

RIGHT TO INFORMATION IMPLEMENTATION AUDIT

Testing the extent of real access to information in Bangalore

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“To provide right of access to information to the citizens of the state which will promote openness, transparency, accountability in administration and ensure effective participation of the people in the administration.”

- Karnataka Right to Information Act (KRIA)

The Right to Information has gained considerable importance in recent years in India, with initiatives being taken by a number of states to enact specific legislations to provide for access to information. The long awaited Freedom Of Information Act 2002 has finally been passed by the Indian Parliament in December 2002 and received the presidential assent in January 2003. These legislations are seen as vital tools to ensure effective participation in governance and to counter corruption by increasing transparency in government functioning. Karnataka, one of the eight states¹ in India to have enacted its own right to information legislation has taken a monumental step towards empowering citizens with the right to access information from the government. While the law was enacted in 2000, it was only in July 2002 that the rules were notified and the Act came into effect. On paper, the Karnataka Right to Information Act is seen as one of the better laws in the country. However, its real value and effectiveness will be only tested through analysing the practical implementation of the law.

In order to test effective implementation of the Act, Commonwealth Human Rights Initiative (CHRI) in New Delhi and Public Affairs Center (PAC) in Bangalore embarked on a joint effort to conduct an “Implementation Audit” of the Act in November 2002. The intention was to see if various government departments were implementing the law and also to identify barriers to effective implementation. In the first phase, CHRI and PAC brought together a cross-section of volunteers from across Bangalore to participate in the implementation audit. The Audit sought to answer the simple question of whether the Right to Information was working in Bangalore or not. It was hoped that the findings of the Audit would stimulate the various public authorities to put in place systems to implement the Act more effectively.

The methodology followed was fairly simple - volunteers were oriented on the working of the Act and the various procedures involved in seeking information. Once trained, the volunteers identified their information needs and filed applications to various agencies in terms of the Act. Over a five-month period, 100 applications were filed to 20 public authorities. To ensure full documentation of experience each volunteer was given a Field Assessment Observation Schedule (one for every application submitted), which would serve as a record sheet of observation for each agency visited. The experiences of the volunteers were varied - very often their applications were not accepted and even if accepted they often did not receive a response. In many cases where information was finally provided, the volunteers found this information incomplete. In all cases, the volunteers had to constantly

¹ Tamil Nadu, Rajasthan, Goa, Karnataka, Maharashtra, Delhi, Assam and Madhya Pradesh

follow up and visit the public authorities before receiving a response to their applications. From the twenty public authorities approached, eleven did not even respond to the applications and to add to government apathy, most of the public authorities approached at that time had not even appointed their competent authorities. Except for one public authority, the suo moto disclosure provisions which puts an obligation on all public authorities to display relevant information on notice boards outside their offices was not being fulfilled.

The audit clearly revealed a lack of general awareness of the law among the government officials as also a lack of clarity on how to go about implementing the law.

These findings were communicated in an open public meeting held at the City Mayo Hall (Bangalore) on 16th May 2003, attended by key officials of various government agencies, media persons and a cross-section of civil society. The meeting provided an opportunity for the public to interact with the concerned officials and raise questions on the lack of implementation of the Act. Once the findings of the implementation audit were presented, PAC and CHRI put forth some recommendations to ensure the effective implementation of the Act. Particular emphasis was placed on the work of the Department of Personnel and Administrative Reforms, the nodal agency for implementation. It was suggested that they should conduct training sessions for all officers, especially for Competent and Appellate authorities. Also on the front burner was the need for strict adherence to prescribed time limits for disclosure and the necessity for the imposition of penalties for lack of response to appeals against delays and the refusal to provide information.

Responding to feedback generated by the implementation audit, the Municipal Commissioner affirmed that he will shortly put up all BMP Councils Resolutions on the agency's website and that while there is nothing to hide there is a, "mindset not to divulge information and this needs to be overcome". He further said, "having gone through the quality of responses, as a citizen I would have sought more information."

Six months down the line CHRI and PAC are entering into the second logical phase of the implementation audit- testing the working of the appeal body under KRIA. A few applications will be filed under the law by the end of October and tracked and taken through the full length of appeal.

The implementation audit served its purpose in that: (a) one of the key agencies, the municipal corporation conducted training programmes for their offices and also set up information centres across the city in order to effectively implement the Act; (b) it helped generate valuable feedback and showed the lack of implementation of the law, where previously the government has no record on the status of implementation of the Act; and (c) the process created awareness not just among citizens who participated in the implementation audit but also among government officials, because in many cases the volunteers attached copies of the law in order to inform ignorant government officials of their duties. As a direct positive result of the implementation audit the Weights and Measures department has started to implement suo moto disclosure provisions and all offices have been provided with copies of the law, the rules and guidelines on implementation.

An implementation audit of this nature is easily replicable in any jurisdiction and can be a useful methodology through which citizens can monitor the implementation of their access to information laws.