

1. RTI since 2005

1.1. RTI Act in brief

The Right to Information Act was approved by the Parliament in May 2005 and signed by the President in June 2005. Certain preliminary clauses went into effect immediately, but the entire Act came into force in October 2005. The Act replaces the Freedom of Information Act, 2002 which was adopted in January 2003 but never came into force.

Under the Act, all Indian citizens have a right to seek information not only from Central Government public authorities, but also from public authorities under the jurisdiction of the states. This includes local level bodies viz. rural as well as urban *panchayats*. The Act also covers all public authorities set up by the Constitution or Statute, as well as bodies controlled or substantially financed by the Government or non-government organizations which are substantially funded by the Government. Citizens not only can request to inspect or seeking copy for information, but the Act also allows them to make an application to inspect public works and take samples.

The Act includes a list of exemptions, although they are all subject to a blanket override whereby information may be released if the public interest in disclosure outweighs the harm to the protected interest. Exemptions cover disclosures that would prejudicially affect the sovereignty and integrity of India, the security, strategic or economic interests of the State, relations with foreign States, would lead to incitement of an offence, has been expressly forbidden to be published by a court or tribunal, could constitute a contempt of court; would endanger the life or safety of a person or identify a source used by law enforcement bodies, would impede an investigation or apprehension or prosecution of an offender, would cause a breach of parliamentary privilege; Cabinet papers (although materials relied upon must be released after decisions are made), commercial confidence information, trade secrets or intellectual property where disclosure would harm the competitive position of a third party, information available due to a fiduciary relationship, information obtained in confidence from a foreign government and personal information which has no relationship to any public activity or which would cause an unwarranted invasion of privacy.

The Act attempts to bar appeals to the courts, but as the right to information is a constitutional right, citizens still have the right to go to the High Court or Supreme Court in their Writ jurisdiction if they feel their right has been infringed.

Fines and disciplinary proceedings can be ordered for a range of offences, including refusal to access information, delay in providing information (for which a daily penalty can be imposed), provision of false, misleading or incomplete information etc.

Implementation of the Right to Information Act has been varied across the country. The Central Government, which sponsored the Act, has been relatively active, although it was slow in putting in place systems, in ensuring fulsome and better proactive disclosure and in providing wherewithal to the Central Information

Commission. Till date, almost all states have constituted Information Commission and appointed Information Commissioners, although actually setting up and providing adequate resources to the Information Commission offices has often been slow. Applications seeking information are being made throughout the country, with varying degree of success. It has been reported that officials of local self bodies have been relatively slow in coming to terms with their duties under the new law.

At the time the Right to Information Act was passed, eight states and one union territory had their own laws regarding access to information, largely in response to pressure from local activists fighting corruption. Acts were passed in Tamil Nadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Assam (2003), Madhya Pradesh (2003) and Jammu & Kashmir (2004). Uttar Pradesh and Chattisgarh also adopted Codes of Practice and Executive Orders on Access to Information. With the passage of the national Act, the state laws are either lapsing or being specifically repealed. However, the Jammu and Kashmir Act will continue to operate in respect of state public authorities, because the Central Government cannot legislate for Jammu and Kashmir due to its special constitutional status.

1.2. Institutional arrangements for RTI implementation

Thus government has put in place a comprehensive institutional arrangement to



Chief Information Commissioner, Shri Wajahat Habibullah greeting Hon'ble President of India during the visit of SIC/ICs to Rashtrapati Bhawan

ensure the proper implementation for RTI Act, 2005. Section 4 of the RTI act lays out a detailed list of initiatives to be taken by various public authorities which would lead to a complete restructuring of govt. records and procedures in the interest of transparency.

Alternatively, the Act under Section 5 makes it obligatory for the Public Authorities namely the govt. department, PSUs and other govt. organizations to set in motion a two tier arrangement to deal with the request for the information from the citizens.

The key functionary under this setup is the PIO who is required to dispose off a request for the information from the citizen within a stipulated time period. In case the PIO fails to give a decision on such request or denies the information without assigning any reason to the citizen, the citizen has the legal remedy to file a Complaint under section 18 of the RTI Act, 2005 before the Central or the State Information Commission, as the case may be, which shall inquire into such complaint.

The other course available to the citizen, in case information has been provided by the PIO, but the citizen is not satisfied with it, to file an appeal under section 19(1) of the RTI Act, 2005 before the First Appellate Authority, an officer senior in rank to the PIO, within the same Public Authority. The satisfaction of the citizen being paramount, he still has the Right to Approach the Central or the State Information Commission with a Second Appeal against the Order of the First Appellate Authority.

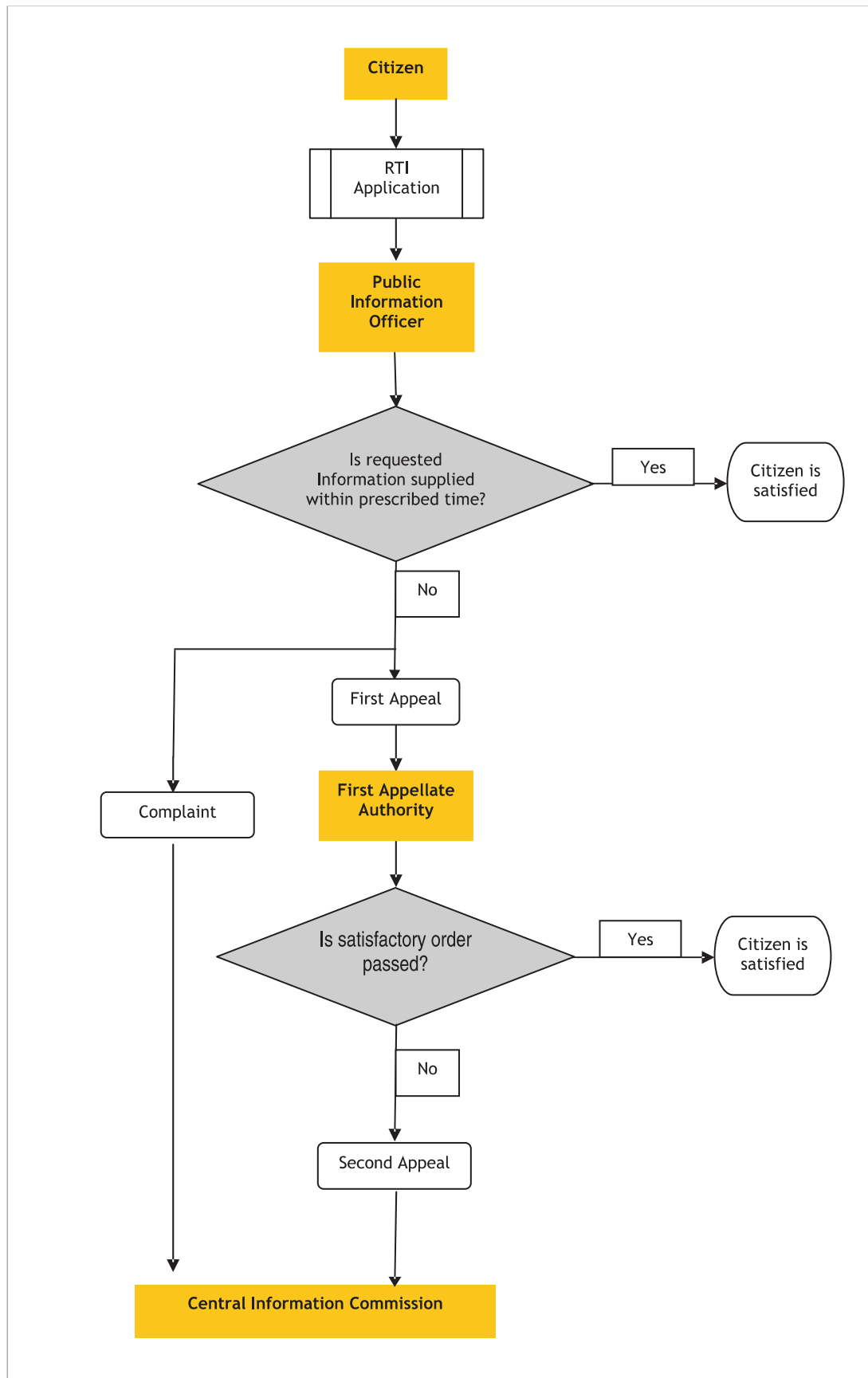
Thus, the role and Powers of the Central or State Information Commission is pivotal under the current RTI regime. Not only does the Commission have powers to inquire into the Complaints of the Citizens under section 18 of the Act, but it is also the highest Appellate authority to hear the Second Appeals under section 19(3) of the RTI Act.

The Act also provides for enabling powers to the CIC to oversee the dissemination of Information under the RTI regime which includes issuance of directions to secure compliance of the RTI Act; to award compensation under section 19(8) of the RTI Act; to evoke Penal provisions under sections 20 of the RTI Act against erring PIOs.

The Act also enables the Commission to monitor and report the progress of implementation of the provisions of the RTI Act in an annual report and also to make the recommendations to various Public Authorities for ensuring conformity in its functioning in terms of provisions of the RTI Act.

Figure 1.1 illustrates the complete process of seeking information, filing first appeals and second appeals to the Commission.

Figure 1. 1: The RTI Process



1.3. Proactive Disclosure by Public Authorities

The Act also imposes duties to monitor and promote the law. All public authorities must proactively publish and disseminate a very wide range of information, including details of the services they provide, their organizational structure, their decision-making norms and rules, opportunities for public consultation, recipients of government subsidies, licences, concessions, or permits, categories of information held, and contact details of PIOs. Public authorities must also maintain indexes of all records and over time computerize and network their records. Information Commissions too must monitor its implementation and produce annual reports. To the extent that resources are available, Governments must also provide training for officials and conduct public education activities, including publication of a User's Guide.

In order to obtain feedback from public authorities on the implementation of the Act, the CIC circulated a questionnaire eliciting feedback on a number of parameters. This section captures some of the feedback that illustrates efforts of public authorities for proactive disclosure. Box 1.1 below shows extracts from responses of some of the public authorities implementing Sec 4(1)(a) of the RTI Act.

Box 1. 1: Responses from public authorities on Section 4(1)(a) implementation

Response from Employees Provident Fund Organisation, Ministry of Labour

"Computerisation of all basic data related to establishment and the members handled by EPFO; computerisation of business process of EPFO". "EPFO is implementing a project of business process re-engineering in a phased manner where all the basic data and information are in the process of digitisation and shall be automatically catalogued and indexed".

Response from BSNL Limited – Karnataka Circle, Ministry of Communication and IT

"In addition to the details of services provided by BSNL, internal correspondence/ communication computerised and functioning through website. MIS is computerised. As regard to consumer related services, sub's directory enquiry, service directory of officers, online phone booking, broadband booking, buy prepaid cards, fault booking, all tariff details and network details are available on the BSNL websites".

Response from Delhi Police, Ministry of Home Affairs

"The records/data, which directly facilitate public as well as Delhi Police have been computerised. Further, efforts are being done to create maximum data in computerised form with available resources and manpower. Time to time different studies are carried out to analyse and computerise all types of records by the IT Centre of Delhi Police as well as SCRB Delhi Police."

Response from Delhi Metro Rail Corporation Ltd., Ministry of Urban Development

"DMRC has started procedure to digitise records."

Response from Ministry of Railways

The action plan for computerisation of records is under process. Record is being maintained to describe the changes that the Ministry has made to meet the requirements under Sec 4(1)(a) on the website www.indianrailways.gov.in.

Response from Department of Posts, Ministry of Communications and IT

“CAPIO module has been developed with the help of NIC. All applications received by the CAPIO be invariably processed through in the CAPIO module. Creation of User ID and password to call CAPIOs, expansion of CAPIO network up to tehsil level post offices to receive applications on behalf of other public authorities has also been done”

Source: Responses from public authorities to the questionnaire circulated by the CIC.

Section 4(1)(b) of the RTI Act lists the details required to be published within 120 days of the enactment of the RTI Act. Box 1.2 shows responses of public authorities with regard to implementation of Sec 4(1)(b).

Box 1. 2: Responses from public authorities on Section 4(1)(b) implementation**Response from Ministry of Panchayati Raj**

Ministry of Panchayati Raj has published information for 6 clauses under Sec 4(1)(b) of the Act.

Response from Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances and Pensions

The Ministry has published information required for 12 clauses under Sec 4(1)(b) of the Act, and one is said to be not applicable.

Response from State Bank of India, Ministry of Finance

State Bank of India has published 12 clauses and three clauses are said to be not applicable.

Response from Power Finance Corporation Limited, Ministry of Power

Power Finance Corporation Limited has published information required for 16 clauses as per Sec 4(1)(b) of the Act.

Response from Department of Rural Development, Ministry of Rural Development

The Department of Rural Development has published information required for 16 clauses as per Sec 4(1)(b) of the Act.

Response from Delhi Police, Ministry of Home Affairs

Delhi Police has published information required for 16 clauses as per Sec 4(1)(b) of the Act.

Response from Delhi Metro Rail Corporation Ltd., Ministry of Urban Development

DMRC has published information required for 16 clauses as per Sec 4(1)(b) of the Act.

Response from Ministry of Railways

Nine of the 16 clauses under Sec 4(1)(b) have been published.

Response from Appellate Tribunal for Electricity, Ministry of Power

Five of the 16 clauses under 4(1)(b) have been published; two are said to be not applicable.

Response from Department of Posts, Ministry of Communications and IT

Department of Posts has published information required as per all 16 clauses under Sec 4(1)(b).

Source: Responses from public authorities to the questionnaire circulated by the CIC.

1.4. Streamlining of RTI implementation by CIC

As mentioned in section 1.2, the applicants can approach the CIC either through a complaint under section 18 and/or appeal under section 19 (3) of the Act. To manage the affairs of the Commission, a guideline has been issued. This has resulted in streamlining the disposal of the cases filed before it.

1.4.1. The Central Information Commission's Internal Guidelines.

The Central Information Commission has framed guidelines for managing its internal affairs, which is instrumental in streamlining various aspects of the RTI implementation. Some extracts of the guidelines are listed below:

- i. Officers of the Commission and their functions –
The Commission may designate one or more of its officers in the Commission to function as Registrar(s) of the Commission; The Registrar shall be the Chief Executive of the Commission on the judicial side. Any communication addressed to him will be deemed to be addressed to the Commission and the Commission will be represented by him in all judicial matters.
- ii. Registration, Abatement or Return of Appeal -
Before submitting an appeal or complaint to the Commission, the appellant or the complainant shall cause a copy of the appeal or complaint, as the case may be, to be served on the CPIO/PIO and the Appellate Authorities and shall submit a proof of such service to the Commission.
The appellant or the complainant, as the case may be, shall be informed of the date of hearing at least seven clear days before that date.
- iii. Before submitting an appeal or complaint to the Commission, the appellant or the complainant shall cause a copy of the appeal or complaint, as the case may be, to be served on the CPIO/PIO and the Appellate Authorities and shall submit a proof of such service to the Commission.
Provided that if a complainant does not know the name, address and other particulars of the CPIO or of the First Appellate Authority and if he approaches the Commission under Section 18 of the Act, he shall cause a copy of his complaint petition to be served on the concerned Public Authority or the Head of the Office and proof of such service shall be annexed along with the complaint petition.

1.4.2. Notifications by CIC during the year 2007-08

CIC took two significant decisions; one regarding constitution of a Sub-Committee and the second about preferences to senior citizens and physically challenged applicants while taking up their petitions for consideration. The Report of the sub-Committee and the step regarding preference to these two special category of the petitioners by the Commission is likely to go a long way in streamlining the implementation of the RTI Act. The details in this regard are as under:

- i. CIC constituted a Sub-Committee on December 05, 2007, exercising powers conferred under Sub Section (4) of Section 12 of the Right to Information Act 2005, for compiling and collating suggestions received from various state commissions with a view to make specific recommendations to the government regarding effective implementation of the Act including suggestions, if any, regarding amendment in the Act.
- ii. CIC decided, on February 13, 2008, that the appeals and complaints filed by senior citizens and physically challenged persons shall be taken up on priority.

1.4.3. Circulars relating to effective implementation of RTI Act during the Period under report

The Department of Personnel & Training, Government of India, too, consequent upon various decisions of the commission regarding interpretation of various provisions of the Act issued guidelines for effective access to information. Some of these may also be termed as best practices to be followed by the Public Authorities, in regard to implementation of the RTI Act.

- i. Disposal of first appeals: The CIC noticed that in some cases, the first appellate authorities do not dispose of appeals within the time frame prescribed under the Act and in some cases the appellate authorities do not examine the appeals judiciously and express their agreement mechanically with decision of the central public information officer¹;
- ii. Maintenance of records and publication of information: Section 4 of the Act, sets out a practical regime of transparency in the working of the public authorities by way of proactive disclosure of as much information to the public as possible, so that people do not have to resort to section 6 i.e. filing application to seek information²;
- iii. Disclosure of Annual Confidential Reports (ACRs): An ACR is a confidential document. The Official Secrets Act, 1923 is not completely superseded by the RTI Act. Sub-section (2) of section 8 of the 2005 Act gives discretion to the public authority to disclose or not to disclose the ACRs of an officer to him or to any other applicant.³
- iv. Disclosure of Information relating to occurrences/events/matters of 20 years vintage: The RTI Act does not prescribe a record retention schedule. The

¹ http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/10_23_2007_IR.pdf

² http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_18_2007_IR.pdf

³ http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/10_20_2006_IR.pdf

records are to be retained by a public authority as per the record retention schedule applicable to that public authority. It is, however, important to note that weeding out of a file or any other record does not necessarily result into destruction of all the information contained in that file or record. It is possible that information generated in a file may be available in the form of a letter or in any other form even after the file has been weeded out. The Act requires furnishing of information available after the lapse of 20 years even if such information was exempted from disclosure under sub-section (1) of section 8⁴;

- v. Guidelines for information seekers under the Right to Information Act, 2005 – Guidelines elaborating relevant provisions of the Act and method of its use by the general public are prepared and shared with all ministries and departments of Government of India with a request to give wide publicity to the same⁵;
- vi. Designation of the CPIOs in the Organisations specified in the second schedule of the Right to Information Act, 2005: It is necessary that the Intelligence and Security organisations too designate Central Public Information Officers to deal with the RTI applications⁶;
- vii. Single point for receiving applications and designation of appellate authorities under the RTI Act, 2005: The Commission recommended that all the ministries / departments / agencies / offices, with more than one PIO, should designate a nodal officer with the authority to receive requests for information on behalf of all PIOs. The Commission also recommended that all public authorities should designate the first appellate authorities⁷;
- viii. Involving Non-Governmental Organisations for spreading awareness about the RTI Act, 2005: Chief secretaries of all states / UTs were directed that clause (a) of sub-section (1) of section 26 of the Right to Information Act, 2005 casts a responsibility on the governments of states to develop and organize educational programmes to advance the understanding of the public about exercise of their right to information. It is a gigantic task which requires involvement of various sections of society⁸;
- ix. Guidelines for the officers designated as Central Public Information Officer: The Department of Personnel and Training prepared a 'Guide' clarifying some of the important aspects of the Act relating to the functions of the CPIOs⁹;

1.5. RTI implementation by Ministries and CIC

The following paragraphs provide an analysis of various facets of implementation of the RTI Act by the Ministries since inception of the Act. Notwithstanding the short period the Act has been in force, analysis of inputs

⁴ http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_14_2007_IR.pdf

⁵ http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_8_2007_IR.pdf

⁶ http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_24_2007_IR.pdf

⁷ http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_32_2007_IR.pdf

⁸ [http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_26_2007_IR\(Eng\).pdf](http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_26_2007_IR(Eng).pdf)

⁹ [http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_69_2007_IR\(Eng\).pdf](http://persmin.gov.in/WriteData/CircularNotification/ScanDocument/RTI/1_69_2007_IR(Eng).pdf)

received from various Ministries depict interesting trends.

1.5.1. *Year wise comparison of implementation of the RTI Act by Ministries*

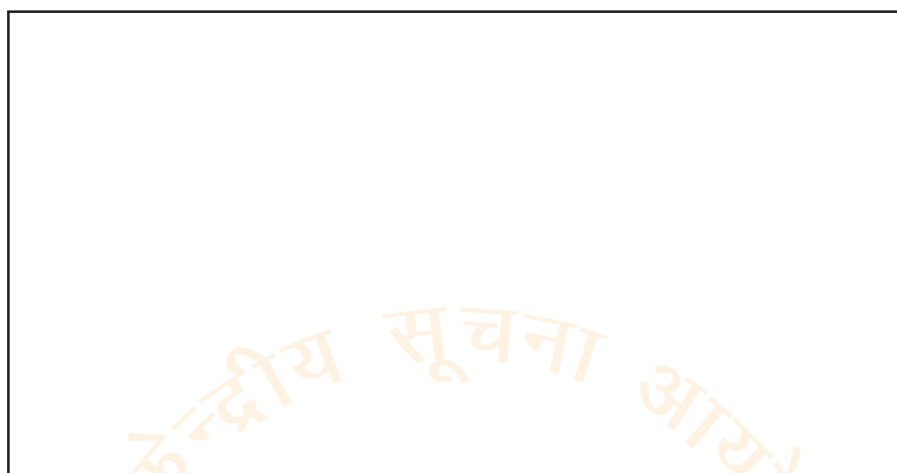
The following table presents overview of the implementation of the Act by ministries since October, 2005.

Table 1. 1: Year wise comparison of RTI implementation by ministries

Year	2007-08	2006-07	2005-06
Total Number of public authorities listed / registered	1597	1404	938
Number of public authorities who submitted annual return	1382	1172	837
Total number of requests received	263261	171404	24436
Total number of the rejected requests	18966	15388	3387
Total number of cases where disciplinary action was taken in respect of administration of the Act	10	7	2
Total number of cases where penalty was levied	54	24	0
Total number of cases where penalty was recovered	26	12	0
Total penalty levied (Rupees)	718500	383250	0
Total penalty recovered (Rupees)	283000	78428	0
Total number of cases where compensation was awarded to appellants	50	12	0
Total amount of fees, additional charges and penalty collected (Rupees)	4356782	3071167	508749
Number of times provisions under various sections were invoked while rejecting requests	22306	17251	3751

Figure 1.2 depicts the comparative analysis of the applications received and those rejected by all central public authorities over the past three years. It would be noticed that while there has been a significant rise in the number of requests received by ministries, the percentage of rejections has gone down from 9% in 2006-07 to 7% in 2007-08; as against number of applications received.

Figure 1. 2: Requests received and rejection made by ministries over 3 years



1.5.2. Year wise comparison of implementation of the RTI Act by CIC

The following table presents an overview of the implementation of the Act by CIC in terms of receipt and disposal of the complaint and appeals filed during 2005-06, 2006-07 and 2007-08.

Table 1. 2: Year wise comparison of RTI implementation by CIC

Year	2005-06	2006-07	2007-08
Total number of second appeals received	451	4533	7301
Total number of complaints received	252	2306	3960
Total number of requests received (appeals + complaints)	703	6839	11261
Total number of appeals disposed	441	3103	5702
Total number of complaints disposed	241	971	2020
Total number of requests disposed (appeals + complaints)	682	4074	7722

The rapid increase in the usage of RTI as a tool to access information by citizens has also meant that there is a significant increase in the number of second appeals and complaints received by CIC over the past three years.

The percentage of second appeals and complaints disposed by the Commission in 2006-07 was about 60% of the total receipts and has increased to 69% of the total receipts in 2007-08¹⁰.

¹⁰ Percentage disposal of the appeal and complaints by the Commission during a reference period equals

$$\frac{\text{(Number of appeals \& complaints disposed during a reference period)}}{\text{(Total appeal \& complaints recived during a reference period)}}$$

Figure 1. 3: Second appeals and complaints received and disposed by CIC over 3 years

1.6. Analysis of requests received by ministries and second appeals and complaints received by CIC

The following figure depicts the comparative analysis of the applications received by all the public authorities and the petitions received by the commission either as a complaint or as an appeal during 2005-06, 2006-07 and 2007-08.

Figure 1. 4: Requests received by ministries and second appeals + complaints received by CIC over 3 years

The percentage of second appeals and complaints received by CIC as compared to the total requests received by ministries during the year 2007-08 is 4% whereas the percentage figures for 2006-07 and 2005-06 were 4 and 3 respectively.

Note: In absolute terms, the second appeals and complaints saw an increasing trend but the percentage of second appeals and complaints compared to the total cases filed before the Commission for the last two years have remained almost static. There could be several reasons for this such as — better response from PIOs, proactive role of the appellate authorities while disposing the RTI applications, etc. This needs further probe and analysis.



RTI News in Print Media

2. Implementation of RTI Act by Ministries

2.1 Introduction

- 2.1.1 Central Information Commission, under section 25 of RTI Act – 2005, is entrusted with the responsibility of monitoring implementation of the RTI Act and reporting. In order to evaluate the implementation of RTI in the various ministries/departments of Govt. of India, the Commission collects the data, prepares annual report and presents before the Parliament, every year. It is mandatory for Ministries/departments to provide the relevant information, in respect of Public Authorities under their jurisdiction, pertaining to the implementation of the RTI Act. The data normally pertains to number of RTI requests received, disposed of, rejected etc. by the public authorities.
- 2.1.2 For the purpose of collecting data relating to RTI implementation, Ministries/ Departments have been provided the facility to upload the data directly on the Commission's website through web based software called "RTI Annual Return Information System", developed by NIC; and all ministries have been provided with the Password to access and upload the data. While uploading correct data under their jurisdiction is responsibility of ministries/departments, and the Commission does not have any means to verify the correctness of the same; endeavour is continuously made to analyse, interpret and present them in correct perspective in the report. For instance, some ministries/ departments have rejected RTI application under Section 24 (1) of the RTI Act (exemption to intelligence and security organizations listed in the second schedule); although they do not have any public authority under their control listed in Schedule II.
- 2.1.3 Ministries/Departments are competent to create the list of new public authorities as and when required; and also to delete the public authorities which do not exist, any more. An increasing trend in number of public authorities every year has been noticed since the year 2005-06. However, it has also been noticed that there is large variance in number of Public Authorities between two organizations of similar size and functions viz; UT of Delhi and UT of Pondicherry. This calls for need to adopt uniform and rational criteria for declaring the number of public authorities in an organisation.
- 2.1.4 The abstract of Annual Returns submitted by Ministries/Departments has been given in Annexure – 2. A list of public authorities (Ministry wise) who did not submit their annual returns are appended at Annexure – 3. Out of 1597 public authorities, 1382 public authorities, 86 percent, have submitted annual returns. The total number of RTI requests received by all Ministries/Departments in 2007-08 is 263,261, and out of these, 18,966 (7%) have been rejected.

2.2 Top 10 ministries in terms of number of RTI requests received in 2007-08

The number of RTI requests received in the year 2007-08 and the trend over last three years, in this category, (Table 2.1 below)reveals that the top 10 ministries account for more than 70 percent of all requests received by public authorities during the year. The Ministry of Communication and Information Technology has received the maximum number of RTI requests followed by the Ministry of Finance.

Table 2. 1: List of top ten ministries in terms of number of RTI requests received in 2007-08

Sl. No.	Ministry	Number of RTI requests received by Ministry in 2007-08	Total number of Public Authorities	Number of Authorities who have filed annual return	% of total number of Public Authorities who have filed annual returns
1	Ministry of Communications & Information Tech.	30966	11	11	100%
2	Ministry of Finance	27596	154	146	95%
3	UT of Delhi	27061	1	1	100%
4	Ministry of Railways	25918	13	6	46%
5	Ministry of Home Affairs	20920	32	32	100%
6	Ministry of Urban Development	17499	63	63	100%
7	Ministry of Labour & Employment	10884	56	56	100%
8	Ministry of Personnel, Public Grievances & Pensions	9888	11	10	91%
9	Ministry of Human Resource Development	8073	108	76	70%
10	UT of Chandigarh	7894	70	64	91%

An analysis in respect of public authorities with higher degree of citizen interface (table 2.2) indicates that they have received maximum numbers of RTI requests.

Table 2. 2: List of top ten public authorities in terms of number of RTI requests received in 2007-08

Sl.	Public Authority	Number of RTI requests received by the Public Authority No. in 2007-08	Ministry	Number of RTI requests received by the Ministry in 2007-08	% of total RTI requests received by the ministry
1	Ministry of Railways	25506	Ministry of Railways	25918	98%

2	Department of Posts	20163	Ministry of Communications & Information Tech.	30966	65%
3	Delhi Police	14549	Ministry of Home Affairs	20920	70%
4	Delhi Development Authority	12419	Ministry of Urban Development	17499	71%
5	Employees Provident Fund Organisation	7617	Ministry of Labour & Employment	10884	70%
6	Bharat Sanchar Nigam Limited	7574	Ministry of Communications & Information Tech.	30966	24%
7	State Bank of India	3197	Ministry of Finance	27596	12%
8	Department of Home	3116	Ministry of Home Affairs	20920	15%
9	Office of the Welfare Commissioner Bhopal Gas	3047	Ministry of Chemicals & Fertilizers	3647	84%
10	Police Department	2424	UT of Chandigarh	7894	31%

The figure 2.1 illustrates that, by and large, there is an increasing trend in the number of RTI requests received; which reflects that citizens are becoming increasingly aware of the efficacy of the Right to Information Act as a tool to elicit information hitherto unavailable. However, the number of requests received by UT of Delhi and UT of Chandigarh has shown a decreasing trend. It would be worthwhile to ascertain the reasons viz; better content management in respect of proactive disclosure and/or process re-engineering, change in rules/laws etc. pursuant to analysis of RTI requests received.

Figure 2. 1: Number of RTI requests received over 3 years

A questionnaire was circulated amongst various ministries/departments to ascertain, both, the trends of RTI applications received, as also various areas of interest for the information seekers, especially in view of the general perception about use of RTI Act largely for personnel matters. The response received from some public authorities has been given in Box 2.1 with breakup of various areas of interests of RTI applicants seeking information.

Box 2. 1: Responses from public authorities on receipt of RTI requests

Response from Delhi Police, Ministry of Home Affairs

“Public authority’s core function 55%, Seeking information for public interest such as information asked by advocates, NGOs, Press, etc. 25%, Human Resources 20%”

Response from State Bank of India, Ministry of Finance

State Bank of India is contributing 10.6% of the total requests for the ministry. According to SBI, the categories under which the RTI requests be classified are as follows:

“Business Area 2284 (71%), Human Resources 442(14%), Procurement 21 (1%), Others (14%)”

Response from Bureau of Energy Efficiency, Ministry of Power

In the year 2007-08 BEE received 28 RTI requests mostly under the category of business area of BEE, i.e. Energy Efficiency and related matters.

Response from Ministry of Power

“In the year 2007-08, the number of requests received in the Ministry of Power were 166 only. These requests were mainly on Business area (Public authority’s core function) of Ministry of Power seeking information on Electricity Act, 2003, Electricity Rules as well as status on generation of power, status of rural electrification etc. In addition, there were requests of general nature seeking information with reference to administrative / personnel matters.

Response from Ministry of Panchayati Raj

The RTI requests received by the Ministry of Panchayati Raj can be classified into the following categories

“Business Area: 16, Human Resources:11, Others: 8”

Response from Department of Telecommunications, Ministry of Communications and IT

“Broadly, the majority of the applications related to Human Resources and not relating to the core functions of the department.”

Response from Bharat Sanchar Nigam Limited, Ministry of Communications and IT

“The increase in applications under RTI Act, 2005 in BSNL is basically due to increase in awareness of the provision of RTI in general, and also due to the tendency on the part of BSNL employees themselves to invoke the provision of RTI for getting information on staff and personnel matters or for redressal of staff grievances.”

Response from Department of Rural Development, Ministry of Rural Development

“This department has mainly received RTI applications relating to its schemes for Rural Development.”

Response from Bharat Sanchar Nigam Limited, Karnataka Circle, Ministry of Communications and IT

“Generally the RTI requests w.r.t. the staff / personal grievances are only increasing. The concerned controlling officers have to give the information / reply and since there is separate channel of communication for redressal of grievances, if any, the staff should be discouraged approaching through RTI.”

Response from Employees’ Provident Fund Organization, Ministry of Labour and Employment

“Out of 7617 applications, 7221 applications were received by the field offices and 396 by Head Office. Most of the requests pertained to business area and HR (Recruitment, Promotion etc).”

Response from TRAI, Ministry of Communications and IT

“The number of requests received in r/o TRAI during 2007-08 is 159 (one hundred and fifty nine) and broadly under Business area (i.e., core function).”

Response from NTPC Limited, Ministry of Power

“The break-up of RTI applications are broadly mentioned below:

HR – 73%, R&R – 10%, Contracts – 9%, Others – 8%”

Source: Responses from public authorities to the questionnaire circulated by the CIC.

2.3 Top 10 ministries in terms of RTI requests rejected in 2007-08

The number and nature of rejections of applications for information, applying various provisions of exemptions, stipulated in the RTI Act, have important bearing on the quality of implementation of the RTI Act; especially with regard to “Setting out the practical of right to information for citizens”. In this back ground, it is noticed that the Ministry of Finance has rejected the maximum number of requests, 39% of total number of RTI applications rejected. The second highest number of rejections has been by Ministry of Home Affairs, which has rejected 12% of total RTI rejections. The 10 ministries listed in the table 2.3 have received 64% of total RTI requests and they account for 86% of total rejections of RTI applications by all ministries.

Table 2.3: List of top ten ministries with high number of RTI rejections

Sl. No.	Ministry	Number of Requests Received	Number of Requests Rejected	Number of times requests were rejected under various sections				
				Sec. 8	Sec. 9	Sec. 11	Sec. 24	Others
1	Ministry of Finance	27596	7354	6094	24	238	113	2228
2	Ministry of Home Affairs	20920	2316	1191	3	196	651	275
3	Ministry of Communications & Information Tech.	30966	2281	2010	17	131	27	461
4	Ministry of Labour & Employment	10884	947	262	0	8	0	678
5	Ministry of Petroleum & Natural Gas	5426	877	927	7	8	0	322
6	Ministry of Personnel, Public Grievances & Pensions	9888	721	531	14	19	29	231
7	UT of Delhi	27061	549	318	1	35	0	266
8	Ministry of Defence	4835	504	369	0	8	125	82
9	Ministry of Coal	6071	423	250	0	4	0	178
10	Ministry of Railways	25918	417	243	1	10	0	163
	Total	169358	16389					

The significant number of rejections under “other” category, by public authorities, requires careful analysis as prima facie it does not provide any clue regarding reasons for the same.

The table 2.4 lists top eleven public authorities with high number of RTI rejections u/s 24 of the Act. Section 24 of the Act states that “Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule...” The rejections by two Ministries viz. Ministry of Communications & IT and Ministry of Personnel and Public Grievances and Pensions u/s 24 of the RTI Act, 2005 need further probe as to how these ministries can use section 24 to justify rejections when no organisation under their control figures in the second schedule.

Table 2.4: List of top eleven public authorities with high number of RTI rejections u/s 24 of the Act

Sl. No.	Name of the Public Authority	Ministry	Number of times RTI rejection u/s 24	
			Public Authority	Ministry
1	Intelligence Bureau	Ministry of Home Affairs	156	651
2	Department of Home	Ministry of Home Affairs	134	651
3	Central Reserve Police Force	Ministry of Home Affairs	125	651
4	Department of Defence Research & Development	Ministry of Defence	122	125
5	Central Industrial Security Force	Ministry of Home Affairs	113	651
6	Chief Commissioner, Central Excise, Jaipur Zone	Ministry of Finance	64	113
7	Indo-Tibetan Border Police	Ministry of Home Affairs	63	651
8	Directorate of Revenue Intelligence	Ministry of Finance	41	113
9	Border Security Force	Ministry of Home Affairs	39	651
10	Department of Telecommunications	Ministry of Communications and Information Tech.	24	27
11	Department of Personnel & Training	Ministry of Personnel, Public Grievances & Pensions	24	29

The figure 2.2 illustrates that the percentage of rejections made by Ministry of Finance, Ministry of Home Affairs and Ministry of Labour and Employment has decreased over the last three years; although in case of later, it is higher in 2007-08 as compared to 2005-06.

Figure 2. 2: Ministries in rejecting high percentage of RTI requests over 3 years

In response to a questionnaire from CIC, a number of public authorities have sent their feedback stating reasons for high number of rejections. The response from the public authorities is given in the Box 2.2 below;

Box 2. 2 : Responses from Public Authorities on high number of RTI rejections

Response from Punjab National Bank, Ministry of Finance

Rejection rate 53% contributing to 9% of rejections under the Ministry of Finance.

“Good number of applicants are utilizing the Right to Information for seeking third party information as well as for redressal of personal grievances which is neither the objective nor the goal of the Right to Information Act. Citizens at large may be educated to utilize the Right to Information Act judiciously.”

Response from Employees’ Provident Fund Organization, Ministry of Labour and Employment

“The public information officers are sensitized through training as well as informal discussions etc. in various meetings making them aware of their role and responsibility under the Act.

The information seekers/ applicants have also become more specific and clear while requesting for the information leading to less rejection. They are also provided proper guidance for filing application at the central desk of RTI Receipt Section.”

Response from Bharat Sanchar Nigam Ltd., Ministry of Communications and IT

Rejection rate is 12.7% of RTI requests;

“In a no. of cases , information were sought on matters relating to call details of other subscribers, which had to be rejected as BSNL has to ensure the confidentiality of the call details of subscribers. BSNL has more no. of employees and services as compared to other departments of the Ministry.”

Response from National Thermal Power Corporation, Ministry of Power

“73% applications pertains to HR departments.

On analysing the various RTI applications received, it emerges that in most of the cases, the information seeker is either an employee or an ex-employee or member of a Union / Association. The information sought is with respect to Personal Service related matters which involves information pertaining to 3rd party (other employee / ex-employee) for comparative reasons which is exempted as per RTI. As a result, the rejection in such cases is high.”

Response from State Bank of India, Ministry of Finance

The percentage of requests rejected has come down from 46.4% to 39.4% of RTI requests.

“Experience, peer level consultation and inputs from our in-house law Department has resulted in reduction of rejections”

Source: Responses from public authorities to the questionnaire circulated by the CIC.

2.4 Top 10 ministries which have high rejections of RTI requests in 2007-08

In table 2.5, the ministries which have rejected high number of requests vis-a-vis number of requests received by them have been categorized; under various section/sub-section of provision for rejection.

Table 2.5: List of top ten ministries with high percentage of RTI rejections

Sl. No.	Ministry	% of Rejection	Number of Requests Received	Number of Requests Rejected	Number of times requests were rejected under various sections				
					Sec. 8	Sec. 9	Sec. 11	Sec. 24	Others
1	Ministry of Overseas Indian Affairs	27	128	35	35	0	0	0	0
2	Ministry of Finance	27	27596	7354	6094	24	238	113	2228
3	Ministry of Power	16	1855	301	104	0	1	0	122
4	Ministry of Petroleum & Natural Gas	16	5426	877	927	7	8	0	322
5	Ministry of Agro and Rural Industries	14	305	42	5	0	0	0	37
6	Ministry of Home Affairs	11	20920	2316	1191	3	196	651	275
7	Ministry of Defence	10	4835	504	369	0	8	125	82
8	Ministry of Labour and Employment	9	10884	947	262	0	8	0	678
9	Department of Space	8	201	17	14	0	0	0	4
10	Ministry of Steel	8	3575	277	189	2	2	0	84
	Total of all ministries	7	263261	18966	14446	81	714	945	6120

The Figure 2.3 indicates that both Ministry of Overseas Indian Affairs and Ministry of Finance have rejected 27% of RTI requests received. The average RTI request rejection rate by all the ministries is 7% of total RTI requests received. The average RTI request rejection rate by the top 10 ministries is 17% of total RTI requests by the corresponding top 10 ministries.

Figure 2. 3: Percentage of RTI requests rejections

2.5 Top 10 Ministries which have rejected least number of requests in 2007-08

The table 2.6 comprises of the list of top 10 Ministries who have rejected least number of RTI applications. Ministry of Corporate Affairs received 1907 requests and has not rejected even a single request and topped the list.

Table 2.6: List of top ten ministries on least number of RTI rejections

Sl. No.	Ministry	Number of Requests Received	Number of Requests Rejected	Number of times requests were rejected under various sections				
				Sec. 8	Sec. 9	Sec. 11	Sec. 24	Others
1	Ministry of Corporate Affairs	1907	0	0	0	0	0	0
2.	Ministry of Social Justice and Empowerment	1352	0	12	0	0	0	5
3	Department of Atomic Energy	596	0	35	0	0	0	3
4	Ministry of Earth Sciences	174	2	2	0	0	0	0

5	Ministry of Women & Child Development	152	0	0	0	0	0	0
6	Planning Commission	127	2	2	0	0	0	0
7	Ministry of Parliamentary Affairs	121	0	0	0	0	0	0
8	Ministry of Food Processing Industries	44	2	0	0	0	0	2
9	Ministry of Panchayati Raj	35	0	0	0	0	0	0
10	Vice-President's Secretariat	13	0	0	0	0	0	0

There are 12 instances of invoking provisions of section-8 by the Ministry of Social Justice and Empowerment whereas the total number of RTI requests rejected by the public authority is nil. Similarly, there are 35 instances when the Department of Atomic Energy has invoked the provisions of section 8; whereas the total number of RTI requests rejected by the department is nil. This requires further analysis on case to case basis to ascertain the prima facie apparent contradiction in aforesaid position.

The figure 2.4 shows that some ministries which have maintained zero rejections every year despite the rise in the number of requests received.

Figure 2. 4: Number of Requests received over 3 years by ministries with zero rejections

2.6 Top 10 ministries which have rejected lowest percentage of requests in 2007-08

In this section, the ministries which have rejected the least number of requests as a percentage of the total number of requests received has been analysed. Ministry of Urban Development has rejected only 94 requests out of 17,499 requests received.

Table 2.7: List of top ten ministries which have rejected lowest percentage of RTI requests

Sl. No.	Ministry	Number of Requests Received	% of Rejection	Number of times requests were rejected under various sections				
				Sec. 8	Sec. 9	Sec. 11	Sec. 24	Others
1	Ministry of Corporate Affairs	1907	0%	0	0	0	0	0
2	Ministry of Social Justice & Empowerment	1352	0%	12	0	0	0	5
3	Department of Atomic Energy	596	0%	35	0	0	0	3
4	Ministry of Parliamentary Affairs	121	0%	0	0	0	0	0
5	Ministry of Women & Child Development	152	0%	0	0	0	0	0
6	Ministry of Panchayati Raj	35	0%	0	0	0	0	0
7	Vice-President's Secretariat	13	0%	0	0	0	0	0
8	UT of Pondicherry	5671	0.16%	264	0	2	0	72
9	Ministry of Urban Development	17499	0.53%	94	0	0	0	0
10	UT of Andaman & Nicobar	538	0.56%	8	1	0	0	183

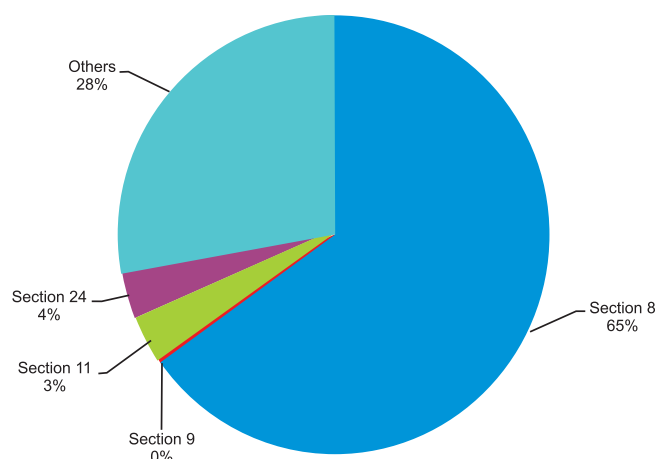
2.7 Distribution of provisions used under sections 8, 9, 11, and 24 of the Act for RTI rejection

Exemption clauses have been used by ministries altogether 22,306 times. Ministry of Finance has used different exemption clauses altogether 8,697 times becoming the top most Ministry in using exemptions. Ministry of Communications and Information Technology has used different exemption clauses altogether 2646 times becoming the second highest ministry in using exemption clauses.

Table 2.8: Distribution of provisions used under various sections of Act.

Exemption Clause	Total of times invoked by all ministries together	Prominent use by Ministries			
		Ministry-I		Ministry-II	
		Name of Ministry	No. of times invoked	Name of Ministry	No. of times invoked
Sec 8	14446	Ministry of Finance	6094	Ministry of Communication and Information Technology	2010
Sec. 9	81	Ministry of Finance	24	Ministry of Communication & IT	17
Sec.11	714	Ministry of Finance	238	Ministry of Home Affairs	196
Sec. 24	945	Ministry of Home Affairs	651	Ministry of Defence	125
Others	6120	Ministry of Finance	2228	Ministry of Labour and Employment	678

A further analysis has been made regarding use of various sections for rejection of RTI application. The figure 2.5 illustrates a pie chart giving the percentage of various sections for rejections.

Figure 2. 5: Percentage of use of exemption clauses

2.8 Distribution of use of various provisions under section 8

The exemption clauses under Section 8 have been used by ministries altogether 14,446 times, which has been analysed further, on the basis of use of various sub-sections.

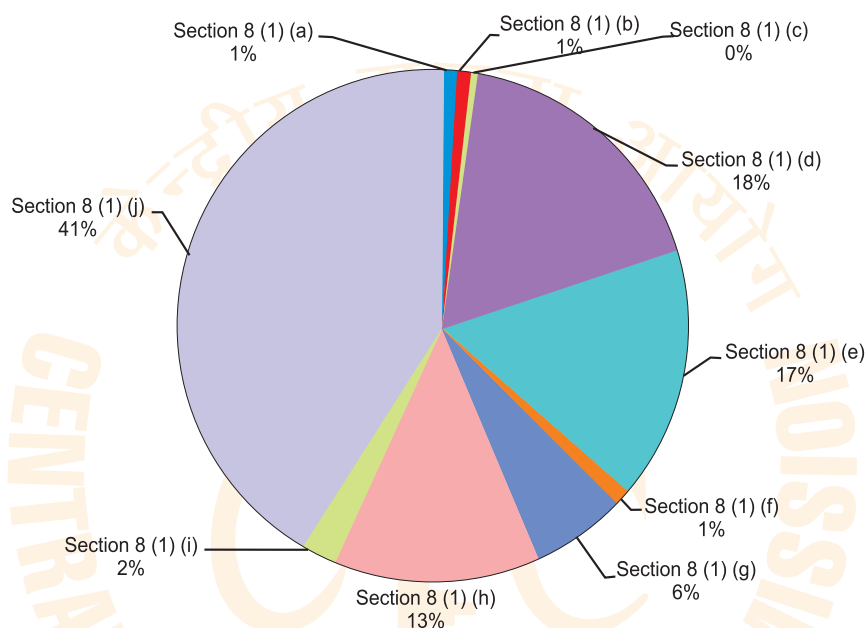
Table 2.9: Distribution of invocation of various provisions under section 8

Exemption Clause	Total of times	Prominent use by Ministries			
		Ministry-I		Ministry-II	
		Name of Ministry	No. of times	Name of Ministry	No. of times
Sec 8(1)(a)	151	Ministry of Defence	52	Ministry of Finance	28
Sec 8(1)(b)	100	Ministry of Finance	24	Ministry of Commerce and Industry	16
Sec 8(1)(c)	46	Ministry of Communications and Information Tech.	17	Ministry of Finance	10
Sec 8(1)(d)	2557	Ministry of Finance	1257	Ministry of Petroleum & Natural Gas	444
Sec 8(1)(e)	2398	Ministry of Finance	1142	Ministry of Communications and Information Technology	276
Sec 8(1)(f)	135	Ministry of Communications and Information Technology	33	Ministry of Home Affairs	24
Sec 8(1)(g)	887	Ministry of Home Affairs	466	Ministry of Finance	104
Sec 8(1)(h)	1904	Ministry of Home Affairs	437	Ministry of Finance	429
Sec 8(1)(i)	341	Ministry of Finance	147	Ministry of Communications and Information Technology	41
Sec 8(1)(j)	5927	Ministry of Finance	2935	Ministry of Communications and Information Technology	1036

From table 2.9 above it is seen that Ministry of Communication & IT has rejected the RTI applications 46 times under section 8(1)(c) which reads “there shall be no obligation to give any citizen information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.”

As can be seen from the figure 2.6, the highest number of rejections are the result of use of section 8(1)(j) of the Act.

Figure 2.6: Percentage of use of clauses of section 8



In their responses to the CIC questionnaire, several public authorities have explained their use of exemptions, as indicated in Box 2.3 below;

Box 2. 3: Responses from various public authorities on use of section-8 for rejections.

Response from State Bank of India, Ministry of Finance

“In State Bank of India, most of the request for information relates to operation of accounts (deposits, loans and advances) which are kept with the Bank in fiduciary capacity, personal information of a third party and of a commercial confidence to the Bank, hence are exempted under Section 8(1)(d)(e) and (j) of the RTI Act., 2005.”

Response from Delhi Police, Ministry of Home Affairs

Delhi Police has invoked Sec 8(1)(g) 464 times. “Details of information, on whose secret information raid is conducted or case is registered. If any person is rendering his assistance to police/ law enforcement agency and applicant is seeking the name and address of that person it would endanger the life or physical safety of the person concerned.”

Response from Bharat Sanchar Nigam Limited, Ministry of Communications and IT

“Information which would cause unwarranted invasion into the privacy of another individual were rejected invoking 8(1)(j) of the RTI Act.”

Source: Responses from public authorities to the questionnaire circulated by the CIC.

2.9 Top 10 ministries which have received highest number of first appeals

This section deals with the Ministries which have received highest numbers of first appeals during 2007-08. The total number of requests received including balance carried forward is 287,187. The total number of first appeals received by all ministries including balance carried forward is 31,546. The total number of first appeals accepted by all ministries is 19,968 and the number of first appeals rejected is 7,606 (24%).

Table 2.10 illustrates the top 10 Ministries which have received highest number of first appeals. The UT of Delhi has received highest number of first appeals (6051); despite the relatively low number of rejected RTI requests (549).

Table 2.10: List of top ten ministries which have received highest number of first appeals

Ministry	Total number of RTI requests	Number of RTI requests rejected	Total number of first appeals received	Number of first appeals rejected	Number of first appeals accepted
UT of Delhi	31369	549	6051	853	4768
Ministry of Finance	31413	7354	4795	2511	1379
Ministry of Communications & Information Tech.	32848	2281	3223	633	2374
Ministry of Railways	27176	417	3188	108	2955
Ministry of Urban Development	18521	93	2071	42	1223
Ministry of Home Affairs	20965	2316	1494	808	686
Ministry of Human Resource Development	10188	366	1164	50	977
Ministry of Coal	6859	423	1087	94	946
Ministry of Defence	6385	504	980	306	366
Ministry of Petroleum & Natural Gas	5659	877	976	494	334

2.10 Top 10 ministries which have accepted highest number of first appeals

This section depicts the position regarding ministries which have accepted highest number of first appeals (Table 2.11 below).

Table 2. 11: List of top ten ministries which have accepted high number of first appeals

Ministry	Total number of RTI requests	Number of RTI requests rejected	Total number of first appeals received	Number of first appeals rejected	Number of first appeals accepted
UT of Delhi	31369	549	6051	853	4768
Ministry of Railways	27176	417	3188	108	2955
Ministry of Communications & Information Tech.	32848	2281	3223	633	2374
Ministry of Finance	31413	7354	4795	2511	1379
Ministry of Urban Development	18521	93	2071	42	1223
Ministry of Human Resource Development	10188	366	1164	50	977
Ministry of Coal	6859	423	1087	94	946
Ministry of Home Affairs	20965	2316	1494	808	686
Ministry of Labour & Employment	10973	947	682	124	416
Ministry of Steel	3731	277	529	145	384

2.11 Distribution of total amount collected under different provisions

The RTI Act provides for collection of application fees at the time of filing an RTI request, allows public authorities to collect additional fees as prescribed by act, and imposes monetary penalties in certain conditions. The total amount collected in 2007-08, which includes fees, additional charges and penalty collected by all ministries is Rs. 43,56,782.

The table 2.12 illustrates the distribution of total amounts collected under different provisions of the act.

Table 2.12: Distribution of total amount collected under different provisions

Total number of Public authorities	Opening balance of requests received under RTI (as on 1.4.07)	Number of requests received	Total number of requests	Decisions where applications for information rejected	Number of cases where disciplinary action taken against any officer in respect of administration of this Act	Total registration Fee Collected (Rs.)	Total additional fee collected (Rs.)	Total penalty levied and collected (Rs.)
1597	23926	263261	287187	18966	20	2483427	1710694	162661

3. CIC IN 2007-08

The Central Information Commission (CIC) plays a very important role in shaping the implementation of the RTI Act. The decisions of the CIC in response to appeals and complaints received provide precedents for implementation of the law, and acts as an important signalling mechanism. This chapter will focus on the implementation of the RTI Act by CIC. This would inter alia involve analysis of number of second appeals and complaints received by CIC, trends over the past three years and directions by CIC etc.

3.1 Analysis of RTI applications in Central Information Commission

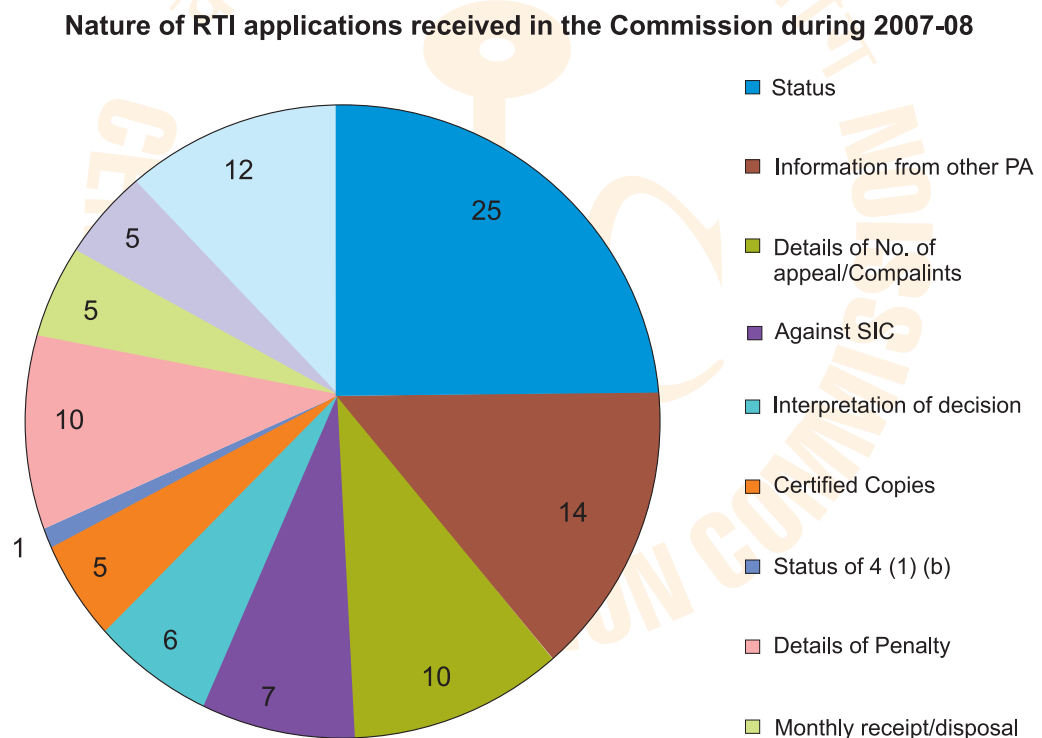
During 2007-08 the Commission received 1,304 RTI applications and 107 first appeals. During this period the Commission had designated one CPIO and one Appellate Authority. An analysis on the RTI applications received by the Commission as a Public Authority reveals that approximately 25% of the RTI application received were relating to information about the status of the petitions filed by citizens before the Commission either under section 18 or under section 19 of the Act. Around 10% of the RTI applications, received by the Commission, were for knowing the details of total no. of appeals and complaints filed in the Commission for particular duration and also for knowing the total penalty imposed by the Commission either for mala fide denial, and/or for delayed supply of the information to the information seekers. Around 14% of the applications were filed requesting the Commission to transfer the request for information to other Public Authorities who hold the information. Though RTI applicants to the Commission were aware of the custodian of the information, they preferred the Commission to transfer request for information u/s 6 (3) to the holder of information. They further stated that if the request is transferred to the appropriate Public Authority by the Commission it is likely that the information sought will be received by them as expeditiously as possible.

The Commission also received around 7% of the RTI requests to know whether the appeal against the orders passed by the State Information Commissions can be filed before the Central Information Commission. These trends indicate that the Central Information Commission is construed to be an appellate commission over and above the State Commissions, which is not true. The Central Government in this regard may like to issue clarifications so that people are not under the wrong impression that appeal against the orders of the State Commissions can be filed before the Central Information Commission. Followed by this around 6% of the RTI applications were filed for seeking interpretations of orders passed by the Commission while adjudicating Appeals/Complaints under section 18 and 19 of the Right to Information Act from the CPIO. All these queries have been responded to by the CPIO in which he advised the information seekers that the CPIO is not competent to interpret the decisions of the commission. Yet another 5% of the applications of the information seekers had requested certified copies of the documents submitted by the respondents either in appeal or the complaint cases decided by the Commission. In around 1% of the RTI applications the information

seekers desired to know about the status of pro-active disclosures as mandated under section 4(1)(b) of the RTI Act from this commission. Central Information Commission is one of the few Public Authorities which had complied with the provisions of the Act regarding suo motu disclosures about functioning of the Commission.

The pie chart in Figure 3.1 illustrates the nature of RTI requests received in the commission as Public Authority. While disposing the RTI applications received by it as Public Authority the CPIO of the Commission did not reject any of the requests under any clause of section 8. However, the CPIO of the Commission during the reporting period disposed of 21 applications (1.6%) in which he observed that the information did not exist as per the definition of section 2(f) of the RTI Act.

Figure 3. 1: Nature of RTI applications received in the Commission during 2007-08



The Commission during the period under report received 107 first appeals. These appeals were largely against those orders of the CPIO in which he had informed the appellant that the interpretations of the directions of the Commission are beyond the jurisdiction of the CPIO.

During this period the Commission received 80 second appeals and complaints against the orders of the CPIO and the Appellate Authority of the Commission. During this period Commission disposed around 60 second appeals/complaints filed against itself.

The Commission analyses the subject matters of RTI requests received by it

periodically. The Commission realises that monthly receipts and disposal of the cases by it are an important indicator which reveal the working of the Commission. Accordingly, it decided to place in public domain this information. Commission has also ensured that the cause lists and the status of the appeals and complaints are made available on its website so that a citizen does not face any difficulty regarding the schedule of a case. The Commission has modified its website by adding various features including navigation of High Court Orders and the Full Bench decisions. It has also made it mandatory for the First Appellate Authority to place all his Appeal decisions in public domain by notifying it on the website. In view of large numbers of RTI applications for knowing the status of appeals/complaints in the Commission indicated that it needs to modify software to the extent that it can capture various levels of action and display its status at all levels to citizens. The Commission for this purpose constituted a team comprising of the officials of the Commission and the NIC to take view and present a proposal to the Commission in this regard. The brainstorming sessions have already begun to achieve the objective.

3.2 Plan schemes

An amount of Rs. 26.60 crore has been allocated to CIC for its plan schemes during the 11th five year plan covering the period 2007-2012. Out of this, an amount of Rs. 18.50 crore is earmarked for construction of head office building for CIC. For this purpose, an agreement has been entered into with the School of Planning and Architecture for preparing design of building. Balance of Rs. 8.10 crore is earmarked for schemes relating to effective implementation of the RTI Act, 2005 which comprises of following five components:

Table 3. 1: 11th Five year plan

Components	Outlay 11th Five Year Plan (Rs. in lakh)
Setting up of VC facility at CIC	62.73
Dak digitization at CIC	58.72
Preparation of Publicity Material	382.05
Setting up of call centre for CIC	77.00
Establishment of wing for Accountability and Transparency studies	229.50

3.3 Budgetary allocations

Budgetary allocations to CIC were made under two broad categories in 2007-08, one under 'Non Plan Revenue' for meeting the establishment expenditure of CIC and the other 'Plan Capital' to meet the expenditure on construction of building of head office for CIC.

Allocations and actual expenditure for these purposes in 2007-08 are given in the following table below:

Table 3. 2: Allocations and actual expenditure

Budget head description	2006-07 Actual Expenses Rs. in lakh	2007-08 Allocations Rs. in lakh	2007-08 Actual Expenses Rs. in lakh
Non-Plan revenue			
Salaries	103.24	114.20	114.12
Wages	26.64	67.00	66.71
Over time allowance	1.41	2.00	0.38
Medical treatment	1.31	2.00	1.45
Domestic travel expenses	9.99	13.00	13.00
Foreign travel expenses	20.02	20.00	8.00
Office expenses	149.94	160.00	124.60
Rent, Rates and Taxes	122.81	197.50	167.00
Publication	6.77	8.30	5.29
Other administrative expenses	27.11	6.00	4.05
Professional services	6.18	18.00	17.15
Total (Non-Plan Revenue)	475.42	608.00	521.75
Plan Capital			
Construction of Head Office Building	35.14	60.00	25.31
Total (Plan Capital)	35.14	60.00	25.31

3.4 Analysis of second appeals received by CIC in the year 2007-08

The total number of second appeals received by CIC in the year 2007-08 is 7301, out of which 5702 appeals were disposed. As can be seen from the table, the number of appeals received by CIC is high in the last two quarters of the year compared to the first two quarters of the year. The number of second appeals disposed is less in the last two quarters compared to the first two quarters of the year.

Table 3. 3: Quarterly details of second appeals received by CIC

Year 2007-08	Number of second appeals received	Number of second appeals disposed	Number of second appeals accepted	Number of second appeals rejected
Quarter 1	1623	1500	1356	144
Quarter 2	1527	1591	1345	246
Quarter 3	1901	1311	1272	39
Quarter 4	2250	1300	1149	151

As can be seen from figure 3.2, the number of second appeals received by CIC has been increasing over the three years of its existence. The number of second appeals disposed by CIC has also increased over these three years.

The percentage of second appeals disposed by CIC compared to the number of second appeals received has come down compared to the first year of RTI implementation. In the first year 98% of the second appeals received were disposed. Over the years 2006-07 and 2007-08, 68% and 78% of the second appeals received respectively were disposed.

Of the second appeals disposed by CIC, the percentage of second appeals accepted is 43%, 90% and 90% for the years 2005-06, 2006-07 and 2007-08 respectively.

Figure 3. 2: Analysis of second appeals over 3 years

3.5 Analysis of complaints received by CIC

The total number of complaints received by CIC in the year 2007-08 is 3960, out of which 2020 complaints were disposed. It would be seen from the table below, that the number of complaints received by CIC was high in the last two quarters of the year compared to the first two quarters of the year.

Table 3. 4: Quarterly details of complaints received by CIC

Year 2007-08	Number of Complaints Received	Number of Complaints Disposed	Number of Complaints Accepted	Number of Complaints Rejected
Quarter 1	761	345	305	40
Quarter 2	722	393	349	44
Quarter 3	1060	415	386	29
Quarter 4	1417	867	754	113

As evident from figures above, the number of complaints received as well as their disposal, by CIC, has been increasing over the past three years.

The number of complaints disposed by CIC compared to the number of complaints received has come down compared to the first year of RTI implementation. In the first year 96% of the complaints received were disposed. Over the years 2006-07 and 2007-08, respectively 42% and 51% of the complaints received were disposed.

Of the complaints disposed by CIC, the percentage of complaints accepted is 83%, 73% and 89% for the years 2005-06, 2006-07 and 2007-08 respectively.

Figure 3. 3: Analysis of complaints over 3 years

3.6 Analysis of cases in which penalty has been imposed.

The number of cases in which penalty has been imposed during the year 2007-08 is 54. The total penalty levied during the year 2007-08 is Rs. 718,500.

Table 3. 5: Quarterly analysis of penalty imposed

Year 2007 – 2008	Number of cases in which penalty is imposed	Total penalty imposed (Rupees)
Quarter 1	8	93,500
Quarter 2	23	405,250
Quarter 3	18	187,000
Quarter 4	5	32,750

3.7 Analysis of cases in which compensation has been awarded.

The number of cases in which compensation has been awarded during the year 2007-08 is 50. The total compensation awarded during the year 2007-08 is Rs. 2,79,900.

Table 3. 6: Quarterly analysis of compensation awarded

Year 2007 – 2008	Number of cases in which compensation is awarded	Total compensation (Rupees)
Quarter 1	3	12,000
Quarter 2	17	114,000
Quarter 3	12	91,000
Quarter 4	18	62,900

3.8 Case studies relating to complaints enquired in detail by the CIC

Under Section 18(2) of the RTI Act, detailed enquiry was initiated in some complaints received by the Commission.

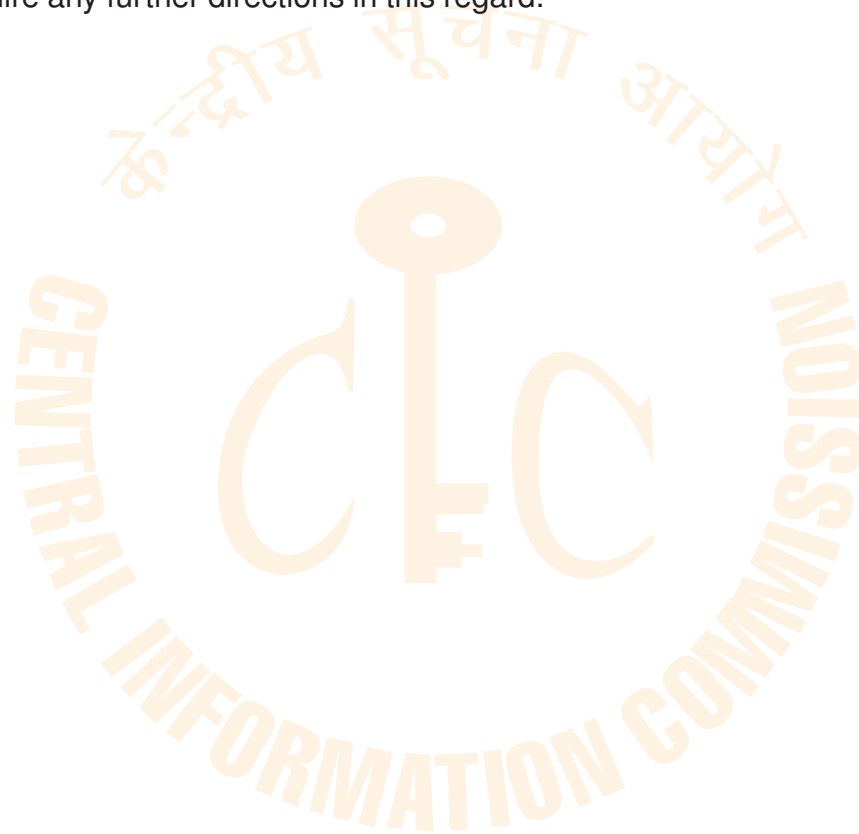
3.8.1 Enquiry in r/o complaint number CIC/WB/C/2006/00041

The matter pertains to giving false information to complainant in appeal case number CIC/WB/C/2006/00041. The information relates to demolition of unauthorised construction of flat in DDA flats, Munirka, New Delhi. The report that was sent to the complainant stated that demolition could not be completed due to a non-availability of force. The initial enquiry in this case was done by DC, MCD and the report submitted pointed out that the then Jr. Engineer (Bldg) had furnished the wrong information. Later, the Jr. Engineer approached the Commission and submitted a review petition wherein he stated that the mistake had happened as he had mis-read dates. Commission ordered for an enquiry on 7-3-2008 to ascertain as to how the false report was submitted.

3.8.2 Enquiry in respect of complaint number CIC/WB/A/2006/00029

Vide orders dated 20-7-2006 in case number CIC/WB/A/2006/00029, the then Additional Registrar of CIC was asked by the Chief Information Commissioner to visit the office of Registrar, Cooperatives Societies, NCT Delhi. This was to identify the shortcomings in attending to duties enjoined upon it under the RTI Act and then based on the findings a detailed direction was to be given to the Public Authority on improving its responsiveness in keeping with the spirit of the Act.

The Additional Registrar visited the Office of the RCS on 18-6-2007 and inspected the arrangements. He reported that the public authority does not require any further directions in this regard.



4. Initiatives by Public Authorities and CIC

The success of effective implementation of the access to information regime is contingent upon quality as well as extent of application and due diligence on the part of stake holders; especially the Commission and Public Authorities. This chapter covers various initiatives taken up by CIC and public authorities for wider dissemination and better implementation of the RTI Act. The CIC used conferences, events, and workshops to reach out to people. This chapter also gives a brief account of initiatives taken by Public Authorities in implementation of the RTI Act which is based on responses received from some Public Authorities to questionnaire circulated by CIC.

4.1. Conference(s) in India

Central Information Commission organised a conference of Central Information Commissioners as well as Chief Information Commissioners and Information Commissioners of the State Commissions at India International Centre Auditorium, New Delhi on 17th October, 2007. Four panels of experts discussed important issues of contemporary relevance viz: “Enforcement of Section 4”, “Autonomy and other Administrative matters relating to the Information Commissions”, “Enforcement of Decisions and Penal Clauses of the Act” and “Future Evolution of the RTI Regime”. Recommendations of the Conference have been given in paragraph 5.3 of this Report.



Information Commissioners with Hon'ble President of India during their visit to Rashtrapati Bhawan

4.2. Seminars and Workshops in India

The Central Information Commissioners including the Chief Information Commissioner attended various workshops, seminars and shared their views and experiences in various parts of the country. During the year 2007-08, approximately 50 such seminars and workshops were attended by them. The participants included RTI activists, government officials, opinion makers, representatives of Civil Society Organisations, journalists, citizens, professionals from all walks of life.

4.3. International conferences

Table 4. 1: List of International conferences attended by Central Information Commissioners

1	2-7-2007 to 4-7-2007	Lahore – Pakistan India Symposium on Local Governance
2	11-10-2007 to 12-10-2007	Bhutan – Workshop on Democratic Constitutional Monarchy for Bhutanese Civil Servants – invitation from MEA
3	13-11-2007 to 2007 15-11-2007	– Bangkok – Delivered Key note address on Transparency and Disclosure for Better Governance: Early Lessons from India RTI 2005 – World Bank
4	26-11-2007 to	Attended 5th International Conference on Information 29-11-2007 Commissioners held at Wellington, New Zealand
5	17-3-2008 to 21-3-2008	Dhaka – Attended meeting on Formulation of RTI Act in Bangladesh, with officials / NGOs

Shri A.N. Tiwari, Information Commissioner, CIC, presented a paper in 5th International Conference of Information Commissioners, held at Wellington, New Zealand, on “Governance and Right to Information (How RTI-Related Awareness is Key to Improved Governance)” ¹¹. The Annual Conference for the Information Commissioners from around the world is primarily a forum for those who regulate and enforce access to information laws and provides an opportunity for all concerned, with interest in free and unfettered access to information, to meet and discuss issues relating to effective and efficacious implementation of these laws.

In his presentation, Shri A.N. Tiwari, opined that the RTI Act has undoubtedly opened a new vista, but its success will critically depend upon the public authorities imbibing its spirit and vigorously carrying out the structural and technological changes essential for creating a heightened sense of awareness among its employees that confidentiality in governance is no more the norm, but only an exception.

He further stated that the RTI Act of India places great emphasis on systemic improvement within the government and links it to the larger aspiration, that as governance becomes transparent, the need for the citizen to take recourse to RTI Act shall be progressively reduced.

Shri Tiwari concluded by saying that the true index of the success of the RTI Act will no doubt be how the common citizen is able to use the provisions of the Act to receive

¹¹ [http://www.icic2007.org.nz/Day_2/Tiwari-Paper_on_Governance_etc. pdf](http://www.icic2007.org.nz/Day_2/Tiwari-Paper_on_Governance_etc.pdf)

quality information from the government, but equally important will be the measure in which the governments restructure their systems in order to make information routinely available to the citizen. Crucial to both will be an attitudinal change among employees of public authorities about their roles in the system and their approach to transparency in that system. To take liberty with a famous saying of *Aldous Huxley*: confidentiality resides in the minds of public employees and it is in the minds that the battle for transparency will be won. Critical to this battle will be increased awareness as well as cooperation among all stake-holders the government and its various public authorities; the Information Commission; civil society institutions and the common citizen. I hope we are all headed in that direction



Participants of 5th International Conference of Information Commissioners at Wellington, New Zealand

4.4. Innovations by CIC in implementation of the RTI regime

4.4.1. *Engaging students*

The Commission has been receiving a large number of requests from various universities, educational institutions of repute and from such other organizations for imparting training on the Right to Information Act, 2005. The Commission has evolved a systemic arrangement in this regard and accepts desirous students as interns to work with the Commission in such a way that they acquire knowledge of the nuances and operation of the RTI Act 2005. The Commission received a request from Department of Communication & Journalism, University of Pune that a group of 35 students and faculty members be allowed to visit the commission for a day. The Commission agreed to the request of the Head of the Department of Communication & Journalism,

University of Pune and arranged for presentation on the functioning of the commission including an interactive sessions with the Chief Information Commissioner and one of the Information Commissioners. The presentation revolved mainly around initiatives taken by the commission with regard to usage of electronic mediums while discharging its obligations under the Act. The group consisted of students from the print and electronic media. They were already aware of the impacts that the Act had already started making but at the same time they were quite critical of its potential in regard to containing corruption.

4.4.2. Video Conference based hearings

The idea of conducting hearings using video conference was developed as a means to make it easy for a number of applicants without necessarily having to travel all the way to Delhi for the hearing. This idea was introduced in 2006-07 and used extensively in 2007-08. In the beginning the facility was confined to inviting the complainants/appellants only. Subsequently, the facility was extended to both respondents as well as appellants/complainant. By enabling this facility the Commission made hearings both cost and time effective. The number of Video Conference hearings has seen an ever increasing trend thereafter. There were 176 video conferences held across the country through the year as against 27 during 2006-07. Full bench decisions were also pronounced using video conference.

4.5. Initiatives taken by public authorities in RTI implementation

As a part of its effort to take stock of initiatives taken by public authorities, the CIC circulated a detailed questionnaire ¹² to 29 public authorities. These public authorities were selected on the basis of number of requests received and their disposals by them in past.

Public authorities have also taken various initiatives in implementing RTI Act. Listed below are, some extracts from the completed questionnaires, indicating initiatives taken by public authorities during the year to improve the implementation of the RTI Act.

Box 4. 1: Initiatives taken by public authorities

Bharat Sanchar Nigam Limited

“Large number of commercial, administrative, operative circulars, rulings are placed on BSNL Intranet section-wise which are viewed by large section of employees and can be downloaded.

Information about services, tariff for general public is also placed on BSNL portal and various circle websites. Exams cell details are proposed to be made on line.

The training imparted covered explanation of provisions under the Act and decisions of CIC”.

Bharat Sanchar Nigam Limited (Karnataka Chapter)

The public authority has initiated several steps to improve its compliance with

¹² Annexure-1

the RTI Act. Some measures include:

“In addition to the details of services provided by the BSNL, the internal correspondence/communication is computerized and functioning through website.

HR details of entire staff are computerized and functioning through website. MM section is also computerized as related to the tenders. MIS is computerized.

As regard to consumer related services, subscribers directory enquiry, service directory of officers, online phone booking, broadband booking, buying prepaid cards, fault booking, all tariff details and network details are available on the BSNL websites”.

Department of Rural Development

“All the relevant materials prone to be sought after by the public are regularly posted on the website of the department by the programme division with the assistance of NIC.

In the D/o RD, monthly progress reports, sanction orders and release figures for all the major programmes are regularly updated. Three major schemes – NREGA, PMGSY and NSAP have their own websites in which various parameters, including database of beneficiaries is maintained. The other two programmes, IAY and SGSY are also in the process of putting their progress and database online. Data relating to these programmes is already posted on www.rural.nic.in.”

Department of Administrative Reforms and Public Grievances

The department has regularly updated information pertaining to the activities being carried out by the department including details of the Public Information Officers and Appellate Authorities.

On their website they have also hosted copies of the replies given to the parliamentary questions, and quarterly reports on the details of the RTI applications received.

Power Finance Corporation Ltd.

“All the policies, rules and regulations of the company are computerized. Further the annual reports and all the financial information relating to the company is also computerized.

The company on a regular basis informs the public through newspaper, company’s website, NSE/ BSE website etc. of important decisions relating to the company like financial results, declaration and payment of dividend, company’s policies, AGM, board meetings, etc.”

Employees Provident Fund Organisation

“To address the accountability and transparency in the area where maximum number of RTI applications are filed, an online grievance registration and monitoring system has been implemented by the Customer Service Division of EPFO.

Further, proper internal mechanism for speedier processing and furnishing of information has been established by designating sufficient number of CAPIOs/ CPIOs and Appellate Authority at the level of each field office and for each division of Head Quarter Office.

All important circulars, guidelines, policy matters, transfer, posting and promotion orders are uploaded on the central website of EPFO.

EPFO is implementing a project of Business Process Re-engineering in a phased manner where all the basic data and information are in the process of digitization and shall be automatically catalogued and indexed. Presently, it is being implemented in one selected office (Karnal Sub regional office) for trial run.

EPFO has taken further steps by (a) taking insights from the type of information sought and analyzing the reason behind them, (b) sensitizing officers in meetings and discussions, review on prompt and regular response by Public Information Officers, (c) issuing guidelines/circulars for PIOs for streamlining the process of issuing replies and providing information to the applicant under RTI Act, and (d) creating a separate RTI section to facilitate filing of application.”

Ministry of Power

The ministry has undertaken a number of initiatives to computerise and present information on the web. These include

“Management Information System (MIS) and Decision Support Systems (DSS): (a) Web based milestones monitoring system for RGGVY, (b) Centralized Public Grievance redressal and Monitoring system, (c) RTI-MIS and Annual Return Information system, (d) Intra power portal, (e) Comprehensive DDO package, (f) Hydropowernet project, (g) ICT infrastructure development - Video conferencing, (h) Establishment of executive video conferencing system, (i) Network services and LAN

Web sites / Web portals: (a) Website for Rajiv Gandhi Grameen Vidyutikaran Yojana, (b) Website for Accelerated Power Development and Reforms Programme, (c) Website for Ministry of Power, (d) Web portal for Right to Information Act, 2005, (e) Web portal for RGGVY under flagship programme of Planning Commission, (f) Content updation for Bharat Nirman web portal”

Telecom Regulatory Authority of India

“All the records pertaining to all decisions are published on the TRAI website, which facilitates easy access to records.

In the Divisions also records are duly catalogued and indexed as per the requirement of ISO 9001:2000.

All important records which have been generated in pursuance of its function by the Authority have been computerised and are available on the TRAI website.”

Source: Responses from public authorities to the questionnaire circulated by the by CIC.

5. Recommendations for reforms

The RTI Act casts responsibility upon both, the Commission as well as Public authorities, to suggest measures for effective implementation of the Act. This chapter covers recommendations by CIC and Public Authorities in this regard. Recommendations of CIC to the Government of India are detailed in Section 5.1 while recommendations of CIC to Public Authorities made under Section 25(5) are detailed in Section 5.2. Section 5.3 deals with suggestions by Public Authorities for making improvement in the implementation of the RTI Act. Recommendations of the Annual Convention 2007 are detailed in Section 5.4.

5.1 Recommendations of CIC to Government of India

Right to Information Act, 2005 provides for setting out the practical regime of Right to Information for citizens to secure access to information held by Public Authorities. The Central Information Commission has been constituted to promote transparency and accountability in the working of every Public Authority. For improved compliance by the Public Authorities and better implementation of the Act, the Commission is of the view that Government of India should mandate all the Public Authorities to invariably document the following in their Annual Reports:-

- i. Action Taken Report with regard to directions issued/recommendations made by CIC.
- ii. A chapter on status of implementation of the Act by Public Authorities.

5.2 Recommendations of CIC to Public Authorities

As a part of the process of passing orders in various complaints/appeals, the CIC has made several recommendations to Public Authorities under Section 25(5) of the RTI Act. Some of these are as follows:-

- 5.2.1.** In a number of cases, CIC observed that the ACRs contain remarks about conduct and professional competence of employees which are in public interest. The CIC, therefore, recommended to the North Central Railway to evolve and adopt an objective and transparent system of performance evaluation of its employees so that the remarks of superior officers are objectively recorded and put in public domain, lest the employees should complain of discrimination or unfair practices in service matters. [CIC/OK/A/2007/00697].
- 5.2.2** While deciding appeal no. CIC/WB/A/2007/000790, CIC observed regarding file notings that its decision, in Pyarelal Vs. Ministry of Railways dated January 2, 2007, is unambiguous, clear and unchallenged. Therefore, a plea cannot be taken that file notings are not open to disclosure. Any misplaced entry on the web site can only be an expression of opinion and not rule. The Commission, therefore, recommended to the DoPT that impugned entry, not being in conformity with the Act, be deleted from the web site. Similar recommendations have been made to DoPT in few other cases. [CIC/WB/C/2007/00148 & CIC/WB/A/2007/00596].

- 5.2.3.** The Commission recommended for the consideration of DoPT, means of bringing the practice of receipt of application into greater conformity with section 6(1) of the RTI Act, through the fullest use of electronic means. [CIC/WB/A/2007/00052].
- 5.2.4.** The appellant raised the issue before CIC that cost of training should be disclosed to the officers designated at the time of deputation so that if they wish to seek their retirement, they will know all the liability they have incurred. This was considered a wise suggestion and CIC recommended to Air HQ, Vayu Bhawan to consider informing the cost of training in various categories to officers in their deputation orders. CIC made this recommendation in the interest of greater transparency and closer conformity with the Right to Information Act. [CIC/WB/A/2007/000502]
- 5.2.5.** CIC observed that the practice of the High Court in relation to provide access to information under this Act, in terms of Section 4(iv) and Section 5(a) of the Delhi High Court (Right to Information) Rules does not conform expressly with the provisions of the Act. It was, therefore, recommended to the Delhi High Court that such steps may be taken to amend these rules as would make them consistent with the Section 6 and Section 7 of the RTI Act. [CIC/WB/A/2007/00418].
- 5.2.6.** CIC observed that the information furnished by Intelligence Bureau to the Government is outside the purview of the RTI Act. However, CIC agreed with the appellant that applying a blanket ban on disclosure in matters of wider public concern, simply because it is handled by an agency outside the jurisdiction of RTI Act, does not appear to be in full conformity with the objective of the Act. CIC, therefore, recommended to the Ministry of Home Affairs that it may obtain and hold at least part of the information, which is of public interest from such agencies for disclosure under the Act when required. [CIC/WB/A/2007/00373].
- 5.2.7.** CIC recommended to the Ministry of Personnel, Public Grievance & Pensions to appoint an officer of sufficiently senior as CPIO who is capable of eliciting response from different sections of the Ministry in order to satisfy the request for information received by that Ministry. Since the Ministry is also the administrative Ministry for implementation of RTI Act 2005 within Government, the responsibility of the Ministry in ensuring smooth functioning in this new innovative legislation is greater. [CIC/WB/C/2006/00265].
- 5.2.8.** Under the authority vested with CIC, for promoting greater conformity with the spirit of the RTI act, 2005, CIC made following recommendations to DoPT in one appeal:-
- (i) Hyper linkages be created with the RTI Website i.e. rti.gov.in so that it remains regularly updated.
 - (ii) Secretary DOPT is advised to initiate steps to strengthen this Division in order that it might play the role envisaged for it by the RTI Act 2005 which makes it, acting on behalf of the President of India, the "Prescribed Authority".

- (iii) The DOPT needs to take a more proactive role in ensuring a homogenous implementation of the various provisions of the RTI Act. In the Act the 'appropriate government' is required u/s 27(1) (c) of the Act, to prescribe the fee payable under sub sec. (1) & (5) of Sec. 7. This has led to a multiplicity of fee structures in different States in the country, with a citizen having to pay different rates from departments falling under the authority of the state government and under the central government, even in the same city. The Information Commissions have been in unison in recommending that a homogenous fee structure be implemented for all government agencies in the country for which appropriate recommendations to all 'appropriate governments', can be made by the DoPT. [CIC/WB/A/2007/00209].

5.2.9. In a full bench decision, the Commission has noted that the MHA has expressed its resolve to examine these records of undoubted national importance and send them to the National Archives as required under the Public Records Act, 1993 (No. 69 of 1993). Under the authority vested u/s 25(5) of the Act, the Commission recommended that this resolve be translated into action as early as possible and by doing so, the MHA would not only be discharging its legal duties and rendering an essential service to a public cause, it may finally help resolve an unsolved mystery of independent India. [CIC/AT/C/2006/00087].

5.2.10. CIC held that though there is no denial of information, the responses furnished to the appellant are evasive and directed the CPIO to ensure that the grievances of all the signatories of representation to the Hon'ble Minister are duly redressed. Ministry of Textile was advised under Section 25(5) of the RTI Act to review the implementation of the Health Insurance Scheme to ascertain whether the intended benefits are reaching the target groups. [CIC/MA/A/2007/00469].

5.2.11. CIC held that complete information regarding forest land, its diversion or its depletion must be a matter of record with the Central Government and would qualify for *suo motu* publication u/s 4(1) subsection (b) (xi), subsection(c) and subsection (d). Therefore, it was recommended to the Ministry of Environment & Forests that documentation of the above information on forest land must be published as warranted u/s 4(1) of the RTI Act. [CIC/WB/C/2007/00345].

5.3 Suggestions by Public Authorities for improvements in the implementation of the RTI Act

For bringing improvement in the implementation of the RTI Act, 2005, certain suggestions have been received from various Public Authorities. Many of the suggestions received by us were sent in by more than one public authorities. It is felt, however, that the suggestions received from various Public Authorities are summarised and presented excluding the details as to who suggested what. Listed below are the summary of the suggestions from the Public Authorities:-

- 5.3.1.** Numerous, frivolous and voluminous complaints are received from RTI applicants who not only divert the attention of the staff but also resources in collecting such information which do not serve any public interest.
- 5.3.2** To reduce frivolous applications and to ensure that only genuine information seekers invoke the provision of the RTI Act, the followings have been suggested:-
- (a) Only one information/query be allowed in one application.
 - (b) To discourage non-serious information seekers, the fee of RTI application should be increased to Rs. 50/- while it may be kept free for people below poverty line.
 - (c) Since, no public interest is involved, invoking of RTI Act by the employees/unions should be restricted to the extent that they may be allowed to file RTI applications only after exhausting the existing channels/sources.
 - (d) A large number of employees seek personal information about other persons. CIC may come out with proper guidelines in this regard about the issues which are exempted under invasion of privacy.
- 5.3.3.** There should be provisions in RTI Act, 2005 that no one should ask irrelevant questions, bulky informations. Applicant may be discouraged from asking common questions, opinion based and for general knowledge as also relating to very old records.
- 5.3.4.** All the departments should have their own web sites at unit level. It may, however, be possible only after the implementation of e-governance in totality.
- 5.3.5.** CIC should instruct Ministry of Finance/DoPT to allow creation of exclusive RTI Sections having sufficient staff and officers. In Ministry of Panchayati Raj, only one Assistant is dealing with RTI matters in addition of foreign deputation and protocol duty. RTI information obtained by magazines/news/TV etc., which help increasing their business should be charged its economic value as they are using Government Act for their pecuniary gains. In the current scenario, RTI units are flooded by RTI applicants from media or their proxies which are very difficult to reply unlike genuine RTI applicants who ask for simple questions.
- 5.3.6.** To create more awareness among the general public, exploring its relevance to their lives, helping them with the procedures sharing success stories with them, etc, thus, empowering them and promoting greater involvement of the citizens to help increase transparency and accountability of Public Authorities.
- 5.3.7.** CIC plays a very important role in implementing the Act in letter and spirit. It should not only ensure that timely action is taken and the spirit of the Act is upheld but at the same time it should not allow people to misuse the RTI act to settle personal scores.
- 5.3.8.** Public Authorities should proactively and regularly disseminate information in the public domain. This envisages providing information *suo motu*, without citizens seeking and invoking the RTI Act. Further, to expedite the whole

process, a system can be put in place where the applications can be filed on line.

- 5.3.9.** Single RTI Central Unified Window in a form of portal with the help of internet should be developed from where all the offices of the Government of India and State Governments are accessible. This repository of information should be linked with the web site of CIC and State Information Commissions. The system of forwarding by dak/post is too time-consuming in the context of one month deadline for RTI.
- 5.3.10.** The private companies performing the public utility matters should be brought under the act forthwith. Applications received by the public authorities having involvement of private companies could not be addressed as the concerned companies are out of RTI ambit. Hence, the purpose of implementation of the Act for benefit of larger public is not being served.
- 5.3.11.** It has come to notice that BPL applicants are seeking information which does not relate to them. For instance a BPL applicant seeking the entire document of user license of mobile telephone containing more than 700 pages is apparently a misuse of the act. In such cases, there should be some mechanism or proviso in the Act so that BPL applicants are actually benefitted for their cause.
- 5.3.12.** With the passage of time and scope of the Act gradually widening, there is bound to be an increase in work load at the level of CIC. Therefore, more support staff to the extent of Government norms should be positioned so that working of the CIC is smoothened in the interest of public as also public authorities.
- 5.3.13.** Annual seminars inviting CPIOs of all the public authorities may be organized by the CIC which will enable the CPIO to interact with the CIC and it will also create awareness among the general public. Such seminars should be given wide publicity. There is a need to bring about attitudinal change in the custodian of records. This can be made by imparting training to concerned officials.
- 5.3.14.** Review of provision of the Act by the committee including PIO of Government department, PSUs and other authorities/body for smooth functioning is required.
- 5.3.15.** Private organizations having larger public interface like schools, banks, hospitals, etc should also be brought under the purview of RTI Act.
- 5.3.16.** CIC may publish all the important orders/landmark judgements.
- 5.3.17.** Proforma for the first appeal may be prescribed. Departments may be advised to devise internal standard formats/structured forms for various divisions in order to track the information fast and supply the same.
- 5.3.18.** To minimize burden on financial exchequer, instead of summoning the public authorities/officers to New Delhi to attend the hearing, the parawise comments only may be called for, unless personal appearance is very essential/unavoidable.
- 5.3.19.** Public Authorities should follow the principle of maximum disclosure.

Simultaneously, citizens/applicants may also be educated to utilize the Act properly so as to have least number of rejections.

- 5.3.20.** CIC should be empowered to take action against applicants indulging in putting frivolous applications thus depriving the right to information to the rightful applicants.
- 5.3.21.** Nodal Ministry may consider prescribing a separate conventional RTI section with dedicated staff in a public authority for monitoring and attending to RTI work.
- 5.3.22.** Time limit of 30 days should be increased to 60 days in respect of the information pertaining to more than 5 years old.
- 5.3.23.** Fee prescribed under the act is too less. This may encourage some persons to ask irrelevant information. Fees do not cover expenses on postage and other expenses. Since a lot of secretarial work is involved for providing the information, it is felt that the fee charged should be enhanced. Fee per page should be enhanced to Rs. 10/- and postage charges should also be collected extra.

5.4. Recommendations of the Conference of CIC

5.4.1. *Enforcement of Section 4 of the RTI Act and Creation of 'E-Districts'*

1. The duty of Government is to pro-actively make available key information to all. The Public Authorities to ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated.
2. Various Commissions have been directing the public authorities to indicate the 'standard procedure' followed by it. Such a system has worked well in Regional Passport offices. All Public Authorities could be directed to replicate the procedure for various services being provided by them. This may result in making them more accountable to citizens.
3. It is suggested that strict directions be issued by the Central Government, that all the State Governments /Public Authorities should fulfill their obligations laid down under Section 4 of the RTI Act, 2005. Failing which, may lead to penal provisions being invoked against such Public Authority. Secretary of the Department may be held responsible in this regard and be clearly held culpable in case of non-compliance of Section 4(1) (b).
4. The Central and State Governments must necessarily make adequate fiscal allocations for computerization and connectivity from Information Commission level to Mandal/Taluk level Public Authorities so as to effectively operationalise the provisions of the RTI Act.
5. Standardization of procedure is must for the disclosures mandated under Section 4 of the Act. System devised by National Informatics Centre (NIC) for submitting RTI Application / Response; 1st Appeal; 2nd Appeal may be used.

6. Gram Panchayat is a unique institution, when it comes to e-governance for the following reasons:
 - a. Primacy of Gram Sabha and its impact on the Gram Panchayat; requirement of keeping the Gram Sabha (the citizenry) well informed, by the Gram Panchayat.
 - b. Benefits to citizens flowing from over the counter services.
 - c. Service level objectives and benefits in the Gram Panchayat context could be optimized by making use of E-governance.
7. National Panchayat Portal (www.panchayat.gov.in) may be used for updating information to the level of panchayat. A standardised format in which the information may be provided, is available on this website. The State Governments may ensure this with the Blocks and Panchayats.
8. Commission to note recommendations in their Annual Report to be considered for computerisation of information.
9. Make all Government services accessible to the common man in his locality, through common service delivery outlets and ensure efficiency, transparency & reliability of such services at affordable costs to realise the basic needs of the common man” -27 Mission Mode Projects (MMPs)
10. Citizen-centric approach to delivery of selected (bulk) services through Common Service Centres (CSC) involving back office enablement, by way of digitization of relevant records, process redesign, and automation of processes/workflow.
11. Notification of e-District services under section 4(1) of the Act to enable and legally enforce sharing of information as prescribed, electronically.
12. E-District to act as an enabler for facilitating objectives/services relating to RTI being achieved/ delivered. RTI's legal framework to be leveraged by e-District to make information sharing/e-services irreversible.
13. Need/feasibility of notifying CSCs as APIOs under the Act
14. At the moment the e-Districts Plan is implemented in phased manner. In Phase-I, 8 to 10 States have been selected, whereas in Phase-II national roll-out will be made.
15. The RTI services in e-District could be for reaching the applications, tracking status of the applications, receiving services from the Public Information Officer and its delivery to the citizen.
16. The core-services under the e-District could be used by the Certificates, Social Welfare, Revenue Court and Ration Card.
17. However, the Public Authorities may ensure to make use of the technology with the available resources.

5.4.2. *Autonomy and other Administrative Matters Relating to the Information Commissions*

1. Required budget be deducted by the Central Government from the allocated budget of the concerned State.

2. The Central/State Governments should finance the Central/State Information Commissions in the form of Grants-in-Aid with charge budget.
3. To amend/adding to Section 13(1) sub-section 1.
 - a) The word 'five' appearing at para 2 of sub-section (1) of section 13 of the Act be substituted by the word 'six'
 - b) Another subsection (1A) be added after subsection(1) of section 13 of the Act which should read as follows:
 "If the office of the Chief Information Commissioner becomes vacant or if any such Chief Information Commissioner is by reason of absence or for any other reason, unable to perform the duties of his office those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chief Information Commissioner has resumed his duties, be performed by such other Information Commissioner as the President may appoint for the purpose."
4. Equating the SIC with High Court Judges and that of Central Information Commissioners with the Supreme Court Judges and providing equal facilities as is being given to them.
5. Considering pension to those Commissioners who had not been a Government servant.
6. Treating State Information Commissioners as State Guests
7. Order of Precedence may be amended indicating the positions of the Information Commissioners.
8. Power of Contempt should be given to the Information Commissions so as to implement their orders.
9. Head of the erring public authority / Appellate Authorities can be treated as deemed CPIO/SPIO and thereby invoking penalty provisions under Section 20(1) of the RTI-Act.
10. A Confederation / Conference of Information Commissions may be formed for regular meetings for having better coordination among the Commissions and cohesion in their decisions.
11. Honorarium/incentives to PIOs/APIOs for doing additional work.
12. In the absence of any contempt provision under the RTI Act, it is suggested that the compensation clause under Section 19(8)(b) of the Act can be invoked against the public authorities for non-compliance of the Commissions' decisions.

5.4.3. Enforcement of Decisions and Penal Clauses of the Act

Inquiries & Appeal: Procedural Aspects:

1. The grounds of a complaint u/s 18 and for an appeal u/s 19 are overlapping. Separate grounds should be there for appeals and complaints.

Clause (b)(c) and (e) of section 18(1) may be deleted as these grounds are basically for exercising appellate powers u/s 19.

2. There is no uniformity of procedure of enquiry - the procedure for hearing under section 19 and for conducting enquiry u/s 18 should be clearly outlined.

Powers of Commission:

3. The proceedings before the Commission be deemed to be judicial proceedings within the meaning of Chapter X of IPC.
4. Commission has been conferred powers of a civil court u/s 18(3). This power may be incorporated into a separate section within the same chapter V so that it becomes applicable to all proceedings (including enquiry, appeal & penalty proceedings).
5. Similarly the provisions under section 19(7) and 19(8) may be incorporated in separate sections in Chapter V so that these powers can be applied in case of all proceedings before the Commission.
6. The powers of civil court u/s 18(3) have been given only for limited purposes. These do not cover powers concerning execution of decrees and recovery of fine etc.

Enforceability of decisions - Powers of Contempt

7. There are instances of non-compliance of orders passed by the Commission. Specific provisions may be recommended to be included in the RTI Act itself for dealing with contempt proceedings.



Central Information Commissioners, (Form L to R) Dr. O.P. Kejriwal, Shri A.N. Tiwari, Shri M.M. Ansari & Smt. Padma Balasubramanian participating in the Annual Conference-2007

8. The amount of penalty imposed or compensation awarded by the Commission should be made recoverable as an arrear of land revenue. For this purpose, a separate section 20A may be added.
9. Section 20 should be amended so as to give discretion to the Commission to decide the quantum of penalty. The word “shall” appearing in section 20(1) may be substituted by the word “may”.

Miscellaneous:

10. Accountability of Public Authorities & First Appellate Authorities should be ensured: Amendments may be made in section 20 & 21.
11. Dismissal of frivolous or vexatious complaints: A new section may be inserted for the purpose either as 20B or as section 7A.
12. Review Power: The Act should contain a provision for review of its own decision by the Commission.
13. Fee for Appeal: There should be a specific provision for fee in case of an appeal. Some states have framed rules prescribing fees for appeal.
14. Unlawful destruction and non-retrieval of records: A penal provision may be introduced for the same.

It was decided that a Standing Committee will examine the above recommendations.

5.4.4. Future Evolution of the RTI Regime

1. The RTI Act should be included in the syllabus at High School and College level education.



Shri A.N. Tiwari, Information Commissioner with Shri Suresh Pachauri, Hon'ble Minister of State for Personnel, Public Grievances and Pensions at the Annual Conference-2007

2. Adequate budget allocation to conduct publicity, training and for educational programmes for the information-seekers and the information-givers.
3. As per Section 2(j), the individual official, how senior or junior he may be in the hierarchy of a public authority, who holds the information can be held responsible for disclosure of the same, and can thus be brought within the ambit of penalty provisions of Section 20(1) (in the absence of penal provisions for AAs and public authorities).
4. Information of public interest can be taken to door-steps of citizens.
5. Commissions can prioritize second-appeals /complaints, which are of public interest, over the ones which are self-centric and self-serving.
6. Uniformity in fees, further-fees (costs) and charges for inspection, etc. throughout the country.
7. Uniformity as regards disclosure obligations for items such as Annual Confidential Reports (ACRs), Annual Property Returns (APRs), DPC Proceedings, Income Tax Returns, etc.
8. Central Government should provide a draft rules to all the State Governments to ensure uniformity in service conditions of officers / employees of the Commissions all over the country.
9. Warrant of Precedence should be prepared showing the positions of the Chief Commissioners and Commissioners.
10. The Central Government may issue instructions to all the States to treat the CICs and SCICs as State Guests during their official / personal visits.
11. More publicity on RTI Act should be done by Doordarshan and All India Radio. Alternatively, the Central Information Commission can run its own private TV Channel dedicated to RTI.
12. RTI journal be made for circulation among the Commissions.

