

# The Right to Information and Panchayati Raj Institutions: Chhattisgarh as a Case Study



...the right to information offers a key tool for ensuring that Panchayati Raj Institutions more effectively meet their goal of promoting participation and entrenching accountable government.



## COMMONWEALTH HUMAN RIGHTS INITIATIVE

Working for the *practical* realisation of human rights in the countries of the Commonwealth

# Commonwealth Human Rights Initiative

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## Commonwealth Human Rights Initiative

### CHRI Headquarters

B-117, First Floor  
Sarvodaya Enclave  
New Delhi - 110017, INDIA  
Tel: +91-11-2685-0523, 2686-4678  
Fax: +91-11-2686-4688  
E-mail: [chrill@nda.vsnl.net.in](mailto:chrill@nda.vsnl.net.in)

### CHRI London Office

C/o Institute of Commonwealth Studies  
28, Russell Square  
London WC1B 5DS, UK  
Tel: +44-020-7-862-8857  
Fax: +44-020-7-862-8820  
E-mail: [chri@sas.ac.uk](mailto:chri@sas.ac.uk)

### CHRI Africa Office

C/o The British Council  
PO Box GP 771  
Accra, Ghana  
Tel: +233-21-683068, 683069, 683070  
Fax: +233-21-683062  
E-mail: [CHRI@gh.britishcouncil.org](mailto:CHRI@gh.britishcouncil.org)

Website: [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)

# **The Right to Information and Panchayati Raj Institutions: Chhattisgarh as a Case Study**

*Written by*  
Sohini Paul

*Edited by*  
Charmaine Rodrigues

Commonwealth Human Rights Initiative  
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# Introduction

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralise government to promote greater participation by the ordinary public in their own governance. This process of democratic decentralisation was set in motion with the *Constitution (Seventy Third Amendment) Act* passed by the Indian Parliament in 1992, which enabled decentralised governance through PRIs in rural areas.

PRIs function at the village, intermediate (block) and district level. There are approximately 2,34,030 Gram Panchayats at the village level, 6053 Janpad Panchayats at the block level and 535 Zila Panchayats at the district level. There are more than 31 lakhs elected representatives at all three tiers.<sup>1</sup>

PRIs offer India's rural villagers a practical opportunity to participate in village planning processes, to engage with the various developmental schemes being implemented by the Government and to interact with their elected representatives directly to ensure that their interests are being effectively served and their money properly spent.

While PRIs are an excellent initiative in theory, reality has been less positive, as many PRIs have been criticised for poor representation, failure to implement the participatory decisions of their constituencies and mismanagement of funds. In this context, the right to information offers a key tool for ensuring that PRIs more effectively meet their goal of promoting participation and entrenching efficient and effective government. Citizen participation in panchayat institutions is more meaningful when people have the information to make informed choices and to participate in decision-making processes on the basis of actual facts, not rumours and half-truths.

In practice, the right to information provides that people should be able to access information from PRIs upon request, and that PRIs have a duty to proactively publish important information, for example, through sharing information in Gram Sabha meetings, by pasting information on notice boards, via the village loudspeaker or by publication in the official gazette or local newspapers.

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<sup>1</sup> Ministry of Panchayati Raj (MoPR), statistics provided at the 7<sup>th</sup> Roundtable Conference of the MoPR, current as at December 2004.

Chhattisgarh already has a number of regulations and laws which in some form or another promote the right to information. Most notably, the *Chhattisgarh Panchayat Raj Adhiniyam, 1993* (hereafter referred to as the PR Act 1993) includes several provisions which entitle people to access information from PRIs. The Government has also issued Executive Orders on information disclosure pertaining to nearly 50 government departments. More recently, the National Parliament passed a comprehensive national *Right to Information Act* which came into force on 12 October 2005. The legislation is applicable to all government offices across the country, including PRIs in Chhattisgarh. These laws are all discussed in more detail in Part 2.

Recognising that considerable writing has already been dedicated to discussing the use of generic right to information laws by the public, this paper focuses on analysing and promoting the information disclosure provisions contained in the State Panchayat Raj Act and related rules. The following legislation and rules have been reviewed in compiling this document:

- *Chhattisgarh Panchayat Raj Adhiniyam, 1993;*
- *Chhattisgarh Gram Sabha (Meeting Procedure) Rules, 1994;*
- *Chhattisgarh Panchayat (Transfer of Immovable Property) Rules, 1994;*
- *Chhattisgarh Panchayat (Procedure of Meeting and Conduct of Business) Rules, 1994;*
- *Chhattisgarh Panchayat (Powers and Functions of Sarpanch and Up-Sarpanch of Gram Panchayat, President and Vice-President of Janpad Panchayat and Zila Panchayat) Rules, 1994;*
- *Chhattisgarh Panchayat Nirvachan Niyam, 1995;*
- *Chhattisgarh Panchayat (Powers and Functions of Chief Executive Officer) Rules, 1995;*
- *Chhattisgarh Scheduled Areas Gram Sabha (Constitution, Procedure of Meeting and Conduct of Business) Rules, 1998;* and
- *Chhattisgarh Gram Panchayat (Powers and Functions of the Secretary) Rules, 1999.*

It is hoped that the compilation of these provisions will provide a useful resource for: **citizens** who themselves wish to use these laws to gather information; **NGOs** working on strengthening panchayats; **elected representatives** who will be more aware of their roles and duties in providing information to the public; and concerned **government officials** who will be aware of their role vis-à-vis information disclosure.

## Part 1: Panchayati Raj Institutions in Chhattisgarh

Chhattisgarh came into being only on 1 November 2000, when Madhya Pradesh was divided into two states. The first institutional and legislative steps towards the creation of Chhattisgarh were taken as far back as 1994. However, it was only in 2000, that the National Democratic Alliance Government at the Centre passed the *Madhya Pradesh Reorganisation Act, 2000* which bifurcated Madhya Pradesh into the two separate states of Chhattisgarh and Madhya Pradesh. According to the 2001 census, the total population of Chhattisgarh is almost 2.1 crore. The State has a total of approximately 20,378 villages, 96 tehsils 146 blocks and 16 districts.<sup>2</sup>

Importantly, in accordance with sections 78 and 79 of the *Madhya Pradesh Reorganisation Act*, any law already in force in the State of Madhya Pradesh when Chhattisgarh was created remained applicable in the new state of Chhattisgarh. Accordingly, the Panchayati Raj legislation in force in Madhya Pradesh at the time the State was divided became applicable to Chhattisgarh. It is that law – now called the *Chhattisgarh Panchayat Raj Adhiniyam, 1993*, which forms the basis of the current panchayat system in place in Chhattisgarh.

Chhattisgarh operates a three-tier panchayat system, which is intended to bring government closer to the people. Chhattisgarh has approximately 9,820 Gram Panchayats at the village level, 146 Janpad Panchayat at the intermediate (block) level and 16 Zila Panchayat at the district level.<sup>3</sup> Additionally, there is the Gram Sabha, which is the basic unit in the Panchayati Raj mechanism. The first panchayat elections were held in Chhattisgarh in January 2005.

### Number of Panchayat bodies in Chhattisgarh

Name	No. of PRI bodies
Gram Panchayat	9,820
Janpad Panchayat	146
Zila Panchayat	16

<sup>2</sup> Press Information Bureau, Government of India website: <http://pib.nic.in/feature/feyr2001/fjun2001/f080620012.html>.

<sup>3</sup> PRIA (2005) *Chhattisgarh ki Panchayati Raj Vyavastha*, Raipur, p.8.

## Tribal areas and panchayats

Chhattisgarh has a large tribal population – 33% of the entire population. As such, a large proportion of the State has been declared as “Schedule V Areas” under the Constitution,<sup>4</sup> which have special rights. Seven districts of Chhattisgarh are fully covered under Schedule V, namely, Surguja, Koriya, Jashpur, Kanker, Bastar, Dantewada and Korba. Another six districts are partially covered under Schedule V, namely Raigarh, Bilaspur, Durg, Rajnandgaon, Raipur and Dhamtari.

For the purposes of this paper, it is important to note that the amendment to the Indian Constitution which set up the Panchayati Raj system<sup>5</sup> was not automatically applicable to Schedule V Areas. It was only four years later, after the Central Government passed the *Provisions of the Panchayats (Extension to Scheduled Areas) Act* in 1996, that panchayat governance was extended to Schedule V areas. Accordingly, in 1997 the State Government added a new chapter to the existing Panchayati Raj legislation to make special provisions for panchayats in Scheduled Areas in Chhattisgarh.<sup>6</sup>

## Gram Panchayat

Gram Panchayats are the smallest unit of elected local-self governance, situated at the village level. Each Gram Panchayat area is divided into not less than ten and not more than twenty wards<sup>7</sup> and each ward elects one Panch. The Gram Panchayat consists of the elected Panchs plus a Sarpanch, who is the head of the Gram Panchayat. An Up-Sarpanch is also elected, who acts as the Sarpanch’s deputy. Each Gram Panchayat also has a Secretary,<sup>8</sup> who may service one or more Gram Panchayats.

The Gram Sabha (see below for details) is a general body of electors, whereas the Gram Panchayat is an executive, elected body. The executive has to perform its duties as per directions given by the general body.

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<sup>4</sup> “Schedule V Areas” refers to the Schedule of the Constitution of India which deals specifically with the administration and control of so-called Scheduled Areas inhabited by “Scheduled Tribes”, which are designated via Government notification.

<sup>5</sup> The *Constitution (Seventy Third Amendment) Act, 1992*, passed by the Indian Parliament in 1992.

<sup>6</sup> This is now known as Chapter 14A (sections 129 A-F), *Chhattisgarh Panchayat Raj Adhiniyam, 1993*.

<sup>7</sup> Wards are territorial constituencies of the Gram Panchayat.

<sup>8</sup> The State Government (or a prescribed authority) appoints the Secretary, who can service a Gram Panchayat or a group of two or more Gram Panchayats. The Secretary is responsible for maintaining records of the Gram Panchayat and is administratively responsible to the Chief Executive Officer of Janpad Panchayat.

Every Gram Panchayat has three Standing Committees constituted by the elected members:

- **General Administration Committee:** Responsible for recommending construction works in the Gram Panchayat area, revenue, land development, budget, accounts and other finance related issues, among other things;
- **Construction and Development Committee:** Responsible for preparation of the Gram Panchayat annual plan, all construction works, improvements in communication, village electrification, public health, development of small and cottage industries, and forest development, among other things;
- **Education, Health and Social Welfare Committee:** Responsible for inspection of all schools, *angan wadis* and *bal wadis* (playschools for infants), certification of primary health centres, cleanliness in the panchayat area, preparing and implementing programmes for the weaker sections of the community, women and child development, among other things.

### Proactive disclosure about how panchayats implement rural development schemes

The National Institute of Rural Development (NIRD)<sup>9</sup> has released a publication, “Implementation of Rural Development Programmes - Role of PRIs in the context of the Right to Information Act”,<sup>10</sup> which is meant to provide information to locals about how to access information from panchayats about all major rural development schemes run by the Ministry of Rural Development (MoRD). MoRD implements a number of rural development and poverty alleviation programmes, which support infrastructure in villages, offer employment and provide subsidised food grains, shelter and drinking water to villagers. It is primarily the responsibility of Panchayati Raj Institutions to implement these schemes. However, the implementation role of Gram Sabhas and panchayats at village, block and district levels in relation to these programmes is often not known by villagers, and in many cases is not even known by elected panchayat members themselves. The NIRD publication is intended to fill this information gap by disseminating information about the role of panchayats (particularly the Gram Sabha) in the implementation of rural development programmes. It is directed both at the public and at elected panchayat members. It also includes a chapter explaining the salient features of the RTI Act.

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<sup>9</sup> NIRD is the national apex body for undertaking research, training, and action research and consultancy functions in the rural development sector. NIRD works as an autonomous organisation supported by the Ministry of Rural Development, Government of India.

<sup>10</sup> The publication can be obtained from NIRD - Address: Rajendranagar, Hyderabad – 500030; Tel: (040) 2400 8522/523/524; Website: [www.nird.org.in](http://www.nird.org.in).

## Gram Sabha

There is a Gram Sabha<sup>11</sup> for every village. The Gram Sabha consists of all the people who are registered in the list of voters of a village. The basic philosophy that underlies the concept of the Gram Sabha is that of participatory democracy. Gram Sabhas provide a local platform for people to meet and discuss local development problems and analyse the development and administrative actions of their elected representatives, thus ensuring transparency and accountability. Most importantly, a Gram Sabha provides an opportunity for the participation of all sections of the village – women, dalits, tribals and other marginalised groups – in planning and implementation of local development programmes.<sup>12</sup>

The Chhattisgarh PR Act 1993 gives special powers to the Gram Sabha. The Gram Sabha can monitor and question the functioning of the Gram Panchayat. The Act also provides that Gram Sabhas can make annual plans for the villages, to be passed onto higher levels of PRIs for integration. A Gram Sabha can also implement its own decisions (without depending on the Gram Panchayat) for projects valued up to Rs 3 lakhs.

In the Schedule V Areas,<sup>13</sup> Gram Sabhas are constituted for each “community” which manages its affairs in accordance with the traditions and customs. Gram Sabhas can therefore be constituted for villages, hamlets or even a habitation. At least one meeting of the Gram Sabha must be held every three months in tribal-dominated panchayats.<sup>14</sup> These meetings must be presided over by any member of the Scheduled Tribe<sup>15</sup> of the Gram Sabha – not the Sarpanch or Up-Sarpanch – who is elected for this purpose by majority of members present in that meeting.<sup>16</sup>

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<sup>11</sup> In the *Constitution (Seventy Third Amendment) Act, 1992*, the term Gram Sabha has been defined as “a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level.”

<sup>12</sup> PRIA (2003) *Gram Sabha and Panchayats*, New Delhi.

<sup>13</sup> See above re discussion “Tribal areas & panchayats”.

<sup>14</sup> Rule 4, *Chhattisgarh Scheduled Areas Gram Sabha (Constitution, Procedure of Meeting and Conduct of Business) Rules, 1998*.

<sup>15</sup> Scheduled Tribe means any tribe or tribal community specified as Scheduled Tribe under Article 342 of the Constitution of India. According to this article, the President, after consultation with the Governor, may specify by public notification the tribes or tribal communities which are Scheduled Tribes in relation to that State.

<sup>16</sup> Rule 10, *Chhattisgarh Scheduled Areas Gram Sabha (Constitution, Procedure of Meeting and Conduct of Business) Rules, 1998*.

### Muster roll fraud exposed<sup>17</sup>

On 17 October 2005, five days after the national Right to Information Act came into force, local residents conducted a public hearing in Lakhsingarh village in Surguja district of Chhattisgarh, in relation to the recent construction of a “talab” (pond) under the National Food for Work Programme.<sup>18</sup> A sum of Rs 3.5 lakhs was sanctioned to the Irrigation Department for the project, of which Rs 3.1 lakhs was spent on labour, tracked in three weekly “muster rolls”.

The muster rolls were obtained with difficulty – only after a sit in was conducted at the local office of the Irrigation Department. The public hearing immediately showed that the muster rolls had been fudged. Although there were 320 names on the rolls, it emerged that only 63 of the 320 names were genuine. That means that the wages of nearly 80% of the labourers was appropriated by corrupt officials.

Additionally, it was found that all the thumbprints in the muster roll were false, even in the case of “genuine” labourers. They had put their thumbprint or had signed on a different document - the “kaccha” muster roll, an informal register maintained at the worksite to record attendance and make wage payments. This practice of maintaining two muster rolls, one for wage payments and one for securing the release of funds, has been widespread and is a convenient means of siphoning money from public works programmes. This method has been successful because muster rolls have historically been inaccessible to the public.

At the end of the public hearing, a delegation was sent to the District Collector of Surguja and the evidence was presented to him. The villagers were promised that action would be taken against the culprits. However, earlier experience in Surguja and elsewhere is not encouraging in this respect: corrupt officials are rarely caught, let alone punished. It is to be hoped that the new RTI Act will change this culture of secrecy and immunity.

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<sup>17</sup> Jean Dreze (2005) “Another muster roll fraud exposed”, India Together on-line resource: see [www.Indiatogether.org/direct/2005/cdr-000088.html](http://www.Indiatogether.org/direct/2005/cdr-000088.html).

<sup>18</sup> The National Food for Work Programme of the Ministry of Rural Development, Government of India, provides resources in the form of cash and food grains to 150 of the most backward districts of the country to generate additional supplementary wage employment and to create productive assets.

## Janpad Panchayat

Each district is divided into blocks,<sup>19</sup> which are a collection of villages. A Janpad Panchayat is constituted for each block. Every Janpad Panchayat consists of:

- Members who are elected by the voters in the block. Each block is divided into voting constituencies, usually between 10-25, and each constituency elects a member;
- All members of the State Legislative Assembly returned from the constituencies which wholly or partly fall within the block; and
- One-fifth of the Gram Panchayat Sarpanches in the territorial area of the block on a rotational basis for a period of one year. The Sarpanchs are selected by drawing lots.

Each Janpad Panchayat is headed by a President and Vice-President, who are elected by and from the elected members. Each Janpad Panchayat also has a Chief Executive Officer.<sup>20</sup>

## Zila Panchayat

A Zila Panchayat is constituted for each district.<sup>21</sup> The Zila Panchayat comprises:

- Members who are elected by the voters in the district. Each district is divided into voting constituencies, usually between 10-35, and each constituency elects a member;
- Members of Lok Sabha, Rajya Sabha and State Legislative Assembly returned from the district; and
- All Presidents of Janpad Panchayats in the district.

Each Zila Panchayat is headed by a President and Vice-President who are elected by and from among the elected members. Each Zila Panchayat has a Chief Executive Officer.<sup>22</sup>

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<sup>19</sup> Blocks are administrative units for planning and development with regular budgetary allocations. Each block is headed by a Block Development Officer (BDO), who reports to the District Collector, who is the administrator of the district.

<sup>20</sup> A government official who has been vested with the executive power for the purposes of carrying out the provisions of the Act.

<sup>21</sup> A district is the basic administrative unit below the state level at which there is a measure of convergence of departments and implementation and coordination of Government schemes.

<sup>22</sup> See footnote 20.

## Standing Committees need to be scrutinised by the public

Every Janpad Panchayat and Zila Panchayat can constitute the following standing committees from amongst its elected members:<sup>23</sup>

- **General Administration Committee:** Responsible for all matters connected with the Janpad or Zila Panchayat administration, budgets, accounts, taxation, and other financial matters, plus subjects not allotted to any other committee;
  - **Agriculture Committee:** Responsible for agriculture, animal husbandry, power, reclamation (including soil conservation and contour binding), fisheries, seed distribution and other matters connected with agriculture and live-stock;
  - **Education Committee:** Responsible for education, including adult education, social welfare of the disabled and destitute, women and child welfare, and relief of distress caused by floods, drought, earthquakes, health and sanitation;
  - **Communication and Works Committee:** Responsible for communication, minor irrigation, rural housing, rural water supply drainage and other public works;
  - **Cooperation and Industries Committee:** Responsible for cooperation, thrift and small savings, cottage and village industries, markets and statistics.
- Besides these five committees, the Janpad Panchayat or Zila Panchayat may constitute one or more such Committees for other matters.

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<sup>23</sup> Section 47, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

## Part 2: Summary of Laws Governing RTI at the Panchayat Level

The right to information imposes a positive duty on government to disseminate information to the people and extends the right for people to seek and receive information held by government bodies (and some information from private bodies). Generally, information is disclosed to the public in two different ways:

- **Proactively:** Government bodies are required to actively publish and disseminate key categories of information which are of general interest to the public, such as their organisational structure, the services they provide, important forms, decision-making procedures and the like. This information can be disclosed, for example, by putting up notices and information on notice boards, publishing information in the official gazette, by reading out information in meetings or publishing documents on the internet.
- **Upon request:** Government bodies must put in place simple, timely and cheap procedures to facilitate access to specific pieces of information upon request. Most commonly, specific officials within public bodies are given the responsibility for handling requests and providing information.

Clearly, it is imperative that the people have the right to access information from panchayats because they are the local self-governing bodies which are closest to the people. Unlike Madhya Pradesh though, which enacted a right to information law for the State in 2002,<sup>24</sup> after its separation from Chhattisgarh, Chhattisgarh never enacted separate State right to information legislation which would provide a comprehensive right. Nonetheless, at the time of writing, Chhattisgarh has the following laws/orders in place which are aimed at facilitating access to information held by panchayat bodies:

- *Chhattisgarh Panchayat Raj Adhiniyam, 1993;*
- Executive Orders which allow access to information from government departments;
- *National Right to Information Act, 2005.*

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<sup>24</sup> Madhya Pradesh Jankari ki Swatantrata Adhiniyam 2002.

## Panchayati Raj legislation

In order to facilitate accountability at the panchayat level, in 1997 the Government of India issued a circular stating that each State should consider passing orders implementing three different aspects of transparency in local governance. First, PRIs, especially Gram Panchayats, should display all vital information pertaining to development projects (especially receipt of funds and how they are being spent) in panchayat offices or on a prominent board outside the local school. Second, all relevant records should be open to inspection. Third, members of the public should be able to obtain photocopies of documents pertaining to development projects (including all bills, muster rolls, vouchers, estimates, measurement books, the criterion and procedures for selection of beneficiaries and lists of beneficiaries), as well as matters of general public interest, on payment of a nominal charge.

### Access to information through the Chhattisgarh E-Panchayat Project<sup>25</sup>

Chhattisgarh has an e-Panchayat project which connects all 146 Janpad Panchayats and 16 Zila Panchayats in order to promote more effective monitoring of the implementation of rural development schemes, including monitoring finances. Accordingly, computer infrastructure is supposed to have been provided at each Janpad Panchayat and Zila Panchayat. The Chief Minister inaugurated the project on 26 January 2005. This project is being carried out in collaboration with the Chhattisgarh Directorate of Panchayats and National Informatics Centre (NIC) and NICS. The expected benefits from this project include:

- Compilation of basic information of Gram Panchayats facilitating enhanced decision-making;
- Collection and compilation of data regarding resources, financial resources and income sources of Gram Panchayats;
- Compilation of Gram Panchayat funds received through government aid, people's participation and donations;
- On-line monitoring of rural development schemes down to panchayat level;
- On-line monitoring of beneficiary schemes, employment generation schemes and other government schemes;
- Compilation of data regarding work schemes, administrative management and accounts.

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<sup>25</sup> For more information visit the website of the E-Panchayat Project at: <http://epanchayat.cg.nic.in>.

Generally, these aspects of transparency have been reflected in the Chhattisgarh *Panchayati Raj Act, 1993*. (As noted earlier, because Chhattisgarh was previously a part of the State of Madhya Pradesh, the PR Act applicable in Chhattisgarh today is the same as the Madhya Pradesh Panchayati Raj law<sup>26</sup> passed while Chhattisgarh was still a part of that state.<sup>27</sup>) The Chhattisgarh PR Act has a number of provisions related specifically to access to information by either the general public and/or elected representatives. These provisions are discussed in detail in Parts 3-6 of this document.

## Executive Orders

In addition to the right to information provisions in the Chhattisgarh PR Act 1993, Chhattisgarh also has Executive Orders in place which are specifically directed at providing access to information to citizens. The Executive Orders were issued after the President of India declined to assent to a comprehensive right to information law which the Madhya Pradesh Legislative Assembly passed in 1998 and sent to the President for approval. The Orders were passed by the Madhya Pradesh Government from February 1998 onwards, before the division of the State to create Chhattisgarh.

Although Madhya Pradesh was finally able to enact right to information legislation in 2002, Chhattisgarh did not follow this example, but continued to rely on the Executive Orders. The Executive Orders operate to allow access to information from close to 50 departments, including the Panchayati Raj Department. The Department of General Administration has compiled the series of Orders in a book titled '*Janane Ka Haq*'. The Executive Orders specifically identify a number of topics on which Departments were required to provide information to the public.

## The Right to Information Act 2005

In May 2005, the National Parliament passed the *Right to Information Act, 2005* (RTI Act). The Act received the President's assent on 15 June 2005. The Act became fully operational from 12 October 2005, 120 days from the date on which it received the assent of the President.

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<sup>26</sup> Madhya Pradesh *Panchayati Raj Avam Gram Swaraj Adhiniyam, 1993*.

<sup>27</sup> The Madhya Pradesh law has since been amended, when in 2001, the name of the Act was changed to the *Madhya Pradesh Panchayati Raj Avam Gram Swaraj Adhiniyam, 1993*.

## Who and what is covered?

Even though the new RTI Act was passed by the national Parliament, it covers not only government offices at the Centre, but also all government bodies set up or run by the States and the Union Territories.<sup>28</sup> The Act allows access to information held by all “public authorities”, including those that have been constituted or established by the Constitution. This means that Panchayati Raj Institutions, which are in Part IX of the Indian Constitution, are covered by the Act, thereby giving the citizens an additional tool to access information from these local bodies.

The Act provides citizens the right to access government-held information, which includes panchayat information. Citizens can inspect works, documents and records, take notes, extracts or certified copies of documents or records, take certified samples of materials, and obtain information in electronic form from PRIs.<sup>29</sup>

## What information is not covered?

The Act specifies certain types of information which cannot be given to the public, referred to as “exemptions”.<sup>30</sup> Key exemptions include: information that would prejudicially affect the sovereignty, integrity, security or economic interests of India or relations with a foreign state; cabinet papers including deliberations of the Council of Ministers, Secretaries and other officers; information whose disclosure can endanger the life and safety of a person; information that would impede the process of an investigation or apprehension or prosecution of offenders; and disclosures which would constitute an unwarranted invasion of privacy.

However, even if requested information is covered by one of the exemptions in the law, the Act requires that if the public interest in disclosure outweighs the public interest in non-disclosure then the information should still be released.<sup>31</sup>

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<sup>28</sup> Section 2(h), *Right to Information Act*, 2005. However, the Act does not cover the State of Jammu & Kashmir, due to its special status under the Constitution.

<sup>29</sup> Section 2(j), *Right to Information Act*, 2005.

<sup>30</sup> Section 8(1) and s.9, *Right to Information Act*, 2005.

<sup>31</sup> Section 8(2), *Right to Information Act*, 2005.

## What information is proactively published?

A key provision of the new RTI Act is section 4, which requires regular publication of a range of information. Section 4 (referred to as *suo moto* or proactive disclosure) requires public authorities – including panchayats – to publish key information on an ongoing basis, without being requested to do so by citizens. Accordingly, panchayat bodies at all three tiers must publish the following information:<sup>32</sup>

- The details of the PRI's functions and duties along with the powers of all officers and employees;
- Information regarding the rules, regulations, instructions, manuals and records used by panchayat employees for the discharge of any panchayat functions;
- A statement of the categories of documents held by it or under the control of the PRIs;
- A directory of the PRI's officers and employees;
- Monthly remuneration received by each of the PRI's officers and employees, including the system of compensation as provided in relevant regulations;
- The budget allocated to each PRI, including the particulars of all plans, proposed expenditures and reports on disbursements;
- A detailed plan of the implementation of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes;
- Details regarding particulars of recipients of concessions, permits or authorisations granted;
- Details of the information available to, or held by PRIs or reduced in electronic form and the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room;
- The names, designations and other particulars of the Public Information Officers (PIOs) who are responsible for processing applications for information.

The law clearly states that proactive dissemination of information must be done cost effectively in the local language, and that the most effective method of communication in the local area must be used. The Act specifies that information can be communicated to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means.<sup>33</sup> At the very least, the information must be available with the panchayat PIO for free inspection or the printed cost price.

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<sup>32</sup> Section 4, Right to Information Act, 2005.

<sup>33</sup> Section 4(4), Right to Information Act, 2005.

## What is the application process?

The Act provides for the appointment of Public Information Officers (PIOs) in all offices and Assistant PIOs (APIOs) at each sub-divisional or sub-district level. APIOs are tasked with receiving applications and passing them on to the relevant PIO. The PIOs are responsible for providing information to the citizens in response to a specific application.

The RTI Act makes it clear that no fees – either for submitting an application or for obtaining access – will be charged from applicants who belong to “Below Poverty Line” (BPL) families. In Chhattisgarh, where the information sought by a BPL person relates to his/her life, then Rules require that it must be provided in the form in which it is demanded. If the information requested does not pertain to the BPL person, but it can be given in 50 photocopied A4 pages or the cost of production of the information is within Rs 100, then the information will be provided in the form sought. However, if the information sought involves photocopying of more than 50 pages or the cost of production exceeds Rs 100 then the BPL requester will be asked to inspect the records/files in the office.<sup>34</sup>

The Chhattisgarh Rules state that non-BPL applicants must submit an application fee of Rs 10, in cash or by challan.<sup>35</sup> The PIO must then provide the information within 30 days of receipt of the request on payment of additional access fees, or reject the request specifying the reasons for doing so. In cases where information sought “concerns the life and liberty of a person”, the time limit within which information has to be given is 48 hours.<sup>36</sup>

In Chhattisgarh, photocopies of documents cost Rs 2 per page for A3 and A4 size, and actual costs for bigger sized sheets. Obtaining information in a floppy or CD costs Rs 50 each.<sup>37</sup> Applicants can inspect documents for a fee of Rs 50 for the first one hour<sup>38</sup> and Rs 5 for every additional fifteen minutes or fraction thereof.<sup>39</sup> In case the information sought pertains to “individual life”, it will be provided at Rs 100 per page in the form demanded or the applicant can pay for the cost of production of information, which includes the cost of human resources, computer time, other resources and the photocopying costs. The applicant will be communicated to deposit the cost of his/her choice.<sup>40</sup>

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<sup>34</sup> Rule 3(A)(i-iii), *Chhattisgarh Right to Information (Fees and Charges) Rules*, 2006. These rules were notified on 9 March 2006 by a notification (No. F 2-10/2006/1/6) by the General Administration Department, Government of Chhattisgarh.

<sup>35</sup> Challan is a form issued by the government for payment of fees.

<sup>36</sup> Section 7(1), *Right to Information Act*, 2005.

<sup>37</sup> Rule 4, *Chhattisgarh Suchna Ka Adhikar, (Shulk avam Mulya Vinimayan) Niyam*, 2005.

<sup>38</sup> Rule 4, *Chhattisgarh Right to Information (Fees and Charges) Rules*, 2006.

<sup>39</sup> Rule 4, *Chhattisgarh Suchna Ka Adhikar, (Shulk avam Mulya Vinimayan) Niyam*, 2005.

<sup>40</sup> Rule 3(B)(i-ii), *Chhattisgarh Right to Information (Fees and Charges) Rules*, 2006.

### Proactive disclosure of information re Indira Awaas Yojana<sup>41</sup>

The Indira Awaas Yojana (IAY) scheme targets rural BPL families who are either totally houseless or live in unserviceable *kutch*a houses. Recently, the Central Ministry of Rural Development took out a half page advertisement in *The Hindu* national newspaper proactively disclosing information about the scheme. This is exactly the kind of information that needs to be published under s.4 of the RTI Act – and similar notices should be published and disseminated by panchayats in their local areas. The Ministry advised that under the scheme, assistance of up to Rs 25,000 per house for plain areas and Rs 27,000 per house for hilly/difficult areas will be given to a BPL family to construct a house. Importantly, the Ministry stated that a permanent waitlist of IAY beneficiaries will be prepared on the basis of the results of BPL Census 2002 for every *Gram Panchayat* so that the poor can know their year of allotment as a matter of right. The waitlist should be on display at every Gram Panchayat – another level of proactive disclosure. In case there is any complaint about the priorities of the list or exclusions from the list, people can appeal up to the district level. The objective is to make the selection process fully transparent and remove scope for malpractice.

### **Can decisions not to disclose information be reviewed?**

When a request for information is rejected by a PIO, the person who asked for the information can appeal the decision. The first appeal is made to the officer “immediately senior to the PIO” in the concerned public authority (the Departmental Appellate Authority). This can be done within 30 days from the date of the refusal letter (or the date when a decision *should* have been made, if the applicant does not receive a response in time).<sup>42</sup> No fee is payable for lodging an appeal. The Departmental Appellate Authority must make a decision within 30-45 days.<sup>43</sup>

If the decision of the Departmental Appellate Authority is upheld, the requester can appeal to the State or Central Information Commission, depending on whether the application is related to a State or Central Government public authority.<sup>44</sup> Alternatively, a requester can make a complaint directly to the State or Central Information Commission. The Commissions do not have any time limits for disposing of appeals though, so that it may be more fruitful to pursue an appeal to the Departmental Appellate Authority first in the

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<sup>41</sup> Paid advertisement by the Ministry of Rural Development, *The Hindu* (Delhi edition), p.6, 10-03-06.

<sup>42</sup> Section 19(1), *Right to Information Act*, 2005.

<sup>43</sup> Section 19(6), *Right to Information Act*, 2005.

<sup>44</sup> Section 19(3), *Right to Information Act*, 2005.

hope of getting a quicker, positive response and then appeal to one of the Commissions, if necessary. The requester needs to weigh up their options and decide whether to make an appeal or complaint.<sup>45</sup>

The new Information Commissions at the Centre and in all the States<sup>46</sup> are to act as cheap, quick and most importantly, *independent* complaints and appeals bodies. The Commissions have been given broad powers to hear appeals and initiate inquiries<sup>47</sup> and are also tasked with regular monitoring the law (including production of annual reports). The Commissions can make any order required to bring about compliance with the law, including ordering release of documents, appointment of PIOs and publication of specified information.<sup>48</sup>

The Chhattisgarh Information Commission (which handles appeals and complaints relating to State Government public authorities) and the Central Information Commission (which handles appeals and complaints relating to Central Government public authorities) have both been set up and can be contacted at:

Mr Wajahat Habibullah  
Chief Information Commissioner  
Central Information Commission  
Block No 4 (5th Floor)  
Old JNU Campus, New Delhi - 110011  
Ph: (011) 2671 7354  
Fax: (011) 2671 7352  
Email: whabibullah@nic.in  
Website: www.cic.gov.in

Mr A K Vijayavargia  
Chief Information Commissioner  
Chhattisgarh Information Commission  
"Nirmal-Chhaya", Near Bottle House  
Meera Dataar Road, Shankar Nagar 16  
Raipur - 492001  
Ph: (0771) 402 4406, 402 4140  
Email: akvijayavargia@cg.nic.in

### **Can officials be penalised for non-compliance?**

Every PIO (or someone whose assistance the PIO requested) can be penalised Rs 250 per day up to a maximum of Rs 25,000 for: not accepting an application; not giving information within time limits; knowingly giving incomplete, incorrect, misleading information; destroying information that has been requested; and obstructing furnishing of information in any manner.<sup>49</sup>

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<sup>45</sup> Section 18(1), *Right to Information Act*, 2005.

<sup>46</sup> Parts III and IV, *Right to Information Act*, 2005.

<sup>47</sup> Section 18, *Right to Information Act*, 2005.

<sup>48</sup> Section 18(8), *Right to Information Act*, 2005.

<sup>49</sup> Section 20, *Right to Information Act*, 2005.

**APIOs, PIOs and Departmental Appellate Authorities in the  
Panchayat and Rural Development Department, Government of Chhattisgarh<sup>50</sup>**

Public Authority: Level of Government	Name of Department/ Section	Designation of Assistant PIO	Designation of PIO	Designation of Appellate Authority
At the level of the State Administration	Panchayat and Rural Development Department	Under Secretary	Joint Secretary	Special Secretary
At Headquarters level	Office of the Development Commissioner	Deputy Commissioner	Joint Commissioner	Development Commissioner
	Rural Engineering Services (RES)	Executive Engineer (RES)	Superintendent Engineer (RES)	Chief Engineer (RES)
	<i>Pradhan Mantri Gram Sadak Yojana</i>	Executive Engineer (Monitoring)	Superintendent Engineer (RES)	Chief Executive Officer (CGRRDA)
At Headquarters level	Panchayat Directorate	Deputy Director Panchayat (Administration)	Joint Director Panchayat	Director Panchayat
At the district level	Rural Development Department	Additional Chief Executive Officer/ Assistant Planning Officer, Zila Panchayat	Chief Executive Officer, Zila Panchayat	Collector
	Rural Engineering Services	Assistant Engineer (RES)	Executive Engineer (RES)	Chief Executive Officer, Zila Panchayat
	<i>Pradhan Mantri Gram Sadak Yojana (PMGSY)</i>	Assistant Engineer (PMGSY)	Executive Engineer (PMGSY)	Chief Executive Officer, Zila Panchayat

<sup>50</sup> Notification (No. 4781) issued by the Panchayat and Rural Development Department, Government of Chhattisgarh on 24 October 2005.

Public Authority: Level of Government	Name of Department/ Section	Designation of Assistant PIO	Designation of PIO	Designation of Appellate Authority
At the Janpad level	Panchayat section	Sub-Auditor Panchayat and Social Service	Sub-Director/ Joint Director, Panchayat	Chief Executive Officer, Zila Panchayat
	Development section	Development Extension Officer	Chief Executive Officer, Janpad Panchayat	Chief Executive Officer, Zila Panchayat
	Rural Engineering Services	Sub Engineer (RES)	Assistant Engineer (RES)	Chief Executive Officer, Janpad Panchayat
At the Gram Panchayat level	Panchayat section	Panchayat and Social Education Organiser	Chief Executive Officer, Janpad Panchayat	Deputy Director/ Joint Director, Panchayat
	Panchayat	Panchayat Secretary/ <i>Karmi</i>	Sarpanch, Gram Panchayat	Chief Executive Officer, Janpad Panchayat



## Part 3: Disclosure at Gram Panchayat level

Many right to information laws require governments to routinely publish and share information of general relevance with citizens, including updates about programmes, implementation of projects, budget, structure, norms and functions. At the Gram Panchayat level, the PR Act 1993 imposes a wide range of proactive disclosure obligations.

### Proactive disclosure in Gram Sabha meetings

To exercise their powers and functions properly, Gram Sabha members need to be proactively informed about the various development activities taking place in the panchayat, as well as about the finances and schemes available for the benefit of villagers. This information enables people to take active part in village-related affairs and especially in holding the elected representatives of the Gram Panchayat accountable.

The PR Act 1993 requires that at least one meeting of the Gram Sabha be held every three months.<sup>51</sup> The period during which Gram Sabha meetings are held are:

- Week beginning 23 January;
- Week beginning 14 April;
- Week beginning 20 August; and
- Week beginning 2 October.

The quorum for each meeting is one-tenth of the total members of the Gram Sabha, out of which one-third should be women. Additional meetings of the Gram Sabha can also be organised depending upon people's needs. The Gram Sabha meeting is presided over by the Sarpanch and in his or her absence by the Up-Sarpanch.<sup>52</sup> The notice for a Gram Sabha meeting must be given at least seven days before a general meeting and three days before an emergency meeting. The notice should specify the date, time, venue and agenda of the meeting. It must be put up at conspicuous places in the village as well as in the Gram Panchayat office. Information regarding the Gram Sabha meetings should also be conveyed to the villagers by beat of drums.<sup>53</sup>

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<sup>51</sup> Notification (No. 4781) issued by the Panchayat and Rural Development Department, Government of Chhattisgarh on 24 October 2005.

<sup>52</sup> Section 6, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>53</sup> *Chhattisgarh Gram Sabha (Meeting Procedure) Rules*, 1994.

The annual meeting of the Gram Sabha is generally held by 31 December every year and is a key forum to review whether the Gram Panchayat has discharged its duties effectively. The Gram Panchayat must place a number of summary documents in front of the meeting (see the table below for details) including two key reports – the Annual Statement of Accounts and the Administration Report.<sup>54</sup>

Powers and functions of Gram Sabha	Documents placed by Gram Panchayat in Annual Gram Sabha Meeting
<ul style="list-style-type: none"> <li>■ To approve all plans (including Annual Plans), programmes and projects for social and economic development before they are taken up for implementation by the Gram Panchayat;</li> <li>■ To identify and select beneficiaries under poverty alleviation and other programmes;</li> </ul>	<ul style="list-style-type: none"> <li>■ The development and other programme of works proposed for the next financial year</li> </ul>
<ul style="list-style-type: none"> <li>■ To consider the Annual Budget of the Gram Panchayat and make recommendations;</li> <li>■ To lay down the principles for identification of schemes and their priority for economic development of the village;</li> </ul>	<ul style="list-style-type: none"> <li>■ The Annual Budget and Annual Plan for the next financial year of the Gram Panchayat</li> </ul>
<ul style="list-style-type: none"> <li>■ To ensure proper utilisation and disbursement of funds and assets to beneficiaries;</li> <li>■ To ascertain and certify the proper utilisation by the Gram Panchayat of the funds for plans, programmes and projects;</li> </ul>	<ul style="list-style-type: none"> <li>■ The Annual Statement of Accounts;</li> <li>■ The Administration Report for the preceding financial year;</li> </ul>
<ul style="list-style-type: none"> <li>■ To consider the Audit Report and accounts of the Gram Panchayat</li> </ul>	<ul style="list-style-type: none"> <li>■ The last audit notes and replies</li> </ul>

<sup>54</sup> Section 7, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

The Annual Statement of Accounts shows the receipts of the Gram Panchayat, plus expenditure, budget estimates and reasons for variation. It should be accompanied with statements showing:

- Demand, collection, remission and balance of the revenue of the Gram Panchayat;
- Grants-in-aid received and spent;
- Amounts received and spent, plus physical targets and achievements in relation to Central and/or State Government sponsored schemes;
- Loans received from the State Government, Zila Panchayat, Janpad Panchayat or other institutions;
- Floating assets and liabilities of the Gram Panchayat during the period of financial year ending on 31 March.

The Administration Report must contain at least the following information:

- Statement of vacancies of members of the Gram Panchayat;
- Statement of meetings of the Gram Sabha, the Gram Panchayat and its Standing Committees;
- Statement showing the position of staff;
- Statement showing targets achieved under the Annual Plan;
- Statement showing peoples' co-partnership.

Every member of the Gram Sabha has the right to inspect the records which are placed before them in the Gram Sabha meeting at the Gram Panchayat office during office hours.

## **Proactive disclosure by Gram Panchayats in meetings**

Besides sharing information with the public in Gram Sabha meetings, information is also proactively disclosed by the Gram Panchayat in its own monthly meetings. However, due to the fact that Gram Panchayat meetings are predominantly attended by members, in practice this means that the information is mainly shared with elected representatives of the Gram Panchayat.

The notice of every Gram Panchayat meeting – specifying the date, time, venue and the agenda – must be sent by the Secretary to every office bearer and should also be put up at the Gram Panchayat office seven days before an ordinary meeting and three days before a special meeting.<sup>55</sup>

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<sup>55</sup> Rule 3, *Chhattisgarh Panchayat (Procedure of meeting and conduct of business) Rules, 1994.*

During each Gram Panchayat meeting, a report about the income and expenditure incurred during the period between the last and current meeting, as well as the cumulative income and expenditure in the current financial year up to the current meeting must be placed before the Gram Panchayat by the Secretary for discussion.<sup>56</sup>

### Using proactive disclosure to improve the Public Distribution System in Surguja District<sup>57</sup>

In October 1996, a programme was introduced to increase the transparency in the public distribution system through public scrutiny of the distribution of essential commodities like rice, sugar, wheat and kerosene oil supplied by fair-price shops in Surguja district. All fair-price shops are required to maintain three registers – a Stock Register, Sales Register and Ration Card Register. It is the duty of the shop to prepare a copy of the register and get it certified by the lead co-operative in the region.

In support of the transparency programme, copies of the registers are now made available to the people at the tehsil<sup>58</sup> office. Any resident can obtain a copy of the register within 24 hours on payment of Rs 3. Before implementing the programme, special Gram Sabhas were organised in all of Surguja district's Gram Panchayats, where public leaders and officials explained the merits of the scheme to the villagers. In the very first month the programme was implemented, it was reported that there were about 2,50,000 kilograms of stock unused in the district and leakage to the black market was reduced.

## Information Support by Secretary of Gram Panchayat

The Sarpanch has been given the responsibility to ensure proper custody and maintenance of records and registers of the Gram Panchayat and to ensure that all the statements and reports required are properly prepared.<sup>59</sup> Annex 1 provides a basic list of accounting records and statements which must be maintained by the Gram Panchayat.

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<sup>56</sup> Section 44, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>57</sup> Chhattisgarh Infrastructure Development Corporation, "*Chhattisgarh Vision 2010*", Raipur.

<sup>58</sup> In Chhattisgarh, the tehsil is an administrative unit below sub-division level. A tehsil is usually headed by an official called the Tehsildar. The tehsil is the ultimate executive agency in administrative and land matters relating to the maintenance of land records.

<sup>59</sup> Rule 3, *Chhattisgarh Panchayat (Powers and Functions of Sarpanch and Up-Sarpanch of Gram Panchayat, President and Vice-President of Janpad Panchayat and Zila Panchayat) Rules*, 1994.

The Secretary, who is responsible for keeping and maintaining the records of the Gram Panchayat, supports the Sarpanch to prepare his/her required reports.<sup>60</sup> Additionally, the Secretary has been given certain official duties:<sup>61</sup>

- (a) To collect and store basic information in relation to his/her Gram Panchayat area, which can be accessed by the public, such as:
  - A list of institutions under the control of the Gram Panchayat, such as the *Balbadi*, cattle pound, reading room, etc;
  - A list of other institutions situated in the Gram Panchayat area, such as cooperative institutions, hospital, school, literacy classes, *anganwadi* and registered voluntary institutions;
  - Statistics on the state of literacy in the Gram Panchayat area;
  - Information regarding beneficiaries of welfare schemes of the Central and State Governments, Zila Panchayat, Janpad Panchayat and Gram Panchayat;
  - Names, expenditure, and other particulars relating to work sanctioned under employment guarantee schemes, relief works, and MP/MLA Area Development Funds; and
  - Records of marriage, birth and death in the Gram Panchayat area.
- (b) Prepare and place administration reports in the Gram Panchayat meeting every year, which the public can access;
- (c) Prepare an annual plan for the economic development and social justice of the Gram Panchayat area, place it before the Gram Panchayat and forward it to the Janpad Panchayat after approval by the Gram Panchayat and Gram Sabha;
- (d) Place inspection and audit reports in the meeting of the Gram Panchayat;
- (e) Maintain, by subject, files in the Gram Panchayat office and keep old records of the Gram Panchayat secure after registering them;
- (f) Prepare all registers and records according to the PR Act 1993 and Rules.



<sup>60</sup> Section 69, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>61</sup> Rule 4, *Chhattisgarh Gram Panchayat (Powers and Functions of the Secretary) Rules*, 1999.

## **Part 4: Disclosure by Janpad Panchayats and Zila Panchayats**

This section highlights the proactive disclosure provisions at the Janpad Panchayat and Zila Panchayat level. The upper two tiers of the panchayat system are discussed together because of the similarity of the relevant provisions in the PR Act 1993.

The right to access information is particularly important at these levels of government because all information, plans, reports and the like from Gram Panchayats are collated by the upper panchayat tiers. Moreover, funds transferred by Central or State Governments related to works, schemes and projects are reallocated to Janpad Panchayats and Gram Panchayats by the Zila Panchayats. Hence, people need information from these bodies if they are to know how resources are being granted by the Government, disbursed and utilised down the line. Of course, since the people elect the upper two tiers of panchayats as well, these tiers should be equally accountable and need to be transparent in their functioning.

### **Proactive disclosure relating to meetings**

Janpad and Zila Panchayat meetings are held once in each quarter. They are organised by the Chief Executive Officers<sup>62</sup> of the Zila Panchayat and the Janpad Panchayat. The Chief Executive Officers must send a notice of every meeting – specifying the date, time and place and the agenda – to every office bearer. The notice must also be put up at the office of the Janpad Panchayat and Zila Panchayat seven days before an ordinary meeting and three days before a special meeting.<sup>63</sup>

### **Proactive disclosure of financial and administrative information**

Annex 1 provides a list of accounting records and statements which must be maintained by Janpad and Zila Panchayats. In each Janpad and Zila Panchayat meeting, the Chief Executive Officer must place a report about the income and expenditure of the relevant

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<sup>62</sup> A government official who has been vested with the executive power for the purposes of carrying out the provisions of the Act.

<sup>63</sup> Rule 3, *Chhattisgarh Panchayat (Procedure of Meeting and Conduct of Business) Rules, 1994*.

panchayat, as well as the cumulative income and expenditure in the current financial year up to the current meeting, for discussion.

The Chief Executive Officers of the Janpad and Zila Panchayat (or an Officer authorised by the Chief Executive Officer) must prepare an Annual Accounts and Administration Report for the relevant panchayat, immediately after the end of every financial year. The Report must attach the following statements as annexures:

- General information about the Janpad/Zila Panchayat;
- Members of the Janpad/Zila Panchayat;
- Employees and servants of the Janpad/Zila Panchayat;
- Extension/term of appointments of employees by the Janpad/Zila Panchayat;
- Payment of retirement benefits to retired employees of the Janpad/Zila Panchayat;
- Standing Committees of the Janpad/Zila Panchayat;
- Committees constituted for a specific purpose by the Janpad/Zila Panchayat;
- A statement of the meetings of Janpad /Zila Panchayat;
- Receipts and expenditure of the Janpad/Zila Panchayat, along with budget estimates;
- Grants received and distributed or spent by the Janpad/Zila Panchayat during the financial year;
- Financial targets and achievements of schemes administered by the Janpad/Zila Panchayat which were sponsored by the Central Government, State Government and local authorities during the year;
- Works and schemes executed during the year by the Janpad/Zila Panchayat;
- Details of floating assets and liabilities of the Janpad/Zila Panchayat;
- Details of purchases of vehicles, machinery, instruments and the like by the Janpad/Zila Panchayat;
- Statement of compilation of the inspection and audit reports of the Janpad/Zila Panchayat.

The Janpad Panchayat Report must also include information related to Gram Panchayats in its jurisdiction. By 15 June each year, the Annual Accounts and Administration Report must be submitted in the meetings of the Janpad and Zila Panchayats. At the same time the Report must be published in Hindi and placed on the notice board of the offices of both the Janpad and Zila Panchayat.<sup>64</sup>

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<sup>64</sup> Rule 5, *Chhattisgarh Janpad Panchayat And Zila Panchayat (Annual Accounts And Administration Report) Rules, 1998.*

## Disclosures regarding the auction of panchayat property<sup>65</sup>

The PR Act 1993 provides that no immovable property of any of the three tiers of panchayats can be transferred by sale or lease – if so desired by the panchayat – except by public auction. A notice specifying the conditions of lease or sale, as well as the date, time and place of auction, must be published not less than 15 days before the date of the auction by pasting a copy on the notice board of the panchayat concerned and the relevant Tehsil office and by beat of drums in the local area in which the property is situated. Where the price of the immovable property is more than Rs 10,000, the same notice must also be published in local newspapers.

## Access to annual plans and implementation reports

The Janpad and Zila Panchayats are required to maintain a variety of records, as well as producing regular reports and plans to guide the disbursement of government funds and provide a framework for local development activities. Although the PR Act 1993 does not specifically require the Janpad and Zila Panchayats to proactively publish the plans and reports, they are key village documents which should still be accessible upon request.

The Janpad Panchayat is responsible for preparing the following plans and reports:

- An Annual Plan in respect of the schemes of economic development and social justice assigned to the Panchayat by the State Government or the Zila Panchayat. The Annual Plan must be submitted to the Zila Panchayat for integration with the District Annual Plan;<sup>66</sup>
- A consolidated Annual Plan, collating all the Plans of the Gram Panchayats within the Janpad Panchayat's jurisdiction. This Plan must also be submitted to the Zila Panchayat;<sup>67</sup>
- A Plan of Works and Development Schemes<sup>68</sup> which will be undertaken from the Janpad Panchayat Fund.<sup>69</sup>

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<sup>65</sup> Rule 8, *Chhattisgarh Panchayat (Transfer of Immovable Property) Rules*, 1994.

<sup>66</sup> Section 50(1), *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>67</sup> Section 50(2), *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>68</sup> Section 50(3), *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>69</sup> Every Panchayat must establish a fund called the Panchayat Fund and all sums received by the Panchayat shall form part of the fund. This fund shall be kept in the nearest Government Treasury, Sub-Treasury, post office or cooperative bank.

The Zila Panchayat is responsible for preparing the following plans and reports:

- An Annual Plan for the economic and social development of the district. It is the responsibility of the Zila Panchayat to ensure the coordinated implementation of the Annual Plan by the Gram Panchayats and Janpad Panchayats within its jurisdiction, to whom it may transfer responsibility for some activities;
- Annual Plans in respect of those schemes which it is required by law to implement and those schemes which are assigned to it by the Central or State Governments.

## Information support from government officials

The Presidents of the Janpad Panchayat and Zila Panchayat are both responsible for ensuring proper custody and maintenance of records and registers for their Panchayat.<sup>70</sup> The Presidents are also responsible for making sure that all the statements and reports are prepared as required under the Act.

Each President has a Chief Executive Officer to support them to produce the necessary records. The PR Act 1993 clarifies Chief Executive Officers' record management functions. Chief Executive Officers must:

- Provide information or clarification in respect of any matter under discussions in the meeting of a panchayat;
- Have custody of all papers and documents connected with proceedings of meetings of a panchayat and its standing committees;
- Call for any information, return, statement or report from any officer or employee of the panchayat or from any other district office of any department;
- Furnish the returns, statements, estimates, statistics or other information relating to the administration of a panchayat;
- Prepare annual development plans and budgets;
- Ensure efficient execution of schemes, including monitoring all matters relating to the accounts of a panchayat;
- Publish under his/her signature all regulations and by-laws made by the Panchayat.



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<sup>70</sup> Rule 3, Chhattisgarh Panchayat (Powers and Functions of Sarpanch and Up-Sarpanch of Gram Panchayat, President and Vice-President of Janpad Panchayat and Zila Panchayat) Rules, 1994.

## Part 5: Disclosure around Panchayat Elections

Elections provide an essential democratic space for people to elect a person of their choice who will then represent them and strive to fulfil their needs and interests. Elections at the panchayat level are a key point of participation in local governance processes. Information is an essential requirement of the people if they are to meaningfully exercise this most basic of their democratic rights. Better-informed voters mean better-informed choices, more responsive panchayat members and better governance.

Elections to panchayat bodies take place every five years. The Chhattisgarh State Election Commission<sup>71</sup> is responsible for superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to panchayats. The first panchayat elections were held in Chhattisgarh in January 2005.

A review of State panchayat regulations show that information related to panchayat elections is usually disclosed proactively, especially with respect to preparation and publication of electoral rolls, publication of election programme, nominated candidates and election results.

### Notification of elections

It is the responsibility of the State Election Commission to notify panchayat elections.<sup>72</sup>

- In the case of the election of the Panchs and the Sarpanch of a Gram Panchayat, notification must be done by putting up a notice on the noticeboard of the relevant Gram Panchayat office and in the Janpad Panchayat office within which the Gram Panchayat is situated.
- For every election of a Janpad or Zila Panchayat member, a notice must be put up on the notice board in the office of the Janpad Panchayat or Zila Panchayat concerned and in the office of the District Election Officer.

Notices regarding nominating for elections, scrutiny of nominations, the date for withdrawal of candidature, the date and time for polling, counting of votes and the process for tabulating and declaring results must be published at least 20 days before the polling

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<sup>71</sup> The Commission consists of a State Election Commissioner who is appointed by the Governor.

<sup>72</sup> Rule 90, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

date<sup>73</sup> by pasting a copy on the notice board in the office of the District Election Officer,<sup>74</sup> the Returning Officer<sup>75</sup> and the panchayat concerned.

## **Publication of notice regarding reservation/status of seats<sup>76</sup>**

One of the key features of the 73<sup>rd</sup> constitutional amendment is the reservation of seats at all three tiers of the panchayat system for Scheduled Castes<sup>77</sup> and Scheduled Tribes in proportion to their population, as well as reservation of one-third of seats for women. The Chhattisgarh PR Act 1993 incorporates these requirements, along with reservation of seats for people belonging to Other Backward Classes.

The District Election Officer, along with publishing the notice of election, should also display a notice regarding the reservation of seats in a panchayat for which an election is being held. This notice must be displayed on the notice board of the following offices:

- District Election Officer;
- Returning Officer; and
- Panchayat concerned.

## **Publication of list of contesting candidates<sup>78</sup>**

The Returning Officer must prepare a list of contesting candidates whose nomination papers have been accepted in four separate forms – nominations for the position of Panch, Sarpanch, members of the Janpad Panchayat and members of the Zila Panchayat.

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<sup>73</sup> Rules 28 and 29, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

<sup>74</sup> The District Election Officer coordinates and supervises all work in the district in connection with the conduct of all elections to Panchayats in the district, including preparing the voters list and managing the conduct of elections.

<sup>75</sup> Returning Officer (Panchayat) is appointed by the State Election Commission (SEC), by the District Election Officer (if authorised by the SEC) as a Returning Officer for election to any panchayat. It is the general duty of this person to perform all such acts necessary for conducting elections as provided in the *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

<sup>76</sup> Rule 29-A, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

<sup>77</sup> Scheduled Caste means any caste, race or tribe specified as scheduled caste with respect to the state under Article 341 of the Constitution. According to this article, the President after consultation with the Governor, by public notification, specifies the castes, race or tribes as Scheduled Caste in relation to that State.

<sup>78</sup> Rule 40, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

The list must contain the names in alphabetical order and the addresses of the contesting candidates in Hindi as given in the nomination papers.

After allotment of symbols to candidates, the Returning Officer must publish the list of contesting candidates by putting it up on the notice board in his office. He/she should also give a copy of this list to each contesting candidate or his/her election agent.

## **Publication of voters list<sup>79</sup>**

After the preparation of the voters list, the Registration Officer<sup>80</sup> must publish a notice inviting claims for inclusion of names in the list and/or objections to any entry. This notice should be displayed on the notice board in the office of the:

- Registration Officer;
- Gram Panchayat to which it relates; and
- Janpad Panchayats within which the Gram Panchayat lies.

The notice must specify the place and period during which objections or claims may be lodged. At the same time, the Registration Officer must make available a copy of the voters list for inspection by the public on payment of a fee of Rs 2 for a period of at least five days from the date of publication of the notice. Inspection should take place during office hours at the Registration Officer's office and at the office of the relevant Gram Panchayat(s). Certified copies of the voters list can also be given to any person by the Registration Officer on payment of a fee as prescribed for copies of revenue records.<sup>81</sup>

## **Publication of list of Polling Stations<sup>82</sup>**

The District Election Officer is responsible for providing a sufficient number of polling stations for every election and shall publish, at least 20 days before the date of election, a list showing the polling stations and the polling areas. Copies of the list should be put up on the notice board in the office of the:

- District Election Officer;
- Returning Officer; and
- Panchayat concerned.

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<sup>79</sup> Rule 10, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

<sup>80</sup> The official responsible for registration of voters for elections to panchayats in a district.

<sup>81</sup> Rule 13, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

<sup>82</sup> Rule 23, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

Outside each polling station a notice must be put up specifying the polling area, and names of candidates in Hindi.<sup>83</sup>

## **Publication of elected panchayat members and office bearers<sup>84</sup>**

The Returning Officer must publish the names of elected panchayat members, including the Sarpanch, of the Gram Panchayat and President and Vice-President of the Janpad Panchayats and Zila Panchayats.



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<sup>83</sup> Rule 53, *Chhattisgarh Panchayat Nirvachan Niyam*, 1995.

<sup>84</sup> Sections 19, 26 and 33, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

## Part 6: Information Disclosure on Request

Unlike the Madhya Pradesh legislation on which it was modelled, the Chhattisgarh PR Act 1993 includes only limited provisions empowering members of the public to access information from panchayats on request. The PR Act 1993 provides that the records of a panchayat or any of the panchayat standing committees shall be open to inspection to any person and that certified copies of records must be provided on application and payment of fees.<sup>85</sup> However, the PR Act does not provide any details on how people can access information in practice – no forms have been prescribed and no fees have been notified.

It is at least positive that the PR Act 1993 provides a penalty for not giving information or giving false information. This strengthens the ability of people to demand information from their panchayat officials. Any person who is authorised to furnish information must be fined up to Rs 250 if he/she does not give information or deliberately gives incorrect information.<sup>86</sup>

In any case, now that the new national *Right to Information Act 2005* is in place, the absence of detailed State level provisions regarding access to information from panchayats is less troubling. Using the new national Act, members of the public can request any information from any of the three panchayat tiers and must be provided the information within 30 days, unless the information falls under one of the limited exemption provisions in the law.

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<sup>85</sup> Section 118, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

<sup>86</sup> Section 104, *Chhattisgarh Panchayat Raj Adhiniyam*, 1993.

# Annexure I

## Zila Panchayat List of Accounting Records and Statements

Form No.	Name of Form / Register
ZP-1	Receipt Book
ZP-2	Stock Register of Receipt Books
ZP-3	Cash Book
ZP-4	Bank Register
ZP-5	Bank Reconciliation Statement
ZP-6	General Ledger
ZP-7	Register of specific purpose grant
ZP-8	Register of grants received and expended
ZP-9	Register of grants distributed
ZP-10	Register of (Annual) Rent, Rates and Taxes
ZP-11	Register of (Monthly) Rent, Rates and Taxes
ZP-12	Payment Vouchers
ZP-13	Salary Bill Register
ZP-14	Register of Security Obtained From Employees
ZP-15	Register of Interest-Bearing Loan and Advance
ZP-16	Register of Non-Interest Bearing Loans and Advances
ZP-17	Investment Register
ZP-18	Register of Fines and Penalties
ZP-19	Register of Immovable Properties
ZP-20	Stock Register
ZP-21	Monthly Trail Balance
ZP-22	Monthly Receipt and Disbursement Account
ZP-23	Annual Receipt & Payment Account
ZP-24	Income and Expenditure Account
ZP-25	Balance Sheet

## **Janpad Panchayat**

### **List of Accounting Records and Statements**

Form No.	Name of Form / Register
JP-1	Receipt Book
JP-2	Stock Register of Receipt Books
JP-3	Cash Book
JP-4	Bank Register
JP-5	Bank Reconciliation Statement
JP-6	General Ledger
JP-7	Register of Grants
JP-8	Register of (Annual) Rent, Rates and Taxes
JP-9	Register of (Monthly) Rent, Rates and Taxes
JP-10	Payment Vouchers
JP-11	Salary Bill Register
JP-12	Register of Security obtained from Employees
JP-13	Register of Interest Bearing Loan and Advance
JP-14	Register of Non-Interest Bearing Loan and Advance
JP-15	Register of Funds Deposited/Investment
JP-16	Register of Fines and Penalties
JP-17	Register of Immovable Properties
JP-18	Register of Dead Stock
JP-19	Monthly Trail Balance
JP-20	Receipt and Disbursement Accounts
JP-21	Income and Expenditure Accounts
JP-22	Balance Sheet

## **Gram Panchayat**

### **List of Accounting Records and Statements**

Form No.	Name of Form / Register
GP-1	Receipt Book
GP-2	Receipt for market fee and other sums collected
GP-3	Stock Register of Receipt Books
GP-4	Cash Book
GP-5	General Ledger
GP-6	Register of Grants
GP-7	Register of Rent, Rates and Taxes
GP-8	Payment Vouchers
GP-9	Register of earnest money/deposits etc.
GP-10	From the Security bond
GP-11	Investment Register
GP-12	Register of Fines and Penalties
GP-13	Register of Immovable Properties
GP-14	Register of Dead Stocks
GP-15	Statement of Receipt & Payment for the Month of [name of month]
GP-16	Receipt and Payment Account

# CHRI Programmes

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. In addition to its broad human rights advocacy programme, CHRI advocates for access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

**Human Rights Advocacy:** CHRI makes regular submissions to official Commonwealth bodies and member governments and when needed, conducts fact finding missions. Since 1995, CHRI has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit also ensures that human rights issues are in the public consciousness.

## ACCESS TO INFORMATION

**Right to Information:** CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity, as well as advocating with policy makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India and provides legal drafting support and inputs in Africa. In the Pacific, CHRI works with regional and national organisations to catalyse interest in access legislation.

**Constitutionalism:** CHRI believes that constitutions must be made and owned by the people and has developed guidelines for the making and review of constitutions through a consultative process. CHRI also promotes knowledge of constitutional rights and values through public education and has developed web-based human rights modules for the Commonwealth Parliamentary Association. In the run up to elections, CHRI has created networks of citizen's groups that monitor elections, protest the fielding of criminal candidates, conduct voter education, and monitor the performance of representatives.

## ACCESS TO JUSTICE

**Police Reforms:** In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** The closed nature of prisons makes them prime centres of violations. CHRI aims to open up prisons to public scrutiny by ensuring that the near defunct lay visiting system is revived.

**Judicial Colloquia:** In collaboration with INTERIGHTS, CHRI has held a series of colloquia for judges in South Asia on issues related to access to justice, particularly for the most marginalised sections of the community.

