

Memorandum of Recommendations to The Chief Secretary, Government of Karnataka to Strengthen the Karnataka Right to Information Act

September 28, 2004

**Mr. K.K. Misra
Chief Secretary to Government of Karnataka
Vidhana Soudha
Bangalore – 560 001**

Dear Sir,

The **Karnataka Right to Information Act, (KRIA)** that was passed in 2000 and brought into force after the notification of the rules in July 2002, has been hailed as one of the most progressive legislation in the country on the Right to Information. However in the past two years, citizens and civil society organisations have had to face several hurdles in obtaining information under KRIA. Citizen's experiences across the state show that **KRIA's implementation needs much improvement.**

Today, the **28th of September** is observed as **the International "Right to Know Day"**, when citizens and civil society organisations all over the world organise campaigns and programmes to highlight the importance of the Right to Information. On this momentous occasion, **KRIA Katte (Forum)**, a state-wide forum of individuals and civil society organisations working to energise the Right to Information in Karnataka, would like to present to you, a **Memorandum of recommendations to strengthen the Karnataka Right to Information Act.** The recommendations have arisen out of the experiences of citizens and organisations in using the Act across the State and were endorsed at the **Symposium on "Making the Right to Information Act work in Karnataka"** organised by the Katte on 4th September 2004. The symposium elicited the participation of eminent personalities such as Dr. A. Ravindra, former Chief Secretary, GoK; Mr. G. Dakshina Moorthy, Secretary, Department of Parliamentary Affairs & Legislation; Mr. M.C. Poonacha, Under Secretary, Department of Personnel and Administrative Reforms and Mr. K. Ishwar Bhat, Former Law Secretary, GoK; Prof. Ravivarma Kumar, senior counsel, GoK; Mr. A. Jayaram, Chief of Bureau, The Hindu and Dr. Samuel Paul, Chairman, Public Affairs Centre.

Recommendations

1. Administrative measures to strengthen KRIA

In order to ensure that citizens have easy access to information they need on a timely basis, it is necessary to strengthen the administrative machinery to respond quickly and effectively to citizens' applications for information

a. Clear the confusion regarding Competent Authorities

It is recommended that an order be issued to every public authority to display in a prominent place the name and details of the Competent Authority. Furthermore, the Competent Authority should be authorised to delegate his/her functions to an appropriate subordinate official who is more accessible to the public to deal with requests for information.

b. Ensure that Appellate Authorities pass an order against the appeal of aggrieved citizens

We urge the government to amend the Act to allow for final RTI appeals to be heard even when AAs have let the application lapse, or set up a special process for RTI appeals within the KAT. For example, the government may, in consultation with the KAT, issue an administrative order that if AAs fail to pass an order within the prescribed time stipulated under KRIA, it may be considered as a 'deemed refusal' and the KAT must be able to hear such RTI appeals to redress citizens' grievances. Furthermore, as the KAT procedure is lengthy and cumbersome, we recommend that a simpler form be issued exclusively for KRIA appeals, which citizens can fill up on their own without having to consult a lawyer.

c. Prevent delays from authorities

To ensure timely response of officials to the requests for information, it is recommended that the Department of Personnel and Administrative Reforms (DPAR) be entrusted with appropriate powers to strictly enforce the provisions of KRIA

d. Display of information relating to the particulars of an organisation

All the public authorities should be instructed to prominently display information about the particulars of its organisational structure, duties, functions, etc. in their office premises with immediate effect as per Section 3 (b) of KRIA, and penalties be imposed for non-compliance.

e. Do not differentiate between 'Information' & 'Documents'

To prevent Competent Authorities from denying information that is not in the form of a 'document', the Government must issue an administrative order to clarify and direct the Competent Authorities not to differentiate between document and information, and to provide information contained in government files, decisions, etc.

f. Proper maintenance of records

For public authorities to promptly respond to citizens' information requests, the system of maintaining records needs to be vastly improved. Computerisation of these records must be expedited and an inventory of records should be made available to the members of the public.

g. Appointment of Appellate Authorities and publicising the same

To ensure wider publicity regarding Appellate Authorities (AAs) it is recommended that the government immediately notify AAs in all the offices of public authorities and this information be

displayed in a prominent place in the office premises. Moreover, for the Appellate Authority to function as an impartial institution, he/she must be a person who has adequate power to make an objective assessment of the decision of the Competent Authority, take disciplinary action and levy penalties where appropriate.

h. Information should not be denied merely on account of non-statement of purpose for which information is sought

There are several instances of denial of information citing that the applicants had not clearly stated the purpose for which information was being sought. Therefore, clause 4(6)(i) of the Rules must be deleted as officials seem to be misusing the same not to provide information, which is against the letter and spirit of the Right to Information Act.

i. Greater awareness and publicity about KRIA

KRIA Katte members have observed that the public at large as well as the staff of several Government offices are not aware of the provisions of KRIA. It is suggested that the Government launch a massive media publicity campaign and training programmes to orient the staff of all public authorities.

2. Legislative Measures

1. Need to impose penalty for non-implementation of voluntary disclosure clause

The Act needs to be amended suitably to subject a given public authority for punishment and disciplinary action if he/she fails to voluntarily disclose the particulars of organisation as prescribed under Section 3(b) of the Act.

2. Inclusion of public interest override clause

The exception clauses in the KRIA should have a public interest override clause.

3. Reduction of fee

The stipulated tariff rate for obtaining information needs to be reduced. The present rate of Rs.5 per page (A4 size paper) is five times the actual cost of photocopying. This goes against Section 5 (1) of KRIA which states that the fee charged should not exceed the actual cost of supplying information.

4. Time limit of 48 hours for urgent information

KRIA does not provide for gradations of information in terms of urgency, as do the Maharashtra and Goa Right to Information Acts. Some information may be required urgently as in the case of life and liberty of a person. In such cases, therefore, provision must be made to furnish information within 48hours

5. Independent Monitoring Authority

There is no provision for an independent monitoring authority comprising of representatives from the government and civil society, eminent citizens, journalists and other stakeholders who can review the working of KRIA from time to time and suggest practical solutions to surmount problems in its implementation. The Delhi and Maharashtra Right to Information laws provide for such councils to enable effective implementation of right to information laws.

We hereby appeal to you to kindly take cognisance of the recommendations made in this memorandum and initiate corrective actions to fulfil the commitment made in the Preamble of the Karnataka Right to Information Act which is to "*promote(s) openness, transparency and accountability in administration and ensure(s) effective participation of people in the administration and thus makes democracy meaningful*".

Yours Sincerely,

(Signatures overleaf)

