

Servants of the Public who Make the Public into Servants

There is now a Right to Information, but you have to be Rani of Jhansi to get it

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In a democracy, government cannot run in secret. But to a bureaucracy steeped in the culture of secrecy, the Delhi administration's new directions to its officials to be "people friendly" and look at requests for information about government functioning from "the users' point of view rather than what is administratively convenient" must seem revolutionary.

In truth, the direction is only a repetition of what is already in the books but has been forgotten. Officials have forgotten that they are public servants - paid by the public, to do the public's work. All the information they gather and store like magpies is collected with public money. If the experiences of the public are anything to go by, the directive doesn't come a moment too soon.

Less than a week ago, Citizen Braveheart, armed with duly-filled application, cash in hand and hope at heart, marched off to the swanky Delhi Secretariat to file a request under the Delhi Right to Information Act. Her question was simple: What are the criteria for file classifications? What makes a file top secret or confidential? Who decides?

She went to the window to deposit the fee and get her receipt. By law, that is needed. But as it turned out, Joan of Arc, the Rani of Jhansi, or both were needed as well. Her experience was much like Zaheera in the Best Bakery case. In the time spent waiting for the 2:30 pm-to-4:30 pm fee application window to open at 3:30 pm, it as "suggested" that she shouldn't really try to exercise her rights at all.

The cashier, when he finally appeared an hour before closing time, was no less concerned about dissuading her from folly. No doubt to allow her to reflect on her foolishness, he kindly refused to take her application or money. Instead, he insisted she approach the "competent authority" as her questions related to "security" matters.

The "authority" in turn indicated gentle horror but quite tolerance for the ignorant and explained that this information would not be given. On being told that she was only asking for clarification of how classifications under the Manual of Departmental Security Instructions 1985, followed by all departments, were made, she was told by the quite surprised "authority" that this was the first time he was hearing of the Manual in his over 20 years of service. Undeterred, our heroine persisted until, in the nick of time, the "authority" finally accepted the inevitable. The cashier, true to his tribe, accepted the fee only after specific instructions from the senior.

Our applicant could leave the Secretariat happy in the knowledge that only half a day's absence from office had gone into making a single application on a totally innocuous subject. Other hardy souls looking to get information have not been so gently delayed. Parivartan, a Delhi-based NGO that helps people find out who stole their rations in the fair price shops, has had its members beaten up and criminal cases filed against it. In Karnataka, others asking awkward questions wait endlessly while appellate authority defeat the purpose of the law by simply refusing to deal with requests.

Despite these pitfalls, at least directions from the top show sincerity to get the new Right to

Information laws to work. A spur to the backs of the administration to be dutiful comes from salutary penalty provisions in the Karnataka, Maharashtra and Delhi's Access to Information Acts, which levy fines on bureaucrats who deliberately withhold or give false information. Babudom in those states is creaking into compliances, but not without reluctance in every joint.

In contrast, there exists no such clause in the yet-to-be-notified National Freedom of Information Act 2002. A hastily drafted set of rules put out for comment is rudimentary and creates reservations about government intention. For example, the proposed Rs50 application fee is designed to take away any possibility of most Indians seeking information and is an insult to the realities of their lives.

If the administration is not used to giving information, the courts unused to the new jurisprudence sometimes falter as well. In a recent Bombay case, the purpose interest petitioner was forced to withdraw his suit in light of the courts' seeming displeasure. He had wanted to know which politicians had prompted the transfers of certain police officials. This was important as the entire nation is concerned about the police-criminal-politician nexus and the consequent breakdown in law and order. This common practice also violates the rule that says police officers may not approach outsiders for favours. He wanted to know if action had been taken against such police personnel. In trying to get to the bottom of the issue, the citizen filed several requests. They were rejected. He then appealed; first to the internal departmental authorities and then to the Lok Ayukta. The Lok Ayukta told concerned authorities to do their duty under the Maharashtra Access to Information Act. When none of that got him anywhere, he asked the court to help. But the courts appear to have taken objection to the temerity of the questions rather than examining the right of the citizens to ask it.

True, the right to get government-held information is not absolute. But if there is no specific legal exception to giving information, the rule is that it must be given. Our citizen's questions are clearly in public interest, but good or bad intentions, awkward or embarrassing questions are never the issue when the citizen is exercising fundamental rights. Undeterred our citizen pursued the matter further and went on to file three more applications. Finally his tireless efforts bore fruit and the police issued warnings to staff, reprimanding all those who had got recommendations.

These official attitudes are after all manifestations of resistances that will surface even more strongly when there is a working national Freedom of Information Act of 2002. Under the Common Minimum Programme, the Manmohan Singh Government is committed to evolving a "progressive, participatory and meaningful" information law. The National Advisory Council Congress has debated amendments and made its recommendations. Certainly a "new improved" national-level law - that has penalty clauses, an independent monitor to watch over implementation, limited exemptions from disclosure and a public interest override at minimum - will more than anything kickstart promised administrative reforms for a transparent, corruption-free and accountable government.

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