

The Use of Right to Information Laws in India

A Rapid Study

Based on the Annual Reports of Information Commissions
(2011-12)



Research and Report

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The Use of Right to Information Laws in India: A Rapid Study

Based on the Annual Reports of Information Commissions (2011-12)

Executive Summary

Last year, on 12th May, on the occasion of the seventh anniversary of the adoption of the *Right to Information Act* by Parliament, we published our first attempt to present a comprehensive picture of the composition and working of Information Commissions established in India.¹ This year, on the eve of the eighth anniversary of the operationalisation of the *Right to Information Act, 2005* (12th – 13th October),² we are presenting a snapshot view of the use of the right to information (RTI) by citizens, based on data mined from the latest Annual Reports published by the **Central Information Commission and the State Information Commissions of Andhra Pradesh, Bihar, Chhattisgarh, Karnataka, Maharashtra, Meghalaya, Mizoram, Nagaland and Rajasthan** on their respective websites, for the years 2011-12. We have also included in our study the Annual Report published by the **State Information Commission of Jammu and Kashmir** containing RTI user data for the same period. As none of the Information Commissions have published their Annual Reports for the year 2012-13, we are unable to present the latest data on the usage of RTI laws in India.³ Soon we will publish Version 2.0 of our Rapid Study of the Working of Information Commissions in India.

By enabling people to engage with Governments and public authorities through legitimate methods, we believe, RTI is proving to be a game changer. The statistics analysed in this report show that the ‘little man’ and ‘little woman’ are not sitting quietly after pressing the button on the electronic voting machines once in five years. Instead they are pressing more buttons to make Government more accountable. The ever growing numbers of citizens asking

¹ While the Central Government and 27 of the 28 State Governments in India are covered by the *Right to Information Act*, passed by Parliament in 2005 (Central RTI Act), the Government of Jammu and Kashmir is covered by the *Jammu and Kashmir Right to Information Act, 2009* (J&K RTI Act). While 27 State Information Commissions and the Central Information Commission are established under the Central RTI Act, the Jammu and Kashmir State Information Commission is established under the J&K RTI Act. We have included all 29 Information Commissions in this rapid study.

² The 120-day period stipulated in the Central RTI Act for operationalising all of its provisions ended on the 12th of October 2005. As that day was a Sunday, many citizens across the country filed their information requests the next working day on the 13th. So while some RTI aficionados celebrate the anniversary of the Central RTI Act on the 12th, others celebrate the same event on the 13th. Irrespective of these dates, it is an interesting coincidence that these dates occur within a fortnight of the International Right to Know Day celebrated across the planet on 28th September.

³ We have included in the current study only those Annual Reports (2011-12) published on the dedicated websites of Information Commissions as on 09 October, 2013 because of our self-imposed deadline for completing the report on time for the eighth anniversary of the Central RTI Act. We would be happy to make any changes or alterations in the findings if the Information Commissions covered by this rapid study point out any errors on the basis of evidence contained in their Annual Reports.

what big and small public authorities are doing in their name, using their money, year after year, augurs well for our democracy.

An executive summary of our main findings followed by our recommendations is given below. The Main Report containing more details of our findings is placed at the end of this executive summary.

I Availability of the Annual Reports of Information Commissions on Websites

Main findings of the study: (See Table 1)

- Although in our previous study we had found the Mizoram State Information Commission defaulting over public disclosure of its Annual Reports, it has now uploaded all Annual Reports up to the year 2011-12. Seven State Information Commissions identified in our study last year, namely, those in Gujarat, Madhya Pradesh, Manipur, Sikkim, Tamil Nadu, Tripura and Uttar Pradesh continue to be defaulters in terms of displaying their Annual Reports on their websites. These websites do not contain even a link for 'Annual Reports'.
- Only Maharashtra State Information Commission has uploaded on its website, its latest Annual Report due, for the calendar year 2012. No other Information Commission has uploaded its latest Annual Report due, for either the calendar year (January – December 2012) or the financial year (April 2012 – March 2013).
- The Central Information Commission and 9 Information Commissions in the States of Andhra Pradesh, Bihar, Chhattisgarh, Jammu and Kashmir (J&K), Karnataka, Meghalaya, Mizoram, Nagaland and Rajasthan have uploaded their Annual Reports for all the years up to 2011-12.⁴ Others have displayed Annual Reports for one year or more but not for the period 2011-13.
- With the exception of the Central Information Commission and the State Information Commissions of Bihar, Chhattisgarh, Maharashtra and Rajasthan all other Information Commissions have published their Annual Reports in English only.

Recommendations:

- ***Publishing Annual Reports in a timely manner at least within six months of the ending of the reporting year must become a priority with all Information Commissions.***
- ***Information Commissions will be able to compile their Annual Reports in a timely manner only if they receive statistical data from all public authorities under their jurisdiction. According to Section 25 (2) of the Central RTI Act and Section 22(2) of the***

⁴ The Annual Reports of the State Information Commissions of Andhra Pradesh, Chhattisgarh, Maharashtra and Meghalaya cover the calendar year 2011 only. The Annual reports of all other Information Commissions cover the financial year 2011-12.

J&K RTI Act the duty of ensuring reporting of RTI returns from all public authorities lies squarely on the concerned Ministries. Unless they apply pressure on public authorities under their jurisdiction they will not fall in line to submit RTI returns in a timely manner. They must insist filing of RTI returns at least every quarter. The nodal department charged with ensuring the implementation of the RTI law under each appropriate Government, must send frequent reminders to the other Ministries and Department to do their mandated job.

- ***Even if the RTI returns are not forthcoming from the ministries/departments, Information Commissions have the statutory duty to publish a report of their own activities at least and submit it to the respective Legislatures in order to account for spending the taxpayers' money. This would provide them the opportunity to publicly name and shame the defaulting public authorities and compel compliance with the reporting requirement under the respective RTI laws.***
- ***At the very minimum, all Annual Reports must be drafted in the official languages used by the appropriate Governments.***

[II How Many RTI Applications were Filed across India?](#)

Although the Central RTI Act is entering the ninth year of implementation, to the best of our knowledge, there is no report in the public domain about the total number of citizens who have used the RTI Act for seeking information across the country in any given year. We have presented below our findings based on RTI user data available from the Central Government and 10 State Governments.

Main findings of the study: (See Tables 2 and 9)

- **During the year 2011-12 a total of 20.39 lakh (2.03 million) RTI applications were submitted to public authorities under the Central Government and in the 10 States included in this study (including Jammu and Kashmir).**
- **The Annual Report of the Central Information Commission does not contain any disaggregate data about the number of RTI applications received and disposed by the Secretariats of the Lok Sabha and the Rajya Sabha in Parliament. Similarly no data about the receipt and disposal of RTI applications in the respective State Legislatures is available in the Annual Reports of the State Information Commissions of Chhattisgarh and Rajasthan. All other Information Commissions have reported this category of data (Table 9).**
- **There is no information about the receipt and disposal of RTI applications in the Supreme Court and the Delhi High Court in the Annual Report of the Central Information Commission. The State Information Commissions of Andhra Pradesh, Bihar, Chhattisgarh, Karnataka, Meghalaya, Nagaland and Jammu and Kashmir have published RTI application statistics for High Courts and courts in their States (Table 9).**

- In Chhattisgarh 2,351 women (4.81% of the total number of RTI applicants) sought information under the Central RTI Act. No other Information Commission has published data about the gender-wise breakup of the number of applicants.
- In Chhattisgarh 2.49% of the RTI applicants belonged to Below the Poverty Line (BPL) category. No other Information Commission has captured this data category in its Annual Report. However how many of these BPL applicants actually received the requested information is not known.
- In Maharashtra 11,246 BPL applicants (1.76% of the total no. of successful applicants) received the information they requested.
- In Chhattisgarh applicants from traditionally disadvantaged communities such as Scheduled Castes (SCs) and Scheduled Tribes (STs) accounted for 3.38% and 3.06% of the total number of RTI applications submitted in that State, respectively.
- In Chhattisgarh, the only State where the urban-rural breakup of RTI applicants is available, a little more than a fifth of the applicants (21%) were living in villages.
- The University of Kashmir is reported to have received the highest number of RTI applications (1043) during the last years 2009-12.⁵ It is reasonable to expect that a substantial number of these applicants may be young students.
- None of the Information Commissions have published figures pertaining to urgent requests for information relating to life and liberty that public authorities must furnish within 48 hours [*proviso* to Section 7(1)].

Recommendations:

- *By conservatively extrapolating the pattern of user data available in the annual reports included in this study, if we presume that a similar number of RTI applications may have been submitted in the remaining 18 States, the final figure of RTI users across the country for the period 2011-12, may be estimated to cross 40 lakhs. This would be a mere 0.3% of the 120 crore (1.2 billion) population of the country. It would also amount to only 0.5% of the electorate comprising of citizens aged 18 and above. More resource investment is required to spread awareness about the RTI Act amongst the hundreds of crores of citizens who have not yet used this law to seek information.*
- *Parliament which enacted the Central RTI Act must make the effort to submit RTI data to the Central Information Commission regularly as its Secretariats receive several information requests every year. All State Legislatures must also submit their annual RTI returns to the respective State Information Commissions.*

⁵ The Annual Report of the J&K State Information Commission ranks the public authorities on the basis of the most number of RTI applications received during all three years of the implementation of the J&K RTI Act i.e., from 2009-12. The year-wise breakups are not provided in the report. Nevertheless the combined data presents an interesting variation in rankings compared with public authorities in other States listed above. The percentages are calculated on the basis of the total number of RTI applications received over all three years i.e., 15,987 in all.

- ***The Supreme Court which recognised the fundamental right to information as being an inseparable part of the fundamental right to information within the scope of the fundamental right to free speech and expression guaranteed under Article 19(1)(a) of the Constitution must take the lead in submitting annual RTI returns to the Central Information Commission. All High Courts must also submit annual RTI returns to the respective Information Commissions for themselves and the courts and tribunals under their jurisdiction.***
- ***All Information Commissions must make the effort to capture RTI user data about women applicants and those belonging to other disadvantaged segments of society such as Scheduled Castes, Scheduled Tribes and BPL and minority communities.***
- ***Information Commissions must include in their Annual Reports, statistics about the number of RTI applications relating to life and liberty received and the number of instances where information was provided within 48 hours.***

III Top 5 Public Authorities Receiving the Most Number of RTI Applications

Conventional wisdom presumed that ministries and departments that have the largest clientele would receive the most number of RTI applications. However the departments responsible for land records, education and health which have the largest clientele and more frequent direct dealings with the public have not always figured amongst the top three of the list of ministries/departments receiving the most number of RTI applications in all the States included in this study.

Main findings of the study: (See Table 4)

- **The Revenue and Urban Development Departments topped the list of departments/public authorities that received the most number of RTI applications in the States of Andhra Pradesh, Karnataka and Maharashtra.** In Karnataka the Revenue and Urban Development Departments together accounted for more than 50% of the RTI applications received.
- **Rural Development Departments (with or without the charge of Panchayati Raj) figure amongst the top 5 in 7 other States, namely, Andhra Pradesh, Bihar, Chhattisgarh, Karnataka, Maharashtra, Meghalaya, and Nagaland.⁶**
- **The Police Department topped the list in Mizoram. The Home Department, including the police, topped the list in Chhattisgarh while in Maharashtra its counterpart occupied the second position.** The Delhi Police and the Director General of Police in Andhra Pradesh also figure in the top 5 list.

⁶ CHRI is happy to report that it resourced training workshops in five of these States (except Maharashtra) for heads of departments, public information officers and first appellate authorities.

- The Jaipur Development Authority and the University of Kashmir are the only public authorities outside of ministries and departments in their respective States that topped the list amongst all 11 jurisdictions covered by this study.
- The Ministry of Finance covering many other public authorities such as banks and insurance companies received more than a fifth (20.41%) of the total number of RTI applications submitted to various public authorities under the Central Government. Individually speaking, the Department of Posts stood first in terms of number of RTI applications received by a public authority.⁷
- The Government of the National Capital Territory of Delhi received more than 10% of the total number of RTI Applications accounted for in the Central Information Commission's Annual Report.

Recommendation:

- *Ministries, departments and public authorities receiving the highest number of RTI applications must analyse the kinds of information citizens are seeking from them. This would help them identify the categories of information frequently sought by citizens which could then be disclosed and disseminated proactively through various methods listed under Section 4(4) of both the RTI laws unless one or more exemptions listed under Sections 8, 9, 11 and 24 are attracted. This would go a long way in reducing the burden of RTI applications on the public information officers.*

IV Proportion of Rejections at the RTI Application Stage

Anecdotal evidence across the country has made many civil society actors and activists believe that rejection of request is the norm in many public authorities and access to information is an exception, which they believe amounts to reversing the objectives of both RTI laws. However, if the data published in the Annual Reports of Information Commissions covered by this study is to be believed, only a small proportion of the total number of requests is rejected at the application stage.

Main findings of the study: (See Table 1- column 4 and Table 3)

- In States with smaller populations like Meghalaya and Mizoram less than 1% rejection was reported at the RTI application stage.
- In Karnataka where public authorities received close to 2.93 lakh (293,000) requests the proportion of rejections was a mere 0.30%.
- Some of the highest proportions of rejections were observed in the context of public authorities under the Central Government (8.14%) and those under the State

⁷ CHRI is happy to report that it resourced training programmes for senior officers of the Dept. of Posts during the initial years of the implementation of the Central RTI Act.

Government of Maharashtra (7.2%) both of which received more than 6.5 lakh (650,000).

- Although the macro picture in all governments covered by this study indicates rejection of not more than 10% of the total number of RTI applications received, some of the public authorities had very high rates of rejection. **For example, the rejection rate at the offices of the Directorate of Revenue Intelligence and Directorate General of Safeguards was 100%. The offices of the Director General, Income Tax (Investigation) based in Ahmedabad (86.8%), Jaipur (71.6%), Kolkata (66.7%) and New Delhi (59.5%) also had a very high rejection rate.**
- The Jammu and Kashmir State Information Commission has reported that while RTI applications received by public authorities in that State grew phenomenally, the rejection rate dropped from 9% (2009-10) to 4% (2010-11) and stood at 1.37% for the last reporting year (2011-12).
- Only the Central Information Commission and the State Information Commissions of Andhra Pradesh and Karnataka have provided in their Annual Reports, clause-wise break up [Sections 8(1)(a) to (j), 9 and 24] of the number of times the exemptions were invoked by public authorities to reject information requests at the application stage.
- The largest number of rejections of RTI applications (15,279) in public authorities under Central Government occurred on the grounds of protecting personal privacy [Central RTI Act, Section 8(1)(j)]. In Andhra Pradesh the exemptions pertaining to contempt of court and prohibition on the disclosure of information by courts was invoked most frequently (131 times) to reject RTI applications [Central RTI Act, Section 8(1)(b)]. Public authorities in Karnataka are said to have invoked most frequently (101 times) the exemption relating to police investigation, arrests and criminal trials [Central RTI Act, Section 8(1)(h)].
- More than 4,000 RTI applications are said to have been rejected because they pertained to the 25 intelligence and security organisations notified by the Central Government under Section 24 of the Central RTI Act.

Recommendations:

- ***Information Commissions must pay special attention to public authorities where rejection rates are very high to see if the exemption provisions and public interest override clauses contained in Section 8 are being invoked by the public information officers or the first appellate authorities with due application of mind. Fewer the number of rejections, lesser will be the number of appeals and complaints.***
- ***All Information Commissions must collect and publish data about the number of times exemption clauses are invoked by public authorities to reject RTI applications as this is a statutory requirement.***

- ***Information Commissions must collect and publish data about the rejection of RTI applications by organisations notified under Section 24 of the Central RTI Act and Section 21 of the J&K RTI Act in keeping with the statutory mandate of accounting for all instances of rejection of requests by public authorities.***

V Receipt and Disposal of First Appeals

Section 19 of the Central RTI Act and Section 16 of the J&K RTI Act recognise the right of aggrieved RTI applicants to file an appeal with the designated First Appellate Authority who must be an officer senior in rank to the public information officer. However many civil society actors and RTI users think that the first appeals procedure is pointless as first appellate authorities more often than not uphold the decision of the public information officer to reject a request. One would expect the proportion of first appeals to tally with the proportion of RTI applications rejected by public authorities. However this does not seem to be the case in many States (Table 5- columns 4 and 5).

Main findings of the study: (See Table 5, Table 6- columns 4 and 5 and Table 9)

- **The Central Information Commission and the J&K State Information Commission have not included statistics about the receipt and disposal of first appeals by public authorities in their Annual Reports.** In fact the Central Information Commission had included this data in the first two Annual Reports only (2006-07 and 2007-08). However this practice has been discontinued for reasons unknown.
- **In Bihar despite only 4.22% of the RTI applications being rejected, the number of first appeals submitted was almost six times higher (23.94%). In Nagaland where fewer RTI applications were submitted, despite the rejection rate being a little less than 10%, the proportion of first appeals filed was one and a half times higher (15.32%). In Meghalaya the proportion was eight times higher (8.80%) than the rejection rate of less than 1%.**
- **Nagaland State Information Commission records, “lack of response from the PIO” as the reason for the submission of 48% of the total number of first appeals, whereas the remaining are said to have been submitted by citizens dissatisfied with the reply or quality of information received.**
- **While, in most States, first appellate authorities ordered disclosure of information in about 90% of the cases, in Rajasthan, more than a third (34.48%) of the first appeals was rejected by their counterparts.**
- **Except the State Information Commission of Andhra Pradesh, no other Information Commission reported the number of times exemption clauses were invoked by first appellate authorities to reject an appeal or uphold the decision of public information officers to deny access to information.**

- Only the State Information Commissions of Andhra Pradesh, Karnataka, Meghalaya and Nagaland have published data about first appeals received and disposed by their respective State Legislatures.
- There is no mention of the number of first appeals received and disposed by the High Courts of Delhi, Bihar, Chhattisgarh, Rajasthan and Jammu and Kashmir in the Annual Reports of the respective Information Commissions.

Recommendations:

- *All Information Commissions must collect and publish data about the receipt and manner of disposal of first appeals by the designated first appellate authorities. This information must be placed in the public domain to enable proper assessment of their performance.*
- *Secretariats of Parliament and all Legislatures must submit to the respective Information Commissions statistics of first appeals received and disposed and also the manner of the disposal.*
- *All High Courts must submit to the respective Information Commissions statistics of first appeals received and disposed by themselves as well as all courts and tribunals under their jurisdiction and also the manner of disposal.*

VI Receipt and Disposal of Second Appeals and Complaints

The twin RTI laws provide an independent mechanism for citizens aggrieved by any action or omission of a public authority in relation to providing access to information. Where the first appellate authority upholds the decision of a public information officer to reject a request for information the applicant may submit a second appeal before the concerned Information Commission. In several matters relating to the implementation of the RTI laws, citizens can file complaints with the respective Information Commissions directly. In 2011 the Supreme Court ruled that the powers granted to Information Commissions under Section 18 of the Central Act are for the purpose of supervising compliance in public authorities only.⁸

Main findings of the study: (See Table 6: columns 6 and 7 and Tables 7 and 9)

- Under ideal conditions one would expect that the number of second appeals filed with the Information Commissions, as a proportion of the total number of RTI applications

⁸ For details of the decision and CHRI's critique of the same go to the introductory paras under Section V of the Main Report.

rejected, would reduce because of the first appeals mechanism available for redressing grievances. **This is the pattern in all States covered by this study except Rajasthan. The proportion of second appeals submitted to the State Information Commission of Rajasthan was more than double the proportion of RTI applications rejected. In all other Information Commissions this proportion ranged between 1-10% of the total proportion of rejections at the RTI application stage (Table 6).**

- **In Bihar, despite recording a rejection rate of only 4.22% at the RTI application stage, the proportion of second appeals and complaints submitted to the State Information Commission was as high as 19.31%. The proportion of second appeals and complaints submitted to the State Information Commission in Jammu and Kashmir was about 7 times higher than the proportion of rejections.** These figures indicate high dissatisfaction levels amongst the citizenry in Bihar and Jammu and Kashmir with regard to the implementation of the two RTI laws (Table 6).
- **The proportion of complaints (4.28%) submitted to the State Information Commission in Karnataka was much higher than the proportion of rejections (0.30%).** This figure was higher compared to the second appeals figure (0.31%). **In Meghalaya despite the small numbers involved, complaints outnumbered second appeals before the State Information Commission.** This indicates that despite the Supreme Court's judgement mentioned above, people are using the complaints mechanism to redress their grievances against public authorities and Information Commissions are entertaining them (Table 6).
- **With the exception of those in Andhra Pradesh and Meghalaya, no other Information Commission has published figures about their decisions taken on second appeals and complaints, namely, how many were allowed and how many were rejected.** In Andhra Pradesh appeals and complaints were allowed in 1,305 cases and rejected in 334 cases. In Meghalaya 8 second appeals and complaints were allowed and 5 were rejected.
- **Data about the receipt and disposal of second appeals and complaints pertaining to the State Legislatures is available in the Annual Reports of the State Information Commissions of Andhra Pradesh, Karnataka, Meghalaya and Nagaland only (Table 9).**
- **Data about the receipt and disposal of second appeals and complaints pertaining to the High Courts is published in the Annual Reports of the State Information Commissions of Andhra Pradesh, Karnataka, Meghalaya and Nagaland only (Table 9).**
- **At the end of the reporting year, pendency of second appeals and complaints was highest in the Maharashtra State Information Commission. Given the lesser number of second appeals and complaints received, the State Information Commissions of Meghalaya, Mizoram and Nagaland did not have any pending cases at the end of the reporting period.** This is an improvement from the previous year which had a small number of pending cases (Table 7).
- **More than 10,800 second appeals and complaints were pending before the Central Information Commission during the period 2011-12 (Table 7).** This figure is said to have

crossed 19,500 as on 30th September, 2013 according to the monthly progress reports displayed on the Commission's website.

- **The State Information Commission of Andhra Pradesh is the only body to publish data about the provenance of appellants and complainants approaching it. About 45% of the appellants and complainants are said to be from rural areas.** This figure was a mere 11% during the first year of the implementation of the Central RTI Act (2005-6). This Commission has also published data about complaints and appeals received from each geographical region: **Telengana – 44.84%; Andhra – 39.87%; Rayalaseema – 15.29%.**

Recommendations:

- *Although the proportion of second appeals and complaints filed with the Information Commissions is not very high in many States as compared with dissatisfaction levels based on anecdotal evidence of citizens and civil society actors, these figures cannot be taken for granted. Several dissatisfied applicants may not approach the Information Commission due to lack of awareness about its procedures or simply due to frustration, given the fact that the office of the Information Commission may be in a distant city. Some Information Commissions like those in Karnataka and Andhra Pradesh travel to the districts to conduct hearings. The Information Commissioners in Maharashtra are actually based in different parts of the State making them more accessible to people. The Central Information Commission was the pioneer in using video conferencing facility to hear appeals and complaints. Some of its Commissioners also visit other cities to hold hearings en masse. It is heartening to note that a few other Information Commissions like that in Karnataka have adopted these procedures. **All these methods must be explored and adopted by Information Commissions to provide easy and quick resolution to RTI-related disputes. Governments must invest more resources in educating people, particularly disadvantaged segments of society in the appeals and complaints procedures available under the RTI Act.***
- *Three major causes are responsible for pendency of cases in the Information Commissions. First, the number of Information Commissioners appointed may not be adequate for the purpose of clearing pending cases. Second, several Information Commissions have reported inadequate staffing. Third, if first appellate authorities take adequate action to redress grievances of RTI applicants the number of second appeals and complaints would reduce automatically. **So it is necessary to conduct a scientific analysis of the rate of pendency in every Information Commission and the requirement of numbers of Information Commissioners and staff based on annual projections of receipts of second appeals and complaints. The requisite number of Information Commissioners must be appointed in accordance with the RTI laws in a transparent and participatory manner. Information Commissions must be provided adequate numbers of competent staff and funds to carry out their work efficiently. In-depth training programmes must be conducted regularly for first appellate authorities based on inputs such as the developing jurisprudence around the RTI laws in order to reduce the number of second appeals submitted to the Information Commissions.***

- **Information Commissions must lay down for themselves norms for reporting their work and comply with them scrupulously while publishing their Annual Reports. At a minimum these reports must contain:**
 - 1) **break-up of the number of second appeals and complaints disposed;**
 - 2) **break-up of the number of second appeals and complaints allowed and those rejected;**
 - 3) **break-up of the number of times appeals and complaints were rejected in accordance with the clauses exempting disclosure of information; and**
 - 4) **disaggregate data about the number of second appeals and complaints pending from previous years but disposed during the reporting year.**
- **All Information Commissions must publish data about the number of second appeals and complaints received and disposed, in relation to the Secretariats of Parliament and the respective State Legislatures.**
- **All Information Commissions must publish data about the number of second appeals and complaints received and disposed in relation to the public authorities under the judiciary.**

VII Imposing Penalties, Awarding Compensation and Recommending Disciplinary Action

Under Section 20(1) of the Central RTI Act and Section 17(1) of the J&K RTI Act, an Information Commission may impose a penalty on the public information officer from Rs. 250 per day to a maximum of Rs. 25,000 for various contraventions of the law. The Information Commissions are also empowered to recommend disciplinary action against a public information officer who repeatedly contravenes the provisions of the RTI laws. The Information Commissions are also empowered to award compensation to an appellant or complainant who has suffered any loss or detriment on account of wrongful denial of access to information.

Anecdotal evidence indicates that Information Commissions are reluctant to impose penalties or recommend disciplinary action against public information officers. Most of the Information Commissioners who were career bureaucrats before joining the Information Commission are perceived to adopt a very lenient attitude towards public information officers who do not comply with their obligations under the RTI laws. The statistics given below supports this perception to some extent.

Main findings of the study: (See Table 8)

- **The total value of the penalties imposed by the Central Information Commission and the State Information Commissions of Andhra Pradesh, Karnataka and Maharashtra were the highest crossing Rs. 35 lakhs (Rs. 3.5 million) each.** However the amounts actually recovered were much lesser due to administrative delays or grant of stay order by High Courts.

- **The State Information Commission of Karnataka imposed penalties in the most number of cases (537) followed by its counterpart in Maharashtra (343).** In its Annual Report, we could not find data about the actual number of instances in which the Central Information Commission imposed penalties.
- **The lowest recovery of penalty amounts was in Bihar (about 1/4th).** Many State Information Commissions have not published data about the recovery of penalty amounts from public information officers or payment of compensation awarded to appellants / complainants.
- **The number of cases in which the Maharashtra State Information Commission recommended disciplinary action against a public information officer was as high as 443. In comparison the Central Information recommended disciplinary action only in 24 cases.** It is not known whether the public authority complied with these recommendations. Several Information Commissions have not published any data about the number of cases where disciplinary action was recommended against public information officers.
- **The State Information of Karnataka took the lead in awarding compensation to appellants/complainants (Rs. 3.17 lakhs or Rs. 317,000) who had suffered loss or detriment on account of wrongful denial of access to information. The Annual Report of the Central Information Commission does not contain data about the compensation awarded to appellants or complainants.**

Recommendations:

- *In order to dispel doubts in the minds of appellants and complainants as to why penalties were not imposed on errant public information officers, every Information Commission must, as a rule, record their decision as to why penalty was not imposed on a public information officer despite issuing a show cause notice.*
- *Information Commissions must publish in their Annual Reports details of cases where penalties were imposed in the manner of the State Information Commissions of Karnataka, Meghalaya and Nagaland.*
- *All Information Commissions must regularly monitor compliance with their orders imposing penalties, awarding compensation or recommending disciplinary action even if those orders are stayed by High Courts. The relevant RTI rules may be amended in order to ensure such monitoring as has been done in the latest RTI Rules notified by the Government of Uttarakhand.⁹*

⁹ See footnote #22 below.

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Based on the Annual Reports of Information Commissions (2011-12)

Main Report

Introduction

On 12th May, 2005 Parliament gave its approval to place the *Right to Information Act* (Central RTI Act) on the statute book.¹⁰ The President gave his assent to the law a month later. The implementation of the Central RTI Act commenced with its publication in the Official Gazette on 21 June, 2005. Citizens were able to make formal requests for information from 13th October, 2005. Since then, lakhs (1 lakh = 100,000) of people around the country have sought and obtained information from public authorities under this law. The Jammu and Kashmir Right to Information Act was enacted in March 2009 and it came into force immediately. Thousands of residents of J&K have used this law to seek information from public authorities in their State.

Under Section 25 of the Central RTI Act, all public authorities under the Central and State Governments are required to submit to their Ministries and Departments annual reports about the status of implementation of the law within their jurisdiction. The Ministries and Departments are required to compile these reports and submit them to the respective Information Commissions. The Information Commissions forward these status reports along with a report of the performance of their own obligations under the law which is then tabled in Parliament or the respective State Legislatures. Similar provisions in the J&K RTI Act require the J&K State Information Commission to submit a similar Annual Report to the State Legislature through the State Government. Several Information Commissions have set up online-systems for receiving implementation reports from public authorities every quarter directly. The Information Commissions also display their Annual Reports on their website after they are tabled before the concerned legislature.

Last year, we had reported that all Information Commissions except that of Mizoram had set up dedicated websites for publicising information about their work. Soon after, the Mizoram Information Commission wrote to us pointing to their newly set up website. We had missed noticing it as it was not appearing up on Google Search facility easily, perhaps due to weak search optimisation levels. However that problem appears to have been sorted out this year as the website appears on top of Google Search results like that of all other Information Commissions. We have not included the category of “availability of dedicated websites of Information Commissions” in this year’s study for obvious reasons.

¹⁰ The text of the Central RTI Act is accessible on the RTI portal of the Government of India: <http://righttoinformation.gov.in/rti-act.pdf> as on 01 May, 2012.

I Availability of the Annual Reports of Information Commissions on Websites

Last year we presented our findings about the availability of the Annual Reports on the website of the respective Information Commissions for the period 2006-2011 that is, from the date of their establishment until May 2012. While the Central Information Commission and the State Information Commissions of Andhra Pradesh and Bihar had uploaded all annual reports up to 2011 on their respective websites, many had uploaded reports for fewer years of their existence. Information Commissions in eight States namely, Gujarat, Madhya Pradesh, Manipur, Mizoram, Sikkim, Tamil Nadu, Tripura and Uttar Pradesh had not uploaded any of their annual reports on their websites. The current status of the availability of the Annual Reports of Information Commissions on their websites is given below.¹¹

Main findings of the study: (See Table 1)

- **Although in our previous study we had found the Mizoram State Information Commission defaulting over public disclosure of its Annual Reports, it has now uploaded all Annual Reports up to the year 2011-12.**
- **7 State Information Commissions identified in our study last year, namely, those in Gujarat, Madhya Pradesh, Manipur, Sikkim, Tamil Nadu, Tripura and Uttar Pradesh continue to be defaulters in terms of displaying their Annual Reports on their websites. These websites do not contain even a link for 'Annual Reports'.**
- **Only Maharashtra State Information Commission has uploaded on its website, its latest Annual Report due, for the calendar year 2012. No other Information Commission has uploaded its latest Annual Report due, for either the calendar year (January – December 2012) or the financial year (April 2012 – March 2013).**
- **The Central Information Commission and 9 Information Commissions in the States of Andhra Pradesh, Bihar, Chhattisgarh, Karnataka, Meghalaya, Mizoram, Nagaland and Rajasthan have uploaded their Annual Reports for all the years up to 2011-12.¹²**
- **The J&K State Information Commission has uploaded its first Annual Report in consolidated form for the years 2009-2012.**
- **Information Commissions other than those mentioned above have displayed Annual Reports for one year or more but not the latest ones.**
- **The Central Information Commission has published its Annual Report in both English and Hindi languages. The State Information Commissions in Bihar, Chhattisgarh and**

¹¹ Where an annual report is not available on the dedicated website of the Information Commission, no assumption is made about their preparation or availability in printed form. They may or may not be available in hard copy. This study examines the availability and contents of Annual Reports (for the period 2011-2012) only if they are displayed on the dedicated websites.

¹² The Annual Reports of the State Information Commissions of Andhra Pradesh, Chhattisgarh, Maharashtra and Meghalaya cover the calendar year 2011 only. The Annual reports of all other Information Commissions cover the financial year 2011-12.

Rajasthan have published their Annual Reports in Hindi only while the Annual Report of the Maharashtra State Information Commission is available in Marathi only. **All other Information Commissions have published their Annual Reports in English only.**

Recommendations:

- ***Unless Annual Reports are publicised in a timely manner people will discuss and debate the implementation of the RTI Act and the working of the Information Commissions in their States based on anecdotal evidence of good or bad experiences of appellants only. In order to provide citizens factual data about the implementation of the RTI laws by all public authorities and the working of Information Commissions, it is important that the Annual Reports are compiled and publicized within six months of the completion of the reporting year. This must become a priority with all Information Commissions.***
- ***Information Commissions will be able to compile their Annual Reports in a timely manner only if they receive statistical data from all public authorities under their jurisdiction. While some Information Commissions receive this data online on their websites, others probably wait for them to file RTI returns at the end of the year in hard copy or through computer discs. According to Section 25 (2) of the Central RTI Act and Section 22(2) of the J&K RTI Act, the duty of ensuring reporting of RTI returns from all public authorities lies squarely on the concerned Ministries. Unless they apply pressure on public authorities under their jurisdiction they will not fall in line to submit RTI returns in a timely manner. They must insist filing of RTI returns at least every quarter. The nodal department charged with ensuring the implementation of the RTI law under each appropriate Government, must send frequent reminders to the other Ministries and Department to do their mandated job.***
- ***Even if the RTI returns are not forthcoming from the ministries/departments, Information Commissions have the statutory duty to publish a report of their own activities at least and submit it to the respective Legislatures in order to account for spending the taxpayers' money. This would provide them the opportunity to publicly name and shame the defaulting public authorities and compel compliance with the reporting requirement under the respective RTI laws.***
- ***At the very minimum, all Annual Reports must be drafted in the official languages used by the appropriate Governments. It is advisable to publicise English language translations of these reports so that civil society actors based in other places may also have access to the information contained in these reports.***

II How many RTI applications were Filed across India?

Although the Central RTI Act is entering the ninth year of implementation, to the best of our knowledge, there is no report in the public domain about the total number of citizens who have used the RTI Act for seeking information across the country in any given year. Nor is any data available about the total number of RTI applications received by public authorities all over the

country. Annual reports of Information Commissions contain data about RTI applications received and disposed only with respect to public authorities under their jurisdiction. Neither the Department of Personnel and Training under the Central Government, nor any other government institution has made the effort to compile this information. We have compiled statistics about RTI applications filed as recorded in the latest Annual Reports of Information Commissions wherever such reports are available for the period 2011-2012. However a point of caution must be noted. While many Information Commissions have adopted the financial year (April to March) as the reporting period, others such as those in Andhra Pradesh, Chhattisgarh, Maharashtra and Meghalaya prepare reports for every calendar year (January-December). For the purpose of the current study we have focused on statistics about RTI applications (RTI user data) available for the period 2011-2012.¹³ In order to restrict the scope of this study to a period of one year only we have not included Annual Reports published for the period 2010-11.¹⁴

Main findings of the study: (See Tables 2 and 9)

- **During the year 2011-12, a total of 20.27 lakh (2.02 million) RTI applications were submitted to public authorities under the Central Government and in the 9 States included in this study. If the figures available for the same year from Jammu and Kashmir are added, the total number of information requests submitted under the twin RTI laws rises to 20.39 lakhs (2.03 million).**
- **The total number of RTI applications received in Maharashtra outnumbered the total figures put out for the Central Government.** However this comparative picture may be illusory because 32% of the public authorities under the Central Government are said to have defaulted in submitting complete data about the number of RTI applications received during the year 2011-12.¹⁵ If all public authorities had meticulously submitted their RTI returns to the Central Information Commission, the total figure for the Central Government might have been much higher than that of Maharashtra.
- **The Secretariats or offices of the President of India and the Prime Minister, the Governors and Chief Ministers of the respective States have submitted data about the number of RTI applications received and disposed to the respective Information Commissions for publication in their annual reports.**
- **The Annual Report of the Central Information Commission does not contain any disaggregate data about the number of RTI applications received and disposed by the**

¹³ It is unfortunate that even though Central RTI Act binds all 28 Information Commissions they have not adopted a uniform reporting period. Similarly the J&K State Information Commission has adopted the financial year as the index for its reports.

¹⁴ Some Information Commissions have reported statistics of pending RTI applications carried over from the year previous to the period covered by this study. We will include these figures when we come up with a more detailed report on the working of Information Commissions later, when the Annual Reports of all Information Commissions are displayed on their websites.

¹⁵ See foot note under Table 2 below.

Secretariats of the Lok Sabha and the Rajya Sabha in Parliament. Similarly no data about the receipt and disposal of RTI applications in the respective State Legislatures is available in the Annual Reports of the State Information Commissions of Chhattisgarh and Rajasthan. All other Information Commissions have reported this category of data (Table 9).

- **There is no information about the receipt and disposal of RTI applications in the Supreme Court and the Delhi High Court in the Annual Report of the Central Information Commission. The State Information Commissions of Andhra Pradesh, Bihar, Chhattisgarh, Karnataka, Meghalaya, Nagaland and Jammu and Kashmir have published RTI application statistics for High Courts and courts in their States (Table 9).**
- **In Chhattisgarh, 2,351 women (4.81% of the total number of RTI applicants) sought information under the Central RTI Act.** No other Information Commission has published data about the gender-wise breakup of the number of applicants. It is not known how many of these women applicants actually received information. In Chhattisgarh, women sought information most from the departments of Police (477), Panchayati Raj and Rural Development (275) and Urban Administration and Development (270).
- **In Chhattisgarh, 2.49% of the RTI applicants belonged to Below the Poverty Line (BPL) category.** No other Information Commission has captured this data category in its Annual Report. However how many of these BPL applicants actually received the requested information is not known.
- **In Maharashtra, 11,246 BPL applicants (1.76% of the total no. of successful applicants) received the information they requested.** However the total number of applications submitted by BPL persons during this period is not known. In terms of sheer numbers, successful BPL applicants in Maharashtra were 10 times more than the total number of BPL applicants in Chhattisgarh.
- **The Chhattisgarh State Information Commission has also captured data about applicants from traditionally disadvantaged communities such as Scheduled Castes (SCs - 3.38%) and Scheduled Tribes (STs - 3.06%).** This data provides good feedback for the State Government to focus its public education efforts towards these disadvantaged communities – a statutory requirement under Section 26(1) of the Central RTI Act.
- **In Chhattisgarh, the only State where the urban-rural breakup of RTI applicants is available, a little more than a fifth of the applicants (21%) were living in villages.** About 79% of the RTI applications were filed by urban residents.
- Although nothing in the RTI Act requires Information Commissions to capture the age profile of RTI applicants in their report, the user data published by the J&K State Information Commission indicates that a substantial number of information seekers in that State may be young students. **The University of Kashmir is reported to have received the highest number of RTI applications (1043) during the last years 2009-12.**¹⁶

¹⁶ The Annual Report of the J&K State Information Commission ranks the public authorities on the basis of the most number of RTI applications received during all three years of the implementation of the J&K RTI Act i.e.,

It is reasonable to expect that a substantial number of these applicants may be young students.

- **None of the Information Commissions have published figures pertaining to urgent requests for information relating to life and liberty that public authorities must furnish within 48 hours [proviso to Section 7(1)].**

Recommendations:

- *By conservatively extrapolating the pattern of user data available in the annual reports included in this study, if we presume that a similar number of RTI applications may have been submitted in the remaining 18 States, the final figure of RTI users across the country may be estimated to cross 40 lakhs for the period 2011-12. **This would be a mere 0.3% of the 120 crore (1.2 billion) population of the country. It would also amount to only 0.5% of the electorate comprising of citizens aged 18 and above.** Even this estimation may not be accurate as it assumes that each of these RTI applications may have been submitted by a separate individual. In fact it is very common for persons to submit multiple applications, so the actual number of RTI users may be much lesser than this crude estimation. **The Central and State Governments, the mass media and the civil society sector have their work cut out in terms of spreading awareness about the RTI Act. More resource investment is required to spread awareness about the RTI Act amongst the hundreds of crores (millions) of citizens who have not yet used this law to seek information.***
- ***Both RTI laws require the respective Information Commissions to table their reports in Parliament or the respective State Legislatures to provide a detailed picture of their implementation. Parliament which enacted the Central RTI Act must make the effort to submit RTI data to the Central Information Commission regularly as its Secretariats receive several information requests every year. All State Legislatures must also submit their annual RTI returns to the respective State Information Commissions.***
- ***The Supreme Court which recognised the fundamental right to information as being an inseparable part of the fundamental right to free speech and expression guaranteed under Article 19(1)(a) of the Constitution, must take the lead in submitting annual RTI returns to the Central Information Commission in a timely manner. All High Courts exercise the power of judicial review over the decisions of the Information Commissions. They must also submit annual RTI returns to the respective Information Commissions for themselves and the courts and tribunals under their jurisdiction.***
- ***As a norm, all Information Commissions must make the effort to capture RTI user data about women applicants and also those belonging to other disadvantaged segments***

from 2009-12. The year-wise breakups are not provided in the report. Nevertheless the combined data presents an interesting variation in rankings compared with public authorities in other States listed above. The percentages are calculated on the basis of the total number of RTI applications received over all three years i.e., 15,987 in all.

of society such as Scheduled Castes, Scheduled Tribes and BPL and minority communities. This data will be useful to the appropriate Governments for targeting their activities to promote awareness about the RTI laws in the manner described in Section 26(1)(a) of the RTI Act.

- *Information Commissions must include in their Annual Reports, statistics about the number of RTI applications relating to life and liberty received and the number of instances where information was provided within 48 hours.*

III Top 5 Public Authorities Receiving the Most Number of Applications

Section 25(3)(a) of the RTI Act obligates every public authority to submit an annual report of the total number of requests received to its parent Ministry/Department. All Information Commissions have published this data and many of them have gone a step ahead to rank the public authorities in terms of the number of times citizens approached them with information requests. The data published in the Annual Reports included in this study shows that the pattern of seeking information is not uniform across the States. Conventional wisdom presumed that ministries and departments that have the largest clientele would receive the most number of RTI applications. However the departments responsible for land records, education and health which have the largest clientele and more frequent direct dealings with the public have not always figured amongst the top three of the list of ministries/departments receiving the most number of RTI applications in all the States included in this study.

Main findings of the study: (See Table 4)

- **The Revenue and Urban Development Departments topped the list of departments/public authorities that received the most number of RTI applications in the States of Karnataka and Maharashtra. In Andhra Pradesh, the Chief Commissioner, Land Administration whose mandate includes functions similar to that of Revenue Departments in other States topped the list.** In Karnataka the Revenue and Urban Development Departments together accounted for more than 50% of the RTI applications received.
- **Rural Development Departments (with or without the charge of Panchayati Raj) figure amongst the top 5 in 7 other States, namely, Andhra Pradesh, Bihar, Chhattisgarh, Karnataka, Maharashtra, Meghalaya, and Nagaland.¹⁷**
- **The Police Department topped the list in Mizoram. The Home Department, including the police, topped the list in Chhattisgarh while in Maharashtra its counterpart occupied the second position.** The Delhi Police and the Director General of Police in Andhra Pradesh also figure in the top 5 list. Rajasthan and Jammu and Kashmir are the only States where neither the Home Department nor the Police Department figures amongst the top 5.

¹⁷ CHRI is happy to report that it resourced training workshops in five of these States (except Maharashtra) for heads of departments, public information officers and first appellate authorities.

- The State Public Service Commissions in Mizoram and Rajasthan figured amongst the top 5 indicating that most of the applicants might be employment seekers or serving officers.
- The Jaipur Development Authority and the University of Kashmir are the only public authorities outside of ministries and departments that topped the list amongst all 11 jurisdictions covered by this study.
- The Ministry of Finance received more than a fifth (20.41%) of the total number of RTI applications submitted to various public authorities under the Central Government. This figure appears so large because this Ministry covers a large number of autonomous institutions such as banks and insurance companies. **Individually speaking the Department of Posts stood first in terms of number of RTI applications received by a public authority.**¹⁸ That the Employees Provident Fund Organisation stood second in the ranking indicates that a large number of applicants are employed with the Central Government or its agencies.
- The Government of the National Capital Territory of Delhi received more than 10% of the total number of RTI Applications accounted for in the Central Information Commission's Annual Report.

Recommendations:

- *Ministries, departments and public authorities receiving the highest number of RTI applications must analyse the kinds of information citizens are seeking from them. This would help them identify the categories of information frequently sought by citizens which could then be disclosed and disseminated proactively through various methods listed under Section 4(4) of both the RTI laws unless one or more exemptions listed under Sections 8, 9, 11 and 24 are attracted. This would go a long way in reducing the burden of RTI applications on the public information officers.*
- *Some of the Information Commissions have reported a small number of public authorities that did not receive any RTI application at all during the year. The reasons for this phenomenon could be varied: they maybe volunteering information so extensively, that citizens have no need to seek information in a formal manner, or, their clientele may simply not be aware of their rights under the RTI laws. Given the miniscule number of citizens using the RTI laws as indicated above, the latter explanation may most probably be true for several public authorities. It is advisable for the nodal departments for implementing the RTI laws to undertake a study of the reasons for this phenomenon in these public authorities and launch public education and awareness raising programmes about people's right to information.*

¹⁸ CHRI is happy to report that it resourced training programmes for senior officers of the Dept. of Posts during the initial years of the implementation of the Central RTI Act.

IV Proportion of Rejections at the RTI Application Stage

Section 7(1) of both the Central and J&K RTI laws authorise a public information officer to reject a request for any of the reasons given under Sections 8 and 9 of the respective laws. These provisions contain the exemptions that may be invoked to withhold access to information in the public interest. Section 7(8) of both laws requires a public information officer to give detailed reasons for denying access to information. An RTI application may also be rejected if the information sought is not held in material form by any public authority or by agreeing with the legitimate objections of third party under Section 11 of both laws. Security and intelligence organisations notified by the Central and State Governments do not have a duty to disclose any information other than that pertaining to allegations of corruption and human rights violations. Information relating to allegations of human rights violations may be disclosed only with the approval of the concerned Information Commission.

Anecdotal evidence across the country has made many civil society actors and activists believe that rejection of request is the norm in many public authorities and access to information is an exception which amounts to reversing the objectives of both RTI laws. However, if the data published in the Annual Reports of Information Commissions covered by this study is to be believed, only a small proportion of the total number of requests is rejected at the application stage.

Section 25(3)(b) of the Central RTI Act and the corresponding Section 22(3)(b) in the J&K RTI Act require public authorities to cite the number of instances in which they invoked the exemptions to reject information requests. In this study, we have compared the pattern of rejections based on information published in the Annual Reports of the Central Information Commission and the State Information Commissions of Andhra Pradesh and Karnataka. Other Information Commissions have not provided the break-up of the number of times exemption clauses were invoked by public authorities to deny access to information.

Main findings of the study: (See Table 1- column 4 and Table 3)

- **In States with smaller populations like Meghalaya, Mizoram and Nagaland, less than 1% rejection was reported at the RTI application stage.**
- **In Karnataka, where public authorities received close to 2.93 lakh (293,000) requests, the proportion of rejections was a mere 0.30%.**
- **Some of the highest proportions of rejections were observed in the context of public authorities under the Central Government (8.14%) and those under the State Government of Maharashtra (7.2%) both of which received more than 6.5 lakh (650,000) RTI applications during the period covered by this study. It is important to note that despite receiving a slightly larger number of applications than the Central Government, the proportion of rejections is lesser in Maharashtra.**
- Although the macro picture in all governments covered by this study indicates rejection of not more than 10% of the total number of RTI applications received, some of the public authorities had very high rates of rejection. **For example, the rejection rate at**

the offices of the Directorate of Revenue Intelligence and Directorate General of Safeguards was 100%. The offices of the Director General, Income Tax (Investigation) based in Ahmedabad (86.8%), Jaipur (71.6%), Kolkata (66.7%) and New Delhi (59.5%) also had a very high rejection rate. In these offices the number of RTI applications received ranged between 38-289.

- **The Jammu and Kashmir State Information Commission has reported that while RTI applications received by public authorities in that State grew phenomenally, the rejection rate dropped from 9% (2009-10) to 4% (2010-11) and stood at 1.37% for the last reporting year (2011-12).**
- **Only the Central Information Commission and the State Information Commissions of Andhra Pradesh and Karnataka have provided clause-wise break up [Sections 8(1)(a) to (j), 9 and 24] of the number of times the exemptions were invoked by public authorities to reject information requests at the application stage.** Despite this being a statutory requirement no other Information Commission has captured this data in its Annual Report.
- **The largest number of rejections of RTI applications (15,279) in public authorities under Central Government occurred on the grounds of protecting personal privacy [Central RTI Act, Section 8(1)(j)].** However this clause was rarely used in Andhra Pradesh (25) and Karnataka (33) to reject requests. In Andhra Pradesh, the exemptions pertaining to contempt of court and prohibition on the disclosure of information by courts was invoked most frequently (131 times) to reject RTI applications [Central RTI Act, Section 8(1)(b)]. Public authorities in Karnataka are reported to have invoked this clause only 8 times. Public authorities in Karnataka are said to have invoked most frequently (101 times) the exemption relating to police investigation, arrests and criminal trials [Central RTI Act, Section 8(1)(h)].
- **More than 4,000 RTI applications are said to have been rejected because they pertained to the 25 intelligence and security organisations notified by the Central Government under Section 24 of the Central RTI Act.** In Andhra Pradesh only one instance of rejection on this ground has been reported. No data for this category is available in the Annual Report of the Karnataka State Information Commission. Perhaps some rejections on this ground might have been included in the category- “Others” which accounts for 300 rejections under other unspecified Sections of the Central RTI Act.

Recommendations:

- ***Information Commissions must pay special attention to public authorities where rejection rates are very high to see if the exemption provisions and public interest override clauses contained in Section 8 are being invoked by the public information officers or the first appellate authorities with due application of mind. Fewer the number of rejections, lesser will be the number of appeals and complaints.***

- **All Information Commissions must collect and publish data about the number of times exemption clauses are invoked by public authorities to reject RTI applications as this is a statutory requirement.**
- **Information Commissions must collect and publish data about the rejection of RTI applications by organisations notified under Section 24 of the Central RTI Act and Section 21 of the J&K RTI Act in keeping with the statutory mandate of accounting for all instances of rejection of requests by public authorities.**

V Receipt and Disposal of First Appeals

Section 19 of the Central RTI Act and Section 16 of the J&K RTI Act recognise the right of aggrieved RTI applicants to file an appeal with the designated First Appellate Authority who must be an officer senior in rank to the public information officer. A first appeal may be filed if the RTI applicant is not satisfied with the decision of the public information officer or if he/she did not receive a decision within the time limit specified in the two RTI laws. Both RTI laws do not prescribe any procedure for first appellate authorities to deal with appeals received from aggrieved RTI applicants. Also, the RTI Rules notified under both laws also do not contain the details of procedure to be adopted for receiving and disposing first appeals. However the Department of Personnel and Training has issued some guidelines for Appellate Authorities for disposing appeals within the time limit specified in the two RTI laws. First appellate authorities are required to observe the principles of natural justice such as giving the appellant and the public information officer concerned an opportunity to present their cases before deciding an appeal.¹⁹ They are also advised to provide copies of the information sought if they have easy access to it while deciding against a rejection order issued by the public information officer. If the information is not readily accessible they have the option of stipulating a time limit for the public information officer to supply the information to the appellant.

Many Information Commissions time and again have directed appellate authorities to apply their minds to every appeal they are required to examine, instead of mechanically upholding a decision of rejection given by the public information officer. First appellate authorities are also required to balance the public interests favouring disclosure against other relevant public interests that would be served better by withholding access to the information before arriving at a decision on the appeal. All these arguments must be included in the order of the first appellate authority. However many civil society actors and RTI users think that the first appeals procedure is pointless as first appellate authorities more often than not uphold the decision of the public information officer to reject a request.

¹⁹ Guidelines for the Officers Designated as First Appellate Authority, OM No. 1/3/2008-IR dated 25 April, 2008 accessible on the website of the Department of Personnel and Training, Government of India at: [http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_3_2008_IR\(Eng\).pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_3_2008_IR(Eng).pdf) accessed on 10 October, 2013.

Main findings of the study: (See Table 5, Table 6- columns 4 and 5 and Table 9)

- **The Central Information Commission and the J&K State Information Commission have not included statistics about the receipt and disposal of first appeals by public authorities in their Annual Reports.** In fact the Central Information Commission had included this data in the first two Annual Reports only (2006-07 and 2007-08). However this practice has been discontinued for reasons unknown.
- One would expect the proportion of first appeals to tally with the proportion of RTI applications rejected by public authorities. However this does not seem to be the case in many States (Table 6- columns 4 and 5). **In Bihar, despite only 4.22% of the RTI applications being rejected, the number of first appeals submitted was almost six times higher (23.94%). In Nagaland, where fewer RTI applications were submitted, despite the rejection rate being a little less than 10%, the proportion of first appeals filed was one and a half times higher (15.32%). In Meghalaya, the proportion was eight times higher (8.80%) than the rejection rate of less than 1%.** These statistics are probably reflective of two phenomena. Citizens may have submitted first appeals because they did not receive any reply from the public information officer or because they were dissatisfied with the reply or the quality of the information that was furnished. **Nagaland State Information Commission records, “lack of response from the public information officer” as the reason for the submission of 48% of the total number of first appeals, whereas the remaining are said to have been submitted by citizens dissatisfied with the reply or quality of information received.** However the Nagaland State Information Commission has not reported the outcome of these first appeals unlike other State Information Commissions.
- **While, in most States, first appellate authorities ordered disclosure of information in about 90% of the cases, in Rajasthan, more than a third (34.48%) of the first appeals was rejected by their counterparts.** One of the 3 first appeal cases filed in Mizoram was rejected because of which the rejection rate is 33.33%.
- **Except the State Information Commission of Andhra Pradesh no other Information Commission has reported the number of times exemptions clauses were invoked by first appellate authorities to reject an appeal or uphold the decision of public information officers to deny access to information.**
- **Only the State Information Commissions of Andhra Pradesh, Karnataka, Meghalaya and Nagaland have published data about first appeals received and disposed by their respective State Legislatures.** The Annual Reports of the State Information Commission of Chhattisgarh and Rajasthan do not contain first appeal related statistics relating to the respective State Legislatures.
- **There is no mention of the number of first appeals received and disposed by the High Courts of Delhi, Bihar, Chhattisgarh, Rajasthan and Jammu and Kashmir in the Annual Reports of the respective Information Commissions.**

Recommendations:

- **All Information Commissions must collect and publish data about the receipt and manner of disposal of first appeals by the designated first appellate authorities. This information must be placed in the public domain to enable proper assessment of their performance. First appellate authorities are not quasi-judicial authorities. In fact they are administrative authorities vested with quasi-judicial functions and responsibilities. They must not be excluded from the statutory requirement of reporting their activities under the twin RTI laws.**
- **Secretariats of Parliament and all Legislatures must submit to the respective Information Commissions statistics of first appeals received and disposed and also the manner of the disposal.**
- **All High Courts must submit to the respective Information Commissions statistics of first appeals received and disposed by themselves as well as all courts and tribunals under their jurisdiction and also the manner of disposal.**
- **Section 25(3) of the Central RTI Act and Section 22(3) of the J&K RTI Act require public authorities to report the number of times exemption clauses were invoked to reject access to information. This reporting requirement applies not only to public information officers at the RTI application stage but also to first appellate authorities who receive appeals from aggrieved citizens. They must provide this data to the respective Information Commissions so that the breakup of the rejection figures is also published in the annual reports.**

VI Receipt and Disposal of Second Appeals and Complaints

Both RTI laws establish Information Commissions for the purpose of redressing grievances of citizens who are not satisfied with the responses of public authorities or their designated representatives such as public information officers and first appellate authorities. Under Section 19(3) of the Central RTI Act and Section 16(3) of the J&K RTI Act, citizens may file a second appeal with the concerned Information Commission if they are aggrieved by the decision of the first appellate authorities. Third parties who are aggrieved by the order of a first appellate authority to disclose information pertaining to them may also file a second appeal with the Information Commissions.

Under Section 18 of the Central RTI Act and Section 15 of the J&K RTI Act, any person may submit a complaint with the concerned Information Commission on the following grounds:

- a) if no public information officer has been appointed by a public authority;
- b) if a request for information sought under the RTI laws has been rejected;
- c) failure of the public authority to provide a response to an RTI application within the specified time limits;
- d) charging exorbitant fees for supplying information;

- e) providing false, incomplete or misleading information; and
- f) any other matter relating to requesting or obtaining access to records under the RTI laws.

The Supreme Court has ruled that the powers granted to Information Commissions under Section 18 of the Central Act are for the purpose of supervising compliance in public authorities only.²⁰ Citizens aggrieved by the decision of a public authority rejecting access to information must utilize the appeals mechanism for redress. The complaints procedure cannot be used for this purpose.

Main findings of the study: (See Table 6: columns 6 and 7 and Tables 7 and 9)

- Under ideal conditions one would expect that the number of second appeals filed with the Information Commissions, as a proportion of the total number of RTI applications rejected, would reduce because of the first appeals mechanism available for redressing grievances. While this is the pattern in all States covered by this study except Rajasthan. **The proportion of second appeals submitted to the State Information Commission of Rajasthan was more than double the proportion of RTI applications rejected.** The proportion of second appeals filed was 0.85% higher than the proportion of first appeals as compared to the proportion of rejections. This indicates high dissatisfaction levels amongst the citizenry with the manner of implementation of the Central RTI Act in many public authorities.²¹ **In other Information Commissions, this proportion ranged between 1-10% of the total number of rejections at the RTI application stage (Table 6).**
- **In Bihar, despite recording a rejection of only 4.22% at the RTI application stage the proportion of second appeals and complaints submitted to the State Information**

²⁰ *Chief Information Commr. And Another vs State of Manipur and Another*, Civil Appeal Nos.10787-10788 OF 2011 (Arising out of S.L.P(C) No.32768-32769/2010), judgement dated 12 December 2011. With deepest respect to the wisdom of the Supreme Court it must be pointed out that this judgement has not adequately considered all aspects of the complaints and appeals procedures provided under the Central RTI Act. By reasoning that the appeals procedure would be rendered defunct if all grievances about access to information were sought to be redressed through the complaints mechanism, the opposite effect has been achieved. As a result of this reasoning, the complaints procedure has been rendered defunct theoretically, because, we believe Information Commissions are now prevented from issuing any order other than imposing penalties on, or recommending disciplinary action against, errant public information officers while deciding a complaint. Nothing in the judgement indicates that all aspects of Sections 18 and 19 as well as the RTI Rules notified by the Central Government detailing the appellate procedure have been taken into consideration adequately. No attention has been paid to the meaning and significance of the term “complainant” that occurs twice in Section 19 where the powers of the Information Commissions under second appeal procedure are listed. Not much attention has been paid to the fact that many of the grounds for complaints specified under Section 18 have corresponding remedies clearly described under Section 19(8) of the Central RTI Act. Nevertheless it is heartening to note that citizens are using the complaints procedure seeking redress for their grievances against public authorities.

²¹ This may also be a statistical anomaly due to imperfect reporting. We have included only the total number of first and second appeals received during the year 2011-12 as reported in the Annual Report of the Rajasthan State Information Commission. To the best of our knowledge this figure does not include appeals pending from the year 2010-11.

Commission was as high as 19.31%. No disaggregate data for second appeals and complaints has been published in the Annual Report. **The proportion of second appeals and complaints submitted to the State Information Commission in Jammu and Kashmir was about 7 times higher than the proportion of rejections.** These figures indicate high dissatisfaction levels amongst the citizenry in Bihar and Jammu and Kashmir with regard to the implementation of the two RTI laws (Table 6).

- **The proportion of complaints (4.28%) submitted to the State Information Commission in Karnataka was much higher than the proportion of rejection (0.30%).** This figure was higher compared to the second appeals figure (0.31%). **In Meghalaya, despite the small numbers involved, complaints outnumbered second appeals before the State Information Commission.** This indicates that despite the Supreme Court's judgement mentioned above, people are using the complaints mechanism to redress their grievances against public authorities and Information Commissions are entertaining them (Table 6).
- **With the exception of those in Andhra Pradesh and Meghalaya, no other Information Commission has published figures about their decisions taken on second appeals and complaints, namely, how many were allowed and how many were rejected.** In Andhra Pradesh, appeals and complaints were allowed in 1,305 cases and rejected in 334 cases. In Meghalaya 8 second appeals and complaints were allowed and 5 were rejected.
- **Data about the receipt and disposal of second appeals and complaints pertaining to State Legislatures is available in the Annual Reports of the State Information Commissions of Andhra Pradesh, Karnataka, Meghalaya and Nagaland only (Table 9).**
- **Data about the receipt and disposal of second appeals and complaints pertaining to High Courts is published in the Annual Reports of the State Information Commissions of Andhra Pradesh, Karnataka, Meghalaya and Nagaland only (Table 9).**
- **At the end of the reporting year, pendency of second appeals and complaints was highest in the Maharashtra State Information Commission.** Given the lesser number of second appeals and complaints received, the State Information Commissions of Meghalaya, Mizoram and Nagaland did not have any pending cases at the end of the reporting period. This is an improvement from the previous year which had a small number of pending cases (Table 7).
- **More than 10,800 second appeals and complaints were pending before the Central Information Commission during the period 2011-12 (Table 7).** This figure is said to have crossed 19,500 as on 30th September, 2013 according to the monthly progress reports displayed on the Commission's website.
- **None of the Information Commissions have published data about the number of instances where various exemptions under the two RTI laws were invoked while rejecting a second appeal.**
- **The State Information Commission of Andhra Pradesh is the only body to publish data about the provenance of appellants and complainants approaching it. About 45% of**

the appellants and complainants are said to be from rural areas. This figure was a mere 11% during the first year of the implementation of the Central RTI Act (2005-6). This Commission has also published data about complaints and appeals received from each geographical region: **Telangana – 44.84%; Andhra – 39.87%; Rayalaseema – 15.29%.**

Recommendations:

- *Although the proportion of second appeals and complaints filed with the Information Commissions is not very high in many States as compared with dissatisfaction levels based on anecdotal evidence of citizens and civil society actors, these figures cannot be taken for granted. Several dissatisfied applicants may not approach the Information Commission due to lack of awareness about its procedures or simply due to frustration, given the fact that the office of the Information Commission may be in a distant city. Some Information Commissions like those in Karnataka and Andhra Pradesh travel to the districts to conduct hearings. The Information Commissioners in Maharashtra are actually based in different parts of the State making them more accessible to people. The Central Information Commission was the pioneer in using video conferencing facility to hear appeals and complaints. Some of its Commissioners also visit other cities to hold hearings en masse. It is heartening to note that a few other Information Commissions like that in Karnataka have adopted these procedures. **All these methods must be explored and adopted by Information Commissions to provide easy and quick resolution to RTI-related disputes. Governments must invest more resources in educating people, particularly disadvantaged segments of society in the appeals and complaints procedures available under the RTI Act.***
- *Three major causes are responsible for pendency of cases in the Information Commissions. First, the number of Information Commissioners appointed may not be adequate for the purpose of clearing pending cases. Second, several Information Commissions have reported inadequate staffing. Third, if first appellate authorities take adequate action to redress grievances of RTI applicants the number of second appeals and complaints would reduce automatically. **So it is necessary to conduct a scientific analysis of the rate of pendency in every Information Commission and the requirement of numbers of Information Commissioners and staff based on annual projections of receipts of second appeals and complaints. The requisite number of Information Commissioners must be appointed in accordance with the RTI laws in a transparent and participatory manner. Information Commissions must be provided adequate numbers of competent staff and funds to carry out their work efficiently. In-depth training programmes must be conducted regularly for first appellate authorities based on inputs such as the developing jurisprudence around the RTI laws in order to reduce the number of second appeals submitted to the Information Commissions.***
- *Information Commissions must lay down for themselves norms for reporting their work and comply with them scrupulously while publishing their Annual Reports. At a minimum these reports must contain:*

- 5) *break-up of the number of second appeals and complaints disposed;*
 - 6) *break-up of the number of second appeals and complaints allowed and those rejected;*
 - 7) *break-up of the number of times appeals and complaints were rejected in accordance with the clauses exempting disclosure of information; and*
 - 8) *disaggregate data about the number of second appeals and complaints pending from previous years but disposed during the reporting year.*
- *All Information Commissions must publish data about the number of second appeals and complaints received and disposed in relation to the Secretariats of Parliament and the respective State Legislatures.*
 - *All Information Commissions must publish data about the number of second appeals and complaints received and disposed in relation to the public authorities under the judiciary.*

VII Imposing Penalties, Awarding Compensation and Recommending Disciplinary Action

Under Section 20(1) of the Central RTI Act and Section 17(1) of the J&K RTI Act, an Information Commission may impose a penalty on the public information officer from Rs. 250 per day to a maximum of Rs. 25,000. A public information officer may be penalized for refusing to receive an RTI application or delaying the furnishing of information without reasonable cause; malafidely denying access to information, knowingly giving incomplete, false or misleading information; destroying information that is the subject matter of a pending RTI application or obstructing the furnishing of information in any manner. The Information Commissions are also empowered to recommend disciplinary action against a public information officer who repeatedly contravenes the provisions of the RTI laws. The Information Commissions are also empowered to award compensation to an appellant or complainant who has suffered any loss or detriment on account of wrongful denial of information.

Anecdotal evidence indicates that Information Commissions are reluctant to impose penalties or recommend disciplinary action against public information officers. Most of the Information Commissioners who were career bureaucrats before joining the Information Commission are perceived to adopt a very lenient attitude towards public information officers who do not comply with their obligations under the RTI laws. The statistics given below supports this perception to some extent in many States.

Main findings of the study: (See Table 8)

- **The total value of the penalties imposed by the Central Information Commission and the State Information Commissions of Andhra Pradesh, Karnataka and Maharashtra were the highest crossing Rs. 35 lakhs (Rs. 3.5 million) each.** However the amounts

recovered were much lesser due to administrative delays or grant of stay order by High Courts.

- **The State Information Commission of Karnataka imposed penalties in the most number of cases (537) followed by its counterpart in Maharashtra (343).** In its Annual Report, we could not find data about the actual number of instances in which the Central Information Commission imposed penalties.
- **The lowest recovery of penalty amounts was in Bihar (about 1/4th).** Many State Information Commissions have not published data about the recovery of penalty amounts from public information officers or payment of compensation awarded to appellants / complainants.
- **The number of cases in which the Maharashtra State Information Commission recommended disciplinary action against a public information officer was as high as 443. In comparison the Central Information recommended disciplinary action only in 24 cases.** It is not known whether the public authority complied with these recommendations. Several Information Commissions have not published any data about the number of cases where disciplinary action was recommended against public information officers.
- **The State Information of Karnataka took the lead in awarding compensation to appellants / complainants (Rs. 3.17 lakhs or Rs. 317,000) who had suffered loss or detriment on account of wrongful denial of access to information. The Annual Report of the Central Information Commission does not contain data about the compensation awarded to appellants or complainants.**

Recommendations:

- *In order to dispel doubts in the minds of appellants and complainants as to why penalties were not imposed on errant public information officers, every Information Commission must, as a rule, record their decision as to why penalty was not imposed on a public information officer despite issuing a show cause notice.*
- *Information Commissions must publish in their Annual Reports details of cases where penalties were imposed in the manner of the State Information Commissions of Karnataka, Meghalaya and Nagaland.*
- *All Information Commissions must regularly monitor compliance with their orders imposing penalties, awarding compensation or recommending disciplinary action even if those orders are stayed by High Courts. The relevant RTI rules may be amended in order to ensure such monitoring as has been done in the latest RTI Rules notified by the Government of Uttarakhand.²²*

²² See Rule 11 under Uttarakhand's *Right to Information Rules, 2013* available on the website of the Chief Minister of Uttarakhand at: <http://www.cm.uk.gov.in/pages/display/1185-the-uttarakhand-right-to-information-rules2013> accessed on 20 October, 2013. CHRI is happy to report that it provided technical advice to the Government of Uttarakhand to revise its RTI Rules earlier this year.

Data Tables

Table 1: Availability of the Annual Reports of Information Commissions on websites (Y = yes; N = no)

| Sl. no. | Information Commission | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | Comments |
|---------|--------------------------------|------|------|------|------|------|------|------|--|
| 1. | Central Information Commission | Y | Y | Y | Y | Y | Y | Y | Latest Annual Report is available for the year 2011-12 |
| 2. | Andhra Pradesh | Y | Y | Y | Y | Y | Y | N | - |
| 3. | Arunachal Pradesh | Y | Y | N | N | N | N | N | - |
| 4. | Assam | N | N | Y | Y | N | N | N | - |
| 5. | Bihar | Y | Y | Y | Y | Y | Y | Y | Latest Annual Report is available for the year 2011-12 |
| 6. | Chhattisgarh | Y | Y | Y | Y | N | Y | Y | Latest Annual Report is available for the year 2011-12 |
| 7. | Goa | Y | Y | Y | N | N | N | N | - |
| 8. | Gujarat | N | N | N | N | N | N | N | - |
| 9. | Haryana | Y | N | N | N | N | N | N | - |
| 10. | Himachal Pradesh | Y | Y | Y | Y | Y | Y | N | - |
| 11. | Jharkhand | Y | Y | Y | Y | Y | Y | N | - |
| 12. | Karnataka | Y | Y | Y | Y | Y | Y | Y | Latest Annual Report is available for the year 2011-12 |
| 13. | Kerala | Y | Y | Y | Y | Y | Y | N | - |
| 14. | Madhya Pradesh | N | N | N | N | N | N | N | - |
| 15. | Maharashtra | Y | Y | Y | Y | Y | Y | Y | - |
| 16. | Manipur | N | N | N | N | N | N | N | - |
| 17. | Meghalaya | Y | Y | Y | Y | Y | Y | Y | Latest Annual Report is available for the year 2011-12 |
| 18. | Mizoram | Y | Y | Y | Y | Y | Y | Y | - |
| 19. | Nagaland | N | N | Y | Y | Y | Y | Y | Latest Annual Report is available for the year 2011-12 |

| Sl. No. | Information Commission | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | Comments |
|---------|------------------------|------|------|------|------|------|------|------|---|
| 20. | Odisha | Y | Y | Y | Y | Y | Y | N | - |
| 21. | Punjab | Y | Y | Y | Y | N | N | N | - |
| 22. | Rajasthan | Y | Y | Y | Y | Y | Y | Y | Latest Annual Report is available for the year 2011-12 |
| 23. | Sikkim | N | N | N | N | N | N | N | - |
| 24. | Tamil Nadu | N | N | N | N | N | N | N | - |
| 25. | Tripura | N | N | N | N | N | N | N | - |
| 26. | Uttarakhand | Y | N | N | N | N | N | N | - |
| 27. | Uttar Pradesh | N | N | N | N | N | N | N | - |
| 28. | West Bengal | Y | Y | Y | Y | N | N | N | Annual reports for 2006-2009 presented in 2009 |
| | | | | | | | | | |
| 29. | Jammu and Kashmir | - | - | - | Y | Y | Y | Y | Combined report for the years 2009-12 was published in 2012 |

Table 2: Number of information requests received by Public Authorities and the proportion of rejection at the RTI Application Stage

| Sl. no. | Government/State | No. of RTI applications received | Rejection at the application stage | Remarks |
|---------------------------------------|----------------------------------|----------------------------------|------------------------------------|--|
| 1 | 2 | 3 | 4 | 5 |
| 1. | Central Government ²³ | 6,55,572 | 8.14% | - |
| 2. | Andhra Pradesh | 1,22,133 | 4.94% | - |
| 3. | Bihar | 1,29,807 | 4.22% | - |
| 4. | Chhattisgarh | 48,785 | 3.85% | 38,616 urban applicants 10,169 rural applicants 2,351 women applicants 1,653 SC applicants 1,494 ST applicants 1,216 BPL applicants |
| 5. | Karnataka | 2,93,405 | 0.30% | - |
| 6. | Maharashtra | 6,82,286 | 7.2% | 11,246 BPL applicants got the requested information |
| 7. | Meghalaya | 1,068 | 0.74% | - |
| 8. | Mizoram | 1,045 | 0.86% | - |
| 9. | Nagaland | 2,206 | 9.74% | - |
| 10. | Rajasthan | 71,243 | 4.59% | - |
| Total no. of RTI applications- | | 20,27,152 | | |
| 11. | Jammu and Kashmir | 12,136 | 1.37% | - |
| Grand Total- | | 20,39,288 | | |

²³ The Annual Report of the Central Information Commission contain two figures for the total number of RTI applications received during the year 2011-12: one based on reporting of RTI data by public authorities for all four quarters of that year and the other based on reporting of RTI data by public authorities for at least one quarter. We have taken the larger figure as it is nearer to the total number of RTI applications received which remains a mystery as about 32% of the public authorities under the Central Government did not file any statistical report with the Commission. We have also not included in these figures data about pending RTI applications from the previous year carried over to the next year due to this study's self-imposed limitation of focusing on only one year during the period- 2011-12.

Table 3: Number of instances where exemptions were invoked

| Sl. no. | Central RTI Act Exemption clause invoked (Section 8 & 24) | Public authorities under the Central Government | Public authorities under the State Government of Andhra Pradesh | Public authorities under the State Government of Karnataka |
|---------|--|---|---|--|
| 1. | 8(1)(a) National security related | 418 | 17 | 1 |
| 2. | 8(1)(b) Contempt of court related | 193 | 131 | 8 |
| 3. | 8(1)(c) Breaching privileges of Parliament or State Legislatures | 206 | 6 | 5 |
| 4. | 8(1)(d) Commercial confidence, trade secrets, intellectual property rights | 7,613 | 35 | 82 |
| 5. | 8(1)(e) Fiduciary relationship | 5,647 | 3 | 35 |
| 6. | 8(1)(f) Confidential information from foreign government | 338 | 1 | 6 |
| 7. | 8(1)(g) Endangering life or safety of a person and law enforcement related | 1,976 | 44 | 67 |
| 8. | 8(1)(h) Impediment to investigation, arrest or prosecution | 2,925 | 18 | 101 |
| 9. | 8(1)(i) Cabinet papers related | 1,306 | 13 | 16 |
| 10. | 8(1)(j) Personal privacy | 15,279 | 25 | 33 |
| 11. | 24 Intelligence & security organisations | 4,099 | 1 | no data |

These statistics are not available in the Annual Reports of other Information Commissions covered by this study, including that of the J&K State Information Commission established under the J&K RTI Act, 2009 which has similar provisions.

Table 4: Top five Ministries/Departments/Public Authorities that received the most number of RTI applications

| Sl. no. | Government/ State | # Ranking (Proportion of RTI applications received during 2011-12) | | | | |
|---------|--|--|--|--|--|--|
| | | #1 | #2 | #3 | #4 | #5 |
| 1. | Central Government Ministries/ Departments²⁴ | Ministry of Finance (20.41%) | Department of Posts (8.23%) | Ministry of Home Affairs (8.06%) | Labour & Employment Ministry (6.80%) | Ministry of Human Resource Development (5.73%) |
| | Public Authorities under Central Government | Department of Posts (8.23%) | Employees Provident Fund Orgn. (6.44%) | Delhi Police (5.24%) | Bharat Sanchar Nigam Ltd. (BSNL) (3.50%) | State Bank of India (3.41%) |
| 2. | Andhra Pradesh | Chief Commissioner, Land Admn. (37.75%) | Director, Municipal Administration (6.82%) | Commissioner, Panchayati Raj & Rural Empl. (5.75%) | Director General of Police (3.70%) | Commissioner & Inspector General, Regn. & Stamps (2.86%) |
| 3. | Bihar | Education Department (9.52%) | General Administration Department (3.48%) | Home Department (2.64%) | Rural Development Department (1.94%) | Energy Department (1.73%) |
| 4. | Chhattisgarh | Home Department (13.33%) | Urban Administration & Development Department (11.45%) | Panchayati Raj & Rural Development Department (10.24%) | Public Works Department (7.21%) | Housing and Environment Department (5%) |

²⁴ Several Ministries in the Central Government are comprised of multiple departments and attached offices all of which are public authorities in their own right. So we have separately listed the Ministries and Departments that have received the most number of RTI applications and individual public authorities that have received the highest number of RTI applications.

| Sl. no. | Government/ State | # Ranking (Proportion of RTI applications received during 2011-12) | | | | |
|---------|--------------------------------|--|---|---|---|---|
| | | #1 | #2 | #3 | #4 | #5 |
| 5. | Karnataka ²⁵ | Revenue, Muzrai, Stamps & Regn. Dept. & Karnataka Admin. Tribunal (27.11%) | Urban Dev. Dept. including Municipal Admn. & Corpns. (23.02%) | Rural Development and Panchayati Raj Department (8.69%) | Home Department including Prisons (5.14%) | Transport Department (4.84%) |
| 6. | Maharashtra | Urban Dev. Department (28.82%) | Revenue & Forests Dept. (14.57%) | Home Department (8.87%) | Housing Department (8.22%) | Rural Dev., Panchayats & Water Conservation (7.20%) |
| 7. | Meghalaya ²⁶ | Community & Rural Dev. Dept. (12.35%) | Forests & Environment Department (9.92%) | Home Department including Prisons (9.55%) | Education Department (6.36%) | Public Works Department (4.96%) |
| 8. | Mizoram | Police Department (11.86%) | Mizoram Public Service Commission (10.23%) | Home Department (Secretariat) (4.11%) | District Agriculture Office, North Lawngtalai (3.92%) | Chakma Autonomous District Council & Dept. of Personnel & Administrative Reforms (3.06% each) |
| 9. | Nagaland | Transport Department (19.49%) | Rural Dev. Department (9.70%) | School Education Department (7.47%) | Health and Family Welfare Department (5.07%) | Police Department (4.85%) |

²⁵ Although the Urban Development Department is shown at rank #2, a word of caution must be added here. This figure includes the RTI applications received by various municipal corporations under its jurisdiction. As these bodies are also public authorities in their own right, adding their statistics to the Department's inflates the figure considerably. This is true of all other Ministries and Departments that have provided combined data from public authorities under their jurisdiction.

²⁶ Table 7.2.1 annexed to the Meghalaya State Information Commission's Annual Report mentions a total of 136 RTI applications received by the Personnel Department during the year 2011. However this figure includes RTI applications received by the offices of the Deputy Commissioners in the districts as well. These officers are public authorities in their own right. So we have not included the Personnel Department in the ranking scheme.

| Sl. no. | Government/ State | # Ranking (Proportion of RTI applications received during 2011-12) | | | | |
|---------|---------------------------------------|--|---|---|---|---|
| | | #1 | #2 | #3 | #4 | #5 |
| 10. | Rajasthan | Jaipur Development Authority (12.85%) | Finance Department (12.38%) | Energy & Non-Conventional Energy Dept. (11.59%) | Rajasthan Public Service Commission (8.14%) | Cooperatives Department (5.72%) |
| | | | | | | |
| 11. | Jammu and Kashmir²⁷ | University of Kashmir (8.41%) | J&K Public Service Commission (5.95%) | Directorate of School Education, Jammu (5.71%) | Directorate of School Education, Srinagar (4.65%) | Directorate of Social Welfare, Srinagar (4.07%) |

²⁷ The Annual Report of the J&K State Information Commission ranks the public authorities on the basis of the most number of RTI applications received during all three years of the implementation of the J&K RTI Act from 2009-12. The year-wise breakups are not provided in the report. Nevertheless the combined data presents an interesting variation in rankings compared with public authorities in other States listed above. The percentages are calculated on the basis of the total number of RTI applications received over all three years i.e, 15,987 in all.

Table 5: Receipt and Disposal of First Appeals during 2011-2012

| Sl. no. | Government | Appeals Received (cases) | Information given (cases) | Information denied (%) | Comments |
|---------|---------------------------|--------------------------|---------------------------|------------------------|---|
| 1. | Central Government | no data | no data | no data | The CIC has not captured this data in its Annual Report |
| 2. | Andhra Pradesh | 11,881 | 10,693 | 9.99% | - |
| 3. | Bihar | 31,084 | 30,1467 | 1.98% | - |
| 4. | Chhattisgarh | 4,948 | 4,625 | 6.52% | - |
| 5. | Karnataka | 7,892 | no data | no data | 7,426 appeals are said to have been disposed. |
| 6. | Maharashtra | 62,609 | 55,961 | 10.61% | - |
| 7. | Meghalaya | 94 | 93 | 1.06% | - |
| 8. | Mizoram | 3 | 2 | 33.33% | - |
| 9. | Nagaland | 338 | no data | no data | 288 appeals are said to have been disposed |
| 10. | Rajasthan | 6,657 | 4,364 | 34.44% | - |
| | | | | | |
| 11. | Jammu and Kashmir | no data | no data | no data | - |

Table 6: Appeals and Complaints compared with RTI Applications and Rejection Data for 2011-12

| Sl. no. | Government/ State | No. of RTI Applications received (2011-12) | Rejection at the application stage (%) | Proportion of 1 st Appeals received (Internal) (%age of column 3) | Proportion of 2 nd Appeals received (Information Commission) (%age of column 3) | Proportion of Complaints received (Information Commission) (%age of column 3) |
|---------|---------------------------|--|--|--|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. | Central Government | 6,55,572 | 8.14% | no data | 5.17% (data combined for appeals and complaints) | |
| 2. | Andhra Pradesh | 1,22,133 | 4.94% | 9.72% | 3.27% | 0.735% |
| 3. | Bihar | 1,29,807 | 4.22% | 23.94% | 19.31% (data combined for appeals and complaints) | |
| 4. | Chhattisgarh | 48,785 | 3.85% | 10.14% | 5.85% | 2.86% |
| 5. | Karnataka | 2,93,405 | 0.30% | 2.68% | 0.31% | 4.28% |
| 6. | Maharashtra | 6,82,286 | 7.2% | 9.17% | 4.00% | 0.66% |
| 7. | Meghalaya | 1,068 | 0.74% | 8.80% | 1.21% | 2.52% |
| 8. | Mizoram | 1,045 | 0.86% | 0.28% | 0.09% | 0.28% |
| 9. | Nagaland | 2,206 | 9.74% | 15.32% | 1.04% | 0.31% |
| 10. | Rajasthan | 71,243 | 4.59% | 9.34% | 10.19% | 0.83% |
| | | | | | | |
| 11. | Jammu and Kashmir | 12,136 | 1.37% | no data | 8.02% (data combin1ed for appeals and complaints) | |

Table 7: Appeals and Complaints: Receipts, Disposals and Pendency in Information Commissions

| Sl. no. | Information Commission | 2 nd Appeals in 2011-12 | | | Complaints in 2011-12 | | | Total Pendency (Appeals & complaints) ²⁸ |
|---------|---------------------------------------|---|--|---------|-----------------------|---|---------|--|
| | | Receipts | Disposal | Pending | Receipts | Disposal | Pending | |
| 1. | Central Information Commission | Appeals & complaints received = 33,922 <i>(Only combined data published)</i> Appeals & complaints disposed = 23,112 | | | | | | 10,810 |
| 2. | Andhra Pradesh | 4,001 | 1,520 | 2,481 | 886 | 119 | 767 | 8,891 |
| 3. | Bihar | Appeals & complaints received = 24,843 <i>(Only combined data published)</i> Appeals & complaints disposed = 38,963 (includes cases pending from 2010-11) | | | | | | No data |
| 4. | Chhattisgarh | 2,854 | 1,755* | 1,099 | 1,400 | 455* | 945 | 3,948 |
| 5. | Karnataka | 927 | Disposed 770 <i>(current & pending from 2010)</i> | | 12,566 | Disposed 15,291 <i>(current & pending from 2010)</i> | | 8,261 |
| 6. | Maharashtra | 28,323 | 20,851* | 7,472 | 4,571 | 4,487* | 84 | 50,330 |
| 7. | Meghalaya | 13 | 13 | 0 | 27 | 31* | 0 | 0 |
| 8. | Mizoram | 8 | 8 | 0 | 16 | 16 | 0 | 0 |
| 9. | Nagaland | 23 | 23 | 0 | 7 | 7 | 0 | 0 |

²⁸ The pendency figures in this column include 2nd appeals and complaints pending with the Commissions from the previous year (2010-11). However pendency figures as on the date of this report are likely to be different as we have not included pendency data for the year 2012-13 due to non-availability of current information on many SIC websites. According to the data available on the website of the Central Information Commission more than 19,500 appeals and complaints were pending at the end of September 2013.

* These figures include disposal of cases pending from the previous year (2010-11). Breakup of disposal figures for the period under study is not always available in the Annual Reports of the respective State Information Commissions. Some like the State Information Commissions of Chhattisgarh, Maharashtra and Meghalaya have published this kind of data.

| Sl. No. | Information Commission | 2 nd Appeals in 2011-12 | | | Complaints in 2011-12 | | | Total Pendency (Appeals & complaints) ²⁹ |
|---------|--------------------------|---|----------|---------|-----------------------|----------|---------|--|
| | | Receipts | Disposal | Pending | Receipts | Disposal | Pending | |
| 10. | Rajasthan | 7,260 | 3,088 | 4,172 | 597 | 310 | 287 | 4,459 |
| 11. | Jammu and Kashmir | Appeals & complaints received = 974 <i>(Only combined data published)</i> Appeals & complaints disposed = 589 (includes cases pending from 2010-11) | | | | | | 419 |

²⁹ The pendency figures in this column include 2nd appeals and complaints pending with the Commissions from the previous year (2010-11). However pendency figures as on the date of this report are likely to be different as we have not included pendency data for the year 2012-13 due to non-availability of current information on many SIC websites. For example, according to the data available on the website of the Central Information Commission more than 19,500 appeals and complaints were pending at the end of September 2013.

* These figures include disposal of cases pending from the previous year (2010-11). Breakup of disposal figures for the period under study is not always available in the Annual Report of the respective State Information Commissions. Some like the Meghalaya State Information Commission have published this kind of data.

Table 8: Penalties (imposed and recovered), Compensation Awarded and Disciplinary Action Recommended

| Sl. no. | Information Commission | Penalties imposed | | | Compensation awarded | | | Disciplinary Action No. of cases |
|---------|---------------------------------------|--|----------------|------------------|----------------------|----------------|----------------------|-------------------------------------|
| | | No. of cases | Amount Imposed | Amount recovered | No. of cases | Amount awarded | Amount actually paid | |
| 1. | Central Information Commission | No data | Rs. 38,82,500 | Rs. 24,68,701 | No data | No data | No data | 24 |
| 2. | Andhra Pradesh | 62 | Rs. 3,87,000 | No data | No data | No data | No data | No data |
| 3. | Bihar | 435 cases of penalty and disciplinary action Penalty imposed = Rs. 5,64,000/- Penalty recovered = Rs. 1,50,000/- | | | No data | No data | No data | No data |
| 4. | Chhattisgarh | 32 | Rs.14,10,250 | No data | 1 | Rs. 1,59,950 | No data | 4 |
| 5. | Karnataka | 537 | Rs. 36,56,500 | No data | 129 | Rs. 3,17,850 | No data | No data |
| 6. | Maharashtra | 343 | Rs.38,08,500 | No data | No data | No data | No data | 443 |
| 7. | Meghalaya | 2 | Rs. 26,250 | No data | 2 | Rs. 5,500 | No data | No data |
| 8. | Mizoram | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9. | Nagaland | 5 | Rs. 71,750 | Rs. 14,500 | 0 | 0 | 0 | 0 |
| 10. | Rajasthan | 130 | Rs. 16,97,00 | Rs. 10,62,000 | No data | Rs. 30,500 | Rs. 20,500 | No data |
| | | | | | | | | |
| 11. | Jammu and Kashmir | 5 | No data | No data | 1 | No data | No data | 0 |

Table 9: RTI statistics about Legislatures and Courts (Yes = data available)

| Sl. no. | Union / State | Parliament / Legislatures | | | Supreme Court / High Courts and other Courts | | |
|---------|--------------------------|------------------------------|------------------------------|------------------------------|--|-------------------------------------|-------------------------------------|
| | | RTI applications | First Appeals | Second Appeals & Complaints | RTI applications | First Appeals | Second Appeals & Complaints |
| 1. | Union | Parliament No data | Parliament No data | Parliament No data | Supreme Court No data | Supreme Court No data | Supreme Court No data |
| | | Legislature | Legislature | Legislature | High Court and other Courts | High Courts and other Courts | High Courts and other Courts |
| 2. | Andhra Pradesh | Yes | Yes | Yes | Yes | Yes | Yes |
| 3. | Bihar | Yes | No data | No data | Yes | No data | No data |
| 4. | Chhattisgarh | No data | No data | No data | Yes | No data | No data |
| 5. | Karnataka | Yes | Yes | Yes | Yes | Yes | Yes |
| 6. | Maharashtra | Yes | No data | No data | No data | No data | No data |
| 7. | Meghalaya* | Yes | Yes | Yes | Yes | Yes | Ye |
| 8. | Mizoram | No data | No data | No data | No data | No data | No data |
| 9. | Nagaland* | Yes | Yes | Yes | Yes | Yes | Yes |
| 10. | Rajasthan | No data | No data | No data | No data | No data | No data |
| 11. | Jammu and Kashmir | Yes | No data | No data | Yes | No data | No data |

* Even where no RTI application or appeal/complaint was received by any of these public authorities, the data table had “0” as an entry indicating the effort made by the Information Commission to include these statistics in the Annual Report.

CHRI's role in promoting RTI in India and the Commonwealth

CHRI was closely associated with the drafting of the two RTI laws in India at various stages. Within a fortnight of Parliament approving the Central RTI Bill, CHRI organised the first ever national conference to discuss its implementation. Senior representatives of Central and State Governments, civil society, academia and the mass media discussed the ways and means of implementing the RTI Act with experts and Information Commissioners from Mexico, the United Kingdom, Canada, South Africa and Jamaica. The outcome document of the conference served as the basis for several States to strategise their implementation efforts. Later within a span of a few months CHRI resourced State-level implementation conferences in Uttarakhand, Madhya Pradesh, Gujarat, Meghalaya, Mizoram, Nagaland and Tamil Nadu. During the initial years of implementation CHRI worked with officer training institutes at the Central and State level to design and conduct training programmes for public information officers and appellate authorities designated under the Central RTI Act. CHRI has conducted or resourced several workshops all over the country to train representatives of big and small civil society organisations and networks and the mass media to use the Indian RTI laws in public interest. CHRI has worked closely with civil society actors, academia, lawmakers and the State Government of Jammu and Kashmir for the enactment, implementation and use of the J&K RTI Act.

In recent years CHRI has worked with Information Commissions and partner organisations to develop and implement proactive disclosure templates for making development-related information accessible to people through gram panchayats, particularly in the State of Gujarat. CHRI was part of the Government-appointed Task Force that drew up guidelines for implementing the proactive disclosure provisions of the Central RTI Act.

Internationally, CHRI works with governments and civil society for the adoption of RTI laws in Commonwealth countries. CHRI shared its technical knowledge and experience of advocacy with civil society partners in Bangladesh who successfully moved Government and Parliament to enact their own RTI law. Since then CHRI has worked with partners to build civil society capacity to spread awareness about the value and use of RTI at the community level in South Asia and Africa. CHRI has provided technical inputs for strengthening draft RTI legislation in Barbados, Cook Islands, Fiji, Ghana, Kenya, Malawi, Malaysia (provincial RTI Bills) the Maldives, Malta, Pakistan (national and provincial RTI Bills), Rwanda, Sierra Leone, Swaziland, Tanzania and Zambia. CHRI also facilitates learning programmes in India for visiting government and civil society representatives from South Asia and Africa to acquire first-hand knowledge about the efforts being made to embed the regime of transparency in India.

For more information about CHRI's work in India and the Commonwealth please visit: www.humanrightsinitiative.org

The Open Society Foundations and the Friedrich Naumann Stiftung- Für Die Freiheit are currently supporting CHRI's Access to Information Programme.