

Sensitisation Workshop on the Right to Information

Organized by

Consumer Rights Education and Awareness Trust (CREAT), Bangalore

District Legal Services Authority (DLSA), Tumkur

Commonwealth Human Rights Initiative (CHRI), New Delhi

Date: 08/01/2005

Time: 9:00am to 1:00pm

Venue: Birla Auditorium, Siddhaganga Institute of Technology Campus, Tumkur

Background:

CHRI has been associated with the effort to operationalise people's right to information in Karnataka for more than – years. We contributed substantially to the drafting process of the *Karnataka Right Information Act (KRIA) 2000*. Ever since we have been sensitizing various civil society groups on the value of KRIA to curbing corruption and increasing transparency in administration by conducting public meetings and awareness building workshops. In 2004, we conducted training workshops for NGOs and VOs and held sensitization seminars for the media, the academic community and the youth. Meetings with government officers who are responsible for records maintenance and supply of information to the requestors have also been organized to unblock the information outflow channels.

Objectives of the workshop:

CHRI is collaborating with CREAT to raise awareness amongst judges and lawyers on the provisions and potential of KRIA as most of them have remained largely unaware of the same. Upon the invitation of the District Legal Services Authority of Tumkur, which is familiar with our work from newspaper reports and the articles written by our collaborator Mr. Y G Muralidharan of CREAT, a half-day awareness-raising workshop was organized for judges and lawyers in Tumkur district.

Participants' Profile:

18 of the 32 judges working in Tumkur district attended the workshop. About 25 lawyers and a Deputy Superintendent of Police were also present. Three of the participants were women – two judges and one lawyer (the representation of women in the legal fraternity in Tumkur is poor, a reflection of the macro-level reality of the legal profession). These judges deal not only with routine civil and criminal matters but also preside over special courts set up for speedy delivery of justice (Fast Track Courts), atrocities against dalits (designated courts under the *Scheduled Castes and Scheduled Tribes, Prevention of Atrocities Act, 1989*) and matters relating to public service delivery like electricity supply (designated courts under the *Anti-Theft Law*). Senior and junior lawyers dealing with civil and criminal matters also participated in the workshop.

Working Session:

Inaugurating the workshop the Principal District and Sessions Judge Mr. K.K. Bhat remarked that despite dealing with matters of law and dispensing justice everyday judges found it difficult to keep

themselves abreast of recent legislative developments owing to the enormous increase in the workload of the lower courts. Taking note of the large number of judges who attended the workshop he observed that the enthusiasm of judges to learn more about KRIA was indeed heartening. Rather than sit through boring speeches which carries little retention value he welcomed the interactive mode in which the workshop had been organized. In keeping with his role as head of the DLSA, Tumkur he pointed to the need for spreading legal literacy amongst the people living rural areas and emphasized that awareness building about KRIA was crucial to their empowerment.

Presentation on the provisions of KRIA:

Mr. YG Muralidharan began his presentation by stating that information was money in this age of cyber-technology. While information itself had become a commodity and revolutionary advances in information recording, transmitting and retrieval systems were being made – a process to which the neighbouring city of Bangalore was contributing in a significant way - he noted that the common citizen struggled to access information held by the government which was crucial for his/her well being. He explained that the world over societies are engaged in developing mechanisms by which to institutionalize participatory democracy as the practice of representative democracy has not been able to secure good governance for the most deprived and the vulnerable. The right to information was one such tool in the hands of the citizen tax payer who wants better governance, transparency in public decision making and spending of public funds and accountability of those vested with the responsibility of exercising state power. He observed that civil society organizations had played an important role in this change of trajectory in many democracies. In India, the very fact that the United Progressive Alliance Government has appointed a civil society committee – The National Advisory Council - to advise and oversee the implementation of the Common Minimum Programme was indicative of the increasing recognition of civil society's role in securing good governance.

Muralidharan made a detailed presentation on the provisions of KRIA with the help of OHP transparencies.

Presentation on the strengths and weaknesses of KRIA:

Mr. Sadashiva Reddy, a practicing advocate and collaborator with CREAT, made a brief presentation on the strong points and the shortcomings of KRIA. He began by saying that information is key for citizens to secure justice. If correct information was not secured within the right time, a litigant could lose his/her case which could have drastic consequences. He noted that lawyers also had information needs and often ended up bribing officials to secure documents from government offices for their clients. The enactment of KRIA not only made it a duty of government officers to give certified copies of documents to requestors as a matter of right but also to give it within a time bound framework. He noted that KRIA was a unique law that could turn out to be a boon to lawyers and save a lot of effort and resources not only for themselves but also to their clients. He noted that several laws like the *Environment Protection Act, 1986*, *The Factories Act, 1948*, the *Industrial Disputes Act, 1947* and the *Income Tax Act, 1961* had *suo motu* disclosure provisions. But KRIA is one step ahead and puts in place a process for making information available to the citizen as a matter of right. While previously there was no compulsion on the part of officials to supply information to the people, the penalty provision in KRIA was a deterrent against officials who withhold information unreasonably from the public. He noted that in many cases competent authorities refused to honour an information request initially but were forced to part with

information when compelled by courts. He pointed out that the compulsory requirement of having to offer a reason for seeking information in the application (Form – A) was against the spirit of the fundamental right to information of a citizen tax payer in a democracy. This requirement he said was included by drafters in the application form after the process of public consultation on the rules to KRIA had been completed. He also stated that some of KRIA's provisions were contradictory especially in the context of denial of information. He pointed out that the location of information in an office other than that of the competent authority was reason enough for denial of information. This provision had also been surreptitiously included in the rules and goes against the spirit of the law. He also noted that the law did not provide any remedy to a requestor whose appeal against denial was not decided upon by the appellate authority. The High Courts initially did not entertain appeals against such a silence. But subsequently a writ petition has been filed and is pending before the High Court of Karnataka. (Mr. Reddy himself is arguing the case.)

Activism using RTI – Presentation of Case Studies:

Mr. Venkatesh Nayak of CHRI made a presentation of four cases of how citizens and groups have been using RTI laws in different states in Karnataka (presentation attached). The cases originate from Delhi, Rajasthan and Maharashtra. During the presentation Venkatesh pointed out that the scope of the 'right to information' in KRIA was limited as it did not include a) the right to inspect records and b) the right to obtain samples of materials used in public works which are included in RTI laws prevalent in Delhi, Maharashtra and Rajasthan. He also pointed that there was no institutionalized mechanism provided for by KRIA for citizen oversight as in Goa, Maharashtra and Delhi which had set up State Councils to monitor the implementation of the respective RTI laws. This was yet another shortcoming. He also informed the participants of a case from the UK where citizens used the RTI law in Sweden to obtain information that was denied to them by their own government. Such activism for transparency and accountability is likely to become important in a globalizing world, he noted.

Discussion Session:

Many lawyers attending the workshop criticized the requirement of furnishing reasons for requesting information saying it was against the spirit of the law. There was a discussion on what tactics requestors would have to adopt in order to overcome the resistance and reluctance of officials to give information to citizens. For example it was pointed out that citizens send applications on all kinds of matters to government offices by Registered Post to ensure that there is a record of their document having reached the concerned office. However there were many instances where officials reported receiving such mail but recorded that the envelopes were empty. Mr. Sadashiva Reddy responded by saying that requestors will have to send their application Under Posting Certificate (UPC) rather than by Regd. Post. Under the UPC system the Postal Department certifies a copy of the document being sent by post with a stamp and seal thereby attesting to the fact that a document has indeed been posted. This is valuable evidence to counter claims of officials that empty envelopes had been delivered to their offices.

Mr., Venkatesh Nayak asked the judges present whether they would honour information requests received from citizens on statistics of pendency and disposal of cases. First, many judges expressed doubts whether their courts came under the purview of KRIA as they are governed by the rules framed by the High Court. When it was pointed out that the subordinate judiciary was funded by the state government and would therefore fall within the purview of KRIA judges pointed out that that

matter needed to be sorted out. It was recognized that an application to the Department of Personnel and Administrative Reforms – the nodal agency to monitor the implementation of KRIA – was in order to sort this matter.

Judges also pointed out that they dealt with information requests from clients on a daily basis and passed orders according to the rules laid down by the High Court and the Supreme Court on whether to allow access or not. So there was no need for a separate law on access to information covering the courts especially if third parties were seeking such information which in case they are not otherwise entitled to. Second, they stated that they submitted pendency and case disposal statistics on a monthly basis to the High Court. Any person could approach the High Court and secure this information. But some of the judges took note of the fact that the jurisdiction of courts was barred as regards the decisions taken by the competent and appellate authorities under KRIA. When participants suggested that KRIA should be amended to remove this bar, the judges remarked that this was a fit matter for debate and due consideration.

The workshop was presided over by the Additional District and Sessions Judge Mr. Narayanamurthy who brought the event to a close with his brief remarks. He welcomed the objectives of the workshop and pointed that there was a need to conduct such workshops in the remote parts of the district where citizens are unaware of the process of accessing information from government offices. CHRI and CREAT were invited to organize another large public meeting on KRIA in collaboration with DLSA in future.

Follow-up activities:

CHRI and CREAT have been invited to attend legal literacy workshops which will be organized by the DLSA in future and make presentations on KRIA. CHRI and CREAT will follow-up with the participants from the lawyer fraternity on the number of applications filed under KRIA subsequently. CHRI will also approach the State Legal Services Authority to conduct similar workshop in other districts.
