

PROACTIVE DISCLOSURE UNDER SECTION 4(1) (b) OF RIGHT TO INFORMATION ACT, 2005 BY DEPARTMENT OF CORRECTIONAL ADMINISTRATION

Recommendations for Improvement

Submitted by:

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Introduction

CHRI welcomes the initiative of Department of Correctional Administration, West Bengal for notifying the Suo Moto Disclosure Manual in Must, 2015. Although this initiative could have been taken within 120 days of the enactment of the Right to Information Act, 2005 (herein referred as 'Act') it is better late than never.

CHRI appreciates the genuine efforts of the Department in order to make the Manual comprehensive and detailed. However in our humble opinion, the Manual is not completely aligned with the provisions of the principal Act in a few places. If these problem areas were ironed out as recommended below, it would set an example to all other prisons implementing the RTI Act in the country. CHRI's analysis of the problematic Rules and the recommendations for change are based on its knowledge about the functioning of RTI laws and Rules not only in India but also across the Commonwealth as well as its experience of guiding the Government of India and governments in the States of Tamil Nadu, Uttarakhand, Odisha, Bihar, Madhya Pradesh, Chhattisgarh, Gujarat, Tripura, Meghalaya, Nagaland, Mizoram, Maharashtra and Karnataka for ensuring effective implementation of the Central RTI Act adopted in 2005. It is also reflective of its work with the Department of Prison in the States of Andhra Pradesh, Odisha, Rajasthan, Karnataka, Madhya Pradesh and Maharashtra and West Bengal itself for ensuring fair trial rights.

General Recommendations

Although the manual is meticulously drafted, it dwindles at being reader friendly in terms of language, relevance, completeness and placement of information. Relevance of information could be gauged by narrowing down the target audience for such a disclosure policy by the Department of Correctional Administration. Section 4(1)(b) of the Act broadly defines the target as 'all citizens', however with Prison as the focus, the target audience comprises inmates, their families, friends and lawyers, prison administration, civil society organizations and a community which seeks accountability. Therefore, the primary consideration must be to tailor the information for

¹ This analysis and recommendations have been prepared by Mrinal Sharma, Madhurima Dhanuka and Venkatesh Nayak of CHRI's Prison Reform Programme and Access to Information Programme for submission to the Department of Correctional Administration, West Bengal in June, 2015

each segment of these audience especially the inmates, their families, lawyers and prison administration. Having said that, the information disclosed must adhere to the standards laid by the 17 sub-clauses of Section 4(1)(b) and must not just be in the form of a manual. It must be accommodated in other visible places on the website and the links to those could be kept in the manual for the purpose of consolidation, compactness and one-click accessibility. The information under different sub-clauses could also be combined for better understanding of the reader and to avoid repetition. The content of the manual varies from elaborate to scarce. The content must be tabulated for coherence and less consumption of space.

Specific Recommendations for improvement in the Manual along with justification for change

Chapter	Text of the Chapter	Recommendations for Change	Justification for Change						
Chapter 1	<p style="text-align: center;">Duties</p> <p>The main duties of the Directorate of Correctional Services and different establishments under its control are to enforce provisions of the following Acts & Rules in the Correctional Homes, the prisoners lodged in it and its employees</p>	<p>The functions and duties of the Department must be combined and produced in form of a table in the manual. The functions as mentioned in the manual must form the duties in the table and the method of executing those duties must be conveyed in the form of functions. A template is mentioned for your consideration:</p> <table border="1" data-bbox="800 971 1356 1317"> <thead> <tr> <th data-bbox="800 971 1121 1036">Duties</th> <th data-bbox="1121 971 1356 1036">Functions</th> </tr> </thead> <tbody> <tr> <td data-bbox="800 1036 1121 1175"><i>Ensuring the functioning of Correctional Homes smoothly</i></td> <td data-bbox="1121 1036 1356 1175">How is it done</td> </tr> <tr> <td data-bbox="800 1175 1121 1317"><i>Ensuring production of prisoners in respective Court of law</i></td> <td data-bbox="1121 1175 1356 1317">How is it done</td> </tr> </tbody> </table>	Duties	Functions	<i>Ensuring the functioning of Correctional Homes smoothly</i>	How is it done	<i>Ensuring production of prisoners in respective Court of law</i>	How is it done	<p>The duties as mentioned in the manual is not clearly reflective of the Department's obligations and therefore it defeats the purpose of informing the public. It is helpful to explain in brief what categories of duties exist if not in detail. An experienced officer will be able to draw up a list of such duties, overall of the Directorate.</p>
Duties	Functions								
<i>Ensuring the functioning of Correctional Homes smoothly</i>	How is it done								
<i>Ensuring production of prisoners in respective Court of law</i>	How is it done								
Chapter 1	To ensure compliance of instructions of the Government, Statutory Orders and different	This Department will be subject to the jurisdiction of at least two Human Rights	A lay reader will not be able to catch the import if a generic term is used. It would be						

	guidelines of Human Rights Commission and the Union Government	Commissions-both must be clearly mentioned in full.	useful to hyperlink those terms to the respective websites. But before sending the reader to that website, the Department's website must caution him/her about such action.
Chapter 2	Powers and Duties of Officers and Employees Table 7, 8, 9, 10 and 11	The powers and duties of the officers and employees must be divided thematically and articulated clearly. The themes must be Security, Safety, Discipline, Welfare, Health, Medical Examination, Sanitation, Probation, Remission, Pre-Mature Release, Parole, Deportation, Rehabilitation, Court Production, Maintenance of Record, Prison Libraries, Communication with Prisoners, Staff Welfare, Recruitment of Officers, Prison Monitoring and Others	The powers of the officers and employees are currently divided into Administrative, Financial and Statutory. The information provided under those heads mostly state, "As prescribed by WB Correctional Services Act, 1992; WB Jail Code and other Rules and GOs". For a lay reader, such description will not be of any use as the WB Jail Code and other Rules and Government Orders are not uploaded on the website. It will be easily comprehensible and useful if the duties of the officers and employees are divided according to the various functions of the prison and explained in brief and simpler language in order to satisfy the curiosity of the average reader.
Chapter 3	The procedure followed in the decision making process, including channels of supervision and accountability	The procedure followed by the Directorate in the decision making process must be presented in the form of a flow chart in simple language for decisions and disposal of matter that cater to the interests of prisoner, prisoner's family & friends and prison staff, especially the following: FAMILY 1. Visits by Family & Friends PRISONER	The guidelines issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training on 15 th April, 2013 on the 'Implementation of suo moto disclosure under Section 4 of RTI Act, 2005' explains in detail the method of disclosure under Section 4(1)(b)(iii) on Page 7. It states that the elements of decision-making processes are briefly explained in Manual for Office Procedures, General Financial Rules and the Transaction of Business Rules that are followed by every Government Department. It gives details of how every representation,

		<ol style="list-style-type: none"> 2. Parole 3. Remission 4. Segregation of Prisoners 5. Solitary Confinement 6. Repatriation 7. Legal Aid 8. Transfer of Prisoner to other Jails 9. Transfer to Open Air Camp 10. Court Production 11. Prison Labor 12. Issue of History Ticket 13. Management of Prisoner Bank Account 14. Realization of Wages after release <p>PRISON STAFF</p> <ol style="list-style-type: none"> 15. Recruitment of Prison Guards 16. Transfer of Prison Staff 17. Allocation of Accommodation <p>GENERAL</p> <ol style="list-style-type: none"> 18. Management of Finances <p>The rank/grade and responsibility of every officer must be spelt out clearly at every stage of the decision making.</p>	<p>petitions and application must be dealt with. Therefore, Department in conformity with their requisite manuals and rules, must give details of decision making processes.</p>
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Chapter 4	The norms set by it for the discharge of its functions	<p>The norms that are laid down in statutes, rules, manual for disposal of matters or making decisions in Chapter 4 must be given. The definitions of parole, remission, repatriation, transfer, solitary confinement and others processes and services that the Department provides to the prisoners must be provided. Links to forms required to effect the aforementioned processes must be provided. Conditions and criteria priorities under which a prisoner will become eligible for the aforementioned must also be provided.</p> <p>Links to the Financial Rules, Allocation of Business Rules and Transaction of Business Rules must be given.</p>	<p>The guidelines issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training on 15th April, 2013 on the 'Implementation of suo moto disclosure under Section 4 of RTI Act, 2005' explains in detail the method of disclosure under Section 4(1)(b)(iv) on Page 9. The intention, as it states, is to proactively disclose the standards by which a public authority must be judged and as far as possible, they must be linked with the decision making processes.</p>
Chapter 5	The rules, regulations, instructions, manuals and records, held by the Directorate of Correctional Services under its control and used by its employees for discharging its functions	<p>Listing the names of the rules, regulations, instructions, manual and records held by the Directorate is not sufficient. Complete texts must be available on the website and also in the offices for inspection and copying. If the texts can't be uploaded then the links to these texts, if uploaded on certain other government websites or procedure for obtaining them must be mentioned in clear words.</p>	<p>Legal awareness is abysmal in India. To combat the ignorance and empower the citizens, it is pertinent that the law is laid down clearly and in an accessible manner.</p>
Chapter 6	A statement of the categories of documents that are held by Directorate of Correctional Services	<p>The description of Prisoner Statistics must make a mention of the heads or themes on which the Directorate holds statistics. Similarly, the description of West Bengal Official Gazette must make a mention of all the Government order and circulars issued till date.</p>	<p>The description of a document held by the public authority must be detailed and fulfill the purpose of proactive disclosure, i.e. community monitoring of government's functioning. Mere repetition of the name of the document held by the Directorate in its description doesn't fulfill that purpose.</p>

		<p>It is also useful to point out which exemption under the RTI Act must apply to any of these categories of documents.</p>	<p>Moreover, according to the National Data Sharing and Accessibility Policy by the Department of Science and Technology is based on the principle that all publicly funded information should be readily available.</p> <p>A good way of putting out meta data about the files and documents the Government holds is given in the guidelines issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training on 15th April, 2013 on the 'Implementation of suo moto disclosure under Section 4 of RTI Act, 2005' on Page 5. As a matter of good practice, the Directorate must refer to the Government of Norway's website: https://oep.no/?lang=en</p>
Chapter 7	<p>The particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of policy or implementation thereof</p>	<p>Each arrangement requires explanation about mandate, power, duties etc. and links to report wherever they are available and can be disclosed. This could be produced in form of a table for clarity.</p>	
Chapter 8	<p>A statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such</p>	<p>The minutes of the meetings of the Boards, Council, Committees etc mentioned in the table must be made public. If they are uploaded elsewhere on the website of the Directorate, then their links must be provided in the manual.</p>	<p>Section 4(1)(b)(vii) specifically mandates the public authorities to make the minutes of meetings of these boards, councils, committees etc. open and accessible to public. As a matter of good practice, Rajasthan Prison Department uploads the minutes of meetings of its Parole Advisory Boards and Open Air Camps Selection List: http://rajprisons.nic.in/meetingminutes-right.htm</p>

	meetings are accessible for public		
Chapter 9	Directory of officers and employees	If the officers use mobile phones provided by the State/Central Government, then such phone numbers must be mentioned in the list.	
Chapter 10	The monthly remuneration of officers and employees, including the system of compensation as provided in its regulations	Net Salary of the Officers must be mentioned. The incentives and other allowances given to the officers must also be mentioned.	
Chapter 11	The budgetary details of Directorate of Correctional Services and other establishments under its control	The initiative of the Directorate to disclose its budgetary details with such elaboration is commendable. However, it would be cumbersome and elusive for a lay person to understand it. Simplified versions of the budget must be put out for better understanding of the public. Use of graphs and table must be undertaken. Expenditure of the money allocated must also be produced in simplified version.	The guidelines issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training on 15 th April, 2013 on the 'Implementation of suo moto disclosure under Section 4 of RTI Act, 2005' explains in detail the method of disclosure under Section 4(1)(b)(xi) on Page 10.
Chapter 12	The manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes	Support provided to staff or inmates which must be in nature of financial assistance billed on the public exchequer by way of state or centralized schemes must be put out under this section.	The family of the prisoner would benefit greatly from it, considering many of the prisoners belong to the lowest rung of the society.

Chapter 13	Particulars of recipients of concessions, permits or authorizations granted by it	<p>Permissions are accorded to prisoners, prisoners' family & relatives, lawyers and NGOs for visitation, food, representation, counselling, reformation, interviews, communication, writing and receiving letters, dietary privileges etc. The particulars of recipients of these permissions must be put out on the website.</p> <p>Temporary release of a prisoner, remission and parole are concessions granted to him. The particulars of the recipients of these concessions must be put out on the website.</p> <p>Prison punishments, introduction of new industry, transfer of prisoners to other CHs are authorizations granted by the Directorate. The particulars of recipients of these authorizations must be put out on the website.</p>	The content of this information is of advantage to the prisoner's family and the lawyers. This enables and empowers these persons to ensure that these concessions, permits and authorizations are indeed granted or not.
Chapter 14	Details in respect of the information, available to or held by it, reduced in an electronic form	Chapter 6 and 14 must be merged in form of a table for better clarity of public. It must be divided into four columns - Name of the Document; Description; Electronically Reduced (Yes or No); Link to the Document; If No, Method for obtaining the Document	This kind of arrangement and production of information is beneficial for both the public and the Directorate as it dilutes repetition and makes it more articulate for the public.
Chapter 16	Particulars of the Public Information Officers	The particulars of PIOs of all Correctional Homes must also be provided like it is given in the current website of the Directorate of Correctional Administration.	

Chapter 17	Other information	<p>This can be done if the West Bengal Government notifies additional categories. However, nothing prevents the Directorate from publishing non-sensitive information on its own.</p> <p>The information regarding the wages of prisoners, dietary standards, video-conferencing, medicine stock etc. must be mentioned.</p>	<p>The guidelines issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training on 15th April, 2013 on the 'Implementation of suo moto disclosure under Section 4 of RTI Act, 2005' could be referred to for disclosure under Section 4(1)(b)() on Page 1, 2 and 3.</p> <p>In <i>Sehjad vs. Tihar Jail</i>, CIC/SA/A/2014/001282, Prof. M. Sridhar Acharyulu, Information Commissioner, directed the jail authorities to proactively disclose the diet chart, standards of food for inmates suffering simple and rigorous imprisonment and children, medical services and redressal grievances available at prison. (Copy of the order attached)</p>
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