

The Government can pledge for its people!

While activists across India are gearing to launch a National Right to Information campaign in July 2006, the government bodies and public authorities need to gear up and device mechanisms to address matters. The crusade **“Let us all pledge: I will never pay any bribe. I will rather use RTI.”** from the public side is to fight corrupt practices in government offices through promoting the use of Right to Information Act to derive information or while interacting with government officials.

To address its people’s call, the government can show greater empathy and preparedness to implement the RTI campaign. Although the Government in recognition of public demands and to improve governance promulgated the Right to Information (RTI) Act in 2005, it still needs to do more on the implementation side. This paper intends to provide few suggestions that can help first public authorities improve implementation of the law and second empower citizens by providing timely and sufficient information. Access to information should be such that it avoids invoking the legal machinery or the RTI act. This in effect will gain legitimacy for the government with its people.

A brief study was conducted by the author to assess the implementation procedures adopted at the State level after 3 years of the RTI Act came into operation. Inferences were drawn during the study and some of the key messages that emerged to improve access to information are discussed below. The approach of the study was to assess the RTI legislation against previously developed benchmarks, evaluate implementation machinery of 2-3 public bodies by interviewing department Officers, personal observations, reviewing documents and analyze RTI decisions given by the Appellate Tribunal.

It was found that although the preamble of RTI legislation empowers citizens with a right to know and seek information from all State and public bodies, it does not mandate a commitment or impose an obligation on public departments to provide accessibility. Citizen’s need to be sufficiently empowered, not only through the grant of a right but also attended to by their government automatically providing information and inundate citizens with information about its working. There should be *suo motto* and proactive disclosure of all kinds of information, rather than citizen’s seeking or invoking the RTI law for it. The mandate for the public authorities being that disclosure is the rule while refusal is only in narrowly defined exceptional circumstances.

The State under study took a lead in promulgating the law but has done little in the application of law: Proactive disclosure of information is limited to citizen’s charters that do not carry comprehensive information, and are not sufficiently displayed for public access. These should be readily available at the reception desk in electronic and printed media and in both English and Hindi languages. Sub-optimal efforts have been made to disseminate information to public, familiarize Officials and public about the law and to imbibe it within the culture of government departments. No mechanisms exist to review and monitor its success. Further even though the State instituted a Centre of Good

Governance to develop processes to establish good governance, it has an imperative need to ensure capacity building within its institutions.

Inferences were drawn from the data collected, which were, that in order to achieve a robust access to information regime it is imperative that government adopt certain immediate and medium term procedures. Two aspects that need immediate attention to establish effective legislative machinery and improve transparency and accountability are: a) Prevailing “culture” and “mind-set” amongst public authorities of secrecy and reluctance to part with government information. Team leaders within the government should give clear, strong and regular directions either through circulars or notices to various departments and agencies to improve access within stipulated deadlines. In addition, from time to time provide guidelines and compliance procedures for RTI regulations. b) Active participation and stronger commitment on part of government by establishing an Institutional Advocate. The government may create three key institutions: i) An institutional advocate to promote, propagate and disseminate information, ii) Establish a self-auditing review procedure that helps to assess performance of various departments, and iii) Performance based incentive schemes for government officials that encourage access to information and its benefits.

Specific actions that the government can immediately adopt are:

i) **Suo Motto Disclosure:** Responsibility and duty be cast on public bodies to proactively and regularly disseminate updated information compulsorily to public. This envisages providing information within specified timelines, without citizens seeking for it. To expedite disclosure a manual or guide is prepared that categorizes information as: a) Non-classified information that is automatically disclosed; b) Classified Information that is sought through a procedure but can be refused only in specified and rare situations.

ii) **Institutional Advocate for “Access”:** An independent body or agency is established to propagate and be responsible for improving access to information. It will oversee working of the Act, review and monitor its functioning and be a conduit between the government and the public with respect to RTI issues. Establish information kiosks at various posts to assist the public.

iii) **Capacity Building:** a) *Re-orientation of Officers and Publicity of Rights:* Devise regular orientation programs for its officers to train them about:

- a) Establish information booths in various townships and villages.
- b) Improving access to information and reduce secrecy
- c) Promote benefits of transparency and accountability
- d) Provide widespread publicity to the act
- e) Broadcast rights through public educational seminars

iv) **Evaluation** procedure: Generate internal reports that self monitor and evaluate the success of access to information regime. Review and advice the government on all matters related to the promotion of right to information.

In addition, action's that need to be factored into a medium term RTI regime are:

v) *Efficient Records Management*: Improve access by computerizing documents and have proper processes to file, index, and retrieve documents and department discussions. Undertake documentation and research with respect to information management.

vi) *Incentive Schemes*: Dissemination and sharing of information be linked to positive outcomes rather than only providing penalties for non- disclosure, to reinforce positive attitude towards proactive disclosure. A system be established where Citizens provide feedback on each application handled, which is linked to performance review of the government Officer.

If the government shows a clear commitment and its will to change it can make its citizens dream a reality! Win citizens confidence leading to development and growth for the country.

AUTHOR: GIRIJA VARMA, LL.M (Cornell), *Fellow Stanford Law School*.
The author is a practicing Attorney, specializing in Intellectual Property and Right to Information Laws. If you have any queries please email to girijav@stanfordalumni.org .