

ACHIEVEMENTS OF RTI ACT

by

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Right-To-Information Act 2005 (RTI Act) has been successful in much more ways than was aimed to achieve. RTI Act of India is perhaps the best drafted Act of its kind in the global world. Credit goes to a personality which though not being directly in power, yet utilized her influence on political rulers to implement the Act in a time-bound period. Credit also goes to the noted RTI activist Aruna Roy who consented to join the high-powered National advisory Council of India only on pre-condition that recommendation of the Council including about an RTI Act will not be dumped without being implemented as usually happens in our governance-system. Inclusion of RTI activist Shailesh Gandhi in Central Information Commission as an Information Commissioner presumably on directions of the guiding-force behind the Act is also a positive sign for meeting aspirations of users of RTI Act.

First Chief Information Commissioner Wajahat Habibulla who despite all teething problems in implementing the RTI act and facing criticism at times, played his role smartly in a manner to fulfill purpose of India's most wonderful post-independence Act giving commoners power of being a Parliamentarian to grill government and its functionaries. His well-thought decisions were written so artistically that even if an appeal was dismissed on technical grounds, he often directed to forward the appeal-record to key-functionaries for their perusal if the subject-matter was of great national or public interest. His such a role rather served to be even more effective than allowing the appeal! Drafting of the Act for appointing Information Commissioners only with consensus of Prime Minister and the Opposition Leader leaves no space for appointees to be biased towards political rulers having appointed them. Rather all such appointments requiring impartiality like of Election Commissioners should be appointed likewise by consensus of Prime Minister and the Opposition Leader.

Rather than just providing 'Information' as defined technically, RTI Act has served to be an effective watchdog to make all those coming in purview of the Act to be extremely cautious to do their work only in accordance with rules and without any irregularities. Having filed more than 500 RTI petitions, I have wonderful experience to share. Most of the Central Public Information Officers (CPIOs) are practically under pressure to reply to the petitions in normal bureaucratic style. But I even found that on filing the first appeal with a senior officer acting as Appellate Authority in the Department, the Appellate Authority phoned me requesting for not insisting on the matter any further, promising to rectify the things in future. (*Since I wanted reforms rather than publicizing the irregularity, I agreed*). However there is a rare case of a bold CPIO VR Eliza at Directorate of Customs who dared to file an

unusual second appeal (to his success) at the Central Information Commission against appeal-order of his senior officer in the Directorate!

What more, though public-authorities at Supreme Court resisted on aspects like Chief Justice of India being under purview of the Act, or on queries related to implementation of resolution on wealth-declaration by judges of higher courts, public-awareness generated through several RTI petitions supplemented by our ever-vigilant media, shook concerned ones in governance-system to work towards judicial accountability and acting effectively on cases of corruption even in higher judiciary. RTI Act gave enormous courage to media-persons and others wanting judicial reforms to highlight irregularities in the system which otherwise was totally impossible under ever-hanging sword of contempt-powered judicial system allowing some wrong elements to misuse temples of justices as torture-cells for victims of misconduct in the system.

Positive role of media in regularly highlighting important decisions of Central Information Commission has also been of great help in achieving success of RTI Act as at present. Press-agencies and newspapers have deputed special correspondents to cover news related to RTI Act. A private news-channel of repute (NDTV) should be lauded for being the champion amongst electronic media to make effectiveness of RTI Act reaching to masses. Timely campaign of this channel prevented diluting of the Act by a tactic move to remove essential 'file-notings' from 'Information' as defined under the RTI Act.

But the above highlighted achievements are a very small fraction of what can be really achieved. Rupees 300 crores publicity-budget for RTI should be spent through Central Information Commission. Chapters on RTI Act should be added in school-syllabus to make children know about its at root-level to make its effective use later in life. Considering dominating-role of private-sector in public-life through banking, communications and others, India should follow South Africa in extending RTI Act to private sector for firms with some stipulated turn-over fixed separately in respect of goods and services.

New Information Commissioners have been added to share ever-increasing appeals/complaints at Central Information Commission. But highly inadequate sub-ordinate staff needs also to be strengthened for best utilization of services of senior officers and Information Commissioners at the Commission. There is a big time-gap of even several months between an appeal/complaint reached at the Commission and its being registered. Even the Commission can and should modify its system to ensure a compulsory registration of all appeals/complaints found fit for registration within say one week of their reaching at mail-receipt section of the Commission. This can be done by deputing special and adequate

evening-staff with duty-hours after normal office-hours to diary all mail received in the day, and by simultaneous registration of all feasible appeals/complaints at the mail-receipt section only. Such evening/night duty-hours will make fast work uninterrupted from public-hindrance in normal working-hours. Appeals found unfit to be registered should be returned to the sender say within a fortnight with a deficiency-note. Field of 'Monthly Disposal of Cases' at Commission's website should separately highlight data for each of the Information Commissioner so as to enable Commission have its own self-study to streamline the system in a manner that period of pending appeals/complaints may be almost same for each of the Information Commissioner. Also since a fresh reallocation of work is being done subsequent to addition of four new Information Commissioners at the Commission, a system can be worked out whereby all pending appeals against a public-authority registered till date may be fixed on same day so that saving may be possible on precious time and conveyance-expenses of public-authorities may be largely saved by not being required to attend to hearings on different dates. Same procedure can be adopted even for future, whenever hearing-schedule is to be fixed on weekly or monthly basis for Information Commissioners. Only recently Smt Padma Balasubramanian clubbed all pending appeals against State Bank of Bikaner & Jaipur together.

Chief Information Commissioner should have frequent informal interaction with all the Information Commissioners so that approach of all Information Commissioners may be similar in dealing with appeals/complaints before them. Presently some of the Information Commissioners are seen as appellant-friendly, while some others do not exhibit such sensitivity to plight of petitioners. It is not that such appellant-friendly Information Commissioners always talk against public-authorities. Dr OP Kejriwal in his verdict 'SK Lal against Indian Railways' passed strict-most comments against the petitioner for his irrelevant petition aimed to make mockery of RTI Act. But at the same time, I recall humiliation faced at the Commission on my query about disciplinary-authority for Chief Justice of India. This query gained significance when serious charges were leveled against a former Chief Justice of India. It will be interesting to note views of Shri Satyanand Mishra now as Information Commissioner on aspect of 'file-notings' since DoPT in his regime as its Secretary resisted and disobeyed various CIC rulings on file-notings. Better is to have a second-stage review of Commission's orders by a bigger bench at the Commission itself. It will also give public-authorities a chance of appeal at the Commission itself rather than dragging the Commission and the petitioner to the Courts. Public-authorities must compulsory file written-rejoinders to appeals.

It is against natural justice that Government may depute lawyers for the Commission to contest cases filed by government-functionaries against Commission's orders. Union

Ministry of Law & Justice can only provide lawyers to the Commission to file court-cases against its own (Department of Justice) where government-lawyers obtain ex-party stay not only on Commission's orders but now even Commission's proceedings. Regrettably, government after obtaining ex-party court-stays is seeking regular adjournments on one excuse or other thus killing real essence of RTI Act aimed for an early resolution. Misuse of section 28 RTI Act like public-authorities at Delhi High Court in a virtual 're-writing' of the Act as passed by the Parliament and assented by the President of India should not be allowed. Central Information Commissioner should be given powers to act against those responsible to defy its orders like DoPT on 'file-notings'. It is shocking that just about 20-percent of total penalties imposed by the Commission are recovered. Public-authorities should not be allowed to take Central Information Commissioner as 'paper-tiger'.

Website of the Commission needs to be given a total new look with provision to update it regularly. Presently there are many fields like say 'Legal Opinion' which has just one entry made in very beginning of launch of the website. It is quite general that cases allotted hearing-dates do not always appear in the field 'Status of Appeals & Complaints'. Since full-bench hearings are very rare and are on some peculiar cases, their hearing-dates should be put under the field of 'Public Notices'. Data in month-wise disposal should be separately for each of the Information Commissioner.

Commission should take up the matter of free supply of say first ten copied pages, because it takes even more in Speed-Post expenses rather than revenue received for copying charges of less than ten pages. However from eleventh page onwards copying charges may be charged full from first page without even providing initial ten pages free. According to a DoPT circular, name of payee on postal-orders towards RTI fees is to be "Accounts Officers" for all public-authorities. But lack of awareness amongst CPIOs makes task of petitioner tough with different public-authorities demanding remittance in different names payees. While Prime Minister's Office requires pay-orders in name of 'Section Officer PMO', President's Secretariat and Department of Justice in name of 'Pay & Accounts Officer', Lok Sabha and Rajya Sabha Secretariat in name of 'Drawing & Disbursing Officer' and Supreme Court in name of 'Registrar (Administration)'. Details of payee's names are neither displaced in offices concerned nor on their respective websites. Public-awareness campaign if derived through Central Information Commission, can well take care of such petty but important aspects to guide all concerned properly to use RTI Act.

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