

National Conference on Working of the Right to Information Act, 2005

Organised by

Commonwealth Human Rights Initiative

Indian Social Institute

March 27-28 2006

Resolution

We, the citizens and representatives of civil society in India¹ have assembled in New Delhi on March 27-28, 2006, to discuss problems arising out of the poor implementation of the *Right to Information Act, (RTI Act) 2005*. During this Conference we have placed our views and perceptions about the ground reality of the implementation of this Act before the Hon'ble Chief Information Commissioner, Central Information Commission and the Joint Secretary of the Department of Personnel and Training, Government of India. We urge the Central and State Governments to take note of these problems and initiate action for ensuring better implementation of the RTI Act without delay.

1. **We recognise** that States like Rajasthan, Bihar, Jharkhand, Arunachal Pradesh and a few others have not set up Information Commissions despite six months having passed since the operationalisation of the Act. Till date Information Commissions have been set up in 22 of the 28 States only (except Jammu and Kashmir). Requesters are thereby deprived of the statutory complaints and second appellate mechanism in these states to deal with unreasonable action of PIOs and public authorities.

We urge these State Governments to set up their Information Commissions without delay.

2. **We recognise** that awareness about the provisions of the RTI Act amongst officers is poor at the Panchayat and Block levels. The governments have a statutory duty under the RTI Act to train officers for implementing the Act in letter and spirit. But the training efforts undertaken so far are far from satisfactory.

¹ States and Union Territories represented at the conference include, Andhra Pradesh (4), Assam (2), Bihar (1), Chhattisgarh (1), Delhi (39), Gujarat (9), Jammu and Kashmir (1), Jharkhand (3), Karnataka (6), Kerala (1), Madhya Pradesh (1), Maharashtra (1), Manipur (1), Orissa (12), Pondicherry (2), Punjab (1), Rajasthan (2), Tamil Nadu (2), Uttar Pradesh (3) and West Bengal (2).

We urge governments to take urgent steps to properly sensitise and train Public Information Officers at all levels to deal with information requests.

3. **We recognise** that the fee structure notified by various governments has no uniformity across the country. It is a statutory requirement that all fees stipulated under the Act must be reasonable.

We urge that amendments be immediately incorporated to the Fee Rules notified by the State Governments to establish a common fee structure around the country and all fees must be reasonable. We urge the Department of Personnel and Training, Government of India to use its good offices to motivate the State Governments in this regard.

4. **We recognise** that some states like Madhya Pradesh, Orissa and Maharashtra have notified fees for filing first and second appeals. This is against the letter and spirit of the Act. The Act does not empower any public authority or Information Commission to collect fees for considering appeals from citizens.

We demand that all appeals fees be withdrawn immediately and the appellate and complaints process be made free of cost for all complainants and appellants.

5. **We recognise** that the modes of fee payment notified in the Central and State Rules are too few in number. This has caused much inconvenience to citizens while submitting information requests.

We urge the Central and the State Governments to allow more modes of payment such as Indian Postal Orders, revenue stamps, stamp paper and postage stamps which are more easily accessible than treasury challans and non-judicial stamps.

6. **We recognise** that many PIOs have been insisting that fees be paid only in a particular mode such as demand draft or treasury challans. This causes unnecessary harassment to the requester.

We urge Governments to ensure that instructions are issued to PIOs to accept fees by any notified mode of payment that is preferred by the requester.

7. **We recognise** that the Act and the subsequent Rules do not specify a time limit for Information Commissions to dispose of appeals and complaints. It is important for Commissions to dispose of appeals and complaints as expeditiously as possible to avoid accumulation of a backlog of cases.

We urge all Information Commissions to lay down for themselves a maximum time limit within which to dispose of appeals and complaints and this time limit must be disclosed proactively (for

example, at least 90% of the cases must be disposed of within 3 months).

8. **We recognise** that in many states the heads of the legislature and the judiciary have not issued fee rules as required by the Act. This is causing difficulty for citizens who wish to access information from these public authorities.

We urge the Competent Authorities of the legislatures and the judiciary to notify fee rules immediately and designate PIOs and Appellate Authorities to deal with citizens' information requests.

9. **We recognise** that many public authorities are not ready with their proactive disclosure documents on 17 categories of information despite the passage of nine months since the operationalisation of the Act. Even in those instances where some efforts have been made to put together these documents, they are not easily available except on the Internet. As a result of this lacuna in implementation, people are forced to ask for this information in writing and wait for 30 days for a reply.

We urge the Central and the State governments to prepare all proactive disclosure documents without any further delay and make them available to requesters on demand in electronic and other forms of access.

10. **We recognise** that requesters are being charged application fees for information that the public authorities are bound to disclose proactively. In some instances requesters receive the information after 3-4 weeks. Both actions of the public authorities are against the spirit of the Act. Information disclosed proactively must be made accessible to the requester without any delay.

We urge the Central and the State Governments to issue instructions to PIOs to make proactively disclosed information available to citizens on demand without charging any application fees.

11. **We recognise** that very little information is available in the public domain about the resources allocated by the Central and State Governments for spreading public awareness about RTI and training officers to implement this Act. The RTI Act places a duty on the government to organise educational programmes for citizens with particular emphasis on disadvantaged communities.

We urge the Central and the State Governments to incorporate public education and training of officers with regard to RTI as an important component of their regular work in all departments. We urge all Governments to allocate adequate resources for conducting public education programmes and training officers and employees of all public authorities.

12. **We recognise** that *The Jammu and Kashmir Freedom of Information Act, 2004* does not contain several progressive provisions found in the RTI Act. It is necessary that a uniform information access regime be established around the country. A private Member's Bill has been tabled in the J&K legislature to amend the old law.

We urge the Government of Jammu and Kashmir to amend the Jammu and Kashmir Freedom of Information Act, 2004 and incorporate all progressive provisions contained in the RTI Act. We urge the Department of Personnel, Government of India to use its good offices to encourage the Government of Jammu and Kashmir to do so without delay.

Resolution adopted unanimously.

Place: Indian Social Institute, New Delhi

Date: 28/03/2006

About CHRI

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights across the Commonwealth. CHRI's objectives are to promote awareness of and adherence to the Harare Commonwealth Declaration, the Universal Declaration of Human Rights, and other internationally recognised human rights instruments, as well as in-country laws and policies that support human rights in member states. CHRI has a family of offices - headquarters in New Delhi, India; an Africa Office in Accra, Ghana and a Liaison Office in London. CHRI works in collaboration with civil society organisations in India for spreading awareness about the citizens' right to information, and monitoring the implementation of the RTI Act. More information about CHRI's activities can be found at: www.humanrightsinitiative.org

About ISI

The Indian Social Institute (ISI), New Delhi, was established in 1951 in response to the challenges of nation- building and a new emerging social order of independent India. It has evolved its vision, mission, goals and objectives in responding to the changing situation in the country in the spirit of a learning organization over the last fifty years. In carrying out this responsibility, the Institute, closely interacts, networks and collaborates with the various departments of the central and state governments, various organizations/institutions, social and human rights activists, academia and many civil society members within and outside India. For more information visit our website at: www.isidelhi.org