
PERILS OF POWER THAT COMES FROM KNOWING
Goa's little-noticed experiences with the Right to Information

"...it is necessary that every
 Governmental action should be
 transparent to the public...
 every citizen should be able to
 get information from the Government..."
 --- The Goa Right to Information Act 1997

By Frederick Noronha

SOME SWEAR the law opened up for them vaults that hid earlier- inaccessible official 'secrets'. Others see it as an ineffective facade of openness for officials who dodge the citizen. Undeniably the Goa Right to Information Act (GRIA) of 1997 has helped change things here, and gives this small state an edge as the rest of the nation long debates the desirability of such a law.

Legislators who pushed through the landmark law back in July 1997, would have not dreamt of its far-reaching impact. But as citizens show growing skills in harnessing the power of information, clear attempts are also underway -- by bureaucrats, politicians and others -- to belatedly put back into the bottle the genie that could empower the common man and campaign groups.

Hundreds of applications have poured in. Not just from the handful of well-organised campaign or watchdog groups active here. Such came from the common man (and often woman) in a state where widespread education and outmigration by malefolk has already empowered a fairly wide section, and made women cope with added responsibilities.

BOX 1: Applications filed under the Goa RtI Act

Village panchayats 537 applications
Police Department 78 applications
Municipal Councils 71 applications
Public Works 32 applications
Industries & Mines 28 applications
Co-operative Societies Registrar 24 applications
Planning & Development Auth.Vasco 23 applications
Directorate of Education 22 applications
Health Services 20 applications
Forest Department 19 applications
Planning & Development Auth.South Goa 17 applications
Accounts Department 15 applications

Goa Public Service Commission 15 applications
Department of Personnel 13 applications
Miscellaneous other departments 135 applications
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TOTAL APPLICATIONS (as of 2000)	1049 applications
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(Source: Director of Information, Govt of Goa.)

Some officials -- speaking off the record -- are blunt in seeing citizens' queries is a waste of their time. "We simply don't have the manpower," one argued. Seen from another side, citizens point out the law -- even costs to the exchequer -- tones up the administration precisely by exposing functioning behind red-tape to the public glare. "This is the price (one has to pay) for any open society," argues Professor Peter R. de Souza, head of the Goa University's political science department.

Since early 1998, this law has been a god-sent to a range of people. Environmentalists, the fringe groups trying to expose corruption. Villagers wanting to keep tabs on illegal acts by their neighbours. Police officers who feel they've been deprived a promotion. Even the active local mining lobby which applied for information under this law to fight a rearguard action against plans to expand local wildlife sanctuaries.

But quite a few are dissatisfied. Says retired IAS officer Arvind P.Bhatikar: "I've not yet got a reply to a query about the assets of four ex-ministers. They say it's confidential." Margao-based Bhatikar believes this is a "very progressive act... but one suffering from poor implementation". Misgivings apart, scores of others like him have still tried it as a tool to attempt to expose corruption or racketeering leading to environmental degradation.

Issues like the felling of trees, selling villagers' water by tankers, illegal constructions 'regularised', industrial mega- projects, water bills of certain industries, mining-related pollution became subjects of GRIA applications.

"One shortcomings in the law is that the private sector is not covered. It's very important. Privatisation is coming in, in a big way, and infrastructure too is in private hands," argues journalist Sandesh Prabhudesai. He was among those who successfully led the campaign to drop two obnoxious clauses in the draft law that scribes felt could be used to penalise them.

Ironically, from official figures supplied (see Box 1), it cannot be ascertained how many queries were adequately answered. Official figures are not 'open' enough to state how many applicants were given the information they needed. Only the numbers of queries "replied to" are given!

There are other problems too. "Some officials have a very ambiguous way of understanding what information you want," says Godfrey J.I.Gonsalves, linked with a citizens' group in Margao, the bustling and overgrown commercial capital of Goa.

But this has not prevented citizens from using the new law to uncover evidence of corruption. Information was sought on a frequently-bursting pipeline to Goa's main Salaulim dam, and a bypass road for Ponda town.

Both projects were suspected to have been made on questionable basis. Others sought information on capital subsidy paid to hotels here. Political manipulation has in the past been rife in subsidy allocations.

Urban bank affairs, computer purchases, excise collections and a suspected lottery scam were also came under the fire of scrutiny. In the last two cases, the applicant was none other than Manohar Parrikar, who was then leader of the Opposition BJP. Parrikar also used it, in the past, to probe certain Excise notifications.

Currently, information is being dug-up as to what lead Goa to earning the dubious reputation of becoming the first Indian state to allow licensed casinos, after intense political lobbying.

Mapusa-based lawyer Premanand J. Kolwalkar cautions that the law is used by individuals, not always in public spirit. "One brother cuts a tree, and the other brother wants details (from the Forest Department). People don't really care for the environment. As long as they get their share, they're happy."

Under the law, any citizen can apply in writing for "any... information relating to the affairs of the state or any local authorities". Information can be refused only in very special cases.

(Refusal could come, for example, if information sought prejudices the integrity of India; is an unwarranted invasion of personal privacy; could affect Centre-State relations; affects commercial secrets; breaches legislators' privileges; or could endanger the life of any informant or source.) Unlike states like Tamil Nadu, the exceptions that allow information being blocked are few... at least on paper.

Most significantly, "information which cannot be denied to the State Legislature shall not be denied to any person". This means authorities blocking information have the onus of showing that it could have been blocked to the legislature too.

'Competent Authorities' named under the Act have to furnish or refuse the information "in any case within 30 working days".

Refusal orders have to be passed in writing. Aggrieved citizens can appeal to the Administrative Tribunal. Fines of Rs 100 per day of delay can be levied on erring officials.

"We've never had problems in getting information (under this Act). Our Supreme Court counsels are shocked and wonder how we get access to such files. We tell them that in Goa, we can get access to it under the law," says Dr Claude Alvares, Secretary of the Goa Foundation that is actively involved in green litigation.

But Alvares still maintains that one should first try and get out information without the Right to Information. "Through the statute, you disclose your intent to the enemy," he says. Honest officers are sometimes willing to leak out the truth, says he.

Panaji-based businessman and campaigner on various causes M.K.Jos could perhaps be seen as one of the veterans in skilfully utilising the law (See Box: Metastrips). Another veteran is

advocate Gajendranath Usgaonkar, who trawled almost every government department in a campaign over the implementation of job quotas for OBCs (other backward classes).

Says Jos, who says he has filed about 70 applications so far: "This Act lent tremendous help in devastating Meta Strips (a controversial Rs 200 crore plant set up to recycle waste metals). It exposed the dubious games of politicians." But, in turn, sexagenarian Jos has had to face half-a-dozen defamation suits in courts across the country, mainly from the Meta Strips. He also faces police cases over the suicide of a local lecturer whom Jos charged -- after a GRIA application -- had claimed undue retirement benefits.

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GOA'S RIGHT TO INFORMATION ACT has not had a smooth ride however. As it was getting popular, suddenly a minimum fee was slapped on each application -- Rs 100 per application plus Rs 2 per page of photocopied information (twice the market rate).

"This Act has been very helpful in many cases.... But the charges can be a deterrent. We have paid Rs 100 for just a four-line answer!," say Patricia Pinto, a civic issues campaigner who recently got elected to the Panaji municipality.

Unhelpful officials are another roadblock. Says 'The Navhind Times' journalist Rauf Beig: "In my case, I could get everything (needed). But I've heard complaints where people are made to run from pillar to post. They ask for one thing, but are given something else. Where officers don't have anything to hide, they are ready to give out information."

"Most people do not know that they can demand the right to inspect documents too under this law. This is very useful if you want to locate information," says environmentalist Alvares. He feels that some organisations that are "racketeers" tend to be notorious in hiding information.

Some officials simply fail to reply or give evasive answers, knowing the citizen often lacks the endurance.

"At the very moment the 'Competent Authority' refuses to give the information, the citizen collapses. He fears the costs involved with the task of going to 'court'," argues GRIA veteran M.K.Jos.

In one case, Panaji Movement for Civic Action president Averthanus D'Souza says he was told to make a Right to Information application to get a copy of the state government's groundwater policy, which officials claimed had already been published in the press. "It was not the intention of the Act to put obstacles in the way of the citizen," says an angry D'Souza.

Dr. Jose C. Almeida, another ex-IAS official and former managing director of the Economic Development Corporation, came up a cropper when he approached that very body for information. "When the EDC denied me information I sought (to prove misadministration), I successfully appealed to the Administrative Tribunal. Then, EDC employed a lawyer to go

to the High Court. He comes with his big books... what am I (a retired septuagenarian) going to do?"

Lack of effective controls and monitoring over the implementation of the law has also added to the problem.

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NONETHELESS, SOME applications clearly show the law's potential. The Goa Forest Department had to part with official information on trees being felled in some pockets of the state.

One school from the beach-village of Calangute demanded information over noise-pollution caused by holidayers there. John Vaz of Maina-Socorro wanted details on plans to set up an industrial estate in the area, in a state where rampant industrialisation has cut into local resources and dented the once-pristine environment.

"The Panaji Municipal Council just didn't respond," recounts senior journalist Cyril D'Cunha. He was following up how hotel terraces in state-capital Panaji were being converted into restaurants or halls for hire. "This is a very, very serious thing (for Panaji). Some hotels have bribed politicians half a million rupees. There are attempts to extort money over this," he says.

Rulings from the Courts have however impacted the manner in which the law works. Says women's rights campaigner Advocate Albertina Almeida: "In one useful judgement, the courts held that just because official documents are missing, it's no grounds to deny an applicant information. After all, it's the duty of the authorities to see that all documents are protected."

But, in a setback, another ruling said information taken for "private" purposes didn't come under the purview of this law. But citizens who realise the potential of this law say this goes against its spirit: the GRIA is meant to ensure transparency, and this shouldn't be mixed with the purpose information is sought.

"It's a very good law. Otherwise journalists and the public were not being fed with any (of the required official) information. Earlier everything could be done under the cover (of secrecy). Most states now look at Goa as a guiding example," argues Goa Joint Director of Information Menino Peres. (Director of Information K.V.Prabhugaonkar, Member Secretary for the GRIA, was convalescing and unavailable for comment at the time of writing.)

Others view it differently. Very few journalists have used the Act to ferret out official information. Perhaps the 30-day lock-in period doesn't fit into the 24-hour time-frame of the daily newspaper. In addition, scribes prefer other ways of getting information, including building bridges with officials they might not want to antagonise.

One Department of Information staffer, who himself used the law, said on condition of anonymity: "It's a waste of time. Officials are capable of various types of jugglery. Initially,

when the law was passed, officials were afraid of facing fines or jail. But now they often are hiding behind the argument that information sought is 'confidential'."

Journalist Damodar Ghanekar argues: "Why be skeptical about the law? Only when you test fire a missile do you know whether it works. This (law) is a real missile. Of course, not enough people are aware (to utilise it effectively and explore it fully)."

SIGNIFICANT DATES UNDER THE LAW

- July 31, 1997 : Goa Right to Information Act is passed. Journalists protest in Assembly, fearing penal provisions can be used against Press. Controversial penal provisions later dropped.
- Oct 29, 1997 : Goa Governor grants assent to the law. List of
- Feb 23, 1998 : 'Competent Authorities' (who can be approached for information) announced, making the law implementable.
- mid-2000 : Over a thousand applications in, according to figures available officially. (Some departments have not responded.)

LOOPHOLES IN THE LAW

THIS LAW ALLOWS for the recovery of fees "which shall not exceed" processing and related costs. But minimum fees now chargeable is Rs 100. This makes it a prohibitive exercise for bonafide citizens, while motivated lobbies could easily afford this.

SOME OFFICIALS have begun treating every application they receive as a Right to Information application. This means getting routine information has become costly.

GROWING CORRUPTION in instability-prone Goa means few politicians are committed to the law. There is also lax supervision of how the law is implemented.

DELAYS IN parting with information -- despite fines -- is a dampner.

LACK OF RECORDS, or well-kept records, means the law cannot be implemented in letter and spirit.

THE STATE INFORMATION COUNCIL is a largely defunct and non- working body.

OFFICIALS WHO go in for appeals should not get state-funded lawyers, paid for by the taxpayer.

PRESS HAS OFTEN not actively followed up information thrown up by Right to Information applications.

SOMETIMES OFFICIALS make use of the 30-day period to delay the release of even simple, routine information.

CASE STUDY

Photos available, if required...

CASE STUDY : ADVOCATE ALBERTINA ALMEIDA

Better known as one of Goa's most prominent women's rights campaigners, Advocate Albertina Almeida has a love-hate relationship with the GRIA.

Ask her if she's on State Council for Right to Information, and the lawyer in her mid-thirties says: "I am, and I'm not!"

This confusion has been caused by the state government's ambivalent approach towards the law. On the one hand, Panaji is quick to take credit for the law, unique by Indian standards. On the other, politicians and officials are uneasy about what information it could take to the public domain.

Almeida was one of those named to the Council meant to review the operation of the Act, review whether citizens were getting "the fullest possible access to information", and work towards improving accuracy of information available.

But that body has hardly met. Goa's persistent political instability has been a convenient alibi for its nonfunctioning tenure.

"Neither has the Council been formally woundup (nor is it functioning)," says Almeida. She says its members learnt "informally" that the government had plans to change its members. "Certain politicians have never been keen on the GRIA," she adds.

Incidentally, the lawyer-activist herself had a nightmarish time in getting information from the Panaji municipality, over a wall being constructed in front of her ancestral home.

"They refused the information, saying it was 'confidential' and violated somebody's privacy. If that is the case, everything you ask concerns somebody's 'privacy'. After all, this is a government license, and has to follow certain rules while being issued," she told this correspondent.

After an appeal, the Administrative Tribunal ruled in her favour. But the municipality stayed put, and adopted various means to block this info from getting out. In spite of promising the

information, they resorted to stories such as the clerk being absent and the photocopying machine not working.

Finally, after many frustrating visits, Almeida simply refused to leave the municipality's chief officer's cabin. This story made it to the front-pages of the local newspapers, showing how a member of the State Council for the RTI was herself deprived the information, notwithstanding the laudable claims made in the GRIA.

Finally, after the protest, she got the simple document. Almeida has since handled other Right to Information applications and appeals too, both on behalf of the women's groups, and citizens.

CASE STUDY 2: META STRIPS

When a copper-waste recycling plant was located to a South Goa village, a section of the local populace was angry and afraid. Why had politicians acted the way they had? How would it affect them?

Irate protests on the roads lead to the killing of one policeman, and brutal attacks on three protesters. On another front, the battle of ideas exposed a whole unexpected can of worms... and put the spotlight on how officials and politicians function in this state.

"GRIA helped us tremendously in exposing dubious games (of politicians). Circumstantial evidence was very strong from the documents emerging," argues M.K.Jos. He is perhaps Goa's most experienced user of the law, and was at the forefront of the Meta Strips case.

He found file notings in official records that showed the High Powered Coordination Committee had given its approval to the project in a matter of "72 hours", claims Jos. He is critical of the role played by former Industries Minister Luizinho Faleiro.

Later GRIA inspections and applications were undertaken at the Goa State Pollution Control Board, the Department of Industries, the Special Land Acquisition Officer, and the Chief Inspector of Factories and Boilers... bringing out various aspects of the project.

Jos argues that politicians here are keen to promote industrialisation because they takeover land for cheap, and hand it over via questionable deals to those setting up often-contentious industrial units.

"If this law had been there earlier, we would have benefitted a lot in other campaigns. In the Konkan Railway case, we had a difficult time in getting information," says Jos. He feels loopholes need to be plugged in the law.