

The Right to Information and Panchayati Raj Institutions: Punjab 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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Introduction

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralise government to promote greater participation of citizens 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 1992,¹ which enabled decentralised governance through PRIs in rural areas.

PRIs function at the village, intermediate (block) and district level. Today, throughout the country there are approximately 2,34,030 Gram Panchayats at the village level, 6053 intermediate panchayats at the block level and 535 district panchayats and a total of about 31 lakhs elected representatives at all three tiers.² This is the largest representative base in a democracy anywhere in the world, developed or underdeveloped.

PRIs offer citizens living in rural areas a practical opportunity to participate in village level decision making and 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 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 will be more meaningful when people have the information to make informed choices and 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,

¹ This Amendment to the Indian Constitution visualized panchayats as the third tier of governance in the federal polity. Today, there are approximately 2, 50,000 panchayats. About 3.4 million people have been elected to panchayats and of these, one third are women.

² Ministry of Panchayati Raj (MoPR), statistics provided at the 7th Roundtable Conference of the MoPR, current as in December 2004.

by pasting information on notice boards, via the village loudspeaker or by publication in the official gazette and local newspapers.

Recognising that considerable writing has already been dedicated to discussing the use of generic right to information laws by the public, this paper focuses specifically on analysing and promoting the information disclosure provisions contained in the State Panchayati Raj Act and related rules. The following Acts and Rules have been referred to while preparing this document:

- *Punjab Panchayati Raj Act, 1994;*
- *Punjab Gram Panchayat Rules, 1965;*
- *Punjab State Election Commission Act, 1994;* and
- *Punjab Panchayat Election Rules, 1994.*

It is hoped that the compilation of these provisions will provide a useful resource book 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 more aware of their roles vis-à-vis information disclosure.

Part 1: Panchayati Raj Institutions in Punjab

The state of Punjab, situated in the northwestern part of India, has about 66% of its population of 243.59 lakhs living in 12,278 villages (2001 census). These villages are grouped into 138 community development blocks and the blocks are grouped into 19 districts.³ Out of the total population 160.96 lakh live in rural areas whereas 82.63 lakh live in urban areas. Punjab has one of the most progressive economies amongst the states in India, with an average growth rate of 10% per annum. It also has one of the highest per capita income levels in the country.⁴

Contextualising the historical evolution of Panchayati Raj in the state, village panchayats were set up for the first time in the composite province of Punjab in 1912. This was facilitated by the passage of the *Punjab Village Panchayat Act* under British rule. Laws passed in 1921 and 1939 replaced this Act. After independence and the partition of Punjab, the rural institutions were democratised through a new Act called the *Punjab Panchayat Act, 1952*. The new law provided for the constitution of village panchayats on a mandatory basis through universal adult suffrage. In 1961, the Punjab State Government reorganised its Panchayati Raj system based on the Balwant Rai Mehta Committee's recommendations.⁵ As such, a new three-tier panchayat system comprising Gram Panchayats at the village level, Panchayat Samitis at the block level and Zila Parishads at the district level came into being. With a view to bringing the Panchayati Raj Institutions in the State of Punjab in conformity with Part IX of the Constitution,⁶ the State Legislature repealed the *Punjab Gram Panchayat Act, 1952* and replaced it with the *Punjab Panchayati Raj Act, 1994*.

³ The districts are Amritsar, Bhatinda, Faridkot, Fatehgarh Sahib, Ferozepur, Gurdaspur, Hoshiarpur, Jalandhar, Kapurthala, Ludhiana, Mansa, Moga, Muktsar, Nawanshahr, Patiala, Ropar, Mohali, Sangrur and Tarn Taran.

⁴ According to recent statistics the per capita income of Punjab as of 2003-04 stood at Rs. 15,800/- next only to Gujarat and Maharashtra. For a comparative picture of the per capita income levels in the states please visit - <http://sampark.chd.nic.in/images/statistics/SDP2005R6.pdf> (as on 07 June 2006).

⁵ A committee headed by Balwant Rai Mehta, a Member of Parliament was constituted in 1957 in order to suggest an institutional set up to secure people's participation in two programmes (community development and national extension service programme). The study team's view was that without an agency at the village level which could represent the entire community and provide necessary leadership for implementing development programmes, there could be no real progress in rural development. The recommendations of this study team, favouring democratic decentralisation, accelerated the pace of constituting PRIs in all the states.

⁶ *Constitution (Seventy Third Amendment) Act, 1992* came in to force on 24 April 1993. It is incorporated as Part IX in the Indian Constitution.

Today, Punjab continues to have a three-tier panchayat system with Gram Panchayats at the village level, Panchayat Samiti at the intermediate (block) level and Zila Parishad at the district level. Additionally, there is the Gram Sabha, which is the basic unit in the Panchayati Raj mechanism. However, though these institutions of local self-governance have been set up, in practice they do not wield administrative or legal powers of any consequence. The State Government has not completed the devolution of powers to PRIs to raise revenue and conduct their affairs autonomously. Unlike in states such as Karnataka or Maharashtra, local self-governance cannot be said to be highly developed in Punjab.⁷

Gram Sabha

A Gram Sabha⁸ area consists of a village or group of contiguous villages with a population of not less than two hundred. Every person who is enrolled as a voter in the electoral roll automatically becomes a member of the Gram Sabha. The basic philosophy that underlies the concept of 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 the elected representatives, thereby 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.⁹

The law requires that at least two general meetings of the Gram Sabha are held every year, one in the month of December after the harvesting of the Sawani crop (Sawani meeting) and the other in the month of June after the harvesting of the Hari crop (Hari meeting) on the date as decided by the Sarpanch.¹⁰

Gram Panchayat

The Gram Panchayat is an elected body constituted by the Gram Sabha members from amongst themselves. It consists of a Sarpanch and number of Panches (ranging from five to thirteen). The number of Panches is dependent on the population taking Gram Sabha to be a multi-member single constituency, namely:

⁷ Punjab Government website: <http://punjabgovt.nic.in/Government/Government1.HTM> as on 30 May 2006.

⁸ Section 2(y), *The Punjab Panchayati Raj Act, 1994*. "Gram Sabha" has been defined as a body consisting of persons registered as voters in the electoral rolls of the area of the Gram Panchayat.

⁹ PRIA(2003) *Gram Sabha and Panchayats*, New Delhi.

¹⁰ Section 5, *The Punjab Panchayati Raj Act, 1994*.

<i>Population</i>	<i>Number of Panches</i>
For population exceeding 200 but not exceeding 1000	Five
For population exceeding 1000 but not exceeding 2000	Seven
For population exceeding 2000 but not exceeding 5000	Nine
For population exceeding 5000 but not exceeding 10,000	Eleven
For population exceeding 10,000	Thirteen

The Panchayat Secretary is in charge of the Gram Panchayat office. This person is responsible for the maintenance of records of the Gram Panchayat. These records are normally kept in the custody of the Sarpanch or one of the Panches.

Each Gram Panchayat must constitute the following Standing Committees by election:¹¹

- *Production Committee*: Responsible for performing functions relating to agriculture production, animal husbandry, rural industries and poverty alleviation programmes;
- *Social Justice Committee*: Responsible for performing functions in relation to promotion of education, economic, social, cultural and other interests of Scheduled Caste (SCs), Backward Classes and other weaker sections; protection from social injustice and any other form of exploitation; welfare of women and children;
- *Amenities Committee*: Responsible for performing functions in respect of education, public health, public works and other functions of the Gram Panchayat.

Panchayat Samiti

A Panchayat Samiti is constituted for each block¹² (each district is divided into several blocks). Every Panchayat Samiti consists of:

- Fifteen to twenty five¹³ members directly elected from the territorial constituencies;¹⁴

¹¹ Section 25, *The Punjab Panchayati Raj Act, 1994*.

¹² Block is the basic unit for development administration in India.

¹³ Section 99(1)(a) of Amendment Act 15 of 2000. The representation to the Sarpanchs of Gram Panchayats in the membership of Panchayat Samitis was done away with by amending the Punjab Panchayati Raj Act, 1994; - vide Punjab Act No. 15 of 2000.

¹⁴ Each Panchayat Samiti for the purpose of election is divided into as many single- member territorial as the number of members to be directly elected which is at the rate of one member for every six thousand population of the Panchayat Samiti area.

- Members of the Legislative Assembly of the State of Punjab, a major portion of whose constituency falls in the Panchayat Samiti area (*ex officio*); and
- Members of the Legislative Council of the State of Punjab, who are registered as electors within the Panchayat Samiti area (*ex officio*).

The Block Development and Panchayat Officer (BDPO) is the Executive Officer of the Panchayat Samiti.¹⁵ Besides other functions the BDPO has custody of all papers and documents connected with the proceedings of the meetings of the Panchayat Samiti and of its Committees.

Every Panchayat Samiti must appoint out of its own body the following Standing Committees:¹⁶

- *General Committee*: Responsible for performing functions related to establishment matters, communications, building, rural housing, village extension, relief against natural calamities and water supply;
- *Finance, Audit and Planning Committee*: Responsible for performing functions related to the finance of the Panchayat Samiti, framing of budget, scrutinising proposals for revenue increase, examination of receipts and expenditure statement, consideration of all proposals affecting the finances of the Panchayat Samiti and general supervision of the revenue and expenditure of the Panchayat Samiti.
- *Social Justice Committee*: Responsible for performing functions related to promotion of education, economic, social, cultural and other interests of the Scheduled Castes and Backward Classes and other weaker sections of society; protecting them from social injustice and all other forms of exploitation; securing social justice to the SCs , Backward Classes, women etc.

Zila Parishad

A Zila Parishad is constituted for a district.¹⁷ It has jurisdiction over an entire district excluding municipality and cantonment areas and also those areas under the authority

¹⁵ Section 154, *The Punjab Panchayati Raj Act, 1994*.

¹⁶ Section 135, *The Punjab Panchayati Raj Act, 1994*.

¹⁷ A district is an administrative unit below the state level at which there is a measure of convergence of departments and implementation and coordination of government schemes. Most state government departments maintain branch offices at the district headquarter.

of a municipal corporation or a notified area committee.¹⁸ Each Zila Parishad is headed by a chairman and a vice-chairman who are elected by and from amongst the elected members. All members of the Zila Parishad are directly elected. It comprises of:

- Elected members from the constituencies (one member for every fifty thousand population);
- All chairmen of Panchayat Samitis (*ex officio*);
- Members of the Lok Sabha and State Legislative Assembly representing a part or whole of the district where major part of their constituencies fall (*ex officio*);
- Members of the Rajya Sabha and members of the State Legislative Council, if any, who are registered as electors within the district (*ex officio*).¹⁹

In every district the Additional Deputy Commissioner (Development) is the *ex officio* Chief Executive Officer of the Zila Parishad of that district and an officer of the Department of Rural Development and Panchayats not below the rank of the District Development and Panchayat Officer (DDPO) is the Deputy Chief Executive Officer of the Zila Parishad.²⁰

The Zila Parishad has the following Standing Committees:²¹

- *General Committee*: Responsible for establishment related matters and functions related to communications, buildings, rural housing, village extensions, and relief against natural calamities among others;
- *Finance Audit and Planning Committee*: Responsible for finances of the Zila Parishad, framing of budgets, scrutinising proposals for increase of revenue, examination of receipts and expenditure statements, consideration of all proposals affecting the finances of the Zila Parishad and general supervision of the revenue and expenditure. Besides, this committee is also responsible for plan priorities, allocation of outlays, implementation of guidelines issued by the State Government, review of planning programmes;
- *Social Justice Committee*: Responsible for promotion of education, economic, social, and cultural and other interests of Scheduled Caste and backward classes, protecting them from social injustice;

¹⁸ In India, all statutory towns, i.e. all places with a municipal corporation, cantonment board or notified area committee, etc. are treated as urban. Prior to the passage of the Seventy Fourth Constitutional Amendment Act, 1992, urban local government was defined generally by the Municipal Corporations, Municipal Councils, Town Area Committees and Notified Area Committees.

¹⁹ All members of a Zila Parishad whether elected or not from territorial constituencies in the Zila Parishad area shall have the right to vote in the meetings of the Zila Parishad except in the election of its Chairman and Vice Chairman.

²⁰ Section 195, *The Punjab Panchayati Raj Act 1994*.

²¹ Section 185, *The Punjab Panchayati Raj Act 1994*.

- *Education and Health Committee*: Responsible for promotion of educational activities in the Zila Parishad area, undertake planning of education in the district within the framework of national policy and national and state plans, survey and evaluate the educational activities of the Zila Parishad, perform other duties pertaining to education, adult literacy and cultural activities, maintenance of drainage, health services, hospitals, water supply, family welfare; and
- *Agriculture and Industry Committee*: Responsible for agricultural production, animal husbandry, cooperation, contour- bunding and reclamation, village and cottage industries, promotion of industrial development of the district.

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

In a series of decisions since 1973 the Supreme Court of India has declared that the citizens' right to access information held by public authorities is a component of the fundamental rights to a) life and liberty and b) freedom of speech and expression.²² This means people have a right to seek and receive information held by government bodies. The right to information also implies a positive duty on governments to disseminate information to the people. Generally, information is disclosed to the public in two 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 and the norms of such service, important forms, decision-making procedures and the like. This information can be disclosed for example, by putting up notices or displaying information on notice boards, publishing information in the official gazette and newspapers, making such information available for inspection on demand and reading out information in meetings or publishing documents on the internet.
- *Upon request:* Government bodies must put in place simple, timely and inexpensive 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 local self-governing bodies, which are closest to the people. In order to facilitate access to information from local self-governing bodies, in 1997 the Government of India issued a circular stating that each State should consider passing orders implementing three different aspects of transparency. 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, and measurement books, plus the criterion and procedures for selection of beneficiaries and lists of beneficiaries), as well as matters of general public interest by paying a nominal charge.

²² Articles 21 and 19(1) of the Constitution of India respectively.

At the time of writing, Punjab has the following laws in place which facilitate access to information held by panchayat bodies:

- *The Punjab Panchayati Raj Act, 1994*
- *The Right to Information Act, 2005*

Panchayati Raj Legislation

To some extent, the aspects of transparency, discussed above were already reflected in *the Panchayati Raj Act, 1994* of Punjab. Parts 3-5 of this paper discuss the relevant right to information provisions in the PR Act, which focus on transparency particularly at the Gram Panchayat level.

Unfortunately, when compared to other States' panchayati raj legislation, such as Karnataka, Madhya Pradesh, Maharashtra, Himachal Pradesh to name just a few, the Punjab PR Act does not contain extensive provisions aimed at securing transparency in the functioning of PRIs. Mainly, the PR Act's right to information clauses focus on proactive information disclosure through Gram Sabha meetings. However, there is a provision in the *Punjab Gram Panchayat Rules*, which enables the public to request information from Gram Panchayats. These Rules are discussed in Part 3 of this document.

The Right to Information Act 2005

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

Who and what is covered?

Even though the RTI Act was passed by Parliament, it covers not only government offices at the Centre, but also extends to the Governments of the States and the Union Territories and all agencies and bodies set up or substantially financed by the States and the Union Territories.²³ The Act allows access to information held by all 'public authorities', including those that have been constituted under or established by the Constitution. This means that Panchayati Raj Institutions, which are in Part IX of the Indian Constitution, are covered by the RTI Act, thereby giving citizens an additional tool to access information from these local bodies. Additionally the term 'public authorities' includes institutions of self government which essentially implies PRIs in rural areas and urban local bodies.

²³ Section 2(h), *The Right to Information Act, 2005*.

The Act provides citizens the right to access government-held information, which includes information held by panchayat bodies. Citizens can inspect works, documents, records, take notes, extracts or certified copies of documents or records, take certified samples of materials, and obtain information in electronic form from PRIs.²⁴

What information is proactively published?

A key provision of the new RTI Act is Section 4(1) (b), which requires regular publication of a range of information. Section 4(1) (b) (referred to as *suo moto* or proactive disclosure) requires public authorities – including panchayats – to publish key information on a regular basis. This information should be made accessible to citizens in such a manner that they would not find it necessary to make a formal written request under the RTI Act. Accordingly, panchayat bodies at all three tiers must publish the following information voluntarily:²⁵

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

The Punjab government is also required to disclose similar categories of information about its departments and other public authorities under its control. The proactive disclosure of documents of several departments and public authorities of the Punjab Government

²⁴ Section 2(i), *The Right to Information Act, 2005*.

²⁵ Section 4, *The Right to Information Act, 2005*.

relating to the aforementioned are published on its website <http://punjabgovt.nic.in>. Lists of PIOs, Assistant Public Information Officers (APIOs) and Appellate Authorities of 77 Government Departments and other organisations of the State Government containing their contact details are also available on this website.

The Department of Rural Development and Panchayati Raj has designated the following government officials and office bearers as PIOs and APIOs at the three tiers:

PIOs and APIOs in the Department of Rural Development and Panchayati Raj, Government of Punjab

<i>Level</i>	<i>PIO</i>	<i>APIO</i>
Gram Panchayat	Panchayat Secretary	Sarpanch
Panchayat Samiti	Block Development and Panchayat Officer (BDPO)	Social Education and Panchayat Officer (SEPO)
Zila Parishad	Deputy Chief Executive Officer	Superintendent, Zila Parishad

Proactive disclosure of information regarding Indira Awaas Yojana²⁶

The Indira Awaas Yojana (IAY) scheme targets rural BPL (below the poverty line) families who are either totally houseless or live in unserviceable *kutch* 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 the 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.

²⁶ Paid advertisement by the Ministry of Rural Development, *The Hindu* (Delhi edition), p.6, 10-03-06.

What information is not covered?²⁷

The Act specifies certain types of information, referred to as ‘exemptions’ which *cannot* be given to the public. Key exemptions include: information that would prejudicially affect the sovereignty, integrity, security or economic interests of India or relations with a foreign state; information that is received from foreign governments in confidence; cabinet papers, including deliberations of 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 of an individual.

However, it must be noted, even if the requested information is covered by one or more of these exemptions, the Act requires that the information be released if the public interest in disclosure outweighs the interests that may be protected by keeping the information secret.²⁸

What is the application process?

The RTI Act provides for the appointment of PIOs in all offices and administrative units of a public authority covered by the Act,²⁹ and APIOs at each sub-divisional or sub-district level.³⁰ APIOs are tasked with receiving applications and passing them on to the relevant PIO. They act like a one-way post office to receive information requests and applications for appeals from citizens and forward them to the concerned PIO. The PIOs are responsible not only for receiving information requests from citizens but they also have a duty of providing information to the citizens in response to a specific application (so long as it is not covered by any of the exemptions). In Punjab, as per the Rules notified by the State Government for implementing the RTI Act,³¹ an applicant must apply using a specific application form (Form ‘A’).³² Along with the form (See Annexure 2), applicants must pay an application fee of Rs 50,³³ either in cash, by draft, cheque or treasury challan.³⁴

²⁷ Section 8, *Right to Information Act* 2005.

²⁸ Section 8(2), *Right to Information Act*, 2005.

²⁹ Section 5(1), *Right to Information Act*, 2005.

³⁰ Section 5(2), *Right to Information Act*, 2005.

³¹ *Punjab Right to Information Rules*, 2005.

³² Rule 3(1), *Punjab Right to Information Rules*, 2005.

³³ Rule 5(1), *Punjab Right to Information Rules*, 2005.

³⁴ Rule 4(1), *Punjab Right to Information Rules*, 2005.

The PIO has a duty to either provide the information within 30 days of receipt of the request or reject the request, specifying the reasons for doing so.³⁵ In cases where information sought “concerns the life and liberty of a person”, information must be given within 48 hours.³⁶ The PIO may charge the applicant an additional fee for providing the requested information but this must conform to the rates prescribed by the State Government. The rules notified by the Punjab Government provide for a form (Form ‘B’) which will be used by the PIO to inform the applicant about the additional fees required to be paid (see Annexure 2).

In Punjab, additional fee includes expenses incurred on photocopying records or providing information in electronic form. The cost of getting photocopies of documents under the RTI Act is Rs 10 per page for A3 and A4 size paper. The actual cost of copying will be charged for sheets of bigger size.³⁷ Obtaining information on a floppy disk costs Rs 50, whereas the additional fee for obtaining information on a CD is Rs 100.³⁸ Citizens also have the right to inspect records in the offices of panchayats and other government departments. In the first hour, inspection is free of charge, after which the applicant will have to pay Rs 10 for every additional fifteen minutes. No fees – for applications or access – will be charged from applicants who belong to ‘Below Poverty Line’ families.³⁹

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 to be made to the officer “immediately senior to the PIO” in the concerned public authority (commonly referred to as the Departmental Appellate Authority). This must 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 decision in time).⁴⁰ The Departmental Appellate Authority should issue their decision within 30-45 days.

If the first appellate authority upholds the PIO’s original decision, then the requestor can file a second appeal with the State Information Commission. If the appeal is against the

³⁵ Section 7(1), *Right to Information Act*, 2005.

³⁶ Section 7(1), *Right to Information Act*, 2005.

³⁷ Rule 5(2), *Punjab Right to Information Rules*, 2005.

³⁸ Rule 5(3), *Punjab Right to Information Rules*, 2005.

³⁹ Section 7(5), *Right to Information Act*, 2005.

⁴⁰ Section 19(1), *Right to Information Act*, 2005. According to Section 7(2) of the RTI Act if the applicant does not receive any communication from the PIO within 30 days it is treated as deemed refusal and the applicant may file an appeal with the appellate authority.

decision of a department or public authority controlled by the Central Government the Central Information Commission will inquire into it.⁴¹ The requester can also appeal to the Information Commission if he/she is unable to submit an information request because the PIO or the APIO refuse to receive it; or is unhappy with the form of access provided, or the fee charged; or if there is unreasonable delay in providing information. In fact, a citizen may move the appropriate Information Commission on about any matter relating to obtaining access to information under the Act, including a failure on the part of the public authority to meet its proactive disclosure obligations.

Alternatively, a requester can make a complaint directly to the State or Central Information Commission. There is no compulsion on the citizen to exhaust the first appeal option before approaching the Information Commission. However the Commissions do not have any time limits for disposing of appeals. So it may be more fruitful to pursue an appeal to the Departmental Appellate Authority first in the hope of getting a quicker, positive response and only then appeal to one of the Commissions, if necessary. The requester needs to weigh his/her options and decide whether to make an appeal or complaint.⁴²

For the first time, the RTI Act requires the establishment of Information Commissions at the Centre⁴³ and in all the States.⁴⁴ The Commissions are to act as inexpensive (as compared to courts), quick and most importantly, *independent* complaints and appeals bodies. The Commissions have been given broad powers to hear appeals and initiate inquiries⁴⁵ and are also tasked with regular monitoring of the track record of public authorities implementing 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.⁴⁶

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

⁴¹ Section 19(3), *Right to Information Act*, 2005.

⁴² Section 18(1), *Right to Information Act*, 2005.

⁴³ Section 12(1), *Right to Information Act*, 2005.

⁴⁴ Section 15(1), *Right to Information Act*, 2005.

⁴⁵ Section 18(3), *Right to Information Act*, 2005. The Commissions have the powers of a civil court which include the powers to summon and examine records and witnesses, take evidence on oath and require the discovery and inspection of disputed documents.

⁴⁶ Section 18(8), *Right to Information Act*, 2005.

Mr. Wajahat Habibullah
Chief Information Commissioner
Central Information Commission
Block No 4 (5th Floor)
Old JNU Campus, New Delhi-11
Ph: (011) 2671 7354
Fax: (011) 2671 7352
Email: whabibullah@nic.in
Website: www.cic.gov.in

Mr. Rajan Kashyap
Chief Information Commissioner
Punjab Chief Information Commissioner's Office
SCO No. 84-85 IInd floor, Sector 17C
Chandigarh - 160017
Tel: 0172-4630050
Fax: 0172-4630052
E-mail: kashyap_rajan@rediffmail.com
Website: www.infocommpunjab.com

Can officials be penalised for non-compliance?⁴⁷

Every PIO (or any other officer whose assistance the PIO requested to deal with an information request) can be penalised from Rs 250 per day up to a maximum of Rs 25,000 for: refusing to receive an information request; not giving information within specific time limits; knowingly giving incomplete, incorrect, misleading information; destroying requested information; and obstructing furnishing of information in any manner.



⁴⁷ Section 20(1), Right to Information Act, 2005.

Proactive disclosure about how panchayats implement rural development schemes

The National Institute of Rural Development (NIRD)⁴⁸ has released a publication, “Implementation of Rural Development Programmes-Role of PRIs in the context of the Right to Information Act”,⁴⁹ which is meant to provide information to people about how to access information from panchayats regarding 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 the villagers, and in many cases is not even known by the 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.

⁴⁸ 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.

⁴⁹ The publication can be obtained from NIRD- Address: Rajendranagar, Hyderabad- 500030; Tel: (040) 2400 8522/523/524; Website: www.nird.org.in.

Part 3: Disclosure of Information 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. In Punjab, the *Panchayati Raj Act, 1994* imposes a few proactive disclosure obligations on Gram Panchayats.

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 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 1994 requires the sharing of panchayat information with the public in the general meetings of the Gram Sabha.

The general meeting and the extraordinary general meeting⁵⁰ of a Gram Sabha are held in the Sabha area at a public place.⁵¹ The Sarpanch must fix the time and place of the Sawni and Hari meetings as the case may be.⁵²

The quorum for any meeting of the Gram Sabha is one-fifth of the total number of its members.⁵³ A notice of at least fifteen days must be given to the members for holding a general meeting of the Sabha. The notice of an ordinary general meeting of the Sabha must state the nature of business to be transacted at the meeting. It must be put up at the

⁵⁰ Section 5(4), *The Punjab Panchayati Raj Act, 1994*. The Sarpanch should at any time, and where a requisition in writing of the Panchayat Samiti or of not less than one-fifth of the total number of members of the Gram Sabha has been received by him shall within thirty days from the receipt of such requisition, call an extraordinary general meeting of the Gram Sabha.

⁵¹ Rule 5, *Punjab Gram Panchayat Rules, 1965*, read with Section 10(2) and Section 12(1) of *Punjab Panchayati Raj Act, 1994*. 'Public place' means any place, building or structure situated within a Panchayat area to which the public has free access.

⁵² Section 5, *The Punjab Panchayati Raj Act, 1994*. Every Gram Sabha shall hold two general meetings in each year, one in the month of December after the harvesting of the Sawni crop (called the Sawni meeting) and the other in the month of June after the harvesting of the Hari crop (called the Hari meeting).

⁵³ Section 5 (6), *The Punjab Panchayati Raj Act, 1994*.

Gram Panchayat office and other conspicuous places in the Sabha area, and a public announcement must be made by the beating of drum in the Sabha area on the day of issue of the notice and also on the day before the meeting. If the Sarpanch fails to convene a general meeting or an extraordinary general meeting as required, the Executive Officer of the Panchayat Samiti is required to convene the meeting. In such cases, a copy of the notice must be put up on the office notice board.

For extraordinary general meetings, a requisition for calling such a meeting and a notice of the meeting stating the purpose for which it is being called must be put up in the same way as required for ordinary general meetings.

The order of business at every general meeting of a Sabha requires the following information be provided in the meeting:

- The proceedings of the previous meeting (read out by the Sarpanch);
- Report of action taken by the Panchayat on previous discussions of the Sabha;
- Important decisions of the Panchayat after the last ordinary general meeting (read out by the Sarpanch);
- Questions and resolutions by members;
- Statement of income and expenditure (read out item by item);
- Audit report and reply thereto;
- Consideration of budget prepared by the Panchayat and formulation of future development programme; and
- Any other item which may be raised with the permission of the Sarpanch.

The proceedings of every Gram Sabha meeting must be recorded (in Punjabi in *Gurmukhi* script) and it must be signed by the Sarpanch.

One of the key functions of the Gram Sabha⁵⁴ is to approve the annual budget and plan of development programmes and review the annual statement of accounts and the annual progress report. In order to do this, the Gram Panchayat must prepare and lay for approval before the Gram Sabha:⁵⁵

- (i) At its Sawani meeting, a budget estimate of its income and expenditure and a plan of development programme for the year commencing on the first day of April each year; and

⁵⁴ Section 9, *The Punjab Panchayati Raj Act, 1994*.

⁵⁵ Section 7, *The Punjab Panchayati Raj Act, 1994*.

- (ii) At its Hari meeting, an annual statement of account and an annual report of progress for the preceding financial year and development programme proposed to be undertaken during the current year.

Every Gram Panchayat shall have a Gram Panchayat Fund, which shall bear the name of the Gram Panchayat. It shall include all grants from government or other local authorities; the balance and proceeds of all funds which, in the opinion of the Collector were or are being collected for common secular purposes of the village; all donations; all taxes, duties, cesses, tolls and fees imposed under this Act; income from village fisheries which are under the management of the Gram Panchayats; income derived from common lands vested in the Gram Panchayat under any law for the time being in force; the sale proceeds of all dust, dirt, dung or refuse collected by the servants of the Gram Panchayat and the trees and other produce of the land vested in the Gram Panchayat.⁵⁶

Proactive disclosure by Gram Panchayats

Like Gram Sabha meetings, the Gram Panchayat meetings must be public and must be held at least once a month at the Gram Panchayat office or at some other public place within the Gram Sabha area at such time and date as the Sarpanch may determine and notify.

The notice of every Gram Panchayat meeting- specifying the place, date and time and agenda must be sent by the Secretary to every office bearer and also put up at the office of the Gram Panchayat or at a common place where the meeting is scheduled to be held seven clear days⁵⁷ before an ordinary meeting and three clear days before a special meeting.⁵⁸ The service of notice to the Panches must be done through the village chowkidar or any other person deputed by the Sarpanch for the purpose. The notice must be acknowledged by the Panch on the copy of the notice or agenda book.

Disclosure of information by Gram Panchayats on request

The PR Act provides that judicial and non-judicial records of the Gram Panchayat can be given on request to the applicants. These records are also open for inspection. The PR Act, 1994 has given certain powers and jurisdiction of Gram Panchayats over criminal

⁵⁶ Section 86, *The Punjab Panchayati Raj Act, 1994*.

⁵⁷ One clear day would mean the following dawn from the day of despatch of notice. The term one clear day would not mean 24 hours.

⁵⁸ Rule 6, *Punjab Gram Panchayat Rules, 1965*.

offences and the Gram Panchayat is deemed to be a criminal court when trying these cases.⁵⁹ A list of offences cognizable by a Gram Panchayat is given in Annexure 4. Judicial records are created at the Gram Panchayat level when the Gram Panchayat tries these cases.

More specifically, the PR Act provides that Gram Panchayats must disclose information related to judicial proceedings,⁶⁰ which take place at the Gram Panchayat level. In this context, any party to a judicial proceeding can apply to the Sarpanch to inspect the record on payment of a fee of Rs 1 on each occasion. Moreover, they can also apply to the Sarpanch to get copies of relevant records⁶¹ or any entry in the register⁶² on payment of a fee of 25 paise for the first two hundred words and fifteen paise for every subsequent hundred words.

Every person who is a member of the Gram Sabha and every resident of the Sabha area can make an application to the Sarpanch to seek his/her permission to inspect non-judicial records of the Panchayat upon payment of a fee of Rs 1 on each occasion. Non-judicial records include all those records, which are maintained at the Gram Panchayat level other than judicial records. A list of all the non-judicial records maintained by the Gram Panchayat is given in Annexure 1 of this document. The Sarpanch, on an application from any voter or any resident of the Sabha area, must also supply him/her with a copy of the relevant non-judicial record or entry in the register⁶³ on payment of a fee of 25 paise for the first two hundred words or a part thereof and 15 paise for every subsequent hundred words.

In practice, the Panchayat Secretary is responsible for supplying copies of the judicial and non-judicial records of Gram Panchayat when they are requested and arranging for the inspection of records by the parties after the Secretary has charged the prescribed copying or inspection fees.⁶⁴ Hence, all applications for copies of records or inspection of records must be made to the Panchayat Secretary who has been given the duty to maintain the accounts, records and registers of the Gram Sabha and the Gram Panchayat under the PR Act. Furthermore, under the RTI Act, the Panchayat Secretary has been made the PIO

⁵⁹ Section 44, *The Punjab Panchayati Raj Act*, 1994. The Act provides that for the purpose of deciding whether an offence falls within the jurisdiction of a Gram Panchayat, the provisions of sections 178 to 181 of the Code of Criminal Procedure, 1973 shall apply.

⁶⁰ Section 44-84 of *the Punjab Panchayati Raj Act* 1994 deal with the judicial functions of the Gram Panchayat.

⁶¹ Records of every case criminal, civil or revenue decided by a Panchayat shall be consigned to the General Record Room at District or Sub-Divisional Headquarters from 1st June to 30th September, every year. Such record shall be kept and destroyed in accordance with the Destruction of Record Act, 1917.

⁶² Registers at the Gram Panchayat level related to judicial proceedings include register of civil cases of the panchayat, register of criminal cases of the panchayat, register for processes and summons.

⁶³ Registers maintained by the Gram Panchayat. See Annexure 1 for list of records and registers.

⁶⁴ Rule 8-A, *Punjab Gram Panchayat Rules*, 1965.

at the Gram Panchayat level. He therefore has to provide the information requested within the stipulated period of 30 days.

All judicial and non-judicial registers and books maintained by a Panchayat, when finished, that is when there are no blank pages left, must be kept in the Panchayat office for two years after which they should be consigned to the General Record Room of the Deputy Commissioner's⁶⁵ Office, where they are preserved in perpetuity. Therefore, based on this record retention schedule, a person can ask for information from a Gram Panchayat which is not more than two years old. For older information, a person is required to file an information request with the Deputy Commissioner's office.

Information support by government officials

The Sarpanch has been given the responsibility for maintaining all records of the Gram Panchayat (see Annexure 1 for list).⁶⁶ The Panchayat Secretary supports the Sarpanch in this work.⁶⁷ The Panchayat Secretary has been given certain official duties, under the general supervision of the Sarpanch⁶⁸ –

- (a) Maintaining the accounts, records, registers and other property of the Gram Sabha and the Gram Panchayat;
- (b) Issuing notices of meetings and carrying out resolutions passed by Gram Panchayats and the Gram Sabha;
- (c) Receiving all money on behalf of the Gram Panchayat and the Gram Sabha, issuing receipts in the prescribed form and maintaining accounts



⁶⁵ The Deputy Commissioner of a district has the responsibility of coordinating the work of all government departments, revenue collection and maintenance of law and order.

⁶⁶ Rule 7, *Punjab Gram Panchayat Rules*, 1965.

⁶⁷ Panchayat Secretary is in charge of the office of the Gram Panchayat. He is a member of Punjab Panchayat Secretaries Service and therefore is a public servant. In all matters the Secretary acts under the control of the Sarpanch through whom he is responsible to the Gram Panchayat. The Panchayat Secretaries who have not been appointed to the Punjab Panchayat Secretaries Service shall be deemed to be the members of the Punjab Panchayat Samitis and Zila Parishads Service.

⁶⁸ Rule 8-A, *Punjab Gram Panchayat Rules*, 1965.

- of receipts and expenditure in the cashbook and other relevant records.
- (d) Consigning records of every case - criminal, civil and revenue - decided by the Panchayat to the General Record Room;
 - (e) Supplying copies of the judicial and non-judicial records of Gram Panchayat and arranging the inspection of records by the parties after charging the prescribed copying or inspection fees.

The Panchayat Secretary is also responsible for the maintenance of the records listed below. Under the PR Act, all of these records and documents can be inspected, and the public can get copies of them upon request:

- (i) Cash Book (Form I) in which the account of all income of the Panchayat from whatever source and all expenditure out of the Gram Fund shall be maintained
- (ii) Receipt Book (Form IV)
- (iii) Register showing demand and collection of taxes, duties, cesses (Form V)
- (iv) Register of fees and fines (Form XVII)
- (v) Provident Fund Register (Form XXVII)

The Right to Information and the National Rural Employment Guarantee Act (NREGA) 2005

The NREGA is one of the country's most ambitious anti-poverty programmes ever, which provides a legal guarantee of 100 day's work in a financial year to India's rural households whose adult members are willing to do unskilled manual labour. At present a total of 200 most backward districts have been identified across the country for the first phase of implementation of NREGA. The programme will be extended to all 600 districts by 2009. NREGA requires the formulation of a Rural Employment Guarantee Scheme (REGS) by each State Government. The purpose of the scheme is to give effect to the legal guarantee of work. In order to facilitate the implementation of REGS, the Ministry of Rural Development, Government of India has brought out a detailed set of operational guidelines, which can be interpreted as a broad operational framework.⁶⁹

In Punjab this programme is operational in Hoshiarpur district. The Punjab Government initiated the process of giving jobs to the rural unemployed youth under this scheme in 1,317 villages in Hoshiarpur district on 2 February 2006.⁷⁰ On that day it was also discussed that mini secretariats would be set up in each village which would be equipped

⁶⁹ For more information visit the website of Ministry of Rural Development, Department of Rural Development, Government of India at: www.rural.nic.in or www.nrega.nic.in.

⁷⁰ For more information please visit: <http://punjabgovt.nic.in/TENDERS/News2006/feb/Feb3.htm>.

with modern libraries and digitisation of all panchayat records would be undertaken under this scheme.

Commitment to transparency and accountability runs throughout the NREGA, which was enacted soon after the Right to Information Act 2005 became fully operational throughout the country. There is a separate chapter on *Transparency and Accountability: Role of the State* in the Operational Guidelines document. The key points stated here are as follows:

* Request for copies of REGS related documents submitted under NREGA should be complied with within seven days. All the documents are in public domain and no information should be refused by invoking Section 8 of the RTI Act.

* Key documents related to NREGA should be proactively disclosed to the public without waiting for anyone to 'apply' for them. A list of such documents should be prepared by the State Employment Guarantee Council, and updated from time to time. For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every state government shall constitute a State Employment Guarantee Council.

*Whenever, feasible, these documents should be made available on the Internet.

* Public access to key records and information must be ensured at all levels. Some of these include: updated data on demand received; registration; number of job cards issued; list of people who have demanded and been given/not given employment; funds received and spent; payments made; works sanctioned and works started; cost of works and details of expenditure on it; duration of work and person-days generated; reports of local committees; copies of muster rolls.

* REGS- related accounts of each Gram Panchayat should be proactively displayed and updated twice a year. Summary accounts should be displayed through various means, including paintings on the walls at the Panchayat Bhawan, postings on notice boards and publication in Annual Reports available at cost price.

* Report Cards on local works, employment and funds should be posted by the Gram Panchayats on its premises and by the Programme Officer⁷¹ at the Panchayat Samiti/ Programme Officer's office, and for the whole district by the District Programme Coordinator⁷² at the District Programme Coordinator/Zila Parishad office.

⁷¹ Under the NREGA a Programme Officer will be appointed at the block level with necessary support staff for facilitating implementation at the block level. He/she will act as a 'coordinator' for REGS at the block level and will not be below the rank of the Block Development Officer.

⁷² Under the NREGA, the state government will designate a District Programme Coordinator, who can either be the Chief Executive Officer of the Zila Parishad, or the District Collector, or any other district-level officer of appropriate rank. This person will be responsible for the overall coordination and implementation of the scheme in the district.

Part 4: Proactive Disclosure by Panchayat Samitis and Zila Parishads

This section discusses the provisions of proactive disclosure of information at the Panchayat Samiti and Zila Parishad level. The two upper tiers of the panchayat system are discussed together in this section because of the similarity in the provisions in the PR Act 1994 relating to proactive disclosure.

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 at these levels. Moreover, funds transferred by Central or State Government related to works, schemes and projects are reallocated to Panchayat Samitis and Gram Panchayats by the Zila Parishads. 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. Moreover, 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 meetings⁷³

As per the PR Act, Panchayat Samitis must hold their ordinary meetings at least once in two months and Zila Parishads must hold their ordinary meetings at least once in three months. Special meetings of both these tiers must be called by the Chairmen,⁷⁴ when a written request of not less than one-third of the total number of members, is submitted specifying the purpose of the meeting. The majority of the total members in office of the Panchayat Samiti and Zila Parishad shall form a quorum for transacting business at the meetings of these two tiers of PRIs.

Ten clear days' notice of an ordinary meeting and seven clear days' notice of a special meeting must be sent to the members of the Panchayat Samitis and the Zila Parishads. The notice must specify the time at which the meeting is to be held and the business to be transacted. Details shall also be pasted at the office of the Panchayat Samiti and Zila Parishad. In the case of a special meeting, the notice shall also include any motion or

⁷³ Section 116, *The Punjab Panchayati Raj Act*, 1994.

⁷⁴ The Chairman of the Panchayat Samiti and the Zila Parishad are elected from amongst the elected members. The Chairman must convene and preside over and conduct meetings of the Panchayat Samiti and the Zila Parishad. The Chairmen of the two tiers have also been given the power to exercise supervision over the financial and executive administration of the Panchayat Samiti and Zila Parishad and place before these bodies all questions connected which shall appear to him to require its orders and for this purpose may call for records of the Panchayat Samiti or the Zila Parishad.

proposition being submitted to the meeting. The majority of the total number of members in the office of the Panchayat Samiti and the Zila Parishad shall form the quorum for transacting business at the meeting.

The proceedings of every meeting of Panchayat Samiti and Zila Parishad must be recorded in the minute's book after the deliberations are over. These must be read over by the member presiding over the meeting and then signed by him or her. The action taken on the decisions of the Panchayat Samiti or the Zila Parishad must be reported at the next meeting. The minute's book must always be kept in the office of the Panchayat Samiti and the Zila Parishad and cannot be taken outside the office under any circumstances. The Executive Officer is the custodian of the minute's book.⁷⁵

Proactive disclosure of financial information by Panchayat Samiti

The Executive Officer⁷⁶ has custody of all papers and documents connected with the proceedings of the meetings of the Panchayat Samiti and of its Committees.⁷⁷

Specifically, the Executive Officer of the Panchayat Samiti (the Block Development and Panchayat Officer) must prepare, in the prescribed form, a statement of the accounts of the Panchayat Samiti for each financial year, showing the income under each head of receipt, the charges for establishment,⁷⁸ the works undertaken, the sums expended on each work and the balance, if any, of the fund remaining unspent at the end of the year. An abstract of the statement of accounts⁷⁹ must be published in the Official Gazette of the State Government or in any other manner as the Panchayat Samiti may direct.

Every Panchayat Samiti must keep a copy of its budget and accounts at its office for inspection by members of the Panchayat Samiti free of cost.⁸⁰ The budget of the Panchayat Samiti generally consists of two parts. Part (1) contains the budget of the Community Development Block and part (2) contains the funds transferred from other departments and income derived by the Panchayat Samiti from other sources.

⁷⁵ Section 116(13), *The Punjab Panchayati Raj Act, 1994*.

⁷⁶ Section 154, *The Punjab Panchayati Raj Act, 1994*.

⁷⁷ Every Panchayat Samiti appoints three Standing Committees out of its own body, namely, General Committee, Finance, Audit and Planning Committee and Social Justice Committee. Each Standing Committee has members not exceeding six.

⁷⁸ These include the routine costs for running an office.

⁷⁹ Section 145, *The Punjab Panchayati Raj Act, 1994*.

⁸⁰ Section 144, *The Punjab Panchayati Raj Act, 1994*.

Proactive disclosure of information by Zila Parishad

At the Zila Parishad level the Chief Executive Officer has custody of all the papers and documents relating to the Zila Parishad. The Additional Deputy Commissioner (Development) in every district is the *ex officio* Chief Executive Officer of the Zila Parishad of that district.

Unfortunately though, under the PR Act 1994 the Zila Parishad is not responsible for sharing much information with the general public, although it does have a duty to publish statistical and other information relating to the activities of Panchayat Samiti and Zila Parishad.⁸¹ In keeping with good practice evidenced in the Madhya Pradesh, Maharashtra and Karnataka panchayati raj legislation among others, consideration should be given to legally requiring greater disclosure at this level. For example, in Madhya Pradesh, in every quarterly meeting of the Zila Panchayat, a report about the income and expenditure incurred during the period between the last and the current meeting as well as the cumulative income and expenditure in the current financial year is placed before the members by the Chief Executive Officer for discussion. The public can inspect this document or copies can be requested, based on the rules formulated for inspection and supply of records.

Proactive Disclosure by Zila Parishad, Ludhiana

The Zila Parishad of Ludhiana district has disclosed the following information on its website proactively (<http://ludhiana.nic.in/dept/local-zila-parishad.html>) :

- Composition of the Zila Parishad including the list of names and addresses of all the elected members;
- Names and addresses of Chairpersons and Vice-Chairpersons of all the Panchayat Samitis in Ludhiana district;
- Names and contact details of government officials of the Zila Parishad i.e. the Chief Executive Officer and his deputy besides others;
- List of properties owned by the Zila Parishad; and
- Important schemes being run by the Zila Parishad.

Besides this, the website also provides a brief write-up about the salient features of the Punjab Panchayati Raj Act 1994.

However citizens need not despair about this shortcoming of the PR Act. Under the RTI Act the Zila Parishads are public authorities. They are required to disclose 16 categories of information proactively (See part 2 of this document). Additionally they are required to designate PIOs who have the responsibility of providing information upon request.

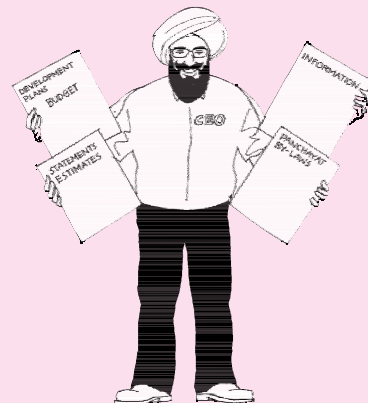
⁸¹ Section 180, *The Punjab Panchayati Raj Act, 1994*.

Ordinarily all kinds of records maintained in a Zila Parishad should be accessible under the RTI Act as almost all records maintained by Panchayat bodies fall outside the purview of the exemptions mentioned in the RTI Act.

Single Window Delivery Services at Suwidha Centre, Nawanshahr District, Punjab⁸²

SUWIDHA (Single User-friendly Window Disposal and Help-line for Applicants) Centres have been built in all the districts of the state to provide district administration services to the citizens.

In order to streamline the delivery of government services through a single window for citizens and with the additional objective of changing the mindset of secrecy that government officers are habituated to, the district administration of Nawanshahr has set up a state-of-the-art *Suwidha* Centre located at the district headquarters. This centre is a two-storied building with computerised facilities for providing around 100 services through 26 windows. One of the windows provides information related to the RTI Act 2005, namely the list of APIOs, PIOs and Appellate Authorities in the district along with their telephone numbers and other contact details. The major services include attestation of affidavit on the spot, delivery of birth and death certificates, passport applications, registration of marriages, counter signatures of documents, arms licenses, renewal of licenses, driving licenses, registration of vehicles, collection of electricity and telephone bills, delivery of copy of revenue records and court orders in a time bound manner. On an average about 1000 people visit the *Suwidha* Centre on a working day.



One of the services provided at this centre is “*patwari⁸³ at your call*” which was introduced in the district from 1 August 2005. Under this service a toll free number 55501 has been provided and software has been developed incorporating mobile telephone numbers of the *patwaris* etc. An applicant desiring to have a copy of a revenue record or to redress his grievances can dial this number at any time of the day or night. Once an applicant submits the details on the toll free number, a call is made immediately to the village *patwari* to provide such records to the *Suwidha* Centre. The latter then sends the documents by courier to the residence of the applicant within 48 hours from the time the first call was made by the applicant.

⁸² Based on a paper on “Single window delivery services at *Suwidha* Centre” written by Mr. Krishan Kumar, Deputy Commissioner, Nawanshahr district.

⁸³ The level of administration for revenue purposes at the lowest level i.e. a village or a few villages is in the charge of a *Patwari*.

Part 5: Proactive 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 fulfill 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 Punjab State Election Commission⁸⁴ is responsible for the superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to panchayats at all three levels.⁸⁵ Moreover, under the RTI Act, 2005 the State Election Commission is a 'public authority'⁸⁶ as it has been established by the Constitution of India as per Article 243K.

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

Preparation⁸⁷ and publication of electoral rolls⁸⁸

For the purpose of preparing electoral rolls for any election to the Gram Panchayat, Panchayat Samiti or Zila Parishad, the State Election Commission must publish that preliminary electoral rolls based on those used at the last panchayat elections so the public can inspect them. This is to be done by pasting them at conspicuous places in the

⁸⁴ The State Government establishes the State Election Commission by notification in the Official Gazette. The State Election Commission is responsible for the superintendence, direction and control of the preparation of the electoral roll for, and the conduct of all elections to Panchayats and Municipalities. It consists of a State Election Commissioner who is appointed by the Governor.

⁸⁵ Article 243K of the Constitution of India.

⁸⁶ Section 2(h), *The Right to Information Act, 2005*.

⁸⁷ Rule 5, *The Punjab Panchayat Election Rules, 1994*.

⁸⁸ Rule 6 (6), *The Punjab Panchayat Election Rules, 1994*.

offices of District Electoral Officer,⁸⁹ Block Development and Panchayat Officer and the Sabha area to which the electoral rolls pertain. Publication is important so that the public can review the list and recommend inclusions or deletions of names in the list and/or lodge objections to any entry. Any person may make an application to the Electoral Registration Officer⁹⁰ within three days of publication for revision of Electoral Rolls before the date fixed by the Election Commission for filing nomination papers.

The State Election Commission or Electoral Registration Officers (who are responsible for preparing and revising electoral rolls) must publish the final electoral roll after making all additions, deletions and corrections and print sufficient copies so that they can be given to persons who apply for a copy on payment of a fee of Rs. 2/- per page.

Publication of list of nominated candidates ⁹¹

The particulars of the valid nominations of candidates must be displayed outside the office of the Returning Officer.⁹² The list should contain the names in alphabetical order and the addresses of the contesting candidates along with symbols allotted to each of the candidates.

Publication of election programme

The Returning Officer in a constituency must publish the details of the election programme by pasting it outside his/her office and at conspicuous places in the Gram Sabha area included in that constituency.⁹³

⁸⁹ Each district has a District Electoral Officer, who is an officer of the State Government, either designated or nominated by the State Election Commissioner in consultation with the State Government. Subject to the superintendence, direction and control of the Election Commission, the District Electoral Officer shall supervise the preparation, revision and correction of all electoral rolls in the district.

⁹⁰ The electoral rolls for each Panchayat or Municipality is prepared and revised by the Electoral Registration Officer, who is an officer of the State Government or of a local authority, designated or nominated by the State Election Commission in consultation with the Government.

⁹¹ Rule 13, *Punjab Panchayat Election Rules*, 1994.

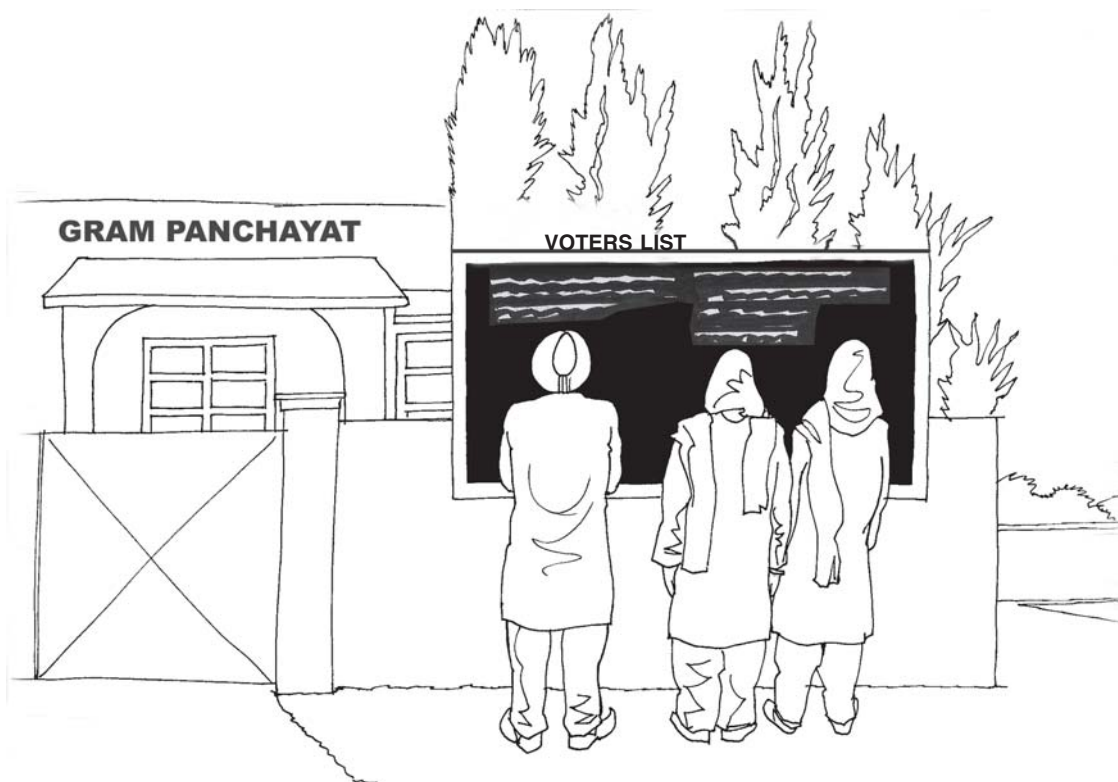
⁹² For every constituency, for every election to fill a seat or seats in a Panchayat or a Municipality, the Election Commission shall, in consultation with the State Government, designate or nominate an officer of the State Government or of a local authority as a Returning Officer whose general duty at any election is to conduct the election in the manner provided in the Punjab State Election Commission Act, 1994, and the rules and orders made.

⁹³ Rule 7, *The Punjab Panchayat Election Rules*, 1994.

The election programme includes:

- The dates for various phases of the election process;
- The last date for making nominations;
- The date for scrutiny of nominations;
- The last date for the withdrawal of candidatures;
- The date or dates on which a poll shall be taken and
- The date before which the election should be completed.

In addition to the provisions in the PR Act regarding access to information related to panchayat elections, citizens can also access information on request from the Department of Elections, Government of Punjab under the newly enacted RTI Act, 2005. In case information related to panchayat elections is not otherwise easily available citizens can now apply for the same using the RTI Act. For this purpose this department has designated PIOs, APIOs and departmental appellate authorities at the state as well as at the district level.



Conclusion

In relation to accessing information held by PRIs, the PR Act does provide certain provisions which the people could use in seeking information, especially at the Gram Panchayat level. People can request the Gram Panchayat for judicial as well as non-judicial records as described above. More importantly, the PR Act provides for proactive disclosure of information through Gram Sabha meetings, where people not only get an opportunity to know what the Gram Panchayat is doing but they can also ask questions besides giving their approval to the budget and expenditure plan. With the enactment of the RTI Act citizens have now been given an additional tool to access information from PRIs which are public authorities under the Act. Though it is cheaper to get information from the panchayat bodies under the PR Act, the RTI Act has provided for a fixed time period within which the information sought must be provided by the designated PIO and in case of non-disclosure this Act has provided for a penalty to be imposed on the erring official. Therefore using the RTI Act citizens will be able to access the information held by panchayati raj institutions, which they could not do until recently.

Annexure 1

List of Panchayat Records to be Maintained under the Responsibility of the Sarpanch

- (i) Proceedings Book (Form II) in which the brief account of business transacted by the Gram Panchayat or Gram Sabha in respect of its general and administrative functions, shall be entered. The record of proceeding by a Gram Panchayat shall be signed by the Sarpanch, if present or in his absence by the Panch elected for presiding the meeting, and all other Panches attending the meeting of the Panchayat.
- (ii) Inspection Book (Form III)
- (iii) Attendance Register (Form III-A)
- (iv) Register of Civil Suits (Form VI)
- (v) Register of Criminal Cases (Form VIII)
- (vi) Register of Revenue Suits (Form VIII)
- (vii) Summons for Accused in Criminal Cases (Form IX)
- (viii) Summons for Defendants in Civil Cases (Form X)
- (ix) Summons for Witnesses (Form XI)
- (x) Decree Sheet (Form XII)
- (xi) Application for Acquisition of Land (Form XIII)
- (xii) Register of Processes and Summons (Form XIV)
- (xiii) Register of Diet Money (Form XV)
- (xiv) Index of Papers of the Panchayat File and Abstract of Orders (Form XVI)
- (xv) Stock Register of Material (Form XVIII)
- (xvi) Stock and Furniture Register (Form XIX)
- (xvii) Library Stock Register (Form XX)
- (xviii) Library Issue Register (Form XXI)
- (xix) Dispatch Register (Form XXII)
- (xx) Receipt Register (Form XXIII)
- (xxi) Register of Immovable Property (Form XXV)

Annexure 2

FORM 'A'

**Form of application for information under the
Right to Information Act**

(See rule 3(1))

The Assistant Public Information Officer/
The Public Information Officer / APIO
(Name of the office with address)

- (1) Full name of the applicant
- (2) Address
- (3) Particulars of information required
 - (i) Subject matter of information:*
 - (ii) The period to which the information relates:**
 - (iii) Description of the information required:***
 - (iv) Whether information is required by post or in person (the actual postal charges shall be included in additional fees.)
 - (v) In case by post (Ordinary, Registered or Speed post.)

Signature of the applicant

Place :

Date :

.....
*Broad category of the subject to be indicated (such as grant/ Government land/Service matters / Licenses etc.).** "Relevant period for which information is required to be indicated.
***Specific details of the information are required to be indicated.

X.....X.....X.....X.....

Acknowledgement

Received your application dated.....vide
Diary No..... Dated.....

*Signatures of Assistant Public Information
Officer / Public Information Officer*

Name of the Department /Office.....

Annexure 3

FORM 'B'
Form of fee intimation letter

(See rule 4(4))

From

Designation of the
Public Information Officer

To

(Name of the applicant)
Address of the applicant

Sir,

1. Please refer to your application dated.....addressed to the undersigned requesting information regarding..... The additional fee for supplying this information to you is Rs.....
2. You are requested to pay the fee at this Office or make payment in a Government Treasury through Challan and send a copy of the challan to this office and collect the information on.....
3. The amount of fee shall be deposited in the budget head No. (to be intimated to the applicant by the concerned department).

Publication Information Officer

Annexure 4

Offences Cognizable by a Gram Panchayat

Offence	Section
(a) Under the Indian Penal Code, 1860 (XLV of 1860)	
Committing affray	160
Absconding to avoid service of a summon or other proceeding	172
Non-attendance in obedience to an order from public servant	174
Intentionally omitting to produce a document	175
Refusing oath or affirmation when duly required by a public servant	178
Refusing to answer a public servant authorised to question	179
Refusing to sign statement	180
Disobedience to order duly promulgated by public servant	188
Intentional omission to give information of an offence by a person legally bound to inform	202
Intentional insult or interruption to public servant sitting in judicial proceeding	228
Offences relating to Weight and Measures mentioned in Chapter XIII	264-267
Negligently doing an act known to be likely to spread infection of any disease dangerous to life	270
Defiling the water of a public spring or reservoir	277
Danger of obstruction in public way or line of navigation	288
Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair	288
Negligent conduct with respect to any animal	289
Committing a public nuisance	290
Continuance of nuisance after injunction of discontinuance	291
Obscene songs	294
Voluntarily causing hurt	323
Voluntarily causing hurt on provocation	334
Wrongfully restraining by person	341
Assault or use of criminal force otherwise than on grave provocation	352
Assault or use of criminal force on grave and sudden provocation	358

Theft or dishonestly receiving or retaining stolen property where the value of the property does not exceed Rs. 250; provided that no Gram Panchayat shall take cognizance of any such complaint if the accused (i) has been previously convicted of an offence under Chapter XII or XVII of the Indian Penal Code, 1860 punishable with imprisonment of either description for a term of three years or upwards; or (ii) has previously been fined for theft or receiving or retaining stolen property by any Gram Panchayat; or (iii) is a registered habitual offender under any law for the time being in force; or (iv) has been bound over to be of good behavior in proceedings instituted under section 109 or 110 of Code of Criminal Procedure, 1973; or (v) has had an order of restriction passed against him under the Restriction of Habitual Offenders (Punjab) Act, 1918 (V of 1918); or (vi) has been previously convicted for gambling, dishonest misappropriation	403
Criminal breach of trust	406
Cheating and inducing delivery of property	420
Cheating	417
Mischief when the damage or loss cause/ does not exceed Rs. 50 in value	426
Mischief and thereby causing damage to property of value not exceeding Rs. 250	427
Mischief by killing or maiming animal of the value of Rs. 10	428
Mischief by killing or maiming cattle, etc., of any value or any animal of the value of Rs. 50	429
Criminal trespass	447
Insult intended to provoke a breach of the peace	504
Punishment for criminal intimidation, etc.	506 Part I only
Uttering any word or making any gesture intended to insult the modesty of a woman	509
Misconduct in public by drunken person	510
(b) Under the Punjab Vaccination Act, 1953 (XLIX of 1953)	
Punishment of Offences	16
(c) Under the Cattle Trespass Act, 1871 (1 of 1871)	
Forcibly opposing the seizure of cattle or rescuing the same	24

Causing damage to land or crops or public roads	26
(d) Under the Punjab Primary Education Act, 1960 (Punjab Act 39 of 1960)-	
Failure to comply with an attendance order passed under section 9	13
Penalty for contravening the provisions of section 10	17
(e) Under the Northern India Canal and Drainage Act, 1873 (VIII of 1873)-70	
Offences specified in sub-section (4) of section 70	
(f) Under the Punjab Weights and Measures (Enforcement) Act, 1958 (Pb. Act 22 of 1958)-	
Penalty for fraudulent use of weights or measures etc.	29
Penalty for making or selling false weights or measures	31
(g) Under the Punjab Juvenile Smoking Act 1918 (VIII of 1918)-	
Penalty for selling tobacco to children	3
Seizure of tobacco being smoked by juvenile in a public place	4
(h) Under the Public Gambling Act, 1867 (II of 1867)-	
Penalty for owning or keeping or having charge of a gambling house	3
Penalty for being found in gambling house	4
Penalty on persons arrested for giving false names and Addresses	7
Under the Prevention of Cruelty to Animals Act, 1890 (XII of 1890)-	
Penalty for cruelty to animals in public places and for sale in such places	3
Penalty for practicing Phuka	4
Penalty for killing with unnecessary cruelty anywhere	5
Penalty for being in possession of the skin of a goat killed with unnecessary cruelty	5-A
Presumptions as to possession of the skin of a goat	5-B
Penalty for employing anywhere animals unfit for labour	6
Penalty for permitting diseased animals to go at large or to die in public places	7
(i) Under the Indian Forest Act, 1927 (XVI of 1927)-	
Acts prohibited in such forests	26 & 33
(k) Under this Act or under any rule or by-law made thereunder	
(l) Under the Punjab Land Preservation (Chaos) Act, 1900 (Punjab Act II of 1900)	19

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.

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralize government to promote greater participation by ordinary people in their own governance. This process of democratic decentralisation was set in motion with the 73rd Constitutional Amendment Act passed by the Indian Parliament in 1992, which enabled decentralised governance through PRIs in rural areas.

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.

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 accountable government. Citizen participation in panchayat institutions will be more meaningful when people have the information to make informed choices and participate in decision-making processes on the basis of actual facts.

It is hoped that the compilation of these provisions will provide a useful resource book for citizens who themselves wish to use these laws to gather information...



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