

# **Capacity Building for Using the Jammu and Kashmir Right to Information Act, 2009**

## **Training of Trainers**

29<sup>th</sup> – 31<sup>st</sup> July, 2011, Srinagar, Hotel Green Acre, Rajbagh, Srinagar.

**Organised by : Commonwealth Human Rights Initiative and J&K RTI Movement**

**Supported by: Friedrich Naumann Foundation, Für Die Freiheit**

## **Workshop Resolution**

Having gathered at Srinagar on the 29<sup>th</sup>, 30<sup>th</sup> and the 31<sup>st</sup> of July, 2011 to take part in intensive training for acquiring a better understanding the Jammu and Kashmir Right to Information Act, 2009, we the representatives of civil society residing and working in different parts of the State have identified the following major problem areas in relation to the implementation of this law. We have also identified possible solutions to overcome these problems and ensure smooth and trouble-free processes for seeking and obtaining information. These problems and solutions were presented before Mr. G R Sufi Honourable State Chief Information Commissioner, J&K Information Commission at the valedictory session of the Training of Trainers.

### **Problem area#1: High Application fees & Additional Fee:**

The *J&K Right to Information Rules 2009*, require an applicant to pay Rs. 50 as application fee. This figure is five times more than the application fee of Rs. 10 stipulated by the RTI Fee and Cost Rules notified by Government of India. The J&K RTI Rules also stipulates photocopy charges of Rs. 10 per copy. This amount is very high when compared to the actual photocopy rates in the market. Also, the Central RTI Rules and most other states stipulate a charge of Rs. 2 per photocopy.

### **Recommendation:**

It is recommended that application fee be brought down to Rs. 10 per application. It is also recommended that the additional fees be brought down to Rs. 2 per copy for A-3 or A-4 size paper. These changes will require amending the J&K RTI Rules. We urge the State Government to make these changes. We urge the State Information Commission to advise the State Government to make these changes.

### **Problem area #2: Unhelpful Attitude of Public Information Officers (PIOs):**

RTI users often have to face hostile and unhelpful attitude from the PIOs. PIOs often ask too many irrelevant questions which intimidate RTI applicants, mostly women and youth.

### **Recommendation:**

It is recommended that the General Administration Department (GAD), Government of J&K issue detailed instructions laying down a code of conduct for PIOs to observe when dealing with RTI applicants. Politeness and courtesy must characterize such interaction on both sides.

**Problem area #3: Absence of local language versions of the J&K RTI Act:**

The Government of J&K has not yet published the J&K RTI Act, 2009 and the J&K RTI Rules in the Urdu language. This makes the J&K RTI Act inaccessible to a large number of people residing in the State who are not familiar with English. Also, many applicants write their RTI applications in Urdu but receive responses from the public authorities in English which they are unable to read and understand.

***Recommendation:***

It is recommended that the Government make immediate efforts to translate and publish the J&K RTI Act in the Urdu which is the official language of the State. Hindi language translation may be provided for use in the Jammu region and other areas where Hindi is spoken. The GAD, Government of J&K may issue instructions to all PIOs to respond to applicants in the same language as that used in the RTI application. The information may be provided in the language in which it is held by the public authority for the time being.

**Problem area #4: Inadequate knowledge and training of PIOs and other government officials:**

PIOs in the state are often not aware of their duties and responsibilities under the J&K RTI Act. They are reluctant to make any decision on the RTI applications on their own. Instead they seek permission from senior officers on every matter.

***Recommendation:***

Section 23 (d) of the J&K RTI Act, 2009 mandates the State Government to train PIOs of public authorities and produce relevant training material. It is recommended that the Government of J&K seriously initiate steps to fulfill this obligation. The J&K State Information Commission may through its decisions require public authorities to make necessary provisions for training its officials on RTI.

**Problem area #5: Harassment of and threats to RTI applicants:**

Harassment and threat of RTI applicants in the state is on the rise. This is enormously discouraging for individuals working for transparency and accountability in the State.

***Recommendation:***

It is recommended that the J&K State Information Commission advise the State Government to take effective steps to provide security to RTI users. Wherever RTI users are attacked the culprits must be swiftly brought to justice. The information sought by the applicant which led to the harassment of or attack on the applicant must be released publicly in accordance with the provisions of the J&K RTI Act. The State Information Commission should intervene in such matters and ensure the public disclosure of information without delay.

**Problem area #6: Inadequate compliance with Proactive Disclosure obligations under Section 4(1)(b):**

Section 4(1)(b) of the J&K RTI Act requires all public authorities to disclose information related to its organisational structure; procedures of its decision making process; its norms, rules, regulations, instructions and manuals; a statement of the categories of documents held by it;

its public consultation processes; directory of its officers and employees; particulars of budget and expenditure plans; beneficiaries of subsidy schemes and recipients of various concessions and permits and much more. A large majority of the public authorities have not compiled this information. As a result people are compelled to seek the same information by making formal RTI applications which is against the very letter and spirit of proactive disclosure as explained in Section 4(2) of the Act. The intention of this provision is that public authorities should volunteer as much information as possible so that people do not feel the need for filing RTI applications.

***Recommendation:***

It is recommended that the State Information Commission monitor the performance of public authorities vis-à-vis their proactive disclosure obligations and insist upon improving proactive disclosure in every complaint and appeal case where the request is for information that ought to have been voluntarily disclosed by the public authority under Section 4.

**Problem area #7: Poor state of records management and obsolete websites**

Another major problem that prevents easy access to information is the poor state of records maintenance and management in almost every public authority. Section 4(1)(a) also requires records to be computerized and connected through a network all over the state. However, most public authorities in the state either do not have websites and where websites exist there is very little information is available up to date.

***Recommendation:***

It is recommended that the Government develop a time-bound plan of action and allocate resources for digitizing and networking records and documents in accordance with Section 4(1)(a) of the Act. It is also recommended that the J&K Information Commission may write to Government directing it to update its websites and provide public authorities that do not have their own website with the means and technical expertise to develop and maintain one.

**Problem area #8: Inadequate number of Information Commissioners**

The J&K Information Commission currently has only one member. The J&K RTI Act provides for the appointment of three more members. These vacancies need to be filled up before the backlog of appeals and complaints becomes unmanageable.

***Recommendation:***

It is recommended that the GAD immediately initiate steps to fill up vacancies in the J&K Information Commission in a transparent and participatory manner.

**We resolve to work towards improving the implementation of the J&K RTI Act.**

**Srinagar, 31 July, 2011.**

**Signed by all participants of the workshop.**

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1.	Abdul Hameed	Nowshera, Dist. Baramulla
2.	Rasikh Rasool Bhat	Handwara, Dist. Kupwara
3.	Raja Umar	Shaltang
4.	Raman Sharma	Jammu
5.	Balvinder Singh	Jammu
6.	Mohammad Ramzan Khan	Chadoora
7.	Syed Junaid	Shopian
8.	Sreen Shafi	Srinagar
9.	Ajmand Farooqi	Hyderpora
10.	Shahnawa Sultan	Chadoora, Budgam
11.	Bilal Ahmad Bhat	Srinagar
12.	Ur. Sheikh	Shalteng, Srinagar
13.	Venkatesh Nayak	CHRI, New Delhi
14.	C. L. Mattoo	Srinagar
15.	Sami Khan	Jawaharnagar
16.	Omaid Nazir	Jawaharnagar
17.	Fayaz. A. Dar	Wahidpora, Ganderbal
18.	Shakeel Ur Rasool	Bandipora
19.	Ab. Pahloo	Sumbal, Bandipora
20.	Shahzada Saleem	Mochow, Bagh-e- Mehtab
21.	Mohd. Ashraf Jehra	Chadoora, Budgam
22.	Dr. Riyaz Ahmad	Srinagar
23.	Safad Kuehely	Chadoora Budgam
24.	Suhail	Bagh-e-mehtab
25.	Haji Ahsan Ali	Kargil, Ladakh
26.	Khushid. A. Mir	Gulmarg
27.	Bashir A. Malik	Budgam
28.	Khursheed Assad	Budgam
29.	Dr. A. Mohamed Ajmal	Chennai
30.	Carin Jodha Fischer	Srinagar
31.	Michelle Gurung	CHRI, New Delhi
32.	Noor-ul-Amin	Srinagar
33.	Qamrul Islam	Srinagar
34.	Aarif Hussain Shah	Buchpora
35.	M. Altaf	Srinagar
36.	Fayaz Ahmad Shah	Baramulla