensures speedy redressal of grievances of the affected people by the public agencies.

5.3 Social Audit in India

Unlike social audit in the West, where corporates aim to provide an account of their activities from the social perspective as part of their social responsibility, social audit in India has

been largely used as a tool to assess service delivery at the cutting edge level. It can be interpreted as 'Development Audit' – one that incorporates a step-by-step framework for involving different stakeholders in planning, decision making, allocation of resources and assessment of results of a programme. It enables accountability to people themselves as major stakeholders. It is usually targeted at the public works and service delivery by the Government and the methodology involves active public involvement in the physical verification of works, records assessment, public hearings etc.

Social audit in India was initiated by CSOs as an attempt to address the issue of basic rights and entitlements of people and to expose corrupt practices of the administration. It has been more or less synonymous with Jan Sunwais (Public Hearings) initiated by Mazdoor Kisan Shakti Sangathan (MKSS), a Civil Society Organization, in Rajasthan. In recent times, similar experiments have been initiated in other states like Delhi, Orissa, Andhra Pradesh etc.

The persistent effort of CSOs like Mazdoor Kisan Shakti Sangathan over the last decade or two has brought in many enabling factors for social audit in the country such as the Right to Information Act, 2005, programmes like National Rural Employment Guarantee Act (NREGA), 2005 etc. Apart from the above, social audit entails specific significance in the light of 73rd and 74th Constitutional Amendments, 1992 which mandate decentralized governance through local self governing institutions.

5.4 RTI and Social Audit of Public Service Delivery

RTI is the single most significant law which enhances the scope of social audit of public policies and programmes. Without access to certain necessary information it is impossible to conduct a social audit and hold public officials socially accountable. Right to Information makes this possible because it secures for every citizen the enforceable right to know, examine, audit, review and assess Government activities and decisions and also ensure that these are consistent with the principles of public interest, probity and justice. By securing access to relevant information and knowledge, the citizens would be able to assess Government performance and participate in and influence the process of Government decision making, policy formulation and programme implementation, particularly on issues relating to public service delivery.

RTI can facilitate a regime of transparency and accountability by enabling:

- Availability of Information in the public domain;
- Public access to all relevant documentation;
- Demystified and understandable formats for better public comprehension; and
- Verification of recorded information by the community.

Using the RTI Act, CSOs, therefore, can facilitate social audits of government processes, activities, programmes, schemes etc., and help improve public service delivery and the efficacy and accountability of public officials. They can use the RTI Act to inspect various processes, programmes and schemes of any public authority. They can even examine the works undertaken by any Government Department at any stage and draw samples of materials that are in use. CSOs can also collect and verify records, documents and samples of particular works undertaken by the Government. The following sections help illustrate how RTI can be used to access information and enable social audit of processes, programmes and schemes so as to improve public service delivery and enhance accountability of public officials. However, it needs to be noted that the illustrations given below are selective and are meant for guiding CSOs to access specific information that could be used to undertake Social Audits.

5.4.1 National Rural Employment Guarantee Scheme

Social Audit of the implementation of the National Rural Employment Guarantee Act, 2005 is legally mandated (Section 17). The Right to Information Act can be used as an effective tool for undertaking Social Audit of the implementation of the NREGA. In this context, CSOs can inspect the mandatory records that are maintained by the Gram Panchayats and seek information and explanation. The CSOs can begin with verifying the following:

- Whether the Gram Sabha was involved in the identification of works in the village?
- Was there transparency in the process of registration?
- Was there transparency in the issuance of job cards?
- Whether applications were processed as per the guidelines?

- Was there transparency in the sanction of works?
- Was there transparency in the implementation of works?
- Whether quality was maintained in the work?
- Whether wages were paid on time according to the measurements?
- Whether payments for all the bills have been made?
- Whether prescribed worksite facilities were made available to the workers?
- Whether the measurement, check measurement and quality control inspection data tally with the actual observations?

The CSOs can further examine records under NREGA mentioned in the table below.

Sl. No	Records/Documents	What to inspect/verify
1.	Application Registration Register	<ul style="list-style-type: none"> • Crosscheck the number of applications with the number of entries made into the application register
2.	Job Card Register	<ul style="list-style-type: none"> • Verify whether the number of Job Cards match with the number of applications received
3.	Employment Register	<ul style="list-style-type: none"> • Crosscheck the total employment demanded, employment allotted and employment actually provided
4.	Estimates Register	<ul style="list-style-type: none"> • Crosscheck the total works sanctioned, executed and completed as specified in the estimates
5.	Muster Roll Register	<ul style="list-style-type: none"> • Verify number of days worked by labour with the number of days entered in the muster. • Crosscheck information in the musters with that recorded in the personal job cards of the labourers • Verify whether names entered into the muster belong to the same village etc.
6.	Measurement Books (M B)	<ul style="list-style-type: none"> • Crosscheck whether measurements in the measurement book tally with those recorded in the personal job cards of the labourers • Physically measure the works to crosscheck with that in the measurement books against each worker
7.	Complaint Register	<ul style="list-style-type: none"> • Verify whether the grievances of the labourers were addressed within the stipulated time

Case Study:

Social Audit of National Food for Work Programme (NFFWP) In Andhra Pradesh

Kadarpathy is a village located in Nakrekal Mandal of Nalgonda District in Andhra Pradesh. The social audit of works undertaken under the NFFWP in this village was initiated by Department of Rural Development, Andhra Pradesh in association with the Centre for Good Governance. It also involved ActionAid India and MKSS, Rajasthan.

The work started with information collection on the works performed under the National Food for Work Programme for the financial year 2004-2005 from the village. The information was collected nearly one week prior to the social audit. It was decided to conduct social audit for two works taken up in the village: desilting of a feeder channel and construction of a road. In both the cases, the information collected from different documents available at the district and block level offices. Once collected, all the information and records were sorted and filed work- wise.

The next step in the process was to analyse the available information. Records were studied for violation of norms and guidelines for minimum and equal wages, execution of works by contractors, breaching of estimates, and so on. The team also converted technical data into information that could be easily triangulated with the information collected from villagers. This was followed by visits to villages by the social audit team for nearly one week during which they developed good rapport with the villagers. During this period, an engineer checked the physical works that had been completed and audited last year. He gave his assessment of the expenditure incurred and of deviations from the plans submitted in the Gram Panchayat.

A public hearing was held subsequently to disseminate the findings of the social audit. Around two hundred people from the Gram Panchayat gathered to participate in the first opportunity they ever had of questioning the public servants for their commissions and omissions.

Some key findings and observations from the social audit were:

1. Some muster rolls were empty (without names) with only signatures. Names of some labourers who worked were not registered in the muster roll.
2. Measurement books were not available in files for some works.
3. The wages recorded in the muster role were higher than the amounts actually paid to the labourers as per muster roll
4. There were no display boards of works undertaken.
5. The team leader (Maisthri) of the workers took all the rice coupons from the officials and collected the rice from the fair price shop.
6. Some finger prints in the registers did not match with those of the actual workers - even the literate workers had their fingerprints in the muster roll.
7. Labourers from the other villages were engaged in contravention of the rules.
8. Measurements of the works were not taken in the presence of the workers.
9. The quality of the rice issued was not good. Rice distributed to the workers was not properly measured.
10. There was a difference of 2 meters when a feeder channel was measured and compared with the M Book.

Appendix 3 provides guidelines on RTI and Social Audit safeguards under NREGA. In addition, guidance notes for social auditors for undertaking social audit are given in **Appendix 4** of this guide.

5.4.2 Public Distribution System

The Public Distribution System (PDS) ensures the distribution of essential items such as rice, wheat, sugar, kerosene etc., to disadvantaged groups at subsidized prices. CSOs can invoke the RTI Act to collect information and audit the following.

1. Register/s containing the list of names of card holders where one can verify the number and details of beneficiaries
2. Stock registers to assess the total stock received by the fair price shop, total stock distributed, balance available and also to crosscheck whether the stock was supplied to the respective cardholders
3. Sale registers to assess the total sale of provisions and crosscheck whether all cardholders received the rations provided to them
4. List of BPL cardholders required to be displayed at the fair price shop
5. List of commodities and rates fixed by the Government required to be displayed for public scrutiny
6. Other registers supplied by Civil Supplies Officer / Mandal Revenue Officer can be asked and verified.

Using RTI: Getting a Ration Card

Nannu is a daily wage earner. He lives in Welcome Mazdoor Colony, a slum habitation in East Delhi. He lost his ration card and applied for a duplicate in January 2004. He made several rounds to the local Food & Civil Supplies Office for the next three months. But the clerks and officials would not even look at him. Ultimately, he filed an application under the Right to Information Act asking for the daily progress made on his application, names of the officials who were supposed to act on his application and what action would be taken against these officials. Within a week of filing application under Right to Information Act, he was visited by an inspector from the Food Department, who informed him that the card had been made and he could collect it from the office. When Nannu went to collect his card next day, he was given a very warm treatment by the Food & Supply Officer (FSO), who is the head of a Circle. The FSO handed over the card to Nannu, offered him tea and requested him to withdraw his application under Right to Information, since his work had already been done.

Source: *Right to Information Act, 2005: A Primer, National Campaign for People's Right to Information, 2005.*

5.4.3 Integrated Child Development (ICDS)

The ICDS scheme aims at providing a package of services, consisting of supplementary nutrition, immunization, health check-up, referral services, non-formal / pre-school education, nutrition, and health education. CSOs like Mothers' Committees, Education Committees can inquire and ensure that the various services required to be provided at the ICDS centre are being provided. The RTI Act can be used in getting information on:

- Registration of beneficiaries
- Attendance of children and *anganwadi* teacher
- Growth monitoring of children and pregnant women
- Participation in immunization
- Provision of Vitamin-A solution to children
- Supplementary nutrition
- Early childhood care and development (0-3 years)
- Pre-school education (2-5 years)
- Health check-up
- Enrollment in primary schools after completing pre-school
- Implementation of Citizen's Charter etc.

The RTI Act can also be used to take samples of nutrition supplements provided to children.

5.4.4 Primary Health Services

Primary Health Centre (PHC) and its Sub-centres are the grassroots level delivery points for primary health care services that meet the healthcare needs of rural population, particularly that of the poor and vulnerable. A PHC has Medical Officers and support staff with necessary facilities to carry out small surgeries and cater to primary health needs of the people. Every PHC looks after medical care, mother and child health care services including family planning, prevention and control of communicable and epidemic diseases, collection of statistical information, basic sanitation and hygiene, health education, and basic laboratory investigations etc.

Even though the PHCs are supposed to look into the aforesaid aspects, the reality is that services to the poor and needy are deficient in many respects. Social Audit of such services

using Right to Information can significantly enhance service delivery. CSOs can seek information with respect to the functioning of the primary health centers such as:

- Attendance of medical officer and other staff in the PHC
- Field visits of the PHC staff
- Supervisory visits undertaken by other health officials
- Stock registers of medicines with dates of procurement, expiry dates of medicines etc.
- Outpatients treated
- Maintenance of safety pits in the centre
- Surgeries conducted and their success rate
- Inspection of immunisation achieved as against the Action Plan
- Inspection of vaccines in the cold chain (refrigerators)
- Inspection of safety measures followed by the staff in regular medical treatment
- Maintenance of counterfoils on immunizations
- Inspection of other relevant registers
- Implementation of Citizen's Charter etc.

Civil Society Groups can also use the Act to request for samples of medicines being supplied to patients.

5.4.5 Primary Education

While the Government is spending huge amounts of money to provide basic education, several children remain out of school and have no access to basic education. Due to lack of monitoring and accountability mechanisms, the performance of public educational institutions is not commensurate with the amount of public expenditure. Through Social Audits, CSOs can take a lead role in ensuring that the schools and the public education system function efficiently. The RTI Act can be used for accessing the following information:

- Attendance of teachers (Teacher Attendance Registers)
- Attendance of students (Pupil Attendance Registers)
- Teaching standards in the schools (Curriculum and daily lessons)
- Enrollment and drop-out rate of students (boys/girls)
- Student performance (Progress reports)

- Implementation of Mid-Day Meal Programme
- Infrastructure standards in the schools (Class rooms, black boards, teaching aids, equipments, toilets – general and girls etc.)

A special focus is required on the operation of hostels run for poor students. The Government hostels are impaired by lack of basic amenities, infrastructure facilities, pilferage in materials, lack of quality in food provided to students, poor academic performance of the boarders etc. The RTI Act can be effectively used to ensure that there is proper utilization of Government resources in ensuring basic facilities at the hostels for running them efficiently apart from ensuring quality education to boarders. The following information would be useful in monitoring and reviewing the functioning of the Government hostels.

- Admission register to verify total number of students registered
- Quantity and quality inspection of food grains supplied to the hostels
- Physical verification of basic amenities provided to the students
- Security system in the hostels meant for girl children
- Stock register for materials received and used
- Quantity and quality of food provided with reference to set menu
- Maintenance of sanitation facilities
- Educational attainments of boarders etc

CSOs can play an important role in suggesting corrective measures to the Government and help in improving the quality of primary education.

5.4.6 Land Records

Details of land ownership, extent of land, land usage, acquisition and mutation of land, particulars of Government lands acquired/assigned every year etc. are entered into the revenue department records at the block and village levels. Information about the lands can be obtained by requesting the concerned revenue officers with the help of RTI Act. The details of the following information can be sought from the concerned officers.

- Land title (Private ownership)
- Land allotted to institutions
- Details of lands under Government/trusts/temples/department authorities etc.
- Agriculture land records
- Forest land records
- Lands under public domain
- Details of persons who are in illegal possession of land and their status
- Lands acquired for rehabilitating communities/affected people
- Lands assigned to weaker sections, their development and use etc.

Through the use of RTI Act, CSOs can also ask for information on master plan, zonal plan, land use planning details, specific maps, charts etc.

5.4.7 Environmental Protection

There are a number of public agencies in the country that address issues related to the environment such as Ministry of Environment and Forests at the Central level, respective State Departments on Environment and Forests, Central and State Pollution Control Boards (PCBs) etc. CSOs working on issues of environmental protection can use the RTI act in securing information on various environmental issues like forest and natural resources, endangered species of both flora and fauna, levels of environmental pollution etc. Information and access to records relating to public safety and threshold levels of pollution, inspection of public sector industrial units and trades that are potentially environment - sensitive will help in planning strategies to conserve the environment and maintain ecological balance. Effective use of the Environmental Protection Act can be made by Civil Society Groups by collecting useful information through the RTI Act.

Using RTI: Environmental Conservation

Mr. Shivaji Raut, a school teacher, has effectively used the Right to Information Act for conserving a medicinal herb in the Satara district of Maharashtra. Since the mid-1990s, Mr. Raut noticed a steady decline in the availability of *Narkya* herb in the forests of Satara, especially the Koyana Wildlife Sanctuary. When he investigated the reasons for this decline, he learned that the recent discovery of the cancer fighting properties of the herb had made it a valuable export commodity. Hence traders from Mumbai and Pune had been illegally procuring large quantities of the herb from the forests. While local collectors were paid only Rs. 2/kg, traders were selling the herb at Rs. 800/kg.

After this initial investigation, Mr. Raut submitted an application to the Divisional Forest Officer in 2000 and demanded the details of the permits granted by the Forest Department for the transportation of *Narkya*. When he was denied this information, he appealed to the senior officials of the Forest Department and finally got the information. The official records revealed that only five farmers had been given permission to transport the herb and only the harvest grown on their own private farms. On further investigation, Mr. Raut discovered that instead of growing the herb on their own private lands they were smuggling the herb from the sanctuary. On the basis of his findings, Mr. Raut took this issue to the media and brought it to the public notice and the concerned higher officials. The fear of punitive action resulted in considerable decrease in the illegal harvesting of the herb from the area.

Source: *Accessing Public Information, Winrock International India & International Institute of Environment and Development, 2005*

5.4.8 Sanitation Services in a Particular Area

CSOs like Resident Welfare Associations/Neighbourhood Associations/Community Development Societies could seek information on the sweepers and sanitation supervisors working in a particular colony:

1. List of all the sweepers and sanitation officials working in the area along with their hours of work in the colony, addresses and contact numbers
2. Geographical and functional job responsibilities of every sweeper/sanitation supervisor

3. Copy of attendance register for the particular beat week / month
4. Copy of muster roll for the particular beat for the week/month

After receiving the list of sweepers, the CSOs can inform the people in the area about the names of the sweepers/supervisors working in different streets. The people may like to keep a watch on whether a sweeper/supervisor is coming or not and working for the hours stipulated. Specific complaints could then be made to the authorities about which sweeper/supervisor was absent and when.

Similarly, the CSOs could seek information on garbage removal in their neighbourhood.

1. Address of the Depot from where the loader and truck for garbage bins are sent
2. Vehicle number of the truck and the loader assigned for picking up garbage from garbage bins
3. Details of the vehicle beat register maintained at the Depot
4. Addresses of the garbage bins, which were serviced by these vehicles
5. Number of trips made by such vehicle on each of these days
6. On each of these trips, the weight of the garbage picked up by this truck, as per the weighment receipts at landfill sites
7. Copies of balance reports sent by the area sanitary inspector (SI) for each day during this period giving details of the garbage left unattended

5.4.9 Details of Public Works

CSOs can demand a list of all the works awarded by a panchayat/municipal body in your area during any financial year. The list may contain the following details:

- a. Name of the work
- b. Work Order No
- c. Name of contractor

- d. Date of commencement
- e. Date of completion
- f. Rate at which work awarded
- g. Sanctioned amount
- h. Amount paid so far
- i. Head of account
- j. Status of work
- k. Basis for decision to undertake this work

Having obtained the list, the CSOs can file another application and seek the following details for each of those works that are in poor shape or have not been carried out:

1. Copy of estimate of each work
2. Design specifications/sketches
3. Measurement books including record entries and abstract entries
4. Check measurement extracts
5. Quality control/third party inspection reports

A detailed verification of these works can be done on the basis of the detailed documents obtained and the findings could be made public and submitted to various vigilance agencies or the findings can be presented before a gathering of the local people through a public hearing.

Please note the elucidations of the following terminologies related to documents maintained for public works:

- Work Order register: This is the register in which the basic details of each work are written like the name of work, amount sanctioned, name of contractor, date of start, date of completion, etc. These details are written in this register in a tabular form.

This is like a master register, which will contain the list of all the works carried out in any area.

- **Measurement Book:** When a work is in progress, the Junior/Assistant Engineer is supposed to physically measure the work everyday and enter the progress made on that work in this book. These are called record entries in a Measurement Book. When the work gets completed, the totals of these record entries are taken at one place in the measurement book and added up to prepare the final bill. These entries in this final bill are called abstract entries.

The Right to Information Act empowers any citizen to inspect any Government work or to demand sample of material [Section 2(j) (i) & (iii)].

5.4.10 Repair and Maintenance of Roads

CSOs and citizen activists may demand the following information with respect to roads:

1. Number of times repairs (both minor and major) have been carried out on each road during the year
2. If the work was done departmentally, you can seek:
 - a. Copy of relevant portion of stock register
 - b. Copy of relevant portion of labour register
 - c. Exact location of spots where the work was carried out
 - d. When the work was carried out?
 - e. What the method of repair was?
 - f. What the composition of material used was?
3. If the work was done through a contractor, you can seek:
 - a. Copy of measurement book (both abstract entries & record entries)
 - b. Copy of sketch
 - c. Copy of details of estimates

- d. If there was any guarantee clause in the contract, copy of that portion of the contract which mentions this guarantee clause and the conditions under which this clause can be invoked.
 - e. Whether the guarantee clause has been invoked till now? If not, reasons for the same.
 - f. Names of the Assistant Engineer, Executive Engineer and Superintending Engineer who inspected each of these works and passed payments.
4. Reasons for the bad condition of each of these roads (ask for reasons for each road separately).
 5. When the roads will be repaired?

A sample of material of each of the roads can also be requested under section 2(j(iii)) of the Right to Information Act. The sample should be collected from the place of choice of the requester and in his/her presence and should be sealed and certified. The concerned authorities should intimate the requester the date, time and venue where he/she should come to collect the samples.

5.4.11 Use of MP/MLA Local Area Development Funds

Every Member of Parliament gets Rs. 2.0 crores every year to spend on works for the development of his/her constituency. At the State level, every MLA gets substantial money for local area development. The Right to Information Act can be used to find out how effectively the funds were utilised.

For example, CSOs can seek to know the details of works on which a particular MP/MLA spent money and verify the status of these works. The following details from the concerned department of your State Government can be asked for:

1. Details of all the works awarded during the year out of the MP/MLA Constituency Development Fund:
 - Name of work
 - Brief Description of work

- Amount sanctioned
 - Name of agency
 - Date of sanction
 - Date of work order
 - Date of commencement
 - Date of completion
 - Rate at which work awarded
 - Amount paid etc.
2. How much money was allotted to him during the current year and how much has been carried over from previous years?
 3. Out of the above, projects worth how much money have already been sanctioned?
 4. How many projects worth how much money are awaiting sanction?
 5. How much balance is left in the MP's/MLA's account?

5.4.12 Corruption cases being handled by the Government

CSOs may seek the following information from such public authorities or departments where there is a lot of corruption and no action is being taken against the indicted officials. The following information may be sought from the concerned Department:

1. List of all the officials against whom complaints of corruption were received, the year and the allegations against each one of them
2. Copies of these complaints
3. List of complaints that were closed without any investigation and reasons
4. List of complaints closed after investigation and copies of enquiry reports on the basis of which the complaints were closed
5. Cases where penal action has been initiated and details of penal action initiated

6. Cases where criminal complaints have been filed and their status
7. Cases where departmental action has been taken and their details
8. Cases where action is yet to be taken and expected timeline for investigation to be completed

5.4.13 Public grievances being handled by the Government

Grievance handling is a basic function of public authorities. Effective and efficient grievance handling mechanisms are a must for a government that seeks to be responsive and accountable. CSOs can play an important role in fostering greater accountability in grievance redressal by public authorities – they can seek the following information under the RTI Act:

1. List of all the grievances received from the public during the year or quarter and copies of the grievances.
2. Action taken on each grievance
3. Time limits for each grievance to be resolved as per rules/Citizen's Charter
4. Penalty prescribed against the officials if they do not adhere to these time limits
5. Reasons for delay in resolution of the grievances
6. Action taken against the officials in each case of delay

5.5 Suggestions for CSOs

To play an integral part in bringing about a practical regime transparent and accountable in governance, CSOs may undertake the following:

- There is need for CSOs to gather information and undertake research that forms the basis of campaign that civil society organisations undertake.
- Second, CSOs must actually use the legislation – especially in the early days. And requesters must be assertive demanding good service under the law. The experience of freedom of information the world over tells us that the

early few years are crucial in determining habits – on both demand and supply sides. After that, systems are created, and norms and habits are established.

- Thirdly, they must encourage Government towards a “right to know” approach – in other words, to encourage government to automatically publish the majority of its information.
- Fourthly, they will need to be vigilant to keep track of exemptions, time delays, updating of publication *suo motu* etc. by authorities to ensure that the state does not negate the positive impact of RTI.
- Fifth, CSOs will need to find both champions – in government and in the private sector – and strategic partners, from the specialist civil society sectors, the media etc.
- Finally, CSOs will need to work together, to promote better and more effective use of the Act by the people.

The greatest challenge does not lie in making the legislation work and to penetrate age-old walls of secrecy, but in accurately identifying the information that the different communities need in order to bring about social and economic development. Civil Society Organisations must then act as a bridge to elicit information, using the new law that will serve the interests of the weak and the poor, because inequality of access to information reflects a deeper inequality of power. If civil society is active, then the RTI Act will be a useful instrument in the fight for social justice.

Chapter 6: Selected Case Studies

The following case studies illustrate how Civil Society Organisations and citizens have used the Right to Information provisions in different contexts to uncover corruption, foster greater transparency and exact accountability from public servants. It goes to show the power that RTI places at the disposal of Civil Society – the need is to use it effectively and judiciously.

Case Study 1: Using RTI for getting an electricity connection (Delhi)

Ashok Gupta applied to the Delhi Vidyut Board (DVB) for a new electricity connection, in February 2001. Because he refused to pay a bribe, for a year no action was taken on his application. In February 2002, he filed an application under the Delhi RTI Act. In his application, he asked for the following information:

- The daily progress made on his application till date.
- The names and designations of the officials who were supposed to take action on his application and who have not done so.
- As, according to the Indian Electricity Act, a requester should get a new connection within 30 days of application – thus are these officials guilty of violating the Electricity Act?
- As these officials have not provided the connection in time, does the DVB plan to take any action against these officials?
- If yes, in how much time?
- When will he get his connection?

In ordinary circumstances, such an application would have been consigned to the dustbin. However, given that the Delhi RTI Act mandated penalty at the rate of Rs. 50 per day of default, they had to reply to this application. In March 2002, he was granted a new connection.

Source: Right to Information Act, 2005: A Primer, National Campaign for People's Right to Information, 2005.

Case Study 2: PIO pays Rs 8000 for providing misleading information (Maharashtra)

The imposition of Rs. 8000 as penalty on a District Sports Officer for giving incorrect information in Pune came as a wake up call for Public Information Officers (PIOs) in the State of Maharashtra. The Maharashtra Right to Information (MRTI) Act had one of the most progressive penalty provisions amongst the states with access laws in India. The Act permitted the imposition of a fine of Rs. 250/- per day for unreasonable delay in providing information, and permitted fines 'not exceeding Rs. 2000/- on a PIO who has knowingly given incorrect, misleading, wrong or incomplete information'. Using such provisions, this case sets an impressive precedent and should act as a serious deterrent for PIOs unwilling to disclose information under the provisions of the Act.

The PIO concerned, Wali Jamadar, deposited the fine amount in the Government treasury after consumer activist Dhyanchandra Patil was given incorrect information on four application requests made under the MRTI to the PIO at the District Sports Office.

By citing an outdated circular, the PIO had misled the requester, claiming that there was no law on the right to request such information. Arguing that the PIO's claim was clearly misleading information, Patil called for a penalty of Rs 2000 to be imposed on the PIO. In his capacity as Appellate Authority, the Deputy Director asked the PIO to explain his actions and then reprimanded him for furnishing misleading information. Patil was not satisfied with the Deputy Director's response and informed him that as the Appellate Authority, it was imperative that he impose a penalty and fine on the PIO and that the appeal had to be decided within 30 days or only in exceptional cases in 60 days. Patil was clear that if his appeal was not decided within the stipulated time, he would be forced to approach the Lokayukta.

Responding favorably, in November 2004, the Deputy Director ordered the PIO to pay a penalty of Rs. 2000 for violating Section 12(2) of the MRTI Act. Yet, Patil was adamant that the PIO be penalized for providing misleading information on all four applications made by him and should be penalized for each act of non-compliance with the law.

Patil's argument was soon conceded. This is perhaps the first such penalty imposed under the MRTI Act for giving misleading information.

Source: Indian Express Pune, PIO Denies Information; Pays Rs 8000 Penalty' [http.7/cities.expressindia.com/fullstory.php/newsid=122321](http://7/cities.expressindia.com/fullstory.php/newsid=122321)

Case Study 3: Getting PDS Entitlements (Delhi)

A number of citizens in several parts of Delhi had applied for ration cards under the Below Poverty Line (BPL) categories about a year and a half back. They had neither received any cards nor any information whether they would be issued such cards or not. Several visits to the ration office have yielded no replies from the concerned authorities. Using the RTI Act, the citizens sought for a list of such beneficiaries in Sundernagari and New Seemapuri. This list showed that there were several people whose cards had been made months back and these cards were in possession of local ration shopkeepers, who were siphoning off the ration entitlements on these cards for all these months.

Since then, with the intervention of the most senior officials of the Food Department, these cards have been returned to their respective owners and action has also been initiated against these ration shopkeepers.

The experience of Triveni, another citizen was no different. She ran into a different kind of malaise at the ration shops. Whenever Triveni would go to her ration shopkeeper, he would always say "No stock". She never got her rice entitlements for several months. She was given only 10 litres of kerosene against her entitlement of 14 litres and she would get only 10-15 Kgs of wheat against her entitlement of 25 Kgs. The wheat was given to her at Rs 5 per Kg, whereas the official price is Rs 2 per Kg.

Triveni applied under the RTI Act and asked for official records of rations issued to her and also copies of cash memos purported to have been issued to her. To her utter surprise, she was told that she had been issued 25 Kgs of wheat @ Rs 2 per Kg, 14 litres of kerosene and 10 Kgs of rice every month for more than a year. The cash memos showed thumb impressions having been made in her name, whereas she

always signed her signature. Naturally, the thumb impressions were found to be fake and this showed that the ration dealer had been drawing her ration by forging her thumb impressions for several months. Triveni has since filed complaints to higher authorities, and what's more she has started getting the proper amounts of rations at the right price.

Source: Arvind Kejriwal, April 2003, Parivartan New Delhi. parivartan_india@rediffmail.com

Case Study 5: Exposing Pilferage in Foodgrains in the Public Distribution System (PDS) (Delhi)

The RTI approach has been successfully used by Parivartan and Satark Nagrik Sangathan to ensure food supply through the Public Distribution System (PDS) for poor people. Poor people often depend on Government ration shops for purchasing food at subsidised prices. However, due to rampant corruption, food meant for the poor is often sold at higher rates in the open market by making false entries in the record books.

Parivartan obtained the sales and stock registers of some ration dealers in the Welcome Colony area of Delhi for the month of June 2003 using their right to obtain Government information. This information was cross-checked with 182 families residing in the area. Out of a total of 4,650 kg of wheat supposed to have been distributed to the people, only 595 kg (13%) had actually been supplied to them. The remaining 87% found its way to the black market. Out of a total of 1,820 kg of rice supposed to have been distributed as per daily sales registers, only 110 kg (6%) was supplied to the people. The balance of 94% was siphoned off. All the while, the ration dealers had been maintaining that they were not receiving stocks from the Government. After the details of sales and stock registers were made public, the food supply through the fair price shops improved significantly.

Source: Parivartan and Satark Nagrik Sangathan, Delhi

Case Study 6: Ensuring Public Health and Sanitation (New Delhi)

a) In some areas of Patparganj in Delhi, drinking water was getting contaminated with sewer water resulting in illness of a number of residents. Complaints were made to the Delhi Jal Board (Water Supply Agency) but nothing happened. Subsequently, an application was filed under the Right to Information Act seeking the status of the complaints and the names of the officials responsible for dereliction of duty. The necessary repairs were carried out within two days of filing the application. The Delhi Jal Board even carried out testing of the drinking water at different points in this area and submitted the test reports as part of the reply to the application.

b) Similarly, a recently replaced water pipeline in the Pandav Nagar area of Delhi started leaking soon after its installation. The residents made several complaints but in vain. Ultimately, the residents filed an application under the Right to Information Act seeking the following details:

- Status of complaints filed earlier and names of officials who should have attended to their complaints and have not done so
- Copy of contract of the pipeline laid
- Copy of completion certificate issued for the said pipeline and copy of the bill
- Names of officials who issued the completion certificate

Within three days of filing this application, the pipeline was repaired.

c) A community garbage house/deposit area was repaired by the Municipal Corporation of Delhi (MCD) in Patparganj in the month of June 2002. The residents noted that only the floor of the garbage house/area was made and no other work was carried out. The residents sought the copy of contract using their right to obtain Government information. The contract revealed that an iron door was to be installed and the walls were supposed

to be plastered. These works were not carried out even though payment for the same had been made to the contractor. Before the residents could take any further steps, they found that the contractor started making the necessary additions to the disposal point. The mere seeking of a copy of the contract had resulted in immediate remedial measures, as the contractor feared punitive action after contract details became public.

- d) The operator of a public toilet was charging one rupee per use from all residents of the slum cluster of Jagdamba Camp in Delhi. However, when a copy of contract was obtained from the MCD using people's right to seek information, people came to know that the operator was supposed to allow free usage for children below the age of 12 years as well as handicapped persons. This information was used for the benefit of these two categories of persons.

Case Study 7: Public Hearing on Food for Work

On 17 October 2005, five days after the Right to Information Act, 2005 came into force, a public hearing in Lakshmangarh village (Surguja District, Chhattisgarh) showed how the Act can empower ordinary people and enable them to fight corruption.

It focused on the recent construction of a lake under the *Food for Work Programme* for which the Irrigation Department sanctioned Rs. 3.1 lakhs, all of which was shown to be spent on labour over three "muster rolls" covering one week each.

Accessing the muster rolls was no easy task. It took weeks of running from pillar to post and it was only after the Rozgar Adhikar Yatra occupied the local office of the Irrigation Department that the concerned officials finally agreed to part with two of the three muster rolls. The public hearing convened on 17 October immediately showed that the muster rolls had been fudged. Only 63 of the 320 names on the rolls were genuine. Residents of all the three villages from which the labourers were supposedly drawn attended the public hearing, and they confirmed that the 257 untraceable names were fictitious. That those labourers who actually were employed were paid the statutory minimum wage of Rs 55 per day (so that they do not raise their voice) was corroborated

at the public hearing, but only one fifth of these “labourers” were actually there.

The wages of the other four fifths were appropriated by corrupt officials. Interestingly, however, all the thumbprints in the muster rolls were fake, even in the case of “genuine” labourers. All the labourers present, literate or illiterate said that they had never put their signature or thumbprint on the official muster roll. Instead they had been asked to put it on a different document – the “kacchha muster roll”. The evidence is incontrovertible. The names were checked from the voters’ lists, and checked again in public proceedings available on video tape. Those who attended the public hearing unanimously signed a memorandum summarising the evidence. And the thumbprints on the muster rolls can be easily checked against the samples provided at the public hearing. This explains why the muster rolls were sought to be made inaccessible to the public.

Lakshmangarh, therefore, will be a useful test of the Government’s willingness to crack down on corruption. At the end of the public hearing, a delegation was sent to the District Collector, and the evidence was presented to him. He promised to take action against the culprits. Earlier experiences with most of such exposes are not encouraging. Corrupt officials are rarely caught, let alone punished. The silver lining though is that public tolerance of corruption is rapidly dwindling, making it harder and harder for the administration to remain passive.

What is heartening about the public hearing in Lakshmangarh is that the entire exercise was conducted by local residents with no special expertise in the matter. The verification of muster rolls was initiated by Gangabhai Paikra, an adivasi youngster with five years of schooling.

Once the muster rolls were obtained from the Irrigation Department, verifying them was a simple matter. Therein lies the hope of eradicating corruption in public works: the simple act of making muster rolls readily accessible will empower ordinary people to act as “*freelance inspectors*”.

In fact public authorities are obligated under Section 4(1)(b)(xi) to “... publish...” read along with Section 4(1)(a) to “...maintain all ”

If it can be done in and by the local people themselves without any outside expertise involved as was the case with this public hearing in Lakshmanagarh, it can be done elsewhere in the country. This is the empowerment that the RTI Act, 2005 envisions.

Source: www.indiatogether.org/direct/

Case Study 8: Polluting factory shut down

This story was published by Indian Express, Delhi in August 2004:

Kapil Jain, a resident of Vishwas Nagar in east Delhi, doesn't fancy himself as a hero. "I am an ordinary person who wanted to lead an ordinary life. I live according to the principles of my father," says the 34-year-old, who gave up engineering because his father wanted him to become a teacher.

However, when his neighbour began running an illegal plastic recycling factory, he couldn't sit back and watch. "It was hell, absolute unbearable hell. The walls kept shaking, nauseating gases hung in the air," he says, recalling the circumstances that led him to use the Delhi Right to Information Act.

The factory was started in 1993, a year before he got his job. "But my father would say, 'how can we complain against our own neighbour?'" remembers Kapil. He first complained to the police in 1995 but that didn't bring much relief.

He had almost given up hope and was contemplating selling off his house when he came across newspaper reports on the Right to Information Act in 2001. He has soon picked up a booklet.

In December 2002, he filed a complaint with the Deputy Commissioner of Police and forwarded a copy to the SDM of the area as directed in the booklet. "I visited the SDM's office at least five times between February and August 2003. Finally, I approached the Deputy Commissioner's office again and filed an application under the RTI Act, wanting to know what was happening to my complaint.

"On September 1, I received a reply saying they had forwarded my complaint to the Delhi Pollution Control Committee but no reply had been received. So, on September

3, I filed an RTI application at the DPCC. Then, surprise of surprises, they replied they had already sent an inspection report of the unit categorizing it a polluting unit liable to be shut down,” he says.

Jain got a copy of the DPCC’s letter classifying the unit as illegal and himself approached the SDM. “The factory was sealed the next day,” says Jain triumphantly.

Kapil is angry that nobody has been held accountable for his family’s bad health and losses — including an unborn child. Instead he had to face the ire of his neighbours. The couple now await the birth of their first child in December this year

Source: www.sakshitrust.org

Case Study 9: Five women receive their pension while attempting to file an RTI application

Ramkaran, from Tilonia took 5 women to submit a right to information application on the issue of old age and widow pension to the SDM’s office. The SDM immediately called the concerned officer from the pension department. He told the officer that for the last 4 months these women have not received their pension, and the files should be brought to his table immediately. Before accepting the application he began questioning the officer on the issue.

The officer informed that these women had not filed their birth certificates and that was delaying the release of their pension. The SDM instructed the officer to release their pensions and take their birth dates from Ramkaran and the Patwari (government officer who oversees the matter related to land) of the village. So without filing an application the four women were given their four month pension immediately even though the office had closed down and they would have had to wait for the next day under normal circumstances.

Submitted by Manish Sisodia

www.righttoinformation.org

Case Study 10: Villagers inquire into the whereabouts of village postman

In Bahadur's village, Khandela in Sikar district, Rajasthan, there is a branch post office with a postman who distributes the post in the nearby villages. When he was newly posted there, he worked regularly for 6 months. Then he disappeared. The postmaster would bring the letters to the post office and the villagers had to collect the letters from the post office.

Bahadur says that an application was submitted requesting for information along with a complaint letter to the postmaster regarding the absence of the village post man. In their application the postmaster was asked to supply the information on, how many posts there are in the village, what is the system for distributing the letters and what are the expenses incurred. He did not provide the information but in the next 7 days we spotted the postman distributing letters in the villages again but two months later he disappeared again.

The village postman has been absent from the village for 1.5 years. When we inquired about his absence from the postmaster, the villagers were told that he has been promoted and transferred to another village. When Bahadur, went to submit his right to information application under the Central Act, the postmaster refused to accept it. However, through sources the villagers were able to learn that the fellow who was deputed as postman in their village was the son of an inspector, so he is engaged in his personal work elsewhere, while he still draws his salary to distribute letters in the villages.

Submitted by Manish Sisodia

www.righttoinformation.org

Case Study 11: Unlawful transfer of an honest officer reversed

If people wish, they can force the Government to change its decision by using the right to information.

Alert citizens in Mumbai's Chembur area set a unique example by forcing the Government to reverse the transfer orders of an honest official in their area. Sudhir

Naik, an Assistant Commissioner in Greater Mumbai Metropolitan Council was transferred to the BMC headquarters. He had been to the ward only a year ago but had the image of a good officer. He had initiated projects like “Zero garbage drive” to keep the ward clean and the people were very happy with the results. The cleaning staff had begun to perform their duties. He was suddenly transferred out. The decision to remove him from the area after just a year was not acceptable to the local residents. A member of the Chembur Citizens’ Forum, N Ganeshan talked to an organization working for the right to information in Maharashtra and it was decided to seek information on the transfer of Sudhir Naik. Kewal Semlani of the Rights Group sought details from the BMC over:

- Which officer proposed the transfer of Sudhir Naik?
- As per rules, an officer cannot be transferred before three years. What are the reasons for his premature transfer?
- Whether this is a violation of any laws?

Photocopy of the files involving the transfer were also sought.

But before the beans could spill, Nayak was reinstated in his post in the same ward.

This may be the first instance of the power of public prevailing upon the government to stop the transfer of an official who is considered honest, upright and delivering the goods.

Submitted by Manish Sisodia

www.ndtv.com

Two Madhya Pradesh State Information Commission Decisions

The next two cases are instances where the Act has been invoked to penalize erring officials. They pertain to two decisions of the Madhya Pradesh State Information Commission where penalty was imposed on Public Information Officers for non-compliance with the provisions of the Act.

These cases should provide reassurance to the CSOs that a strong precedent has been set on strict enforcement of the Act.

Decision: (A – 46 / SCI / 06 / Vidisha) (dt. 23.05.2006)

The Madhya Pradesh State Chief Information Commissioner, Mr. T. N Shrivastav, in deciding upon an appeal on 23 May, 2006, imposed a penalty of Rs.25000/- [under Section 20 (1)] on the Public Information Officer (PIO) of the Tehsil office, (Vidisha District).

The PIO, concerned, was found to not only have violated the provisions of the RTI Act, 2005, but also to have given wrong information to the State Information Commission to avoid appearing before it for a hearing.

Mr. Manojkumar Sharma, the appellant, had requested information from the Tehsildar, Gyaraspur, Mr. H. S. Chouhan (also the PIO) with respect to a certain plot of land (in the name of the appellant). It was suspected that the Patwari had fraudulently transferred the ownership of the plot of land in question, in the name of another person, who had forcibly encroached upon the plot of land in question.

The PIO, concerned, was guilty, not only of unreasonably and unjustifiably, not giving the information that was requested, but also of holding back certain information that should have been given to the applicant, and further also of giving such limited information only after the lapse of 100 days from the date when the information should actually have been given to the requester.

It should be noted that strictures were also issued against the First Appellate Officer, Mr. Sharad Shroti for not having decided upon the first appeal within the time limit (stipulated under the RTI Act, 2005) and for attempting to shield the erring officials of the public authority concerned, for his conduct unbecoming of the dignity of his office.

Mr. Shrivastav, thus found the First Appellate Officer unfit to discharge his responsibilities. His decision went on to suggest that, (though the State Information Commission cannot proceed against the First Appellate Officer under the Act) the State Government should consider disciplinary action against him.

Importantly, the decision also draws attention to the larger malaise incident in the functioning and the rather non-transparent processes of the public authority concerned and the neglect of the need for bringing reforms in the same. This, the decision states, is clearly having an adverse impact on the rights of the citizens. The decision clearly states that though this particular issue does not fall within the jurisdiction of Information Commission under the RTI Act, 2005, yet the State Government should take this into account.

The Decision also states that the District Collector concerned, should ensure that the amount of the penalty is deposited and that the State Information Commission is intimated about it.

(The case presented above is a translated version of the MP SIC decision available on its website. Any error or discrepancy while translating is unintentional.)

Decision: (A – 223 / SIC / 53 / Gwalior / 2006) (dt. 30.05.2006)

A penalty of Rs 18,000/- was imposed [under Section 20(1)] on a Public Information Officer (PIO), Mrs. Sajan Aloona, of the District Women and Child Development Office for not having provided the information that was requested by the appellant Mr. Balwant Singh Hehayavanshi.

The Chief Information Commissioner, Mr. Shrivastav found no merit in the reasons provided by the PIO in not giving the information i.e. that the appellant was a suspended government employee and that giving such information would be used in a manner that would adversely affect the ongoing departmental inquiry against the person concerned. However, the Commission found that the PIO was attempting to use Sub sections 8 (1)(e) and 8(1)(h) unjustifiably and only to deny the requested information to the applicant. The decision also rejects the submission of the PIO that she was busy with other duties and therefore could not provide the information in time.

The Chief Information Commissioner also took serious note of the failure on the part of the PIO to give the requested information, in spite of the fact that even the First Appellate Officer (i.e. Collector, Murena district) had upheld the first appeal in favour of the applicant and issued an order that the information (photocopy of the documents

carrying the requested information) be given to the applicant upon the payment of fees as may be appropriate.

Furthermore, the decision stated that the requested information be provided to the applicant within 7 days from the decision and that any failure by the PIO to do so shall be proceeded against under Section 20 (2) of the RTI Act, 2005. The Collector has been asked to ensure that the Commission's decision is carried out.

(The case presented above is a translated version of the MP SIC decision available on its website. Any error or discrepancy while translating is unintentional.)

Appendix 1

Some Important Questions

(1) When did the Right to Information Act, 2005 come into force?

The Right to Information Act came into force fully on the 12th October, 2005 (120th day of its enactment i.e., 15th June, 2005). Some provisions came into force with immediate effect viz. obligations of public authorities [Section 4(1)], designation of Public Information Officers and Assistant Public Information Officers [Sections 5(1) and 5(2)], constitution of Central Information Commission [Sections 12 and 13], constitution of State Information Commission [Sections 15 and 16], non-applicability of the Act to Intelligence and Security Organizations [Section 24] and power to make rules to carry out the provisions of the Act [Sections 27 and 28].

(2) Who is covered under the Right to Information Act, 2005?

The Act extends to the whole of India except the State of Jammu and Kashmir [Section 1].

(3) Are “file notings” included in the definition of Information?

Section 2 (f) of the RTI Act defines ‘information’ which includes ‘record’. Section 2(i)(a) states that a ‘record’ includes any document, manuscript and file. The operative definition of a ‘file’ is given in the Manual of Office Procedure prepared by the Central Secretariat, Government of India. The definition of ‘file’ in the Manual includes ‘notes’ and ‘appendices to notes’.

In CIC Decision No. ICPB/A-1/CIC/2006 dt.31.01.2006, the CIC held that “file notings are not, as a matter of law, exempt from disclosure”. Thus, file notings can be disclosed under the Act.

(4) If the law under which a Public Sector Unit (PSU) has been constituted does not allow access to information to the people such as agendas of board meetings etc., will such information have to be given under the RTI Act?

PSUs fall within the category of public authorities. Even if the law constituting a PSU does not allow disclosure of certain categories of information, the RTI Act, 2005

overrides any such law in existence. Hence the designated PIO for the organisation under question has to provide the information.

However, if an applicant seeks information, that includes commercial confidence, trade secrets or Intellectual Property Rights (IPRs) etc. the disclosure of which will affect the competitive position of that PSU, such information may not be given unless there is a larger public interest involved.

(5) Government offices have been providing information to people on the basis of their oral requests in the past. Does the RTI Act require such informal practices to end?

No, there is no need to discontinue the conventional and informal practice of giving information upon oral request. The RTI Act does not put an end to such practices. If information can be given without delay upon oral request it is better to give such information to the requester rather than require him/her to put in a formal application. This helps reduce paper work for the public authority.

(6) Can Government officers get access to Annual Confidential Reports (ACRs) under the RTI Act?

As per decision No.18/IC(A)/2006 dt.28.03.2006, the CIC held that “the assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8 (1)(j) of the RTI Act”.

In the case stated above, the Central Information Commission upheld the public authority's (Indian Oil Corporation's) decision that 'Annual Performance Appraisal Reports' cannot be shared as they are confidential in nature.

(7) Can students ask for copies or inspection of their answer scripts if they are unhappy with the marks awarded by the examiner in public examinations?

The present position is that the Central Information Commission has ruled, on an appeal submitted to it, that students cannot have access to answer scripts / supplements [CIC Decision No. 22/ICPB/2006 dt. 18.05.2006] .

(8) Every department performs different kinds of functions at different levels of operation from the Secretariat to the Taluka/Village level. Will disclosure under Section 4 (1) (b) have to be made for every one of these levels separately?

Yes. In several states more than one public authority are notified within every department from the secretariat level to the district and sub-district levels. Every such public authority will have to develop its own proactive disclosure documents or Information Handbooks unique to its powers, functions, area of operation etc.

Section 4 (1)(b) is designed to ensure that public authorities disclose certain information which are important to the public voluntarily at every level of operation. It is to be noted that, if implemented properly, Section 4(1) (b) will reduce the workload of officials and public authorities with regard to the requirement of providing information on request. This is because the information which is regularly needed by the public can be accessed by them without the need of going through a process of making specific request.

(9) Will not the publication of the 17 manuals mentioned under Section 4(1)(b) be very difficult and burdensome?

The requirement to publish 'manuals' reflects the objectives of Section 4 (1)(b) for proactive disclosure on the part of every public authority, which is simply to publish and disseminate key information routinely in a manner and form which is easily accessible and understood by the public [Sections 4(3) and 4(4) of the RTI Act which specifically require this].

The 17 subsections of Section 4(1)(b) are 17 categories of information that a public authority is required to prepare and disseminate proactively through handbooks, notice boards, print and electronic media etc.

Most of the information required to be published proactively under this section may already be available within the public authority albeit in a scattered manner. These will need to be collected and collated to fulfil the requirement of Section 4(1)(b). Several officials are pleased with Section 4(1)(b) as it will help them streamline their

own recordkeeping, monitoring and reporting procedures. Once the information is compiled and published in a suitable format it will be easy to update it.

Furthermore, not every public authority may be required to collate information under all categories of Section 4(1)(b). For example, the Finance Department in a State may not be issuing any permits or concessions. As it does not perform such functions the Finance Department will not be held at fault for not including this category of information in its Public Information Directory.

The CIC has, in one of its letters (dt. 10.05.2006) to all Ministries / Departments, stated that “it is in the interest of the public authorities to make available all the 17 manuals to the citizens, which is likely to reduce the volume of requests for information under the RTI Act”.

If appropriate management information systems are developed and maintained by departments using information and communication technologies, the preparation of the information to be published at different levels annually can be a simple affair

(10) Is it enough to disseminate information under Section 4 (1)(b) on the Internet?

Information under Section 4 (1) (b) shall be disseminated through notice boards, news papers, public announcements, media broadcasts, the Internet or any other means.

(11) Is it enough to publish information under Section 4 (1)(b) only once at the time of the commencement of the RTI Act?

No. The Act requires that every public authority has to update its publications under Section 4(1)(b) every year. The Central/State Government/ Departments will have to come out with general instructions for time-bound updating of all categories of information, including formats for publication. Every public authority may in turn publish updated information that is specific to its functions following the guidelines.

(12) What will be the penalty if a public authority/department is not able to meet the deadline for proactive disclosure (120 days)?

It is advisable to publish as much information as possible under Section 4(1)(b) and give it wide media publicity so that people know that the public authority/department is earnest about implementing the law. Any person can make complaint to the relevant Information Commission under Section 18 (1)(f) of the Act and the Commission may even require the public authority to compensate the complainant for any loss or other detriment suffered.

It must be noted that the Information Commission has the power under Section 19(8)(a)(vi) to receive from a public authority an annual compliance report in relation to Section 4 (1)(b). This reporting mechanism will technically make the public authority answerable to the Information Commission for all acts of commission and omission in relation to proactive disclosure.

(13) Can a request be denied if it is too big? If not, how can we handle such requests best? How much information can a citizen request in one application? If he/she asks 20-30 kinds of information in one application should it be given? Or should the citizen be asked to put in fresh applications for each point of information requested and also be asked to pay application fees every time?

The Act does not permit rejection of an application simply because it relates to a large number of documents. Under Section 7 (9), information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority. A PIO can request the applicant to visit his/her office personally and inspect the required documents or files. However, the PIO shall communicate the date and time to the applicant for such inspection. The PIO has to determine and justify what constitutes 'disproportionately divert resources'.

An applicant can ask for 20 to 30 different kinds of information in the same application and cannot be asked to apply afresh.

If the information published under Section 4 (1) (b) of the Act is comprehensive and proper information systems are maintained to enable such publication, even if an applicant requests for many pieces of information, the same can be provided to the applicant without much difficulty. Appropriate record management systems need also to be instituted.

(14) If in a single application the applicant requests information that relates to a public authority and also other public authority/authorities, is the PIO responsible for giving all that information himself/herself?

The RTI Act makes it clear that the PIO has the power to transfer an application or parts of it if the same relates to information held by another public authority [Section 6 (3)]. The application shall be transferred to the PIO concerned immediately - within 5 days - and the applicant has to be informed about the transfer in writing.

(15) Is it possible that some elements may misuse this law and use the information to blackmail/threaten officers?

The fact that the Act requires making as much information as possible available with the public authorities in the public domain may actually prevent blackmail to honest and sincere officers. If information is divided into two types, namely 'open to disclosure' and 'not open to disclosure', that which is not disclosed must be based only on the exemptions stipulated under the Act. Thus, the question of blackmail or threatening may not arise. As far as possible, information must be made public so as to reduce any possibility of blackmail. An honest and sincere officer need not fear blackmail at all. Strict adherence to the law would facilitate smooth functioning of such officers as they will be protected by law.

(16) Some unscrupulous elements may misuse the copies of documents they access under the RTI Act. How does one prevent such misuse of information released under the RTI Act?

The Government may have to devise a means of authenticating documents released under the RTI Act to ensure that they are not misused. One suggestion is to mark every page of a document accessed under the RTI Act with a rubber stamp impression saying -"Document released under the RTI Act containing XX pages." If electronic files are requested the same may be provided in PDF or TIF format on floppies or CDs. This will also obviate the need for certifying the documents separately if the requester wishes to use the same in some litigation.

(17) If there is a flood of applications for inspection of records how will the PIO provide access to all applicants and also do justice to his/her other designated duties? What if one such applicant mutilates or destroys a record during inspection?

Under the Act, every public authority will need to designate as many PIOs as may be required to deal with requests for information from citizens. The PIOs may fix one or two particular days in a week for inspection of records. The Competent Authority needs to make rules and guidelines for public authorities regarding the procedure to be followed for allowing inspection of records [The Public Records Rules (1997), Rule No. 11(2) prepared by the Government of India may be adopted as a model].

It is important that the PIO takes adequate precautions for the safety of records being inspected. If, however, it is found that a person examining a record or document has mutilated or tampered with the document or attempted to do so it will be appropriate for the PIO/public authority to lodge a criminal complaint immediately.

(18) If the same kind of information is sought by more than one person should it be made available to all such requesters?

Yes, it has to be made available. However it is advisable that such records be digitised as far as possible and uploaded on the Internet to facilitate easy access.

(19) If the information requested by a citizen has already been proactively disclosed can a PIO refuse to accept the request?

There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. If such information is requested the same can be provided in the available formats upon payment of fees/charges at rates prescribed by the Government.

(20) Is the Assistant Public Information Officer (APIO) an assistant to the Public Information Officer (PIO)?

No, the APIO is not an assistant to the PIO. A Central / State APIO (as the case may be) may be designated at the sub-district or sub-divisional level where a public

authority may not have an office or administrative unit [Section 5(2)].

Designation of APIOs is particularly useful for Departments of the Government of India which rarely have offices below the district level. However, it has been decided that the CAPIOs of Department of Posts will also act as CAPIOs for other Central Government Public Authorities, which do not have an office / or an administrative unit operative at the sub-district / sub-divisional level.

These CAPIOs (of the Department of Posts) will receive requests on behalf of the Central Government public authorities and forward them to the CPIOs concerned.

(21) If the information requested by the applicant is in the possession of the APIO should he/she not give that information to the applicant?

Under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith – within five days.

(22) If a PIO has touring duties as well, then he will not be physically present to receive application in the office. Will his absence amount to refusal to accept information request?

The best solution for such situations is for the public authority concerned to designate another official within the same public authority (to act as PIO) and to receive applications. The duty of this PIO in maintaining the PIO's register will be the same. This will ensure that citizens' applications are always received to suit their convenience and prompt action is taken on the same.

Incidentally, a particular public authority may appoint multiple numbers of PIOs such that each PIO is designated for a specific area of the organisation's functioning. Yet, if an applicant approaches any PIO, he/she cannot refuse to accept the application on the ground that it does not belong to his/her jurisdiction.

Accepting the application, the PIO has to seek the requested information from the officer/s in control of the requested information (who may be another PIO, but for the purpose of dealing with this application, he/she becomes an 'Other Officer' – in control of the requested information). He / she cannot direct the applicant to take his

/ her application to the other PIO.

(23) Will Panchayats/Municipalities (or any local authority) have to appoint PIOs irrespective of the size of their office / administrative unit?

Yes. Every public authority shall have to appoint a PIO, irrespective of the size of its office / administrative unit.

(24) Should BPL applicants be charged the further fees for providing information requested?

Persons belonging to the 'Below Poverty Line' category cannot be charged any fees / charges at all. The form of access can be decided by the PIO concerned subject to the provision of the Act that information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority.

(25) If the applicant does not pay the additional fees towards cost of providing information within the 30 days deadline will the PIO be penalised for failing to provide information to the applicant?

No. The PIO will not invite any penalty in such cases. The 30-day clock stops ticking from the date of dispatching the intimation for further fees issued by the PIO and restarts on the date on which the applicant pays the additional fee [Sections 7(3)(a) & 7(3)(b)].

For example, if the PIO dispatches the intimation letter on the 5th day from the date of receipt of the complete application only 5 days would have elapsed out of the 30 days limit. The clock will restart on the date on which the applicant pays the 'further fees'. The PIO will have to provide the information within 25 days from the date of payment of such further fees. If the applicant chooses to seek a review of the additional fee from the appellate authority or the SIC/CIC the period taken for giving a decision on this matter (if it is decided that no further payment is needed) or for actual payment of further fees (if it is decided that further fees would need to be paid), will not be included in the 30 day limit

(26) If the applicant does not respond to the intimation letter of the PIO requesting payment of further fee will the PIO be duty-bound to provide information to the applicant? Will the PIO be duty-bound to provide information within 30 days even in such cases?

No. The PIO is not duty bound to provide information to the applicant in such cases. The RTI Act states very clearly that the PIO will provide access to information only upon payment of further fee as may be determined [Section 7(1)] by him/her (for non-BPL cases).

(27) Are officials required to give information about themselves and their families under the law? Can the public request this kind of information? Should it be given?

Officials are not required to provide private or personal information which is exempted under Section 8(1)(j) of the Act. Again, this must be decided on a case by case basis (as has indeed been the case with the decisions of the CIC). If public interest is served by disclosing such information then it must be given.

(28) Can any citizen ask any information that is more than 20 years old even if it does fall within the category of exemptions? Will the PIO be penalised if he/she is unable to provide such information?

Yes, any citizen can ask any information more than 20 years old held by or under the control of a public authority, irrespective of whether the information requested falls within the category of exempted information or not. Nothing in the Act bars a citizen to ask for such information. The PIO concerned has to provide information 'held' under the control of the public authorities subject to the provisions of the Act relating to exemptions stipulated under the Act.

(29) In cases where building plans and designs of bridges or other important public structures have been requested and if the PIO has reasonable suspicion that the applicant will use those plans for commercial purposes and make a profit out of it, should such information be given?

If disclosure of building plans and designs would prejudicially affect the economic or security interests of the State or if they relate to commercial confidence, or trade secrets or intellectual property rights, the disclosure of which would harm the competitive position of a third party, then such information would attract exemption under the Act. However, if the concerned authority is satisfied that larger public interest warrants the disclosure of such information, the same can be disclosed.

(30) If a case is still under consideration (i.e., 'live' or 'current' file) for final decision, can that file be made available to the requester before the decision has been taken?

A request cannot be rejected on this ground. The requester will have to be given the requested information. It is important to note, however, that such disclosure cannot run contrary to the provisions of the Act that exempt certain categories of information. If so, the PIO cannot provide such information, but has to clearly state the reasons for not doing so. If partial disclosure is possible and is not exempted, then the PIO should disclose that part of the record.

(31) What if existing departmental manuals prevent disclosure of information to the people?

All such manuals were drawn up before the RTI Act came into force. These manuals will have to be reviewed in the light of the new law and all procedures for denying access to information will have to be done away with unless they relate to the exempt categories of information. Even in the case of exempt information the manuals should be so designed as to facilitate complete or partial access in the public interest. All new departmental manuals likely to be drawn up in future must conform to the new regime of transparency set up under the RTI Act, 2005.

(32) Periodic weeding of files results in destruction of many documents which are not important enough to maintain for as long as 20 years or more. So it will not be possible to give such information after they have been destroyed. Will the PIO be penalised for this?

If a record has been destroyed legally the question of penalisation does not arise. But the RTI Act clearly requires a review of all weeding practices in existence to ensure that information which could be requested under the Act is not destroyed. More generally, it is necessary to consider a review of current records management processes.

(33) What is the process for taking a decision on granting partial access to a record? Who is the authority to make this decision within a public authority?

Section 10(2)(b) of the RTI Act makes it clear that the PIO is the deciding authority for granting partial access to records that may contain exempted information. However, when partial information is disclosed the PIO needs to provide valid reasons for the decision. He also needs to mention his name and designation as the decision maker and the applicant's right with respect to the review of the decision, including the particulars of the AO, time limit, process etc.

Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided.

(34) Will the APIO be punished for giving wrong or misleading information just as a PIO can be penalised under this Act?

Given that, under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith - within five days, the question of punishment for an APIO for giving wrong or misleading information does not arise.

In one of its decisions, the CIC has stated that the APIO has a limited role of transmitting applications and appeals to their proper destination... and that the APIO's responsibilities are not co-extensive with the PIO.

(35) Will a PIO be penalised if the superior officer orders him not to release information to the requester?

It needs to be mentioned here that the PIO must note that it is not necessary on his / her part to seek the permission / approval of a superior officer of the public authority

concerned for providing information under his / her control. The Act is clear about the fact that the PIO is an independent authority under the law and no approval is required from any superior official to release the requested information.

If a PIO acts upon any order of his/her superior and malafidely rejects requests fully / partially, he/she is liable to be penalised under the Act.

In case the information sought for is not available with a PIO, he/she can take the assistance of any other officer including asking for information under that officer's control and such officer will be treated as a PIO for the purpose of the Act and its penal provisions.

In the event a PIO seeks information from another official for providing information, his/her communication and receipt of information (to and from the other official) should be put down in writing and a proper record of the same should be maintained. This will be helpful, in the defense of the PIO concerned, should the information, turn out to be misleading or wrong, and an appeal is made against the PIO.

(36) If the information given by the PIO in response to a request turns out to be wrong, false or misleading but the PIO was not responsible for the creation of that record or such information will he/she be penalised by the ICs?

The RTI Act provides protection to the PIO for 'action taken in good faith'. If the requested record has not been prepared by the PIO but by some other officer or if the data compiled by the PIO was received from some other officer and the PIO merely passed on that information to the applicant without having prior knowledge that such information was wrong or false or misleading he/she is not guilty of an offence under the RTI Act. The Information Commission will penalise PIO only in such cases where it may find him/her guilty of giving wrong, false or misleading information in a malafide manner.

(37) What if the applicant claims that he/she did not receive the intimation letter from the PIO and files an appeal with the AO and the Information Commission? Will the PIO be penalised?

The PIO would do well to maintain a copy of the intimation letter in his/her records for use in such cases. Furthermore, the PIO may send the intimation letter Under Certificate of Posting (UCP) to the applicant. This should be ample proof that the PIO had taken action in good faith. The PIO will not attract penalty in such cases.

The law requires that the PIO be given an opportunity to present his/her case before the relevant Information Commission issues a decision imposing penalty. But a default may invite penalty for the PIO.

(38) The PIO continues to be under the purview of the Official Secrets Act (OSA) of 1923. How will he reconcile his duties under the RTI Act with the secrecy required to be maintained under the OSA? What happens to the oath of secrecy every officer is required to take while joining service?

It must be noted that the provisions of the RTI Act, 2005 shall be effective notwithstanding anything that may be inconsistent with its provisions in the Official Secrets Act, or any other Act of the Union or the State Governments (see RTI Act, 2005, Chapter VI, Section 21).

The 'Oath of Secrecy' taken by Government employees therefore only applies to the information that has been exempted from the ambit of the provisions of the said Act. Broadly, this exempted information pertains to matters / issues related to national security, defence, and integrity of the country. The Oath will not be adequate and the test of public interest is the overriding consideration.

(39) What is "Public Interest"?

In the Indian context, and especially in the context of the RTI Act, 2005, a significant judgment of the Supreme Court of India can be taken note of in understanding the term "public interest".

In '*S. P. Gupta v President of India*', AIR 1982 SC 149, Justice Bhagwati, in referring to 'public interest', maintained:

"Redressing public injury, enforcing public duty, protecting social, collective, 'diffused'

rights and interests vindicate public interest... [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.”

In *State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others* AIR 2006 Supreme Court 212, the Apex Court held “the interest of general public (public interest) is of a wide import covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]”.

One of the decisions of the Central Information Commission also throws some light on this term. Public interest includes “disclosure of information that leads towards greater transparency and accountability” [in the working of a public authority] (Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006).

(40) Who are the Appellate Authorities and what are the key provisions for appeal under the Act?

1. First Appeal: First appeal to the officer senior in rank to the PIO in the concerned Public Authority within 30 days from the expiry of the prescribed time limit or from the receipt of the decision (delay may be condoned by the Appellate Authority if sufficient cause is shown).
2. Second Appeal: Second appeal to the Central Information Commission or the State Information Commission as the case may be, within 90 days of the date on which the decision was given or should have been made by the First Appellate Authority (delay may be condoned by the Commission if sufficient cause is shown).
3. Third Party appeal against PIO's decision must be filed within 30 days before first Appellate Authority; and, within 90 days of the decision on the first appeal, before the appropriate Information Commission which is the second appellate authority.
4. Burden of proving that denial of Information was justified lies with the PIO.
5. First Appeal shall be disposed of within 30 days from the date of its receipt. Period

extendable by 15 days for reasons to be recorded in writing. [Section 19 (6)]

6. There is no time limit prescribed under the Act for deciding second appeals.

(41) What is the jurisdiction of courts?

Lower Courts are barred from entertaining suits, applications or other proceeding against any order made under this Act [Section 23]. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the Constitution respectively remains unaffected.

For a more comprehensive and up-to-date understanding of the intricacies of the RTI Act, it is suggested that www.cic.gov.in may be referred to.

Appendix 2: Proformae for Registers to be Maintained by the Public Authorities

Proforma 2A:

Register of Applications Received and Forwarded by Assistant Public Information Officer (APIO)*

Name of Department:

Name of Public Authority:

Name of Assistant Public Information Officer:

Designation:

S. No.	Name & Address of the Applicant	Date of Application	If Application for Information:		If Application for First Appeal:		If Application for Second Appeal:		Date of intimation to the Applicant	Communication from PIO/AO/IC, if any
			Name & Address of the PIO to whom forwarded	Date of forwarding the Application	Name & Address of the first Appellate Officer (AO) to whom forwarded	Date of forwarding the Appeal	Name & Address of the Information Commission	Date of forwarding the Appeal		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

* To be maintained by Assistant Public Information Officer (APIO)

Proforma 2B: Register of Requests for Information to & Disposal of Requests by Public Information Officer (PIO)*

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Request Application No. & Date	Name of Applicant & Address	Whether applied to Asst PIO or PIO	Date of Receipt by PIO	Category of Applicant: BPL/ Other	Brief Description of Request for Information	Involving Third Party Information or Not	Involving Section 24 Approval of IC or not	Date Application Fee Paid	Amount of Application Fee Paid	Date of Intimation of Further Fee/ Cost
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Date of Further Fee/ Cost Paid	Amount of Further Fee/Cost Paid	Last Date of giving Information as per Time Limit	If Information provided, details				If rejected, details		Whether Appeal made against the Decision	Any Other Information
			Date Information Provided	Whether Full Information Provided	Whether Partial Information Provided	Whether Third Party Information Provided	Date of Rejection	Section under which information denied		
(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)

* To be maintained by Public Information Officer (PIO)

Proforma 2E: Register of First Appeals against Decisions of Public Information Officers*

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Appeal No. & Date	Name of Appellant & Address	Category of Applicant: BPL/ Other	Date of Receipt of Appeal by Appellate Officer	Name & Designation of PIO against whose decision Appeal filed	PIO's Decision No.	Date of Decision by PIO
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Section of RTI Act under which Access to Information denied **	Last Date of deciding Appeal as per Time Limit	Date of Decision by Appellate Authority	Whether Appeal Upheld	Whether Appeal Rejected	If Rejected, Section under which Access to Information denied	Whether Second Appeal has been preferred before Information Commission **	Any Other Information
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

* To be maintained by First Appellate Officer (AO)

Proforma 2F: Register of Implementation of Decisions / Suggestions of Information Commission*

Name of Department:

Name of Public Authority:

Sl. No.	Reference No. from Information Commission	Date of Reference	Details of Decision	Action taken to Implement Decision	Details of Compensation to be Paid by Public Authority	Details of Compensation Paid	Details of Penalties Imposed
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Details of Penalties Collected	Details of Disciplinary Actions Recommended by Information	Details of Disciplinary Actions Taken	Suggestions of Information Commission	Details of Action Taken to Implement the Suggestions	Other Significant Actions Taken	Any Other Information
(9)	(10)	(11)	(12)	(13)	(14)	(15)

* To be maintained by Public Authority

Appendix 3

RTI and Social Audit Safeguards under NREGA, 2005

Major Bottlenecks in Implementation of Employment Guarantee Scheme	RTI and Social Audit Safeguards
Planning Stage	
1. Required works and projects not identified.	<p>1. To make a participatory and transparent process of planning mandatory at each panchayat, with the monthly involvement of the village community and a periodic involvement of the gram sabha. The panchayat functionaries would present, before the gram sabha and before smaller peoples' groups:</p> <ul style="list-style-type: none"> - the list of projects identified, - their relative priority, - their possible locations, - the labour/skill/material and financial inputs required. <p>The suggestions of the gram sabha and the smaller consultative group would be taken into considerations before finalisation.</p> <p>2. The gram sabha would also review the progress of the planning and preparation whenever it meets, with a smaller consultation taking place each month.</p> <p>3. The gram sabha would also discuss the work plans and other details of the finally accepted shelf of projects and works, before these are finalised.</p>
2. The works and projects identified are not satisfactory in terms of	
<ul style="list-style-type: none"> - Location - Do-ability - Financial and/or temporal viability - Sustainability - Social value - Ability to absorb the allocated workforce - Others 	
3. The work plans are not properly developed.	
4. The required materials and other inputs are not procured.	
5. The required expertise is not identified.	<p>2. The gram sabha would also review the progress of the planning and preparation whenever it meets, with a smaller consultation taking place each month.</p> <p>3. The gram sabha would also discuss the work plans and other details of the finally accepted shelf of projects and works, before these are finalised.</p>
6. Genuine names are not registered	<p>1. List of applicants with the date of application would be put up weekly on the notice boards.</p> <p>2. Public readings of the names with dates and other details every two weeks in public meetings at the village level, and in the gram sabha, whenever it meets.</p> <p>3. List of those whose registration was refused, with reason for refusal, also on notice board and read out publicly.</p> <p>4. Register with names and addresses available on all working days at the panchayat house, updated daily and open for inspection.</p>
7. The dates of registration are not properly recorded.	
8. Acknowledgements are either not given or are inaccurate.	
9. Fictitious names are registered or names are registered twice.	

Major Bottlenecks in Implementation of Employment Guarantee Scheme	RTI and Social Audit Safeguards
Implementation Stage	
1. Giving out of turn preferences to preferred applicants.	1. List of those applicants allotted work, along with their date of application and the type and location of work allotted would be put up on the notice board every week and read out in a public meeting every two weeks.
2. Giving better locations/works to preferred applicants.	
3. Not informing applicants in time or appropriately of the work allocated to them.	2. List, indicating the manner and date on which those applicants who did not take up the allotted work were informed of the allotment, would be put up on the notice board every week and read out in a public meeting every two weeks.
4. Not maintaining the required transparency and conducting the required social audits.	1. Public reading of the relevant clauses of the act every two weeks in a public meeting, and a public discussion on whether the clauses about transparency and social audit are being enforced.
5. Not getting proper quantity or quality of materials required.	1. Access of information/records using provisions of the EGA and, where required, the RTI Act.
6. Not having the required skilled and semi skilled labour.	2. Preliminary scrutiny and compilation of information, and prioritisation of issues.
7. Not maintaining proper timings.	3. There will be a social audit at each gram panchayat every six months. This social audit will assess the planning and implementation of each of the Employment Guarantee Scheme components and also look at the work done under the Employment Guarantee Scheme and the durable assets created.
8. Allowing the work to get delayed.	
9. Not providing the required facilities to the workers.	4. As the effort would be to start an intensive process of public monitoring and social audit in a selected few districts initially; the detailed methodology would evolve through the process of doing.
10. Not paying wages on time.	
11. Not paying the full wages.	
12. Not maintaining accurate records.	
13. Not filling in job cards properly.	
14. Not operationalising the requisite grievance redressal mechanisms	
15. Not recording grievances.	
16. Not acting on grievances.	
17. Not ensuring the quality of the work/ creation of a durable asset.	
18. Not respecting the prescribed labour/ material ratio.	
19. Late or non-payment of unemployment allowance.	
20. Ghost works.	

Source: www.nrega.nic.in

Appendix 4

Guidance Notes for Social Auditors

Social Audit is a process which should be implemented in a participatory manner by engaging all stakeholders. The major steps involved in the social audit process are:

Step – 1: Defining Boundaries of Social Audit

The first step of social audit is to identify the specific process, programme or scheme which is to be audited.

- Focus of social audit: Identification of the works to be audited
- Context of social audit: Detailing the core values, objectives, expected outcome, roles of the functionaries of the Government department in question
- Framing objectives for social audit: The objectives should be realistic and relevant and strategy has to be prepared on what can be achieved

Step – 2: Stakeholder Identification and Consultation

The second step of the Social Audit process is to identify the stakeholders to be consulted and determining how often these stakeholders could be included in the 'dialogue' process. Selection of representatives for consultation is to be unambiguous and transparent and should cover maximum stakeholder groups.

- Identification of stake holders: Stakeholders may constitute implementing organizations, policy makers, staff (technical & non-technical), contractors, direct and indirect beneficiaries, consultants, funding agencies, complainants etc.
- Consultations: The frequency and mode of consultation with the stakeholders to extract accurate and needed information is to be decided based on the scenario. These consultations should be objective, unbiased with informal dialogue and help in building trust and confidence.

Step – 3: Developing Social Indicators and Data Collection

- Social indicators: The indicators for measuring performance against the objectives are to be identified and developed. Each indicator should lead towards an answer on a particular piece of outputs or results. These indicators are derived from the values, objectives and design of the department/ programme, involvement of stakeholders and society.
- Qualitative indicators present descriptive information and quantitative formulation of indicators can only be used for items that can be counted.
- Data collection: Two types of data are crucial. Secondary data collected from Government documents and reports and primary data collected from stakeholders and community members.
 - Secondary information: Secondary data collection is central to the Social Audit process. Information required for preparing social accounts may not be available in single point but may be in different records in different forms. The information from different records must be put together to undertake a Social Audit.
 - Primary information: The primary information may be collected by using quantitative (survey/questionnaires) and qualitative methods (interview schedules/transect/onsite visit).

Step – 4: Social Accounts Preparation and Verification

- Preparation of social accounts: Sorting the collected information is an important task as it would be the ultimate source code book for conducting the social audit.
- Consolidating the collected information: This is for dissemination to the public during the social audit process and is an important task. The data collected is to be tabulated according to the requirements. Tabulating the data into tables and charts helps in creating more clarity on the social account.

- Physical verification: Activities and processes under programmes and schemes that are being subject to a Social Audit are to be physically verified. It is also important to check whether the programmes or schemes comply with administrative and technical records. If the verification pertains to a material work, presence of a technical expert is appreciated. The findings should be recorded properly with utmost care.

Step – 5: Public Hearings (*Jan Sunwais*)

- Preparation before public hearing: It is important to initiate a thoughtful public process in advance for the public hearing. Hearings often leave citizens with the impression that it can be intimidating to the questioned who are not accustomed to public speaking. Involving citizens from the early stages of the process of social audit works well in mobilizing the community. Some of the steps mentioned here are to be taken into consideration before the actual public hearings are held.
- Community mobilisation: Bringing together all the members of a community, discussing and securing their cooperation can be motivated through a participatory approach. This can also be initiated through the leaders in the community, by assisting or helping people to publicizing the event and generating interest and awareness in the community. Some methods to initiate community mobilization are:
 - Interactions with different people in the community
 - Meshing campaign message into outreach programmes of Civil Society groups
 - Use of mass media/ public addressing system
 - Puppet shows
 - Distribution of posters, leaflets, stickers, booklets, pamphlets
 - Use of informal communication methods (street theatre, wall

paintings and posters behind rickshaws and comic cards) and unique sign-up and celebrity endorsements

- Rallies (on foot)
 - Door-to-door-campaigns
 - Formation of human chains
 - Approach the media through press conferences
-
- Stakeholders' involvement: Concerned officials and other stakeholders may possibly be informed about the social audit with a formal invitation to observe the procedures and to respond the concerns raised by the community.
 - Information dissemination: Information gathered from primary sources should possess appropriate evidence as this information plays a crucial role in social audit process. The evidence required should be reasonable, not too intrusive and it should be clearly linked to the indicator.
 - Public Hearing: A formal arena for discussion might be appropriate for presenting the information before the people. There needs to be space for a clear presentation of what was planned and what has been officially reported and accounted for, followed by the presentation of any evidence or testimonies which challenge the official version. This needs to be sequenced and proofread so that people can pass a final judgment or make recommendations.

Source: Handbook on Social Audit, CGG, 2006

Appendix 5

List of Select Web Resources on Right to Information

- www.righttoinformation.gov.in
- www.rti.gov.in
- www.cic.gov.in
- www.r2inet.org
- www.righttoinformation.info
- www.freedominfo.org
- www.indiatogether.org
- www.humanrightsinitiative.org
- www.parivartan.com
- www.prajanet.org
- www.geocities.com/mahadhikar
- <http://groups.yahoo.com/group/mahadhikar>
- <http://indiarti.blogspot.com>
- <http://groups.yahoo.com/group/kria>
- <http://www.delhigovt.nic.in/right.asp>
- <http://www.nagrikchetna.org/>
- <http://www.mahadhikar.org/>
- www.nyayabhoomi.org
- www.agnimumbai.org
- <http://www.adrindia.org>
- <http://www.annahazare.net>
- <http://www.respondanet.com/>
- www.article19.org
- www.policypowertools.org
- <http://www.info.gov.hk/access/code.htm>
- <http://www.faife.dk/>
- <http://www.globalknowledge.org>
- www.opendemocracy.org.za
- www.freedomhouse.org
- www.foiadvocates.net
- www.ifitransparency.org
- www.transparency.org