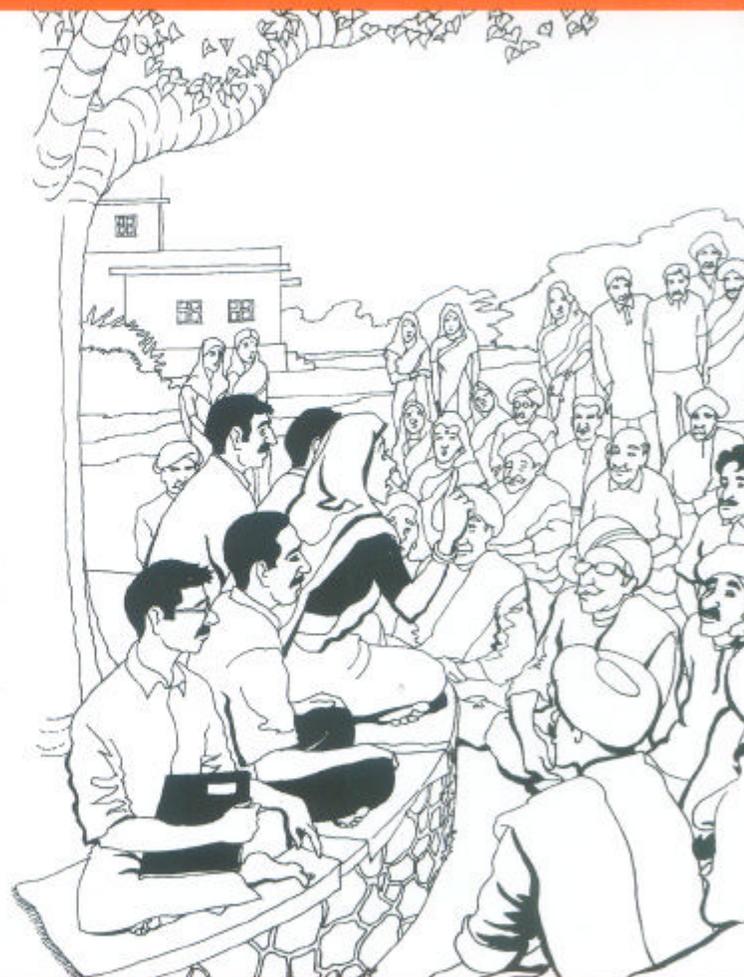


# The Right to Information and Panchayati Raj Institutions: Madhya Pradesh as a Case Study

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...the right to information offers a key tool for ensuring that Panchayati Raj Institutions more effectively meet their goal of promoting participation and entrenching accountable government.



## COMMONWEALTH HUMAN RIGHTS INITIATIVE

Working for the practical realisation of human rights in the countries of the Commonwealth

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# **The Right to Information and Panchayati Raj Institutions: Madhya Pradesh as a Case Study**

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Commonwealth Human Rights Initiative  
2006

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# Introduction

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralise government to promote greater participation by ordinary people in their own governance. This process of democratic decentralisation was set in motion with the 73<sup>rd</sup> *Constitutional Amendment Act* passed by the Indian Parliament in 1992, which enabled decentralised governance through PRIs in rural areas. PRIs function at the village, intermediate (block) and district level. There are approximately 2,34,676 Gram Panchayats at the village level, 6097 Janpad Panchayats at block level and 537 Zila (district) Panchayats. There are a total of about 2,187,000 elected representatives at all three tiers.<sup>1</sup>

PRIs offer India's rural villagers a practical opportunity to participate in village planning processes, to engage with the various developmental schemes being implemented by the Government and to interact with their elected representatives directly to ensure that their interests are being effectively served and their money properly spent.

While PRIs are an excellent initiative in theory, reality has been less positive, with many PRIs being criticised for poor representation, failure to implement the participatory decisions of their constituencies and mismanagement of funds. In this context, the right to information offers a key tool for ensuring that PRIs more effectively meet their goal of promoting participation and entrenching accountable government. Citizen participation in panchayat institutions will be more meaningful when people have the information to make informed choices and participate in decision-making processes on the basis of actual facts, not rumours and half-truths.

In practice, the right to information not only provides a means for people to access information from PRIs upon request, but also that PRIs have a duty to publish important information proactively, for example, through sharing information in Gram Sabha meetings, by pasting information on notice boards, via the village loudspeaker or by publication in the official gazette or local newspapers.

Recognising that considerable writing has already been dedicated to discussing the use of generic right to information laws by the public, this paper focuses specifically on analysing and promoting

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<sup>1</sup> PRIA, New Delhi, data as on 1 April 2004.

the information disclosure provisions contained in the State Panchayat Act and related rules. The following Act and Rules have been referred to while preparing this document:

- *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993;*
- *Madhya Pradesh Panchayat (Procedure of meeting and conduct of business) Rules, 1994;*
- *Madhya Pradesh Scheduled Areas Gram Sabha (Constitution, Procedure Of Meeting And Conduct Of Business) Rules, 1998;*
- *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995;*
- *Madhya Pradesh Panchayat Nirvachan Niyam, 1995;*
- *Madhya Pradesh Panchayat (Powers and Function of Sarpanch and Up-Sarpanch of Gram Panchayat, President and Vice President of Janpad Panchayat and Zila Panchayat) Rules, 1994;*
- *Madhya Pradesh Gram Panchayat (Powers and Functions of the Secretary) Rules, 1999;*
- *Madhya Pradesh Gram Panchayat (Annual Accounts And Administration Report) Rules, 1998;*
- *Madhya Pradesh Gram Panchayat obligatory taxes and fees (conditions and exceptions) Rules, 1996;*
- *Madhya Pradesh Janapad Panchayat And Zila Panchayat (Annual Accounts And Administration Report) Rules, 1998;*
- *Zila Panchayat (Accounts) Rules, 1999.*

It is hoped that the compilation of these provisions will provide a useful resource book for **citizens** who themselves wish to use these laws to gather information; **NGOs** working on strengthening panchayats; **elected representatives** who will be more aware of their roles and duties in providing information to the public; and concerned **government officials** who will be more aware of their roles vis-à-vis information disclosure.

# Part 1: Panchayat Raj Institutions in Madhya Pradesh

In Madhya Pradesh, the second largest Indian state in size with an area of 308,000 square kilometres, there are 48 districts, which are divided into 9 revenue divisions for administrative purpose. The strong rural base is reflected in the large number of villages – 51,806 that are covered by about 22,931 Gram Panchayats and 313 Community Development Blocks. A system of village level governance, Gram Swaraj, has been put in place since 26 January 2001, under which Gram Sabhas have been bestowed with considerable powers for development of villages and welfare activities.

## Number of Panchayat bodies in Madhya Pradesh

| Name             | No. of PRI Bodies |
|------------------|-------------------|
| Gram Panchayat   | 22,931            |
| Janpad Panchayat | 313               |
| Zila Panchayat   | 48                |

Source: Madhya Pradesh State Election Commission

Individuals and communities are at the centre of all developmental enterprises and policy priorities in Madhya Pradesh. The State's policy environment is built around a staunch commitment to decentralisation of administration and encouragement of community participation in decision-making through Panchayati Raj Institutions.

State officials have acknowledged that every citizen has a right:

1. To information pertaining to his/her own welfare needs and opportunities for individual and social development;
2. To understand the process of governance;
3. To know the rationale for decision-making affecting citizen welfare and welfare of communities; and
4. To quick and effective delivery of services.<sup>2</sup>

In support of these goals, Madhya Pradesh already has a number of regulations and laws, which in some form or another promote or enable the right to information. Most notably, the *Madhya Pradesh Panchayati Raj and Gram Swaraj Adhiniyam 1993* (hereafter referred to as the PR Act 1993) includes several provisions which entitle people to access information from PRIs.

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<sup>2</sup> Madhya Pradesh Agency for Promotion of Information Technology –“MAP IT” (a registered society of the Government of Madhya Pradesh): [www.mp.nic.in/dit/policy](http://www.mp.nic.in/dit/policy) as on 22 February 2006.

Madhya Pradesh also has a generic *Right to Information Act*, which applies to all local authorities and statutory authorities constituted under an Act of the State Legislature - including panchayat bodies. (Note, however, that this Act has yet to be properly operationalised.) The Government has also issued Executive Orders on information disclosure pertaining to nearly 50 government departments, including the Panchayati Raj Department. More recently, the National Parliament passed a comprehensive national *Right to Information Act* in May 2005. The Act received presidential assent on 15 June 2005 and came into full operation after 120 days, on 12 October 2005. The legislation is applicable to all government offices across the country including PRIs. These laws are all discussed in more detail in Chapter 2.

Madhya Pradesh has a three-tier panchayat system with Gram Panchayats at the village level, Janpad Panchayat at the intermediate (block) level and Zila Panchayat at the district level. Additionally, there is the Gram Sabha, which is the basic unit in the Panchayati Raj mechanism.

## **Gram Panchayat**

A Gram Panchayat is constituted for every village. It consists of elected Panchs and a Sarpanch, who is the head of the Gram Panchayat. Each Gram Panchayat area is divided into not less than ten and not more than twenty wards. Wards are territorial constituencies of the Gram Panchayat. A panch is elected from each ward. The Gram Sabha is a general body, whereas the Gram Panchayat is an executive, elected body. The executive has to perform its duties as per directions given by the general body.

## **Gram Sabha**

There is a Gram Sabha<sup>3</sup> for every village. The Gram Sabha consists of all the people who are registered in the list of voters of a village. The basic philosophy that underlies the concept of Gram Sabha is that of participatory democracy. Gram Sabhas provide a local platform for people to meet and discuss local development problems and analyse the development and administrative actions of elected representatives, thereby ensuring transparency and accountability. Most importantly, a Gram Sabha provides an opportunity for the participation of all sections of the village - women, dalits, tribals and other marginalised groups - in planning and implementation of local development programmes.<sup>4</sup>

The PR Act 1993 has given special powers to the Gram Sabha. The Gram Sabha can monitor and question the functioning of the Gram Panchayat. The Act also provides that Gram Sabhas can

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<sup>3</sup> In the *Constitution (Seventy Third Amendment) Act 1992*, the term Gram Sabha has been defined as “a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level”.

<sup>4</sup> PRIA (2003) *Gram Sabha and Panchayats*, New Delhi.

make annual plans for the villages to be passed onto higher levels of PRIs for integration. It can also implement its own decisions (without depending on the Gram Panchayat) for projects valued at less than Rs 3 lakhs.

The law requires that at least four meetings of the Gram Sabha be held every year, in the months of January, April, July and October.<sup>5</sup> Additional meetings of the Gram Sabha can also be organised depending upon people's needs. The Secretary<sup>6</sup> of the Gram Sabha convenes these meetings. The Gram Sabha meeting is presided over by the Sarpanch and in his or her absence by the Up-Sarpanch.<sup>7</sup> In case of Gram Sabha meetings in Scheduled Areas, these are presided over by a Gram Sabha member belonging to a Scheduled Tribe, who is elected by the majority of the members present in that meeting.<sup>8</sup> Meetings in Scheduled Areas are held whenever necessary.

## **Janpad Panchayat**

Each district is divided into blocks. A Janpad Panchayat is constituted for each block. Every Janpad Panchayat consists of: members elected from smaller constituencies<sup>9</sup> (between 10-25 members); all members of the State Legislative Assembly returned from the constituencies which wholly or partly fall within the block; and one-fifth of the Sarpanchs in the territorial area of the block on a rotational basis for a period of one year. The Sarpanchs are selected by drawing lots. Each Janpad Panchayat is headed by a President and Vice-President who are elected by and from among the elected members.

## **Zila Panchayat**

A Zila Panchayat is constituted for a district.<sup>10</sup> It comprises: elected members from the constituencies (between 10-35 members); members of Lok Sabha, Rajya Sabha and State Legislative Assembly returned from the district; and all chairpersons of Janpad Panchayats in the district. Each Zila Panchayat is headed by a President and Vice-President who are elected by and from among the elected members.

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<sup>5</sup> Rule 6, *Madhya Pradesh Scheduled Areas Gram Sabha (Constitution, Procedure of meeting and Conduct of Business) Rules, 1998.*

<sup>6</sup> The Secretary of the Gram Panchayat is also the Secretary of the Gram Sabha. The Secretary is under the control of the Gram Sabha and performs the duties that are assigned to him by the Gram Sabha.

<sup>7</sup> Section 6, *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993.*

<sup>8</sup> Chapter XIV-A of *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993* on Special provision for panchayats in the scheduled areas.

<sup>9</sup> Generally a district constituency has a population of 50,000 and is a single member constituency. There are between 10 to 35 constituencies in a district. A block constituency has a population of 5,000 and there are between 10 to 25 constituencies in a block.

<sup>10</sup> District is the basic administrative unit below the state level at which there is a measure of convergence of departments and implementation and coordination of their schemes.

## Part 2: Summary of Laws Governing RTI at the Panchayat Level

The right to information imposes a positive duty on governments to disseminate information to the people and extends a right to people to seek and receive government-held information (and some information from private bodies). Generally, information is disclosed to the public in two ways:

- **Proactively:** Government bodies are required to actively publish and disseminate key categories of information which are of general interest of the public, such as their organisational structure, the services they provide, important forms, decision-making procedures and the like. This information can be disclosed, for example, by putting up notices and information on notice boards, publishing information in the official gazette, reading out information in meetings or publishing documents on the internet.
- **Upon request:** Government bodies must put in place procedures to facilitate access to specific pieces of information upon request, including simple, timely and cheap application and appeals processes. Most commonly, specific officials within public bodies are given the responsibility to handle requests and provide information.

Clearly, it is imperative that the people have the right to access information from panchayats because they are the local self-governing bodies which are closest to the people. In order to facilitate access, in 1997 the Government of India issued a circular stating that each State should consider passing orders implementing three different aspects of transparency. First, PRIs, especially Gram Panchayats, should display all vital information pertaining to development projects (especially receipt of funds and how they are being spent) in the Panchayat's offices or on a prominent board outside the local school. Second, all relevant records should be open to inspection. Third, members of the public should be able to obtain photocopies of documents pertaining to development projects (including in particular all bills, muster rolls, vouchers, estimates, and measurement books, plus the criterion and procedures for selection of beneficiaries and lists of beneficiaries), as well as matters of general public interest by paying a nominal charge. Generally, these aspects of transparency have been reflected in the laws and regulations mentioned below, especially in the *Panchayati Raj Act of Madhya Pradesh*.

At the time of writing, Madhya Pradesh has the following laws/orders in place which facilitate access to information held by panchayat bodies:

- *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993;*
- *Executive Orders*, compiled by the Department of General Administration in a book titled "Janane ka Haq";
- *Madhya Pradesh Jankari ki Swatantrata Adhiniyam, 2002;*
- *Right to Information Act, 2005.*

## Panchayati Raj legislation

The move towards unified legislation on panchayats in Madhya Pradesh started with a study by the Rural Local Self-Government Committee set up in 1957. The end point of this exercise was the *Panchayati Raj Act* of 1962. Since that time the State has updated the Panchayati Raj Act a number of times.<sup>11</sup> After the constitutional amendment relating to PRIs became effective in 1993<sup>12</sup>, a new Panchayat Act known as the *Madhya Pradesh Panchayati Raj Adhiniyam 1993* was passed by the State Legislature on 30 December 1993 and came into effect on 25 January 1994, replacing the earlier *Panchayat Act* of 1990.<sup>13</sup> An amendment in 2001 changed the name of the Act to the *Madhya Pradesh Panchayati Raj avam Gram Swaraj Adhiniyam 1993* (PR Act 1993).

It is notable that the PRI amendment to the Indian Constitution was not automatically applicable to Schedule V areas.<sup>14</sup> After the Central Government passed the *Provisions of the Panchayats (Extension to the Scheduled Areas) Act* in 1996, however, the State Government added a new chapter to the PR Act 1993 by an amendment in December 1997 to make special provisions for panchayats in Scheduled Areas in Madhya Pradesh.

The PR Act 1993 has a number of provisions related specifically to access to information by either the general public and/or elected representatives. These provisions will be discussed in detail in Chapters 3-7.

## Executive Orders

In addition to the right to information provisions in the PR Act 1993, the Government of Madhya Pradesh has also issued Executive Orders (also referred to as departmental orders) on access to information. These Executive Orders were issued after the President of India declined to assent to a comprehensive right to information law when the Madhya Pradesh Government sent a Bill to him for approval in 1998.

The Executive Orders were passed from February 1998 onwards and operate to allow access to information from close to 50 departments. The Department of General Administration in a book titled 'Janane Ka Haq' has compiled the series of Executive Orders. The Executive Orders specifically

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<sup>11</sup> *Panchayat Act 1962; Panchayat Act 1981; Panchayati Raj Act 1990.*

<sup>12</sup> The *Constitution (Seventy-third Amendment) Act 1992* was brought about by the Congress Government under Narasimha Rao. It came into force on 24 April 1993, bringing about a fundamental change in the realm of local self-government and also in India's federal character. Based on this Amendment Act, state governments and union territories had to pass conformity legislations within a year, i.e. by 24 April 1994.

<sup>13</sup> Nirmala Buch (2000) "*Status of Panchayati Raj in the States and Union Territories of India 2000*", Institute of Social Sciences, New Delhi.

<sup>14</sup> Schedule V areas refers to the Fifth Schedule of the Constitution of India which has provisions related to the administration and control of Scheduled Areas and Scheduled Tribes.

identify a number of topics on which Departments are required to provide information to the public.

Of particular interest, the MP Panchayati Raj Department has issued an Executive Order related to information disclosure. However, this order merely copies the Madhya Pradesh *Panchayats (Inspection of Records and Copies) Rules 1995*, which were developed under the PR Act 1993 and therefore adds little to the public's right to information from PRIs. Details of the access to information provisions in those Rules are discussed in more detail in Chapter 5.

## **State Right to Information Act, 2002**

In addition to the access provisions permitted under the PR Act 1993, its Rules and the Panchayati Raj Department Executive Order, Madhya Pradesh also has a comprehensive law on right to information.<sup>15</sup> In fact, as far back as 1997 the Madhya Pradesh Government developed a Right to Information Bill, but, as noted earlier, after being passed by the State Assembly in 1998 it was denied Presidential assent and was shelved.

More recently, in 2002 the Madhya Pradesh Government enacted a right to information law, known as the *Madhya Pradesh Jankari ki Swatantrata Adhiniyam 2002*. The Act received the assent of the Governor on 24 January 2003 and was published in the *Madhya Pradesh Gazette (Extraordinary)* on 31 January 2003. In spite of the enactment of the Act, however, corresponding Rules have still not been framed, such that the Act has not yet been effectively operationalised. In reality, the people of Madhya Pradesh are still not able to exercise their right to access information under the Act.

The Act gives every citizen the right to inspect and obtain copies of any record<sup>16</sup> created in the previous three years in the possession of the public body. This is a relatively limited right, as all other State laws in India put no time limit – and certainly not such a short time limit – on records which are available for access. The Act extends to the entire state of Madhya Pradesh, covering 'public bodies' including all state government offices. It also covers all local authorities constituted under an Act of the State Legislature, which would include PRIs under the PR Act 1993.

The Act imposes some duties on public authorities to publish some information proactively, requiring the publication at least of the details of facilities citizens can use to obtain information. Notably though, the Rules under the PR Act 1993, which relate to access to information have more comprehensive proactive disclosure requirements, details of which are given in Chapters 3 and 4.

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<sup>15</sup> With the passage of the national Right to Information Act 2005, it is likely that the State Act will be repealed.

<sup>16</sup> Record means the following: (a) document, manuscript, file, (b) microfilm, microfiche and facsimile copy of a document, (c) computer print outs, (d) reproduction of images in microfilm.

Under the Act, information can be requested by writing an application to the “designated officer”,<sup>17</sup> either for inspection of document or to get a copy of a record. After receiving the application, the official must dispose of the application within 30 days. Fees will be charged for inspection and for supply of documents.<sup>18</sup> In case a person is aggrieved by an order of the designated officer because they have not received the information asked for, they can appeal to an “appellate authority”, who must make a decision within 30 days from the date of filing the appeal. Where the designated officer does not give the desired information within the stipulated time period, the appellate authority can impose a penalty not exceeding Rs 2,000 on the concerned designated officer after giving him a reasonable opportunity of being heard.

## **National Right to Information Act, 2005**

In May 2005, the National Parliament passed the *Right to Information Act 2005* (RTI Act). The Act received the President’s assent on 15 June 2005. The Act became fully operational from 12 October 2005, 120 days from the date on which it received the assent of the President of India.

### **Coverage**

Even though the new RTI Act was passed by the national Parliament, it covers all government bodies at the centre, as well as all government bodies in the States and in the Union Territories.<sup>19</sup> The Act applies to all public authorities, including those which have been constituted or established by the Constitution. This means that Panchayati Raj Institutions, which are in Part IX of the Indian Constitution, are covered by the Act, thereby giving the citizens an additional tool to access information from these local bodies.

The Act provides citizens the right to access government-held information, including information held at panchayat level. Citizens can inspect works, documents, records; take notes, extracts or certified copies of documents or records; take certified samples of materials; and obtain information in electronic form from PRIs.<sup>20</sup>

### **Exemptions<sup>21</sup>**

The Act also specifies certain types of information, which cannot be given to the public. Key exemptions include information that would prejudicially affect the sovereignty, integrity, security or economic

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<sup>17</sup> ‘Designated Officer’ means an officer appointed by the head of a public body to carry out the provisions of the Act (s.5 (1)).

<sup>18</sup> These will be clarified via Rules.

<sup>19</sup> Section 2(h), *Right to Information Act, 2005*. However, the Act does not apply to Jammu & Kashmir, due to its special constitutional status.

<sup>20</sup> Section 2(j), *Right to Information Act, 2005*.

<sup>21</sup> Section 8, *Right to Information Act, 2005*.

interest and relation with a foreign state; information that is received from foreign governments in confidence, cabinet papers including deliberations of the Council of Ministers, Secretaries and other officers; information whose disclosure can endanger the life and safety of a person etc.

Notably, however, even if requested information is covered by one of the exemptions in the law, the Act requires that if the public interest in disclosure outweighs the public interest in non-disclosure then the information should still be released.

## **Proactive disclosure**

A key provision of the new RTI Act is Section 4, which requires proactive disclosure of a range of information. Proactive disclosure (also referred to as *suo moto* disclosure) refers to the obligation on the government to publish key information on an ongoing basis, without being requested to do so by citizens. Section 4 requires panchayat bodies at the three tiers to provide the following information:<sup>22</sup>

- A directory of its officers and employees;
- The names, designations and other particulars of the Public Information Officers (PIOs) who are responsible for processing applications;
- The details of the PRI's functions, along with the powers of various officers and employees;
- Information regarding the rules, regulations, instructions, manuals and records used by employees for the discharge of any organisational functions;
- A statement of the categories of the documents held by it or under the control of the PRI;
- Monthly remuneration received by each of the PRI's officers and employees, including the system of compensation as provided in its regulations;
- The budget allocated to each PRI, indicating the particulars of all plans, proposed expenditures and reports on disbursements;
- A detailed plan of the implementation of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes;
- Details regarding particulars of recipients of concessions, permits or authorisations granted; and
- The particulars of facilities available to citizens for obtaining information, including the working hours of a public library or reading room.
- The names, designations and other particulars of Public Information Officers (PIOs) who are responsible for processing applications for information.

The State Government of Madhya Pradesh has proactively disclosed information, department wise on its website as per the provisions in the RTI Act<sup>23</sup>.

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<sup>22</sup> Section 4, *Right to Information Act*, 2005.

<sup>23</sup> For more details on proactive disclosure by the Madhya Pradesh government please see [www.mpgovt.nic.in](http://www.mpgovt.nic.in).

## Application process

The Act provides for the appointment of Assistant Public Information Officers (APIOs) at each sub-divisional or sub-district level<sup>24</sup> who are tasked with receiving applications and passing them on to the relevant Public Information Officers (PIOs). PIOs must be appointed in all offices and units of a public authority covered by the Act.<sup>25</sup> PIOs are responsible for providing information to the citizens in response to a specific application. It is anticipated that the Secretary/Chief Executive Officer or Sarpanch/President of each panchayat will be nominated as the PIO.

In Madhya Pradesh, as per the state government rules, an applicant must apply in the specific application format as provided. Along with the form applicants who are not below the poverty line must submit application fees of Rs 10 either in cash or in the form of a non-judicial stamp of Rs 10.<sup>26</sup> The PIOs must either provide the information within 30 days of receipt of the request (on payment of fees) or reject the request, specifying the reasons for doing so.<sup>27</sup> In cases where information sought “concerns the life and liberty of a person”, the time limit within which information has to be given is 48 hours.<sup>28</sup>

In Madhya Pradesh, the cost for getting photocopies of documents is Rs 2 per page for A3 and A4 size papers and for bigger sized sheets the cost is to be determined by the PIO. The citizen has to pay Rs 50 to obtain information on a CD or floppy. In case of inspection of documents and records, applicants will have to pay at the rate of Rs 50 for first hour and Rs 25 for every additional fifteen minutes or fraction thereof.<sup>29</sup> However, the law makes it clear that no fees - for applications or access - will be charged from applicants who belong to “Below Poverty Line” families.<sup>30</sup>

## Appeals mechanism

When a request for information is rejected, the person who asked for the information can appeal the decision. The first appeal is to be made to the officer “immediately senior to the PIO” in the concerned public authority (the Departmental Appellate Authority). This can be done within 30 days from the date of the refusal letter (or the date when a decision should have been made, if the applicant does not receive a decision in time).<sup>31</sup> The Departmental Appellate Authority should issue their decision within 30-45 days. The Madhya Pradesh State Government requires payment of Rs 50 to lodge a first appeal.<sup>32</sup> However, the Act does not permit the imposition of appeal fees. As such, citizens should

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<sup>24</sup> Section 5(2), *Right to Information Act, 2005*.

<sup>25</sup> Section 5(1), *Right to Information Act, 2005*.

<sup>26</sup> Rule 4, *Madhya Pradesh Right to Information (Fees and Appeal) Rules, 2005*.

<sup>27</sup> Section 7(1), *Right to Information Act, 2005*.

<sup>28</sup> Section 7(1), *Right to Information Act, 2005*.

<sup>29</sup> Rule 5(2), *Madhya Pradesh Right to Information (Fees and Appeal) Rules, 2005*.

<sup>30</sup> Section 7(5), *Right to Information Act, 2005*.

<sup>31</sup> Section 19(1), *Right to Information Act, 2005*.

<sup>32</sup> Rule 7(1), *Madhya Pradesh Right to Information (Fees and Appeal) Rules, 2005*.

consider complaining to the new State Information Commission (see below) about having to pay appeal fees.

If the first appellate authority upholds the PIO's original decision, then the requestor can appeal to the newly created State Information Commission. Along with the memorandum of appeal filed before the State Information Commission a fee of Rs 100 has to be paid either in cash or in the form of non-judicial stamp.<sup>33</sup> A copy of the decision of the State Information Commission shall be given free of cost. In case the appellant wants to receive the copy of the order by post then it shall be sent to him or her within three days from receiving the fees of postal charges.<sup>34</sup>

For the first time, the Act requires the establishment of Information Commissions at the Centre<sup>35</sup> and in all the States.<sup>36</sup> The Commissions are to act as a cheap, quick and *independent* complaints bodies. The Commissions are given broad powers to hear appeals and initiate inquiries<sup>37</sup> and are also tasked with regular monitoring of the law (including production of annual reports). The Commissions can make any order required to bring about compliance with the law, including ordering release of documents, appointment of PIOs and publication of specified information.<sup>38</sup>

The Madhya Pradesh Information Commission and the Central Information Commission have both been set up already. The Information Commissions can be contacted at:

Mr Wajahat Habibullah  
Chief Information Commissioner  
Central Information Commission  
Block No 4 (5th Floor)  
Old JNU Campus, New Delhi - 110011  
Ph: (011) 2671 7354  
Fax: (011) 2671 7352  
Email: whabibullah@nic.in  
Website: www.cic.gov.in

Mr T N Shrivastava  
Chief Information Commissioner  
Mahya Pradesh Information Commission  
B-22, Char Imli  
Bhopal - 462 016  
Ph: (0755) 276 1366/67/68

## **Penalty<sup>39</sup>**

Every PIO (or someone whose assistance was requested by the PIO) can be penalised Rs 250 per day up to a maximum of Rs 25,000 for not accepting an application; not giving information within time limits; knowingly giving incomplete, incorrect, misleading information; destroying requested information and/or obstructing furnishing of information in any manner.

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<sup>33</sup> Rule 8(2), *Madhya Pradesh Right to Information (Fees and Appeal) Rules, 2005.*

<sup>34</sup> Rule 8(5), *Madhya Pradesh Right to Information (Fees and Appeal) Rules, 2005.*

<sup>35</sup> Section 12(1), *Right to Information Act, 2005.*

<sup>36</sup> Section 15(1), *Right to Information Act, 2005.*

<sup>37</sup> Section 18(3), *Right to Information Act, 2005.*

<sup>38</sup> Section 18(8), *Right to Information Act, 2005.*

<sup>39</sup> Section 20(1), *Right to Information Act, 2005.*

## Part 3: Proactive Disclosure of Information at Gram Panchayat Level

Many right to information laws require governments to share information of general relevance with citizens, including updates about programmes, implementation of projects, budget, structure, norms and functions on a routine basis. At the Gram Panchayat level, the PR Act 1993 imposes a wide range of proactive disclosure obligations.

### Proactive disclosure in Gram Sabha Meetings

To exercise their powers and functions properly, Gram Sabha members need to be proactively informed about the various development activities taking place in the panchayat, as well as about the finances and schemes available for the benefit of villagers. This information enables the people to take active part in village-related affairs and especially in holding the elected representatives of the Gram Panchayat accountable. In this context, it is notable that the Gram Sabha has been given the following powers and functions:

- To lay down the principles for identification of schemes and their priority for economic development of the village;
- To approve all plans including Annual Plans, programmes and projects for social and economic development before these are taken up for implementation by the Gram Panchayat;
- To consider the Annual Budget of the Gram Panchayat and make recommendations;
- To consider the audit report and accounts of the Gram Panchayat;
- To ascertain and certify the proper utilisation by the Gram Panchayat of the funds for plans, programmes and projects;
- To identify and select persons as beneficiaries under poverty alleviation and other programmes; and
- To ensure proper utilisation and disbursement of funds and assets to beneficiaries.

The **annual meeting of the Gram Sabha**<sup>40</sup> is generally held by 31 December every year. The Gram Panchayat must place the following documents before the meeting:

- (a) The annual accounts statement showing the receipts of the Gram Panchayat, plus expenditure, budget estimates and reasons for variation;<sup>41</sup>

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<sup>40</sup> Section 7, *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam*, 1993.

<sup>41</sup> This is accompanied with statements showing: • Demand, collection, remission and balance of the revenue of the Gram Panchayat; • Grants-in-aid received and spent; • Amount received and spent in relation to Central/State government sponsored schemes; • Physical targets and achievements relating to schemes sponsored by Central or State government; • Loans received from State Government, Zila Panchayat, Janpad Panchayat or other institution; and • Floating assets and liabilities of the Gram Panchayat during the financial year ending on 31 March.

- (b) The administration report<sup>42</sup> of the preceding financial year;
- (c) The development and other programme of works proposed for the next financial year;
- (d) The last audit note and replies, if any; and
- (e) The Annual Budget and Annual Plan for the next financial year of the Gram Panchayat.

Every member of the Gram Sabha has the right to inspect the records which are placed in the annual Gram Sabha meeting in the Gram Panchayat office during office hours.<sup>43</sup>

### **Vigilant Gram Sabha**

Kathma Hanji Gram Panchayat is located in Gohad block of Bhind district in Madhya Pradesh. An NGO has been working in the village to build public awareness about the panchayat and its powers. Part of this effort was recognising the importance of documentation of panchayat business. Notably, as the village became aware of its rights, people started taking more of an interest in the functioning of the government primary school located in their panchayat. In 2002, they got to know about the schoolteachers' plans to sell the wheat received under the mid-day meal scheme in the open market. They were able to get hold of some documentary information in support of these allegations. Consequently, the teachers were made to apologise to the Gram Sabha members in a meeting. Moreover, the intended sale of wheat worth Rs 1600 was stopped. This incident shows the power of information, which citizens can use to unearth corrupt practices by government servants and improve the functioning of existing systems.

Source: Gram Sabha and Panchayats, PRIA, New Delhi, 2003



<sup>42</sup> The administrative report contains the following information: • Statement of vacancies of members of Gram Panchayat; • Statement of meeting of Gram Sabha, Gram Panchayat and Standing Committees; • Statement showing the position of staff; • Statement showing targets achieved under the annual Plan; and • Statement showing peoples co-partnership.

<sup>43</sup> Rule 15, *Madhya Pradesh Scheduled Areas Gram Sabha (Constitution, Procedure of meeting and conduct of business) Rules, 1998*

## Proactive disclosure by Standing Committees of Gram Sabhas

The PR Act 1993 provides for the setting up of two Standing Committees of the Gram Sabha, namely, the Gram Nirman Samiti and Gram Vikas Samiti.<sup>44</sup> A Standing Committee is comprised of members of Gram Sabha who are stakeholders of the work assigned to it (i.e. they are beneficiaries of the schemes and programmes or have a stake in the matters under consideration). The Gram Sabha determines the number of members with the maximum being twelve.<sup>45</sup> The purpose of having these Standing Committees at the Gram Sabha level is to provide an opportunity for the villagers to participate in the developmental activities of their village.

The two Standing Committees have been given the powers to call for papers, documents and other information and to prepare and submit progress reports of schemes and programmes falling within their purview to the Gram Sabha from time to time. In doing so, the Committees enable people to participate in the governance of their panchayat. The Gram Nirman Samiti must submit reports to the Gram Sabha for approval regarding works sanctioned for the development of the village from “Sansad Nidhi” (Member of Parliament Local Area Development Scheme) and “Vidhayak Nidhi” (Member of Legislative Assembly Local Area Development Scheme).<sup>46</sup>

## Proactive disclosure by Gram Panchayats

The notice of every Gram Panchayat meeting - specifying the date, time, venue and agenda - must be sent by the Secretary to every office bearer and also put up at the office of the Gram Panchayat seven days before an ordinary meeting and three days before a special meeting.<sup>47</sup>

During each Gram Panchayat meeting, a report about the income and expenditure incurred during the period between the last and the current meeting as well as the cumulative income and expenditure in the current financial year up to the current meeting must be placed before the Gram Panchayat by the Secretary for discussion.<sup>48</sup> This document is held at the Gram Panchayat office in the custody of the Secretary and can be accessed by the public. Additionally, the Secretary must provide the returns, statements, reports, estimates, statistics or any other information relating to panchayat administration.<sup>49</sup>

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<sup>44</sup> Madhya Pradesh Gram Sabha (Procedure of Meeting Of The Committees, Conduct Of Business And Allied Matters) Rules, 2005.

<sup>45</sup> Rule 3(1), Madhya Pradesh Gram Sabha (Procedure Of Committees Meeting Conduct Of Business And Allied Matters) Rules, 2001.

<sup>46</sup> Rule 12(2), Madhya Pradesh Gram Sabha (Procedure Of Meeting Of The Committees, Conduct Of Business And Allied Matters) Rules, 2005.

<sup>47</sup> Rule 3, Madhya Pradesh Panchayat (Procedure of Meeting And Conduct Of Business) Rules, 1994.

<sup>48</sup> Section 44, Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993.

<sup>49</sup> Rule 3, Madhya Pradesh Gram Panchayat (Powers And Functions of the Secretary) Rules, 1999.

Every Gram Panchayat has been given the power to impose taxes and fees. If the Gram Panchayat wishes to exercise this power, however, it must first notify the public of its intentions by making announcements in the Gram Panchayat area (by using drums) and also by putting up a notice in the Gram Panchayat office and at other common places in the village. Any inhabitant of the village objecting to the rate of tax or fee can send his/her objection or suggestion in writing before the date specified in the notice. After the finalisation of the rates of tax or fee, the Gram Panchayat must again put up a notice in the office and make an announcement in the villages about it.<sup>50</sup>

## **Information support from government officials**

The Sarpanch of the Gram Panchayat has a responsibility to ensure proper custody and maintenance of records and registers.<sup>51</sup> The Secretary at the Gram Panchayat level supports Sarpanches in this work.<sup>52</sup>

In addition to those functions mentioned above, the Secretary has been given certain official duties:<sup>53</sup>

- (a) To collect and store basic information in relation to his/her Gram Panchayat area, which can be accessed by the public, such as:
  - A list of institutions under the control of the Gram Panchayat such as Balbadi, cattle pound, reading room, etc;
  - A list of other institutions situated in the Gram Panchayat area, such as cooperative institutions, hospital, school, literacy classes, anganbadi, registered voluntary institutions, etc;
  - Statistics on the state of literacy in the Gram Panchayat area;
  - Information regarding beneficiaries of welfare schemes of the Central and State Governments, Zila Panchayat, Janpad Panchayat and Gram Panchayat;
  - Names, expenditure, and other particulars relating to work sanctioned under employment guarantee schemes, relief works, and MP/MLA area development funds; and
  - Records of marriage, birth and death in the Gram Panchayat area.
- (b) Prepare and place administration reports in the Gram Panchayat meeting every year, which the public can access;

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<sup>50</sup> Rule 3, *Madhya Pradesh Gram Panchayat Obligatory Taxes And Fees (Conditions And Exceptions) Rules, 1996.*

<sup>51</sup> *Madhya Pradesh Panchayat (Powers and function of Sarpanch and Up-Sarpanch of Gram Panchayat, President and Vice President of Janpad Panchayat and Zila Panchayat) Rules, 1994.*

<sup>52</sup> The State Government or the prescribed authority appoints the Secretary for a Gram Panchayat or a group of two or more Gram Panchayats. The Secretary is responsible for maintaining records of the Gram Panchayat and is administratively responsible to the Chief Executive Officer of Janpad Panchayat. The executive powers for the purposes of carrying out the provisions of the PR Act 1993 shall be vested in the Secretary under general supervision and control of the Gram Panchayat.

<sup>53</sup> Rule 4, *Madhya Pradesh Gram Panchayat (Powers And Functions of the Secretary) Rules, 1999.*

- (c) Prepare an annual plan for economic development and social justice of the Gram Panchayat area and place it before the Gram Panchayat and forward it to the Janpad Panchayat after approval of the Gram Panchayat and Gram Sabha;
- (d) Place inspection and audit reports in the meeting of Gram Panchayat;
- (e) Maintain, by subject, files in the Gram Panchayat office and keep old records of the Gram Panchayat secured after registering them;
- (f) Prepare all registers and records according to the PR Act 1993 and Rules.

## **Part 4: Proactive Disclosure by Janpad Panchayats and Zila Panchayats**

This section highlights the proactive disclosure of information provisions at the Janpad Panchayat and Zila Panchayat level. The upper two tiers of the panchayat system are discussed together in this section because of the similarity in the relevant provisions in the PR Act 1993.

The right to information is important at these levels of government because all information, plans, reports and the like from Gram Panchayats are collated at these levels. Moreover, funds transferred by Central or State Governments related to works, schemes and projects are reallocated to Janpad Panchayats and Gram Panchayats by the Zila Panchayats. Hence, people need information from these bodies if they are to know how resources are being disbursed and utilised down the line. Moreover, since the people elect the upper two tiers of Panchayats, these tiers should be equally accountable and need to be transparent in their functioning.

### **Proactive disclosure relating to meetings**

The Janpad and Zila Panchayat meetings are held once in each quarter. The Chief Executive Officer<sup>54</sup> (a government official who has been vested with the executive power for the purposes of carrying out the provisions of the Act) sends notice of every meeting specifying the date, time, venue and agenda to every office bearer. The notice must also be put up at the office of the Panchayat seven days before an ordinary meeting and three days before a special meeting.

### **Proactive disclosure of financial and administrative information**

In every quarterly Janpad/Zila Panchayat meeting, a report about the income and expenditure incurred during the period between the last and the current meeting as well as the cumulative income and expenditure in the current financial year up to the current meeting is placed before the members by the Chief Executive Officer for discussion. The public can inspect this document or copies can be requested (based on the rules formulated for inspection and supply of records which are discussed in more detail in Chapter 5).

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<sup>54</sup> The Chief Executive Officer of Zila Panchayat is a Class-I officer belonging to IAS/State Administrative Service. The Chief Executive Officer of Janpad Panchayat is a Class-II Officer.

The Chief Executive Officer of Janpad/Zila Panchayat (or an Officer authorised by the Chief Executive Officer) must prepare an Annual Accounts and Administration Report immediately after the end of every financial year. The Report must have the following statements as annexures:

- Receipts and expenditure of Janpad/Zila Panchayat along with budget estimates;
- Grants received and distributed or spent by Janpad/Zila Panchayat during the financial year
- Financial and physical targets and achievements re schemes sponsored to the Janpad/Zila Panchayat by the Central or State Governments and local authorities during the year;
- Works, schemes executed during the year by the Janpad/Zila Panchayat;
- Floating assets and liabilities of Janpad/Zila Panchayat;
- General information about Janpad/Zila Panchayat;
- Members of Janpad/Zila Panchayat;
- Standing Committees of Janpad/Zila Panchayat;
- Committees constituted for specific purpose of Janpad/Zila Panchayat;
- Meetings of Janpad/Zila Panchayat;
- Statement of compilation of inspection /audit reports of Janpad/Zila Panchayat;
- Servants of Janpad/Zila Panchayat;
- Payment of retirement benefits to retired employees of Janpad/Zila Panchayat;
- Extension/term appointments of employees by the Janpad/Zila Panchayat;
- Physical target and achievement of various schemes of Janpad/Zila Panchayat;
- Purchase of vehicles, machineries instruments, etc. by Janpad/Zila Panchayat.

The Janpad Panchayat report must also include information related to Gram Panchayats in its jurisdiction. By 15 June each year, the Annual Accounts and Administration Report must be submitted in the meetings of the Janpad and Zila Panchayats. At the same time the report must be published in Hindi and placed on the notice board of the offices of both the Janpad and Zila Panchayat.<sup>55</sup>

## **Information support from government officials**

Every Janpad Panchayat and Zila Panchayat has a Chief Executive Officer, who is a government officer appointed by the State Government. The powers of the Chief Executive Officer include the following:<sup>56</sup>

- Prepare annual development plans and budgets;
- Ensure efficient execution of schemes, including monitoring matters relating to the accounts of the Panchayat;

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<sup>55</sup> Rule 5, *Madhya Pradesh Janapad Panchayat And Zila Panchayat (Annual Accounts And Administration Report) Rules, 1998.*

<sup>56</sup> Rule 3 and 4, *Madhya Pradesh Panchayat (Powers and Functions of Chief Executive Officer) Rules, 1995.*

- Furnish to the elected members the returns, statements, estimates, statistics and other information relating to the administration of the Panchayat;
- Call for any information, return, statement or report from any officer or employee of the Panchayat or from any other district office of any department;
- Provide information or clarification with regard to any matter under discussions in the meeting of a Panchayat;
- Publish under his/her signature all regulations and by-laws made by the Panchayat; and
- Keep and maintain all records, including having custody of all papers and documents connected with proceedings of meetings of the Panchayat and its Standing Committees.



## Part 5: Access to Information on Request

This section deals with the procedure for applying for information from the Panchayati Raj Institutions at the three-tiers under the PR Act. (It should be noted, of course, that the new national RTI Act and the MP RTI Act also give people a legal right to access information upon request.) The Madhya Pradesh *Panchayats (Inspection of Record and Copies) Rules 1995* sets out the framework for the inspection of records of PRIs. The State Government has also incorporated these Rules as Executive Orders of the Department of Panchayati Raj and Rural Development. The forms relating to information requests under the Rules have been appended at Annexure 1.

### Officials receiving requests

Certain government officials within the panchayat administration have been given the responsibility to handle requests for information. Under the PR Act 1993, they have been referred to as the “Competent Authority”. The Competent Authorities,<sup>57</sup> which handle requests for inspection and copies of records at the Panchayat level, are set out below:

| Level                             | Competent Authority  |
|-----------------------------------|--|
| Gram Panchayat / its Committees   | Sarpanch, Secretary  |
| Janpad Panchayat / its Committees | Chief Executive Officer or any other officer authorised by him |
| Zila Panchayat / its Committees   | Chief Executive Officer or any other officer authorised by him |

### Procedure for inspection and granting of copies of records

The PR Act 1993 provides that certain records of the panchayat or any Committee<sup>58</sup> can be inspected free of charge by putting in a written request and getting prior permission from the Competent Authority,<sup>59</sup> including:

- (a) The budget;
- (b) Annual accounts of receipt and expenditure;

<sup>57</sup> Section 118, *Madhya Pradesh Panchayati Raj Avam Gram Swaraj Adhiniyam*, 1993 and Rule 2, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules*, 1995.

<sup>58</sup> Committee refers to the Standing Committees of Gram Panchayat, Janpad Panchayat and Zila Panchayat. For discharging its functions and duties, a Gram Panchayat can constitute three Standing Committees constituted from among the elected members. These are: (1) General Administration Committee, (2) Infrastructure and Development Committee and (3) Education, Health and Social Welfare Committee. Janpad Panchayats and Zila Panchayats can constitute 7 Standing Committees – (1) General Administration; (2) Agriculture; (3) Education; (4) Communication; (5) Cooperative and Industry; (6) Health, Women and Child Welfare; (7) Forest.

<sup>59</sup> Rule 3, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules*, 1995.

- (c) Assessment list of any tax;
- (d) Register of information such as birth and deaths, house number etc; and
- (e) The register of decisions of the Panchayat.

In order to obtain a copy of a panchayat or committee record, a person has to apply in Form 1 (see Annexure 1) to the Competent Authority giving details of the record of which a copy is required, plus contact details.<sup>60</sup> Every application for obtaining a copy of a record has to be accompanied by an advance sufficient to cover the estimated cost of the copy applied for. A Copying Register must be maintained in Form 4 (see Annexure 1).<sup>61</sup>

Similarly, for any person wanting to inspect such records, he/she will have to apply on Form 1 explaining the purpose for which inspection is sought and they will have to pay an inspection fee.<sup>62</sup> Inspection should be done in the Panchayat office during office hours.<sup>63</sup> Each Panchayat keeps an Inspection Book in Form 3 (see Annexure 1). Every person wanting to inspect a document fills in the particulars in columns one to six of the Inspection Book.<sup>64</sup> Use of ballpoint or fountain pens is banned while inspecting records, though paper and pencil can be used to take down notes or make copies of the record. No marks are allowed to be made on the records or documents inspected.<sup>65</sup>

If an inspection is not allowed or a copy of the record is not given, then the fee deposited for inspection is refunded to the applicant.<sup>66</sup> In case it is necessary to search for a record, a fee for searching is charged at the rate of 50 paise per hour. Government office staff or any other officer appointed by the Competent Authority normally search for documents in the presence of the Competent Authority.<sup>67</sup>

The fee for preparing copies is Rs 5 per page whether in English or Hindi. The copying fees for maps and plans are charged at the rate of Rs 1 per hundred square centimetres including cost of tracing cloth with a minimum charge of Rs 5.<sup>68</sup> The Competent Authority must certify each copy.<sup>69</sup> The inspection fee for every record held by a Panchayat body is Rs 2 for the first hour, followed by

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<sup>60</sup> Rule 9, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>61</sup> Rule 18, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>62</sup> Rule 4, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>63</sup> Rule 6, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>64</sup> Rule 7, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>65</sup> Rule 8, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>66</sup> Rule 19, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>67</sup> Rule 13, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>68</sup> Rule 14, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

<sup>69</sup> Rule 15, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules, 1995.*

fifty paise for each extra hour.<sup>70</sup> All fees payable for obtaining copies or inspection are to be paid in cash along with the application. The Competent Authority must credit all funds to the Panchayat Fund<sup>71</sup> and give a receipt to the applicant with his/her signature in Form 2 (see Annexure 1).<sup>72</sup>

## **Some information cannot be accessed**

Certain documents are exempted from being inspected or copied.<sup>73</sup> These include:

- Letters or reports which do not contain a final order affecting the applicant;
- Any correspondence between the Panchayat and Government authorities or the State Government. No copy of a letter received in the office of the Panchayat shall be granted without the sanction of the office of issue;
- Any record, the grant of copies of which is detrimental to the interest of the Panchayat;
- Any extracts from a document which, when read, apart from the rest of the file, is capable of misrepresenting the final order passed by the Panchayat or any Committee;
- An extract from the proceeding of the panchayat or any committee; and
- Confidential letters and papers.

All applications for information, which are rejected, are generally laid before the next meeting of the Panchayat for approval of the action of the Competent Authority.

## **Penalty for not giving information or giving false information**

A penalty for unreasonable delay or withholding information is crucial for an access law to have real meaning. Lack of penalty can weaken the whole foundation of an access regime. Without the threat of penalties, it can be easy for resistant government officials to subvert the purpose of the law. According to the PR Act 1993, if an authorised person does not provide information or knowingly gives wrong information, then on being proved and convicted he/she has to pay a fine, the maximum limit of which is Rs 250.<sup>74</sup>

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<sup>70</sup> Rule 5, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules*, 1995.

<sup>71</sup> Every Panchayat establishes a fund, which is known as the Panchayat Fund, which includes all sums received by the Panchayat. This generally includes taxes, tolls and fees levied and collected by the State Government and also grants-in-aid to the Panchayats by the State Government on the basis of the recommendations of the State Finance Commission.

<sup>72</sup> Rule 17, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules*, 1995.

<sup>73</sup> Rule 10, *Madhya Pradesh Panchayats (Inspection Of Records And Copies) Rules*, 1995.

<sup>74</sup> Section 104, *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam*, 1993.

### **Sarpanch gives copy of Gram Sabha Budget to RTI activist**

Nikesh Kumar Sonkushre lives in a village in Kumhari block, Balaghat district. He is a tribal and a member of Nav Durga Swa Sahayta Samuh. Nikesh got to know about citizens' right to access information from government bodies after attending a workshop on right to information in December 2004. In February 2005, he applied in writing to the Panchayat Secretary for a copy of the Gram Sabha budget for the last one year. The Secretary was not aware of this provision and told the applicant that since he had no powers to give information, he could ask the Sarpanch instead. The applicant then approached the Sarpanch for the required information. The Sarpanch was also unaware about the information disclosure provisions in the PR Act 1993. Initially, he was very hesitant in giving out the information. After he was informed about the RTI legislation and Citizens Charter by the applicant himself however, he provided a copy of the Gram Sabha budget to Nikesh for the last three years to March 2005.

Source: Sandhan, Katni, Madhya Pradesh, 2004.



## Part 6: Proactive Disclosure Around Panchayat Elections

Elections provide an essential democratic space for people to elect a person of their choice who will then represent them and strive to fulfill their needs and interests. Elections at the panchayat level are a key point of participation in local governance processes. Information is an essential requirement of the people if they are to meaningfully exercise this most basic of their democratic rights. Better-informed voters mean better-informed choices, more responsive panchayat members and better governance.

Madhya Pradesh was the first state to conduct elections to PRIs, in 1994, immediately after the enactment of the 73<sup>rd</sup> *Constitutional Amendment Act*. Elections to panchayat bodies take place every five years. The Madhya Pradesh State Election Commission is responsible for superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the Panchayats.

A review of state panchayat regulations shows that information related to panchayat elections is usually disclosed proactively, especially with respect to preparation and publication of electoral rolls, publication of election programme, nominated candidates, election results and the like.

### Notice regarding formation of constituencies of Janpad and Zila Panchayat<sup>75</sup>

For the purpose of elections, blocks and districts are divided into constituencies.<sup>76</sup> The constituencies along with their descriptions are notified by putting up a statement of the details of the constituencies<sup>77</sup> on the notice boards of the following offices:

- Collector's Office;
- Zila Panchayat Office;
- Block Development Office;
- Janpad Panchayat Office;
- Tahsildar's Office.

This is done for general information of the public and to invite objections to anything contained in the statement in writing to the Collector within seven days of affixture of the statement.

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<sup>75</sup> Rule 5, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>76</sup> Generally a district constituency has a population of 50,000 and is a single member constituency. There are between 10 to 35 constituencies in a district. A block constituency has a population of 5,000 and there are between 10 to 25 constituencies in a block.

<sup>77</sup> Every constituency of the Janpad Panchayat and Zila Panchayat must be assigned a serial number in the name of the Janpad Panchayat and Zila Panchayat. A village in any constituency must be completely included.

## Notification of election<sup>78</sup>

It is the responsibility of the State Election Commission to notify panchayat elections:

- In the case of the Panch and Sarpanch of a Gram Panchayat, notification must be done by putting up a notice on the notice board of the relevant Gram Panchayat office and in the Janpad Panchayat office within which the Gram Panchayat is situated.
- For every election of a Janpad or Zila Panchayat members, a notice must be put up on the notice board in the office of the Janpad Panchayat or Zila Panchayat concerned and in the office of the District Election Officer.<sup>79</sup>

## Publication of notice re reservation/status of seats<sup>80</sup>

One of the key features of the 73<sup>rd</sup> Constitution Amendment Act is the reservation of seats at all three tiers for Scheduled Castes and Scheduled Tribes in proportion to their population, as well as reservation of one-third of seats for women. The Madhya Pradesh PR Act 1993 provides for these requirements, along with reservation of seats for people belonging to Other Backward Classes.

The District Election Officer along with the publication of the election notice should display a notice regarding the reservation of every seat in a panchayat for which an election is being held. This notice must be displayed on the notice board of the following offices:

- (a) District Election Officer;
- (b) Returning Officer; and
- (c) Panchayat concerned.

## Publication of voters list<sup>81</sup>

After the preparation of the voters list, the Registration Officer<sup>82</sup> must publish a notice inviting claims for inclusion of names in the list and/or objections to any entry. This notice should be displayed on the notice board in the office of:

- (a) The Registration Officer at the district headquarters;
- (b) Gram Panchayat concerned; and
- (c) Janpad Panchayat within which the Gram Panchayat lies.

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<sup>78</sup> Rule 90, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>79</sup> The State Election Commission appoints the District Election Officer (Panchayat) in consultation with the State Government for preparation of voters list and conduct of elections to Panchayats in a district. Subject to the superintendence, direction and control of the Commission, the District Election Officer shall coordinate and supervise all work in the district in connection with the conduct of all elections to Panchayats in the district. The District Election Officer shall also be the Ex-officio Returning Officer for elections to Zila Panchayat.

<sup>80</sup> Rule 29-A, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>81</sup> Rule 10, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>82</sup> Registration Officer means the Electoral Registration Officer appointed by the State Election Commission, in consultation with the State Government, for registration of voters for elections to Panchayats in a district. They are supported by an Assistant Electoral Registration Officer.

At the same time, the Registration Officer must make available a copy of the voters list for inspection by the public, free of charge, for a period of at least five days from the day of publication of the notice, during office hours at his/her office and at the office of the Gram Panchayat concerned.<sup>83</sup> Copies of the voters list can also be given to any person on payment of a fee as fixed by the Commission by an order.<sup>84</sup>

## **Publication of list of contesting candidates<sup>85</sup>**

After the allotment of symbols to candidates, the Returning Officer<sup>86</sup> must publish the list of contesting candidates, by putting it up on the notice board in his/her office. He/she should also give a copy of this list to each contesting candidate or his/her election agent.

## **Publication of list of polling stations<sup>87</sup>**

The District Election Officer must provide a sufficient number of polling stations for every election and shall publish, at least 20 days before the date of poll, a list showing the polling stations and the polling areas. Copies of the list should be put up on the notice board in the office of:

- (a) The District Election Officer;
- (b) The Returning Officer; and
- (c) The Panchayat concerned.

Outside each polling station a notice must be put up specifying the polling area, the voters which are entitled to vote at the polling station and a notice giving the name of each candidate in Hindi in the Devnagri Script in the same order as in the list of contesting candidates.<sup>88</sup>

## **Publication of elected Panchayat members and office bearers**

The Returning Officer must publish the names of elected members, President and Vice President of Janpad Panchayat and Zila Panchayat.<sup>89</sup>

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<sup>83</sup> Rule 10(3), *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>84</sup> Rule 10(4), *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>85</sup> Rule 40, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>86</sup> The District Election Officer shall appoint an officer of the State Government not below the rank of Naib Tahsildar as a Returning Officer for every election to fill a seat in any panchayat other than the Zila Panchayat.

<sup>87</sup> Rule 23, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>88</sup> Rule 53, *Madhya Pradesh Panchayat Nirvachan Niyam*, 1995.

<sup>89</sup> Section 26 and 33, *Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam*, 1993.

# Annexure I

## Form 1: Application for Inspection / Copy of a Record

To  
The Sarpanch/ Chief Executive Officer  
Gram/ Janpada/ Zila Panchayat

Subject: - Application for inspection/ obtaining certified copy of record

1. Full name of applicant : \_\_\_\_\_  
Father's name and caste : \_\_\_\_\_
2. Postal address : \_\_\_\_\_
3. Detail of record : \_\_\_\_\_
4. Object : \_\_\_\_\_
5. Detail of advance amount deposited : \_\_\_\_\_
6. Remarks : \_\_\_\_\_

Signature of applicant

## Form 2: Receipt Form

Receipt No.: ..... Date: .....

Received from: .....

Son of: ..... Caste: .....

The sum of Rs (in words): .....

On account of: .....

Rs.: ..... P: .....

Signature of Sarpanch/Chief Executive Officer

Secretary of ..... Panchayat

### Form 3: Inspection Book

|                            |                                 |   |  |         |
|----------------------------|---------------------------------|---|--|---------|
| Date                       | Name of occupation of applicant | Record of which inspection is sought                  | Purpose for which inspection is sought |         |
| 1                          | 2                               | 3   | 4                                      |         |
|                            |                                 |   |  |         |
| Signature of the applicant | Hours of Inspection             | Initials of the Person or Officer Ordering Inspection | Amount Paid                            | Remarks |
| 5                          | 6                               | 7   | 8                                      | 9       |
|                            |                                 |   |  |         |
|                            |                                 |   |  |         |

### Form 4: Receipt Book

|                              |                   |                              |  |          |
|------------------------------|-------------------|------------------------------|--|----------|
| Serial No.                   | Name of Applicant | Date of Receipt of Applicant | Description of the document of is sought   | Language |
| 1                            | 2                 | 3                            | 4  | 5        |
| Service of documents         |                   |                              |  |          |
| Number of pages to be copied | Fee to be levied  | Fee received with the date   | Date on which copy was delivered or posted | Remarks  |
| 6                            | 7                 | 8                            | 9  | 10       |
|                              |                   |                              |  |          |
|                              |                   |                              |  |          |

# **Annexure II**

## **Zila Panchayat**

### **List of Accounting Records and Statements**

| <b>Form No.</b> | <b>Name of Form / Register</b>                      |
|-----------------|---|
| ZP-1            | Receipt Book  |
| ZP-2            | Stock Register of Receipt Books                     |
| ZP-3            | Cash Book   |
| ZP-4            | Bank Register                                       |
| ZP-5            | Bank Reconciliation Statement                       |
| ZP-6            | General ledger                                      |
| ZP-7            | Register of specific purpose grant                  |
| ZP-8            | Register of grants received and expended            |
| ZP-9            | Register of grants distributed                      |
| ZP-10           | Register of (Annual) Rent, Rates and Taxes          |
| ZP-11           | Register of (Monthly) Rent, Rates and Taxes         |
| ZP-12           | Payment Vouchers                                    |
| ZP-13           | Salary Bill register                                |
| ZP-14           | Register of security obtained from employees        |
| ZP-15           | Register of interest bearing loan and advance       |
| ZP-16           | Register of non-interest bearing loans and advanced |
| ZP-17           | Investment Register                                 |
| ZP-18           | Register of fines and penalties                     |
| ZP-19           | Register of immovable properties                    |
| ZP-20           | Stock Register                                      |
| ZP-21           | Monthly Trail Balance                               |
| ZP-22           | Monthly Receipt and Disbursement Account            |
| ZP-23           | Annual Receipt & Payment Account                    |
| ZP-24           | Income and Expenditure Account                      |
| ZP-25           | Balance Sheet                                       |

## **Janpad Panchayat**

### **List of Accounting Records and Statements**

| Form No. | Name of Form / Register                           |
|----------|---|
| JP-1     | Receipt Book                                      |
| JP-2     | Stock Register of Receipt Books                   |
| JP-3     | Cash Book   |
| JP-4     | Bank Register                                     |
| JP-5     | Bank Reconciliation Statement                     |
| JP-6     | General Ledger                                    |
| JP-7     | Register of Grants                                |
| JP-8     | Register of (Annual) Rent, Rates and Taxes        |
| JP-9     | Register of (Monthly) Rent, Rates and Taxes       |
| JP-10    | Payment Vouchers                                  |
| JP-11    | Salary bill Register                              |
| JP-12    | Register of Security obtained from Employees      |
| JP-13    | Register of Interest bearing loan and advance     |
| JP-14    | Register of non-interest bearing loan and advance |
| JP-15    | Register of funds Deposited/Investment            |
| JP-16    | Register of fines and penalties                   |
| JP-17    | Register of immovable properties                  |
| JP-18    | Register of Dead Stock                            |
| JP-19    | Monthly Trail Balance                             |
| JP-20    | Receipt and Disbursement Accounts                 |
| JP-21    | Income and Expenditure Accounts                   |
| JP-22    | Balance Sheet                                     |

## **Gram Panchayat**

### **List of Accounting Records and Statements**

| <b>Form No.</b> | <b>Name of Form / Register</b>                                      |
|-----------------|---|
| GP-1            | Receipt Book  |
| GP-2            | Receipt for Market fee and other sums collected                     |
| GP-3            | Stock Register of Receipt Books                                     |
| GP-4            | Cash Book   |
| GP-5            | General Ledger  |
| GP-6            | Register of Grants  |
| GP-7            | Register of Rent, Rates and Taxes                                   |
| GP-8            | Payment Vouchers  |
| GP-9            | Register of earnest money/deposits etc.                             |
| GP-10           | From the Security bond  |
| GP-11           | Investment Register   |
| GP-12           | Register of Fines and Penalties                                     |
| GP-13           | Register of Immovable Properties                                    |
| GP-14           | Register of Dead Stocks   |
| GP-15           | Statement of Receipt & Payment for the Month of [name of the month] |
| GP-16           | Receipt and Payment Account   |



# CHRI Programmes

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. Accordingly, as well as a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

**Human Rights Advocacy:** CHRI makes regular submissions to official Commonwealth bodies and member governments. From time to time CHRI conducts fact finding missions and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit also ensures that human rights issues are in the public consciousness.

## ACCESS TO INFORMATION

**Right to Information:** CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

**Constitutionalism:** CHRI believes that constitutions must be made and owned by the people and has developed guidelines for the making and review of constitutions through a consultative process. CHRI also promotes knowledge of constitutional rights and values through public education and has developed web-based human rights modules for the Commonwealth Parliamentary Association. In the run up to elections, CHRI has created networks of citizen's groups that monitor elections, protest the fielding of criminal candidates, conduct voter education and monitor the performance of representatives.

## ACCESS TO JUSTICE

**Police Reforms:** In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** The closed nature of prisons makes them prime centres of violations. CHRI aims to open up prisons to public scrutiny by ensuring that the near defunct lay visiting system is revived.

**Judicial Colloquia:** In collaboration with INTERIGHTS, CHRI has held a series of colloquia for judges in South Asia on issues related to access to justice, particularly for the most marginalised sections of the community.

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralize government to promote greater participation by ordinary people in their own governance. This process of democratic decentralisation was set in motion with the 73rd Constitutional Amendment Act passed by the Indian Parliament in 1992, which enabled decentralised governance through PRIs in rural areas.

PRIs offer India's rural villagers a practical opportunity to participate in village planning processes, to engage with the various developmental schemes being implemented by the Government and to interact with their elected representatives directly to ensure that their interests are being effectively served and their money properly spent.

In this context, the right to information offers a key tool for ensuring that PRIs more effectively meet their goal of promoting participation and entrenching accountable government. Citizen participation in panchayat institutions will be more meaningful when people have the information to make informed choices and participate in decision-making processes on the basis of actual facts.

It is hoped that the compilation of these provisions will provide a useful resource book for citizens who themselves wish to use these laws to gather information...



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