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

2<sup>nd</sup> State Level Training of Trainers (2<sup>nd</sup> – 4<sup>th</sup> December, 2011)

*Institute of Engineers, Gandhi Nagar, Jammu*

*Organised by*

**Commonwealth Human Rights Initiative (CHRI)**  
New Delhi

**Sangarsh RTI Movement**  
Jammu

*Supported by*

**Friedrich Naumann Stiftung Für Die Freiheit (FNF)**

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## Workshop Resolution

### *J&K RTI Act: Implementation Problems and Recommended Solutions*

**We**, the citizens and representatives of civil society, academia and mass-media in Jammu and Kashmir:

Having assembled in Jammu at the State level Training of Trainers organized by CHRI and Sangarsh RTI Movement in order to share our experiences of using the *Jammu and Kashmir Right to Information Act, 2009* and to acquire an in-depth understanding of the provisions of this law, have identified the following problem areas with regard to its implementation and also practical solutions for improving compliance:

### Application Issues

#### 1. The application and additional fees payable under the J&K RTI Act are exorbitant

**Solution:** The General Administration Department should amend the RTI Rules and bring all fee rates at par with the rates prescribed by the Central Government under the Central RTI Act, as it is the lowest benchmark anywhere in the country;

#### 2. Action on RTI applications comes to a standstill whenever the PIO is on leave

**Solution:** Link PIOs must be designated by the public authority to process applications during the absence of the regular PIO and contact information for such officers must be made public;

#### 3. PIO refuses to receive application without reasonable cause

**Solution:** The Head of the Department or office should ensure that RTI facilitation centres are opened at a publicly accessible place in the building so that individuals may submit RTI applications without any difficulty;

**4. Acknowledgment of the application and fee receipt are delayed or not given**

**Solution:** The General Administration Department should issue guidelines to all PIOs reiterating the fact that issue of acknowledgment against applications received and a proper receipt against fee paid are mandatory requirements;

**5. When RTI queries are submitted, PIOs ask for reasons for seeking information**

**Solution:** The General Administration Department should issue guidelines to all PIOs reiterating the position clearly stated in the J&K RTI Act that an applicant cannot be compelled to disclose reasons for seeking information;

**6. PIOs charge additional fees for information that was not specifically asked for by the applicant and inflate the number of pages in order to discourage the applicant**

**Solution:** The General Administration Department should issue guidelines to PIOs not to charge exorbitant fees from applicants;

## **Response Issues**

**7. Response to the RTI query is not received within 30 days of application**

**Solution:** Head of the Department or office should ensure that PIOs dispose RTI applications within the specified time limit;

**8. Although the response is given after 30 days have passed, fee is still demanded**

**Solution:** The General Administration Department should issue guidelines to reiterate the fact that applicants cannot be charged additional fees if the statutory time limit for responding to a request is over;

**9. PIOs discriminate between unattached information seekers and RTI activists in RTI-related proceedings**

**Solution:** Head of the Department or office should ensure that all RTI applicants are treated equally, without any discrimination;

**10. In many cases, PIOs do not provide details of the Appellate Authority while responding to an RTI application**

**Solution:** The General Administration Department should issue guidelines requiring PIOs to mention the complete contact details of the concerned Appellate Authority while communicating with the applicant;

## First Appeal Issues

### 11. First Appellate Authority sends first appeal back to PIOs without hearing the appeal

**Solution:** The General Administration Department should issue clear guidelines to all Appellate Authorities that a first appeal should never be transferred or referred to the PIO as it is a violation of the principles of natural justice;

### 12. First Appellate Authorities do not read or address the grounds mentioned in the appeal or complaint

**Solution:** The General Administration Department and the J&K State Information Commission should issue guidelines to ensure that all appellate authorities, take into consideration all grounds and pleadings mentioned in an appeal or complaint while hearing a matter, so that it appears to the appellant or complainant that the matter is being heard with due seriousness;

## Second Appeal and Complaint Issues

### 13. Notice is not sent sufficiently in advance of the hearing, it is often received just a day before the date of hearing

**Solution:** The General Administration Department should issue instructions to all Appellate Authorities that notice of a hearing under the J&K RTI Act shall be sent to the parties sufficiently in advance, in accordance with the Act and the Rules;

### 14. During hearings, the J&K State Information Commission has on some occasions not addressed all the grounds mentioned in the appeal and demanded to know reasons from appellants why information should be given

**Solution:** The J&K State Information Commission should appreciate the fact that in a second appeal, or complaint proceeding, the burden of proving why information ought not to be given, or providing a reasonable justification for the delay, is on the PIO. The appellant or complainant cannot be compelled to disclose reasons for seeking information. The appellant or complainant is at liberty to present arguments based on public interest in favor of disclosure only when the public authority legitimately claims an exemption under the RTI Act. The J&K State Information Commission must take into consideration all grounds mentioned in the appeal or complaint letter before deciding the matter;

### 15. Verbal orders of Appellate Authority or SIC are not reflected in written orders

**Solution:** All the Appellate Authorities, including the SIC, should ensure that the decision pronounced verbally during the hearing is faithfully recorded in the written order;

**16. Appellants and complainants sometimes do not receive copies of the orders passed by the Appellate Authority or SIC**

**Solution:** As Internet literacy is poor in the State of J&K, extra care must be taken to ensure that appellants and complainants are sent copies of the orders by registered mail;

## **Implementation Issues**

**17. Text of the J&K RTI Act and a User Guide are not available in the local languages of the State**

**Solution:** The General Administration Department should take immediate steps to fulfill its statutory obligation under the J&K RTI Act and publish the text of the Act and the User Guide in all popular languages spoken in J&K;

**18. Officers or other vested interests harass RTI users and activists for filing RTI applications**

**Solution:** The J&K State Information Commission should take steps to ensure that adequate protection is provided to RTI applicants so that they are not harassed;

**19. Training of PIOs, Appellate Authorities, and Information Commission staff is inadequate**

**Solution:** The General Administration Department should ensure that high quality training is provided to all public authorities, PIOs, and Information Commission staff for implementing the RTI Act; and

**20. Implementation of the J&K RTI Act is poor due to shortage of resources with public authorities**

**Solution:** All public authorities should ensure that adequate resources are provided for in their annual budget to meet their obligations of implementation, particularly in relation to improving records management and a more comprehensive voluntary disclosure of information as required under Section 4 of the J&K RTI Act;

**We** urge the Government of Jammu and Kashmir to immediately take note of the problem areas highlighted above and amend the J&K RTI Rules and issue guidelines or instructions as may be necessary to give effect to the solutions recommended above.

**We** record our appreciation for the assurance given by the Hon'ble State Information Commissioner, Shri Nazir Ahmed, J&K State Information Commission, at the valedictory session of our workshop about placing our concerns and recommendations before the J&K State Information Commission.

**We** urge the J&K State Information Commission to impress upon the Government of Jammu and Kashmir about the urgent requirement of improving compliance with the J&K RTI Act in all public authorities.

**Unanimously adopted on 4<sup>th</sup> December, 2011 at the Institute of Engineers, Jammu.**

## Workshop Participants

#	Name	Designation	Organisation
1	Mohammad Shafi Bhatt	Lecturer	Government HSS Jakyas
2	Sanjay Kumar Jandiyal	Ex-Chief Engineer	Indian Awareness Organisation
3	Mohammad Ishaq Aarif	Reporter	Daily Kashmir Ujma, Al-Khair Foundation
4	Narottam Sharma	State Convenor	Kshitij Foundation
5	Pushkar Goel	Master (Education Dept.)	Trikuta Nagar, Jammu
6	Ms. Upasana Sharma	Asst. Professor	KC Law College
7	Sadaf Wani	Secretary	SPEED, Janipur
8	Ms. Konica	Student	
9	Ayaz Mughal	Journalist	Sangharsh RTI Movement
10	Raman Sharma	Founder	Sangharsh RTI Movement
11	Charanjit Singh	Rtd. ZEO	J&K RTI Movement
12	Vishal Bharti	Student/Member, RTI Cell	PGDJMC
13	Sheikh Umar	Student	Power Development Department
14	Naresh Kumar Manhas	Teacher	Sahyog India
15	Balvinder Singh	Convenor	Sangarsh RTI movement
16	Lokesh Kumar Sharma	President/ Co-ordinator	Pehal Welfare Forum, Poonch
17	SC Rekhi	Rtd. Joint Director	(Gen. Secy) Rtd. Officers Forum, Jammu
18	Shafiq Mir	Journalist/ Sarpanch	
19	Arun K Sharma	Journalist/Editor	Sunderbani
20	Dr. R Muzaffar Bhat	Convenor	J&K RTI Movement
21	Dr. S Ghulam Rasool	RTI activist	J&K RTI Movement
22	Ravi Kumar	Student	GDC, Paloura, Jammu
23	Haq Navaz Nehru	Co-ordinator	JK RTI Movement, Chenab Valley, Doda
24	Sureshta Kahjuria	Educationist	Red Cross & J&K Federation
25	Dr. KC Sharma	Surgeon Specialist	
26	Dr. GK Gupta	Rtd Scientist	
27	Sant Kumar Sharma	Freelance Journalist	
28	Dineshwar S Jamwal		
29	PV Rawal	Chairman	Youth Hostel Accommodation, India
30	Dr. KK Bharadwaj		PHRK Society
31	Om Prakash Sharma		Progressive Youth Society, Ram Nagar
32	Vijay Kumar Kashkari		ACT INDIA
33	Jamir Lal Pundit		ACT INDIA & AIKS

#	Name	Designation	Organisation
34	Vir Saraf		ACT INDIA
35	Rajesh Singh	Teacher	SKIMS
36	PN Sharma	RTD Government Servant	
37	Deepak Sharma	IT Services	
38	Didar Singh	Program coordinator	NHCPM
39	Ravi Razdan		Green Alternatives
40	RK Tikoo		Arohi Sangeet Vidyalaya
41	Madan Dogra		
42	Harasis Singh	Social Activist	
43	Jaffar Javed Ahmad Khan	Ex-Councillor	Jammu Municipal Corporation
44	Narender Singh	Ex-Mayor	
45	Rahil Gupta	Student	
46	Shahid Ahmad	RTI User	
47	Darvinder Singh	Co-ordinator	Sangarsh RTI movement
48	Rattan Singh Gill	Advocate	
49	Vivek Chetri		Native Human Centric People's Movt.
50	Shashi Kaul	Advocate	
51	Sheikh Shakeel Ahmad	Advocate	
52	Ms. Neelam Firdaus	Chairman	Aman Development Society
53	Ms. Khalida Rafi	NGO Worker	Aman Development Society
54	JN Wadhwa	RTI Activist	
55	Manazha Malik	Student	
56	Gurjeet Singh	Media Person	JK Channel, Jammu
57	Arun Singh	Journalist	Kashmir Times
58	Puneet Gupta	Student	
59	Jitender Kumar	RTI Cell	
60	Jawaharlal Pundit		ACT INDIA
61	Rajesh Singh	Teacher	
62	Ms. Astha Nagpal	Student	
63	Mohinder P Sharma		Consumer Protection Organisation
64	Er. Sarabjeet Singh	Engineer	
65	Bhupender Singh Bali	Secretary	Aasra Charitable trust
66	Bakhtawar Malik		NGO
67	Ahtsham H Batt	Advocate	

<b>#</b>	<b>Name</b>	<b>Designation</b>	<b>Organisation</b>
68	Harbans Chaudhary		Bhartiya Mazdoor Sangh
69	Ashutosh Dubey	Volunteer, Social Activist	Art of Living
70	Tanveer Mirza		
71	Ms. Anubha Sharma		Dogra Law College
72	Sunil Sharma	Teacher	KC Law College
73	Ms. Zohra		Aman Development Society
74	Chanchal Jogi	President	J & K Jogi Baradri
75	Mallu Jasrotia	Student	
76	Naveen Chandel		Handicraft & Loan Worker Welfare Society
77	Deewakar Sharma	Advocate	
78	B R Manhas	Advocate	J&K High Court
79	Alan Cheuk	Project Officer	CHRI, New Delhi
80	Amikar Parwar	Project Officer	CHRI, New Delhi
81	Venkatesh Nayak	Program Coordinator	CHRI, New Delhi

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