

**REPORT OF THE MEETING BETWEEN NCPRI REPRESENTATIVES AND SECRETARY,
DEPARTMENT OF PERSONNEL AND TRAINING, GOVERNMENT OF INDIA**

7 MARCH 2006

Some members of the NCPRI working committee met with Shri Pratyush Sinha, Secretary, Department of Personnel and Training (DoPT), Government of India, on 7 March 2006. They discussed with him and his colleague some of the problems that people were facing in using the Right to Information Act of 2005 (RTI Act). Anjali Bhardawaj, Nikhil Dey, Suruchi Maira, Aruna Roy, and Shekhar Singh represented the NCPRI.

The DoPT was handed over the following note, with a covering letter, and each of the points were discussed in detail.

SOME PROBLEMS AND SUGGESTIONS RELATED TO THE IMPLEMENTATION OF THE RTI ACT 2005

1. Many ministries and departments of the Government of India seem to have appointed multiple public information officers (PIOs). This results in citizens having to run from office to office seeking out the correct PIO – sometimes in vain.

There are also problems regarding people's access to PIOs. In many departments the PIO can only be met after a security pass has been obtained. However, in case the PIO is not in his/her seat, the security desk does not issue a pass. Therefore, people have to sometimes wait for hours till the PIO returns to his/her seat.

Suggestions:

1. In order to avoid harassment to citizens at the application making stage, there should be a window at each of the geographically distinct offices of any public authority for accepting RTI applications, accepting the application fee and for accepting RTI appeals, for the public authority as a whole.

- a. This should be a single window facility, and
- b. This should be located outside the security pass system, preferably at the reception counter.

The Department of Personnel and Training (DoPT) should send out a circular to all Central Government public authorities and to all state governments asking them to ensure that the approach suggested above is adopted in order to prevent harassment to the people.

2. There appears to be a lot of confusion about the appointment of Assistant Public Information Officers (APIOs), both at the central and state levels. The RTI Act says: "...every public authority shall designate an officer...at each sub divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act..."(5)2)). However, in many states and in some central departments, APIOs are being appointed in the same offices where the PIOs are already located. Though there has been a welcome initiative from the DoPT to designate postal officers as central APIOs, the confusion still seems to prevail.

Suggestions:

The DoPT should send out a circular to all central public authorities and state governments drawing their attention to the relevant section of the act and suggesting that:

- a. APIOs should immediately be appointed at all the sub district level.

- b. That where PIOs are already stationed or ought to be stationed, there should be no insistence to receive application by an APIO, and the subsequent additional 5 days time for reply.
- c. The DoPT should also, once again, draw the attention of the central public authorities to the welcome initiative by the DoPT to designate postal officers as central APIOs, and request them to consider using the facility offered by the Department of Post.

3. It has also been reported that various ministries and departments of the Government of India are either insisting that they will only accept the specific forms that they have designed (the DDA for example), or are demanding information or documentation that is specifically prohibited by the law (the Ministry of Home Affairs, for example, demands proof of residence with applications).

Suggestions:

a. The DoPT should send out a circular clarifying that applications under the RTI Act do not require any form and that people are free to apply on plain paper, as long as all the required information is included.

b. The DoPT should also caution the various public authorities against insisting on applicants providing information that is specifically barred under section 6(2).

4. The RTI act requires that every public authority suo moto publish, within one hundred and twenty days from the enactment of the Act, the particulars of its organization, functions and duties, the powers and duties of its officers and employees, the procedure followed in the decision making process, including channels of supervision and accountability along with a great deal more information (section 4. (1) (b)). However, many state and central public authorities have taken little or no action so far.

Suggestions:

a. The DoPT should write to the central public authorities/state governments seeking their urgent compliance with this provision.

b. Perhaps some awards can be instituted, and public authorities that have most effectively complied with this provision can be awarded each year.

5. The DoPT, despite earlier assurances, seems to have sent out no guidelines to central/state governments on the implementation of the RTI Act. The NCPRI had drafted a detailed set of rules and sent them to the National Advisory Council (NAC), which had forwarded them, after some discussion, to the DoPT. At an earlier meeting, the DoPT had indicated that most of these draft rules would be converted into guidelines and widely circulated by the DoPT before the act became operational. However, no action to this effect seems to have been taken.

Suggestions:

The DoPT may kindly once again examine the draft rules forwarded by the NAC and urgently issue a set of guidelines, as done for the Rural Employment Guarantee Act, that cover all the important aspects of the law.

6. Though the RTI Act (Section 6(1)) specifies that "A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed...." The corresponding rules specify that fee can be paid by cash, demand draft or bankers cheque. However, this does not facilitate the filing of applications through electronic means and is generally expensive and somewhat restrictive.

There are also technological possibilities of paying the fee through electronic means, especially through credit or cash cards, or through telephone and SIM cards.

Suggestions:

The DoPT may kindly consider revising the rules in order to :

- a. Specifically allow payment through revenue stamps or non-judicial stamps (as has been done by the Delhi Government under the Delhi RTI Act).
- b. Add the provision that each public authority can also devise, in addition to these, any other methods possible in order to facilitate the payment of prescribed fees.
- c. Initiate a process by which payment of fees could be made through various electronic means.
- d. Also write to state governments accordingly.

7. There appears to be a lot of confusion about what would qualify as proof for considering a family to be below poverty line (BPL) and thereby entitled to free information.

Suggestions:

- a. The GOI needs to urgently issue orders specifying, for example, that a self verified ration card should be treated as proof of BPL status under the RTI Act.
 - b. The DoPT also needs to take this up with the state governments.
8. There are widespread complaints of threats against applicants of information, especially from affected government functionaries and other vested interests.

Suggestions:

- a. As the right to information is a fundamental right, the DoPT may consider making threats against applicants for information a cognisable offence, through appropriate amendments in the relevant laws.
 - b. The DoPT may also consider requesting the Home Ministry to send out instructions to Delhi Police, asking them to take serious note of such complaints.
 - c. A similar suggestion could also be made to the state governments.
9. There are central public authorities all over the country. Also, people from different regions might like to seek information from central government institutions. It would, therefore, seem impractical to locate all the central information commissioners in Delhi. Instead, it would be a good idea to have them located in different regions to facilitate filing of appeals and complaints by people in that region.

Suggestions:

The DoPT might kindly consider taking necessary action to set up regional offices of the CIC and post information commissioners there.

In addition, four other points were also raised with the DoPT:

1. There was an urgent need for training civil servants, at all levels, in the provisions and uses of the RTI Act.

2. There was also a need to publicise the RTI Act, especially through the All India Radio and through regional newspapers. Important provisions of the Act and details of concerned officials should also be painted on walls of government buildings, especially in the rural areas.

3. There was a need to set up a consultative process by which the DoPT, through constant interaction, could develop guidelines and address other emerging issues.

4. As a follow up of the point above, the DoPT might also consider setting up a National RTI Council, with representatives from civil society groups, to formalise a periodic interaction and thereby get regular feedback and suggestions.

The DoPT seemed receptive to all the points made in the note and the additional points made above. The Secretary gave instructions to immediately initiate a consultative process; to check from the Ministry of Rural Development the method used by them to identify BPL families and to adopt it for RTI; in the meantime, to notify that ration cards should be considered proof for the purpose of the RTI Act; and to amend the rules to provide for payment of fees through revenue stamps and through electronic means.

It was pointed out by officials of the DoPT that they did not have much authority over state governments and, therefore, could only suggest these various measures to them. However, they seemed to be open to the suggestion that they could request the Prime Minister to address a letter to the various Chief Ministers, requesting them to adopt the various suggestions made.

The Secretary, DoPT also provided a copy of a letter he had recently addressed to all the Central Government Ministries/Departments regarding some of the issues that had been raised by us. A copy of the letter is given below.

The NCPRI will continue to pursue these matters and report, from time to time, to its members.