

A Handbook for Trainers

The Right to Information Act, 2005



Capacity Building for
Access to Information

NIA

A GoI-UNDP Initiative

August 2006

While all efforts have been made to make this Handbook as accurate and elaborate as possible, the information given in this book is merely for reference and must not be taken as binding in any way. This Handbook is intended to provide guidance to the readers. It cannot be a substitute for the Act and the Rules made thereunder.

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www.r2inet.org

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Introduction to the Handbook

A Practical Regime for Citizens' Right to Information

The Right to Information Act, 2005 (“the Act” or “the RTI Act”) is a historic legislation in the annals of democracy in India. One of the major objectives of the Act is to promote transparency and accountability in the working of every public authority by enabling citizens to access information held by or under the control of public authorities. Concurrently, it is the duty of all public authorities to provide information sought by citizens. Thus by implementing the Act in letter and spirit, a sea change can be achieved towards transparency and accountability in governance.

To make optimum use of the legal space that the Act provides, it is important to appreciate its wider context. More than a law, Right to Information is a process, a tool, a concept that envisages a different approach to governance. It is this approach that will have to be adopted in order to learn from the past, and look at future possibilities. What is the potential and what are the obvious roadblocks? Can our understanding be sharpened enough to facilitate a transformation in governance? Can such a transformation be brought about and harnessed to creatively meet the challenges of our democratic future?

One of the strongest living aspects of our colonial legacy has been a culture of official secrecy, whereby, all questions regarding the functioning of Governments were usually treated with suspicion; and not only were answers not required to be provided, but also the Official Secrets Act (1923) expressly forbids the dissemination of most information held by public bodies. The RTI Act heralds a change, in as much as it provides a framework for dismantling exclusive control over information by such bodies. With the RTI Act, providing information is the norm and secrecy is an exception. However, it needs to be acknowledged that laws can, at best, facilitate and enable change. The real challenge will be building a culture of transparency and openness in government. But what does it take to replace a culture of official secrecy and control with one of openness and participation?

A complete paradigm shift for the governing machinery! It is this paradigm shift towards an open government that the Act intends to bring about in the administrative system in the country.

This calls for determined efforts towards appropriate capacity building on the ‘supply side’ – within the public authorities, especially for the cutting-edge implementers, i.e. the Public Information Officers (PIOs), Assistant Public Information Officers (APIOs)

and Appellate Officers (AOs). Government functionaries have to imbibe the spirit of the Act as manifested in the values of transparency and accountability. There has to be complete attitudinal change among the officials for the successful implementation of the Act. This is no small challenge.

Equally significant is the need to strengthen the 'demand side' by involving representatives from Civil Society Organisations (CSOs) as well as Media Organisations (particularly the diverse, smaller, vernacular media organisations who, undoubtedly, have a substantial readership base, especially in the rural areas). Such organisations are required to extend their hand in creating awareness among the general public and also in monitoring the implementation of the Act by public authorities.

Thus, the need and rationale for effective Training and Capacity Building intervention for these important stakeholders cannot be over-emphasised. This assumes utmost importance given that there exist variations in the approaches adopted by different States in the implementation of the Act. There is, thus, a felt need, to bring about uniformity with respect to the basic understanding and comprehension of the Act and in its implementation.

The Capacity Building for Access to Information (CBAI) Project

The Capacity Building for Access to Information (CBAI) Project is a Department of Personnel and Training (DoPT) initiative supported by United Nations Development Programme (UNDP) that aims at enhancing capacities on both the supply and demand sides to foster a practical regime for right to information. This project is being implemented at the national level by the National Implementing Agency (NIA) that comprises the Centre for Good Governance (CGG), Hyderabad and Yashwantrao Chavan Academy of Development Administration (YASHADA), Pune. NIA would be providing significant handholding and logistical support to the State Implementing Agencies (SIAs) (i.e. the State Administrative Training Institutes) and with the latter's support further to the District Implementing Agencies (DIAs) in conducting various capacity-enhancement activities

Training Mandate under the CBAI Project

Under the CBAI Project, NIA is to provide critical support to the Central and State Government public authorities as well as to the Civil Society for effective implementation of the RTI Act. NIA will facilitate the development of capacities of Government officials (i.e. the "supply" side) to meet information needs of citizens and simultaneously build demand-side capacities i.e. among citizens, Civil Society Organisations (CSOs),

Media etc. to demand information by making effective use of the Act.

A properly designed training programme on the RTI Act as envisaged under the CBAI project can enable all key stakeholders through:

- increased knowledge about and understanding of the various provisions of the Act and their implications;
- improved skills of the officials concerned for effective implementation of the provisions of the Act; and

It is in view of securing these abovementioned objectives that a training strategy, that covers all stakeholders has been put in place under the CBAI project. This strategy includes:

- Building a cadre of trainers / facilitators / resource persons at the national, state and district levels
- Training of important stakeholders – both information providers and information seekers :

1. The Information Providers:

- a) Public Authorities
- b) Public Information Officers
- c) Assistant Public Information Officers
- d) Appellate Authorities
- e) Other Government Officials

2. The Information Seekers:

- a) Citizens
- b) Representatives from Civil Society Organisations (CSOs) / Community-Based Organisations (CBOs) / Non-Government Organisations
- c) Representatives from Media Organisations – national, regional and local
- d) Social activists and others.

What is this Handbook about?

This Handbook has been developed to assist the training of trainers in the conduct of training programmes by providing broad guidelines to the trainers as well as detailed information about the Act itself. This handbook can be helpful to trainers for conducting training for APIOs / PIOs / AOs, Civil Society and Media representatives.

The handbook provides a whole range of material including a Training Programme Guide (including Training Schedules and Training Methodology), Learning Material (10 Modules), Group Exercises, Quizzes, Success Stories on Right to Information, Questions and Answers (Q & A), Module-specific PowerPoint Presentations (provided as soft copies in a Compact Disc), and other useful reference material.

This handbook has been prepared as a comprehensive aid that can be used by trainers / facilitators to design and conduct training programmes for different stakeholders either by using the handbook as such or by suitably adapting and modifying its components.

How to use this Handbook?

This handbook can be used in two basic ways:

- as a teaching guide for trainers conducting programmes for public officials, representatives from civil society etc.; and
- as reference material for officials and other stakeholders who may have already undergone a training programme on RTI.

Structure of the Handbook

This Handbook is divided into seven parts:

Part I: Training Programme Guide

The training programme guide provides basic inputs to the trainer in order to enable him / her to:

- design the RTI training programme as per the requirements of the target audience
- plan and organise the training programme in an efficient manner
- undertake the training programme effectively by adopting a suitable training methodology

Part II: Learning Material

The learning material contained in the handbook has been spread over ten modules – each providing key learning inputs on specific aspects related to the RTI Act.

The Modules are as follows:

1. A General Overview of the RTI Act and Explanation of Important Concepts / Terms in the Act
2. Training Fundamentals for Prospective Trainers on RTI
3. Public Authorities and their Obligations under the Act
4. Role of Public Information Officers: PIOs and APIOs
5. Accepting an Information Request, Processing and Disposing it
6. Exemptions from Disclosure of Information, Partial Disclosure and “Third Party” Information
7. First Appeals and Appellate Officers
8. Information Commission: Powers and Functions
9. RTI and Good Governance: Role of Civil Society Organisations and Media
10. Records Management for Effective Information Management and Implementation of the Act

Part III: Group Exercise – Case Studies

This part of the handbook contains case studies specifically designed to aid the trainer / facilitator in undertaking group exercises. Each case study attempts to highlight a different aspect related to the RTI Act.

Part IV: Quiz Digest

The Quiz Digest has three quizzes that the trainer can use to assess the degree of learning of the participants. Thus, it is suggested that the Pre – Test could be conducted as a part of the Ice breaker, whereas Quiz No. 1 (on topics covered on Day 1) could be administered at the beginning of the session on Day 2, Quiz No. 2 (on topics covered on Day 2) could be administered at the beginning of the session on day 2 and Quiz No. 3 (on topics covered on Day 3) could be administered toward the close of the session on Day 3.

Part V: RTI Success Stories

A compilation of success stories has been provided in this section. Each success story relates to a different context; even as an attempt has been made to provide a diverse set of illustrations.

Part VI: Questions and Answers (Q&A)

The handbook contains a Questions & Answers section that seeks to provide useful answers to questions relating to the RTI Act in general and to the role of Public Authorities and Public Information Officers and other Officers in particular.

Part VII: Presentation Docket

A set of ten Power point Presentations based upon the ten modules (included in this Handbook as Learning Material) has been provided in this handbook in a Compact Disc (CD).

Part I

Training Programme Guide

This Training Programme Guide seeks to provide useful guidance to the trainers for undertaking training programmes for all key stakeholders.

a) Objectives of the Proposed Training Programme

This training programme is designed to:

- augment the capabilities of potential trainers / facilitators / resource persons in designing and conducting training programmes on RTI for all key stakeholders
- equip the participants with knowledge and skills for effective implementation of the Act

b) Training Approach and Methodology

The approach of trainers will play a crucial role in achieving the objectives of capacity building of key stakeholders on RTI. Firstly, the trainer must herself / himself believe in the underlying principles of RTI in order to convey the same to the participants. Secondly, the trainer must empathise with people having different perspectives and divergent views. Thirdly, the trainer must reflect deep knowledge and awareness on the subject. Lastly, given that the Act is of relatively recent origin and some provisions of the Act may be open to different interpretations, the trainer must adopt an objective approach in putting forth different views.

The training programme has been designed in such a manner that each section of the Act is critically examined to impart a complete understanding of the law and its application. The suggested methodology to be followed in conducting the programme involves the following:

- Segmenting the programme into theme-specific 'Modules' that attempt to cover, in detail, various aspects of the theme concerned along with other materials and aids for the trainer.
- Each module has a related presentation and learning material for trainers which can be complemented by discussions on each module that would allow participants to share their concerns, seek clarifications, identify potential problem areas and attempt to evolve workable solutions.
- The trainer can commence the day with a quiz and can punctuate the training during the day with group exercises involving hypothetical case studies on specific issues.

- Finally, the trainer can also provide real life examples into the training by using inputs provided in the form of RTI success stories.

The trainer should attempt to orient the training programme to meet the requirements of the target audience. A good measure of flexibility is warranted with respect to the duration of the training programme and the modules therein. Sample training programme schedules for different stakeholders have been provided which the trainers can appropriately adapt / modify to suit their specific requirements.

c) Types of Training Programmes

The following types of training programmes can be conducted using this handbook:

For Whom	Duration	Remarks
Trainers (National, State and District Levels)	3 days	If required, this can be extended by 2-3 days to assess the learning of trainers by making them train others
Information Officers, Appellate Officers and other officials involved in the implementation process	3 days	For an in-depth understanding of the Act and implementation requirements
Senior Government Officials, Elected Representatives	1 day	For a general overview and sensitisation to the Act
Representatives from Civil Society Organisations, Media, Citizen Groups etc.	1 day	For a general overview of the Act with emphasis on their specific roles

d) Suggested Templates for Each Type of Training Programme

Specific templates have been suggested for each type of training programmes mentioned above. These templates are illustrative in nature. The trainers / facilitators can adapt / modify them to suit their specific requirements.

Three-Day Training Programme Schedule for Trainers

Day I	Morning Session 9.30 a.m. - 1.00 p.m.	<ul style="list-style-type: none"> ▪ Registration [30 minutes] ▪ Breaking the Ice and Pre-Test [30 minutes] 	
		Module 1	<ul style="list-style-type: none"> • A General Overview of the RTI Act, 2005 and Explanation of Important Concepts / Terms in the RTI Act [45 minutes] • Discussion on Module 1 [20 minutes]
		SHORT BREAK [15 minutes]	
		Module 2	<ul style="list-style-type: none"> • Training Fundamentals for Prospective Trainers [50 minutes] • Discussion on Module 2 [20 minutes]
	LONG BREAK [60 minutes]		
	Afternoon Session 2.00 p.m. - 5.30 p.m.	Module 3	<ul style="list-style-type: none"> • Public Authorities and their Obligations under the Act [45 minutes] • Discussion on Module 3 [20 minutes]
		Module 4	<ul style="list-style-type: none"> • Role of Public Information Officers: PIOs and APIOs [45 minutes] • Discussion on Module 4 [20 minutes]
		SHORT BREAK [15 minutes]	
<ul style="list-style-type: none"> ▪ Group Exercise [60 minutes] ▪ Directions to Participants (if applicable) [5 minutes] 			
Day II	Morning Session 9.30 p.m. - 1.00 p.m.	<ul style="list-style-type: none"> ▪ Answering Queries and Doubts on Topics Covered on Day 1 and Related Discussion] / Narrating a Success Story [20 minutes] ▪ Quiz on Topics Covered on Day 1 [20 minutes] Announcing the Key to the Quiz and Addressing Doubts / Answering Questions (if any) [10 minutes] 	
		Module 5	<ul style="list-style-type: none"> • Accepting a Request. Processing and Disposing a Request [40 minutes] • Discussion on Module 5 [20 minutes]
		SHORT BREAK [15 minutes]	
		Module 6	<ul style="list-style-type: none"> • Exemptions from Disclosure of Information, Partial Disclosure and “Third Party” Information [60 minutes] • Discussion on Module 6 [25 minutes]

DAY III		LONG BREAK [60 minutes]
	Afternoon Session 2.00 p.m. - 5.30 p.m.	Movie Screening followed by a Discussion on the Movie [60 minutes]
		Module 7 · First Appeals and Appellate Officers [45 minutes] · Discussion on Module 7 [20 minutes]
		SHORT BREAK [15 minutes]
		Module 8 · Information Commission: Powers and Functions [45 minutes] · Discussion on Module 8 [20 minutes] ▪ Directions to participants (if applicable) [5 minutes]
	Morning Session 10.00 a.m. - 1.00 p.m.	· Answering Questions and / or Addressing Doubts on Topics Covered on Day 2 and Related Discussion / Narrating a Success Story [15 minutes] · Quiz on Topics Covered on Day 2 [20 minutes] · Announcing the Key to the Quiz and Addressing Doubts / Answering Questions (if any) [10 minutes]
		Module 9 · Right to Information and Good Governance – Role of Civil Society Organisations and Media [45 minutes] · Discussion on Module 9 [15 minutes]
		SHORT BREAK [15 minutes]
		Module 10 · Records Management for Effective Implementation of the RTI Act [45 minutes] · Discussion on Module 10 [15 minutes]
		LONG BREAK [60 minutes]
Afternoon Session 2.00 p.m. - 4.00 p.m.	· Group Exercise - 'Role Play' Followed by Discussion [90 minutes] · Administering Feedback / Evaluation Forms · Distribution of Reference / Reading Material (if any)	

Three-Day Training Programme Schedule for Information Officers, Appellate Officers and Other Government Officials

Day I	Morning Session	<ul style="list-style-type: none"> • Registration [30 minutes] • Breaking the Ice and Pre-Test [30 minutes]
	9.30 a.m. - 1.00 p.m.	<p>Module 1 • A General Overview of the RTI Act, 2005 and Explanation of Important Concepts / Terms in the RTI Act [45 minutes]</p> <ul style="list-style-type: none"> • Discussion on Module 1 [20 minutes]
		SHORT BREAK [15 minutes]
		<ul style="list-style-type: none"> • RTI in Practice - Success Stories and Implications • Refer to Part V of the Handbook
		LONG BREAK [60 minutes]
	Afternoon Session	<p>Module 3 • Public Authorities and their obligations under the Act [45 minutes]</p> <ul style="list-style-type: none"> • Discussion on Module 3 [20 minutes] <p>Module 4 • Role of Public Information Officers: PIOs and APIOs [45 minutes]</p> <ul style="list-style-type: none"> • Discussion on Module 4 [20 minutes]
2.00 p.m. - 5.30 p.m.	<p style="text-align: center;">SHORT BREAK [15 minutes]</p> <ul style="list-style-type: none"> • Group Exercise [60 minutes] • Directions to Participants (if applicable) [5 minutes] 	
Day II	Morning Session	<ul style="list-style-type: none"> • Answering Queries and Doubts on Topics Covered on Day 1 and Related Discussion / Narrating a Success Story [20 minutes] • Quiz on Topics Covered on Day 1 [20 minutes] Announcing the Key to the Quiz and addressing doubts / answering questions (if any) [10 minutes]
	9.30 p.m. - 1.00 p.m.	<p>Module 5 • Accepting a Request. Processing and Disposing a Request [40 minutes]</p> <ul style="list-style-type: none"> • Discussion on Module 5 [20 minutes]
		SHORT BREAK [15 minutes]
		<p>Module 6 • Exemptions from Disclosure of Information, Partial Disclosure and “Third Party” Information [60 minutes]</p> <ul style="list-style-type: none"> • Discussion on Module 6 [25 minutes]

DAY III		LONG BREAK [60 minutes]	
	Afternoon Session 2.00 p.m. - 5.30 p.m.	Movie Screening followed by Discussion on the movie [60 minutes]	
		Module 7	<ul style="list-style-type: none"> • First Appeals and Appellate Officers [40 minutes] • Discussion on Module 7 [20 minutes]
		SHORT BREAK [15 minutes]	
		Module 8	<ul style="list-style-type: none"> • Information Commission: Powers and Functions [50 minutes] • Discussion on Module 8 [20 minutes]
		<ul style="list-style-type: none"> • Directions to participants (if applicable) [5 minutes] • Answering Questions and / or addressing doubts on topics covered on Day 2 and related discussion [15 minutes] • Quiz on topics covered on Day 2 [20 minutes] • Announcing the 'key' to the Quiz and addressing doubts / answering questions (if any) [10 minutes] 	
	Morning Session 10.00 a.m. - 1.00 p.m.	Module 9	<ul style="list-style-type: none"> • Right to Information and Good Governance – Role of Civil Society Organisations and Media [45 minutes] • Discussion on Module 9 [15 minutes]
	SHORT BREAK [15 minutes]		
	Module 10		<ul style="list-style-type: none"> • Records Management for Effective Implementation of the RTI Act [45 minutes] • Discussion on Module 10 [15 minutes]
		LONG BREAK [60 minutes]	
Afternoon Session 2.00 p.m. - 4.00 p.m.	<ul style="list-style-type: none"> • Group Exercise - 'Role Play' followed by discussion [90 minutes] • Administering Feedback / Evaluation Forms • Distribution of Reference / Reading Material (if any) 		

One Day Training Programme Schedule for Elected Representatives and Senior Government Officials

Morning Session	<ul style="list-style-type: none"> • Registration [30 minutes] • Breaking the Ice [20 minutes] 	
	Module 1	<ul style="list-style-type: none"> • A General Overview of the RTI Act, 2005 and Explanation of Important Concepts / Terms in the RTI Act [40 minutes]
9.30 p.m. - 1.00 p.m.	Module 3, 4,5,6	<ul style="list-style-type: none"> • Focused Inputs on Key Provisions of the Act [90 minutes] <ul style="list-style-type: none"> • Public Authorities and their Obligations • Role of Public Information Officers • Disposal of Requests • Exemptions from Disclosure of Information • Discussion [30 minutes]
LONG BREAK [60 minutes]		
Afternoon Session	Movie Screening [45 minutes]	
	Module 7, 8,9,10	<ul style="list-style-type: none"> • Focused Inputs on Key Provisions of the Act [60 minutes] <ul style="list-style-type: none"> • First Appeals & Appellate Officers • Role of Information Commissions • Role of Civil Society and Media Organisations • Records Management • Discussion [30 minutes]
	SHORT BREAK [15 minutes]	
<ul style="list-style-type: none"> • Group Exercise [60 minutes] 		

One Day Training Programme Schedule for Elected Representatives and Senior Government Officials

Morning Session	<ul style="list-style-type: none"> • Registration [30 minutes] • Breaking the Ice [20 minutes] 	
	Module 1	<ul style="list-style-type: none"> • A General Overview of the RTI Act, 2005 and Explanation of Important Concepts / Terms in the RTI Act [40 minutes]
9.30 p.m. - 1.00 p.m.	Module 3, 4, 5, 6, 7, 8	<ul style="list-style-type: none"> • Focused Inputs on Key Provisions of the Act [90 minutes] <ul style="list-style-type: none"> • Public Authorities and their Obligations • Role of Public Information Officers • Disposal of Requests • Exemptions from Disclosure of Information • First Appeals & Appellate Officers • Information Commissions • Discussion [30 minutes]
LONG BREAK [60 minutes]		
Afternoon Session	Movie Screening [45 minutes]	
	Module 9	<ul style="list-style-type: none"> • Right to Information and Good Governance – Role of Civil Society Organisations and Media [60 minutes] • Discussion on Module 9 [30 minutes]
2.00 p.m. - 4.00 p.m.	SHORT BREAK [15 minutes]	
<ul style="list-style-type: none"> • Group Exercise [60 minutes] 		

e) Matrix for modular planning of Training Programmes

The matrix below provides an indicative plan for designing training programmes for different stakeholders keeping in view their specific needs.

	Module 1	Module 2	Module 3	Module 4	Module 5	Module 6	Module 7	Module 8	Module 9	Module 10
Training Programme for Trainers (ToT) [3 days]	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Training Programme for PIOs / APIOs / AOs [3 days]	✓	Narrate RTI Success Stories and encourage discussion on them	✓	✓	✓	✓	✓	✓	✓	✓
Training Programme for Senior Government Officials & Elected Representatives [1 day]	✓	—	Merge Modules 3, 4, 5, 6 into a single session				Merge Modules 7, 8, 9, 10 into a single session			
Training Programme for CSO & Media Representatives [1 day]	✓	—	Merge Modules 3, 4, 5, 6, 7, 8 into a single session						✓	—

A Quick Glance at the Training Process

Step 1: Assess the Training Needs

- Obtain information about the participants - their background, experience, etc.
- The role they play in the implementation of the RTI Act
- Formulate the goal (overall objective) of the training
- Identify participants' needs relevant to the RTI Act

Step 2: Plan

- Identify subject (content) areas
- Construct a general training plan by content area
- Design detailed sessions, indicating training techniques
- Formulate learning objectives for each session
- Design an evaluation plan and instruments
- Develop a logistics plan for training
- Determine follow-up activities

Step 3: Prepare

- Prepare training materials (training programme schedule, handouts, visual aids, reference notes etc.)
- Prepare training logistics

Step 4: Implement

- Conduct the training programme
- Accept feedback from participants
- Evaluate the training (during and / or after the programme)

Step 5: Follow - Up

- Plan supervision and follow-up activities
- Determine additional training needs and attempt to meet them

Programme Evaluation & Feedback

Note: Please fill in the items in the questionnaire. Your objective evaluation will help us to improve upon the modules for the training programmes to be conducted in future.

Name of the Institution:

Title of the Programme & Dates:

Name of the Programme Director:

1. Did you receive advance intimation from the Institution about the programme? If so, did you respond to the Institution?

Yes	No

2. What do you think about the structure and organisation of the programme to meet the objectives?

Very Well-structured	Well-structured	Somewhat Structured	Unstructured

3. How useful would this training be to you immediately in your work?

Very Useful	Quite Useful	Of Limited Use	Not Useful At All

4. How useful is this training likely to be for the future work you may handle?

Very Useful	Quite Useful	Of Limited Use	Not Useful At All

5. What do you think of the practical orientation of the programme?

Highly Practically Oriented	Substantially Practically Oriented	Practically Oriented to a limited Extent	Not Practically Oriented At All

6. How far have you benefited from the interaction (through group discussions / group exercises) with fellow participants in the programme?

Substantially	Considerably	Fairly	Not At All

7. To what extent was the reference material supplied relevant and related to the training programme constituents?

Extremely Relevant	Considerably Relevant	Fairly Relevant	Not Relevant At All

8. To what extent are you satisfied with the following:

Description	Fully Satisfied	Satisfied to a Large Extent	Satisfied to a Limited Extent	Not Satisfied At All
	4	3	2	1
Reception & Transport				
Food Quality & Service				
Classroom Facilities				
Reference Material Provided				
Interaction with the Faculty / Trainers / Facilitators				

9. Which parts of the programme did you find most useful? Why?

10. Which parts of the programme did you find least helpful? Why?

11. Your overall impression of the programme:

Excellent	Very Good	Good	Fair

12. Any other comments / observations you wish to make about the programme?

13. Evaluation of Trainer(s) / Facilitator(s):

Date	Module	Name of Trainer / Facilitator	Excellent	Very Good	Good	Satisfactory
	1					
	2					
	3					
	4					
	5					
	6					
	7					
	8					
	9					
	10					

Name of the Participant (Optional):

Name of the Organisation (Optional):

Part II

Learning Material

Module 1

A General Overview of the RTI Act, 2005
and
Explanation of Important Concepts / Terms in the Act

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ The evolution of the Right to Information in India.
- ✓ The philosophy underlying the Right to Information Act, 2005 and the paradigm shift it envisages.
- ✓ The important terms and concepts used in the Act.
- ✓ The salient features of the Act.

Learning Material

1.1 A General Overview of the RTI Act, 2005

The Right to information Act, 2005 (“the Act”), which fully came into force on 12 October 2005, is one of the most significant legislations enacted by the Parliament of India. The Act enables the establishment of an unprecedented regime of right to Information for the citizens of the country. It overrides the inconsistent provisions of the ‘Official Secrets Act’ and similar laws / rules. It aims to ensure maximum openness, transparency and accountability in the machinery and functioning of Government at all levels: Central, State and Local.

The Act mandates a legal-institutional framework to set out a practical regime of right to access public information. Towards this end, it prescribes both, mandatory disclosure of certain kinds of information by public authorities, and the designation of Public Information Officers (PIOs) (and Assistant Public Information Officers (APIOs)) in all public authorities to attend to the requests from citizens for information. It also provides the citizens the right to appeal – a first appeal against an action or inaction of a PIO, to an Appellate Officer (AO), who is to be senior in rank to the PIO. Furthermore, the Act also mandates the constitution of Information Commission(s) – the Central Information Commission (CIC) and State Information Commissions (SICs), to inquire into complaints, hear second appeals, oversee and guide the implementation of the Act.

A legislative enactment was considered to be necessary to facilitate the exercise of right to information by citizens leading to an informed citizenry that should enable strengthening and deepening of democracy, enhance transparency and accountability of Governments (and their instrumentalities), and also help in containing corruption. It was also thought that an appropriate legal framework would ensure that conflicting interests – essentially those pertaining to revelation of information on the one hand and efficient operations of Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information on the other – are harmonised even as the supremacy of the democratic ideal is preserved.

Both the Union and the State Governments have taken preparatory steps towards the implementation of the Act such as Constitution of Central/State Information Commissions, designation of PIOs / APIOs / Appellate Officers, preparation of information handbooks and generating awareness among the citizens. This is, however, one of the first steps towards compliance with a minimum requirement stipulated by the Act.

The RTI Act has, in one stroke, heralded a new paradigm of openness as against the erstwhile regime of secrecy. It makes access to information an unquestionable entitlement of the citizen and makes a public authority duty-bound to provide it on its own and on request / demand.

1.2 Right to Information Movement in India - A Historical Perspective

Article 19(1)(a) (Part III) of the Constitution of India, guarantees to all citizens, among other things, the Fundamental Right to Freedom of Speech and Expression, subject to certain “reasonable restrictions”, imposed by law, on the exercise of such a right... in the interests or on the grounds of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

Right to receive and impart information have been held to be a part of freedom of speech and expression guaranteed by sub-clause (a) of clause (1) of Article 19 of the Constitution subject of course to the reasonable restrictions, if any, that may be placed on such right in terms of and to the extent permitted by clause (2) of the said Article. It has been held by the Supreme Court in the *Secretary, Ministry of I & B, Government of India v Cricket Association of Bengal* ((1995) 2 SCC 161) case that: “The freedom of speech and expression includes right to acquire information and to disseminate it... It is the only vehicle of political discourse so essential to democracy...”

That the right to information is a fundamental right flowing from Article 19(1)(a) of the Constitution, is now well-settled. Over the years, the Supreme Court has consistently ruled in favour of the citizen’s right to know by including the right to information “within the right to freedom of speech and expression guaranteed by Article 19 (1) (a)”¹; and by stating that: “The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries (and) are entitled to know the particulars of every public transaction in all its bearings”².

Further, in *S. P. Gupta*³, the Apex Court upheld “the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries...” and in *P.U.C.L.* case,⁴ the right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable. It was also emphasised that governance must be participatory.

¹ *Bennett Coleman v. Union of India*, AIR 1973 SC 60.

² *State of UP v. Raj Narain*, (1975) 4 SCC 428.

³ *S.P. Gupta v. UOI*, AIR 1982 SC 149.

⁴ *People's Union for Civil Liberties v. UOI*, 2004 (2) SCC 476.

Notwithstanding the Constitutional provisions and Supreme Court judgments, the real movement for right to information in India originated from the grass roots level. A mass-based organisation called the *Mazdoor Kisan Shakti Sangathan* (MKSS) took an initiative to lead the people in a very backward region of Rajasthan - *Bhim Tehsil* - to assert their right to information by asking for copies of bills and vouchers and names of persons who have been shown in the muster rolls on the construction of schools, dispensaries, small dams and community centres as having been paid wages. On paper such development projects were all completed, but it was common knowledge of the villagers that there was gross misappropriation of funds with roofless school buildings, dispensaries without walls, dams left incomplete, community centres having no doors and windows, and poor quality of cement being used for construction.

After years of knocking at officials' doors and despite the usual apathy of the State Government, MKSS succeeded in getting photocopies of certain relevant documents. Misappropriation of funds was clearly obvious. In some cases, the muster rolls contained names of persons who either did not exist at all or had died years before.

MKSS organised a *Jan Sunwai* (People's hearing), the first ever in the history of Rajasthan. Politicians, administrators, landless labourers, private contractors were all invited to listen, respond and, if willing, to defend themselves. Popular response was phenomenal, whereas, understandably, most Government officials and politicians stayed away and remained silent.

Between December 1994 and April 1995, several other public hearings were organised. People's anger made one engineer of the State Electricity Board to return, in public, an amount of Rs.15,000 he had extracted from a poor farmer. This grassroots movement spread fast to other areas of Rajasthan and to other States establishing firmly that information is power and people should have the right to official information – how public money is spent and how the same is accounted for. *Loksatta*, an NGO in Andhra Pradesh has undertaken mass awareness campaign across the State and through a 'post card campaign' made representations to the Prime Minister of India demanding the enactment of a right to information law.

The Rajasthan experience on demanding right to information was echoed in other States. The growing demand for a right to public information from various sections of the society, led by civil society organisations in these States could no longer be ignored. The need to enact a law on right to information was recognised unanimously by the Chief Ministers Conference on "Effective and Responsive Government", held on May 24, 1997 at New Delhi. The Government of India, Department of Personnel, decided to set-up a 'Working

Group' (on the 'Right to Information and Promotion of Open and Transparent Government') in January 1997 under the chairmanship of Mr. H. D. Shouri, which submitted its comprehensive and detailed report and the draft Bill on Freedom of Information in May 1997.

The Press Council of India, the Press Institute of India, the 'National Campaign for People's Right to Information' and the Forum for Right to Information unanimously submitted a resolution to the Government of India to amend the proposed Bill in February, 2000.

The Government of India introduced the Freedom of Information Bill, 2000 (Bill No.98 of 2000) in the *Lok Sabha* on 25th July, 2000. The Bill, which cast an obligation upon public authorities to furnish such information wherever asked for, was passed by the Parliament as the Freedom of Information (Fol) Act, 2002. However, the Act could not be brought into force because the date from which the Act could come into force, was not notified in the Official Gazette.

The United Progressive Alliance (UPA) Government at the Centre, which came into power in 2004, set up a National Advisory Council (NAC). The Council suggested important changes to be incorporated in the Fol Act. These suggestions were examined by the UPA Government, which decided to make the Fol Act more progressive, participatory and meaningful. Later, however, the UPA Government decided to repeal the Fol Act, and enacted a new legislation, the Right to Information Act, 2005, to provide an effective framework for effectuating the right of information recognised under Article 19 of the Constitution of India.

1.3 RTI Legislations in States

Even before the Fol Act was passed by the Parliament, several States in India had enacted their own legislations on Right to Information. The fact that some of the States in the country took a lead in enacting right to information legislations (or codes of disclosure of certain categories of information), and the lessons that were learnt from the implementation of these various legislations were indeed helpful, in framing the provisions of the Right to Information Act, 2005 in detail. A brief overview of the State Acts in operation prior to the enactment of the RTI Act is provided below:

Tamil Nadu was the first State to introduce the Right to Information Act in April 1996. The legislation aimed at ensuring access to information about Government administration. The Bill was modeled on the draft legislation recommended by the Press Council of India. However, the enacted legislation was full of exemptions and inadequacies. So it failed to evoke much response from the public and NGOs and other concerned activists.

Goa was the second State to enact the Right to Information legislation in 1997. The Goa Act contained several provisions, which allowed the State to withhold information without substantiating reasons for it.

The grassroots movement led by MKSS compelled the Rajasthan Government to act in the direction to prepare the Right to Information Bill. Several other sister organisations also joined hands with MKSS to start an agitation on a large scale and declared an indefinite strike. It was called off when a high level committee was appointed to work out the modalities of how photocopies could be provided in relation to the order issued in April 1996. The Rajasthan Right to Information Act, 2000, had 13 sections in all, 10 of which established categories of exemptions. It contained a provision for one internal appeal and also for an appeal to an independent body.

The Karnataka Government took steps to make information available to the public as far back as 1997, starting with many government departments issuing executive orders to provide access to information on development projects undertaken by them and to keep relevant records open for inspection or available for copying for a nominal fee. In August 2000, the executive orders were supplemented by the Right to Information ordinance recognising the necessity to enact a comprehensive legislation. The State Legislative Assembly was not in session. Hence an ordinance was passed on the matter as a first step. The Karnataka Right to Information Act 2000 was enacted soon after by the State Assembly in December 2000. Unfortunately, however the Act could not be operationalised properly until July 2002, when the Government of Karnataka notified the Karnataka Right to Information Rules.

The Maharashtra Right to Information Act, 2000 had 9 sections in all and 22 categories of exemptions. However, it did not provide for the establishment of an appellate authority which would review refusals. It did not have provisions for providing information proactively, or penalties for withholding or destroying information either.

The Delhi Legislature passed the Delhi Right to Information Act in 2001. This law had been along the lines of the Goa Act, containing the standard exemptions and provided for an appeal to an independent body, as well as establishing an advisory body, the State Council for Right to Information.

Assam passed the 'Assam Right to Information Act' in 2001. Section 4(2) provides 11 exemptions from disclosure of information.

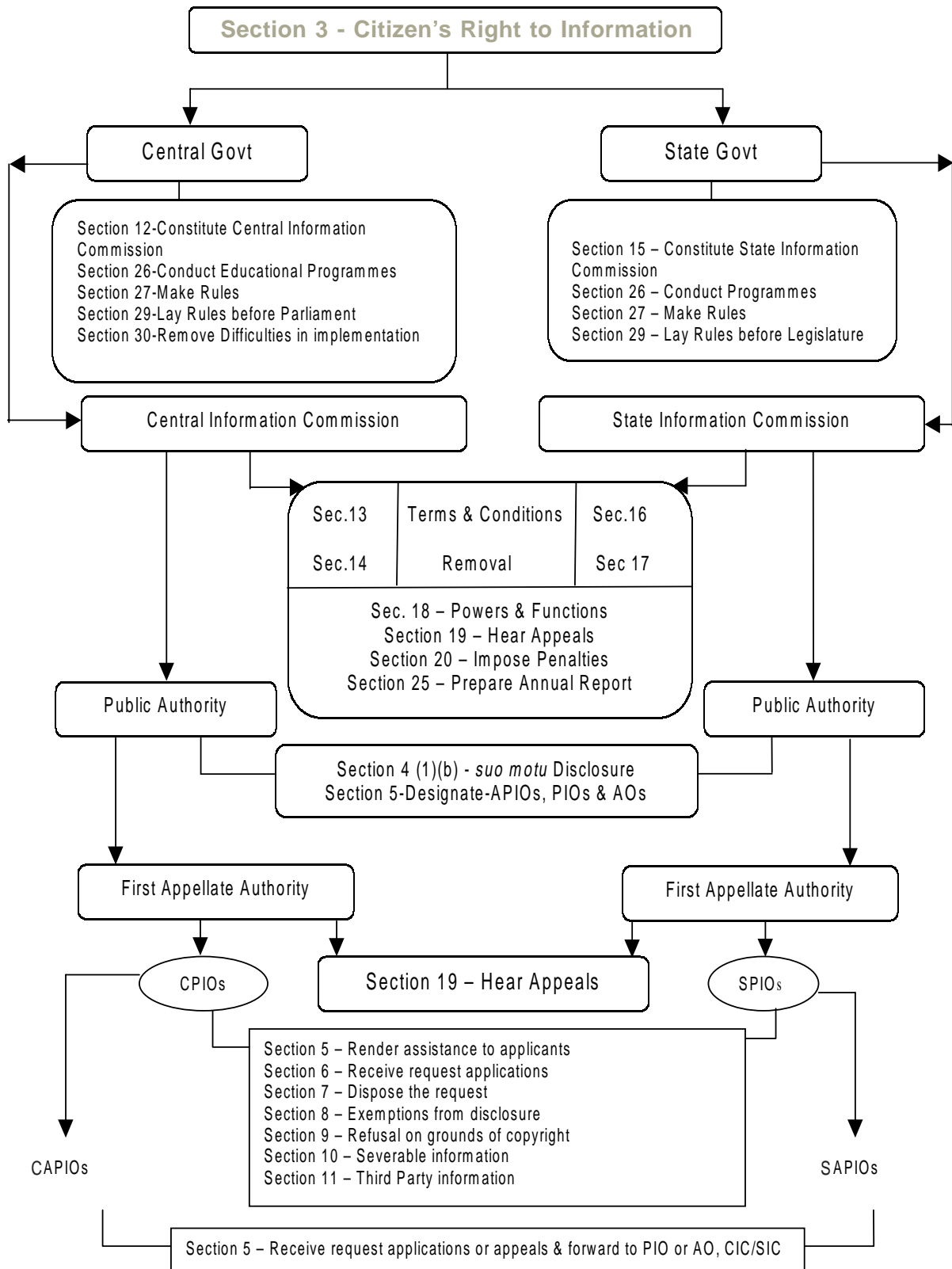
Even, before a bill was introduced in the Madhya Pradesh Assembly, in certain places like *Bilaspur* and *Korba*, the local authorities provided access to information. The Divisional

Commissioner, *Bilaspur* initiated it in the matter of the Public Distribution System (PDS) and allowed the citizens to access details of food-grains and commodities allotted to their areas and their distribution. The scheme was soon extended to development programmes and pollution awareness. It was observed that the right to information considerably reduced black-marketing and corruption in the PDS. Moreover, in polluted areas like *Korba*, the sharing of information on pollution level raised public consciousness. As a result, officials became careful about monitoring and controlling pollution levels. Surprisingly, bowing to popular demand, the Government passed a bouquet of executive orders dealing with right of access to Government records. The Madhya Pradesh Assembly passed the Right to Information Act in 2002.

Jammu & Kashmir passed the Jammu & Kashmir Right to Information Act in 2004. Section 6 of this Act provides 7 restrictions on right to information.

It needs to be noted that not only is the Right to Information Act, 2005 a landmark legislation in the Indian context, it also places India among a group of some of the more evolved democracies of the world, to have enacted such a law in an effort towards deepening democracy. It also needs to be noted that the RTI Act is in keeping with the provisions of some of the path-breaking international covenants.

However, progress on the part of public authorities towards effective implementation of the Act in right earnest, and the Act's large scale acceptance and use by the people, as an instrument for pressing transparency and accountability of public bodies / officials – will be the true indicator of the success of the Act. In order for the Act to achieve its objectives, all the stakeholders concerned with implementation of the Act – both from supply and demand sides – will have to work in partnership and in a mission mode.



Paradigm-Scheme of RTI Act at a Glance

1.4 Key Terms and Concepts in the Act

“Information” [Section 2(f)]:

Any material in any form, including:

• Records;	• Opinions;	• Orders;
• Documents;	• Advices;	• Logbooks;
• Memos;	• Press releases;	• Contracts;
• e-mails;	• Circulars;	• Reports;
• Papers;	• Samples;	• Models;
• Data material held in any electronic form; and		
• Information relating to any private body which can be accessed by a public authority under any other law for the time being in force.		

“Record” [Section 2(i)] includes:

- any document, manuscript and file;
- any microfilm, microfiche and facsimile copy of a document;
- any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- any other material produced by a computer or any other device.

“Right to Information” [Section 2(j)]:

The right to information accessible under the RTI Act which is held by or under the control of any public authority and includes the right to —

- inspection of work, documents, records;
- taking notes, extracts or certified copies of documents or records;
- taking certified samples of material; and
- obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

“Public Authority” [Section 2(h)]:

- any authority or body or institution of self-government established or constituted
 - (a) by or under the Constitution;
 - (b) by any other law made by Parliament;
 - (c) by any other law made by State Legislature;
 - (d) by notification issued or order made by the appropriate Government;
 and includes any—
 - (i) body owned, controlled or substantially financed;
 - (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government.

“Appropriate Government” [Section 2(a)]:

- in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—
 - (i) by the Central Government or the Union territory administration, the Central Government;
 - (ii) by the State Government, the State Government.

“Competent Authority” [Section 2(e)]:

- the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
- the Chief Justice of India in the case of the Supreme Court;
- the Chief Justice of the High Court in the case of a High Court;
- the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
- the Administrator appointed under Article 239 of the Constitution.

“Third Party” [Section 2(n)]:

- A person other than the citizen making a request for information and includes a public authority.

“Public Interest”

The RTI Act makes disclosure of information the rule if “public interest” in disclosure outweighs the harm to the protected interests. However, the Act does not define what is “public interest”.

.In the Indian context, and especially in the context of the RTI Act, 2005, two significant judgments of the Supreme Court of India can be taken note of in understanding the term “public interest”.

In *‘S. P. Gupta v President of India’*, AIR 1982 SC 149, Justice Bhagwati, in referring to ‘public interest’, maintained: “Redressing public injury, enforcing public duty, protecting social, collective, ‘diffused’ rights and interests vindicate public interest... [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.”

In *State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others* AIR 2006 Supreme Court 212, the Apex Court held “the interest of general public (public interest) is of a wide import covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]”.

One of the decisions of the CIC also throws some light on this term. Public interest includes “disclosure of information that leads towards greater transparency and accountability” [in the working of a public authority] (Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006).

Public Interest will, ideally, have to be the operating principle in all interpretations of the RTI Act and in deciding upon issues related to providing information or otherwise and in deciding upon the appropriateness of such decisions.

Where, the larger public interest would be served, the decision would always have to be made such that the larger public interest is indeed served. Section 8(2) of the Act itself says that a public authority may allow access to information, without any regard to the provisions of the Official Secrets Act 1923 or the exemptions

permissible under Section 8(1) of the Act, if public interest in disclosure outweighs the harm to the protected interests.

“Action in Good Faith”

Action in Good Faith applies to a PIO in the discharge of his / her duties. Section 21 of the RTI Act provides that “no suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder”.

In order to avoid being penalised by the Information Commission concerned, the PIO has to convince the Commission that the act of non-compliance was non-malafide. The onus for proving this is entirely on the PIO concerned.

1.5 A Brief Overview of the RTI Act

- The RTI Act has fully come into force on October 12, 2005 (120th day of its enactment)
- The Right to Information is conferred upon all citizens under Section 3 of the Act
- The following provisions of the Act came into force with immediate effect (from the date of its enactment itself):
 - Obligations of public authorities [S. 4(1)],
 - Designation of Public Information Officers and Assistant Public Information Officers [S.5(1) and 5(2)],
 - Constitution of Central Information Commission ((S.12 and S.13) and State Information Commission [S.15 and 16],
 - Non-applicability of the Act to Intelligence and Security Organisations [S.24] and
 - Power to make rules to carry out the provisions of the Act by the Appropriate Government and the Competent Authority [S.27 and S.28].
- The Act covers all public authorities, including bodies established or constituted by a law made by the Parliament or State Legislature. It also includes non-Government organisations substantially financed, directly or indirectly, by funds provided by a Government.

- Within 120 days, from the enactment of the Act, every public authority has to publish, among other information, information pertaining to:
 - Organisation, Functions, Duties, Norms for Discharge of Functions and Procedural Details.
 - Categories of Documents Held.
 - Rules, Regulations, instructions, Manuals and Records.
 - Statement of boards, councils, committees and other bodies; whether meetings of such bodies or minutes of meetings are accessible to public
 - Remuneration of Officers and Employees.
 - Budget and Expenditure.
 - Manner of Execution of Subsidy Programs and Beneficiary Details.
 - Particulars of Recipients of Concessions, Permits or Authorisations Granted.
 - Particulars of Facilities available to Citizens for obtaining Information.
 - Details of Public Information Officers.
- The Act facilitates a clear stipulation of Implementation Mechanism – Appointment of Public Information Officers and Appellate Officers in all Public Authorities
- Time limits for disposing request to the PIO
 - 30 days: On receipt of a request for information, the PIO has either to provide information on payment of such fees as prescribed or reject the request with reasons for the same.
 - 48 hours: If the information sought concerns the life or liberty of a person, the same has to be provided immediately, in any case, within 48 hours.
 - 35 days: 5 more days to be added to the above time limits if the application is submitted to the Assistant Public Information Officer.

40 days: Where third party is involved (If the PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by it, the PIO has to give a written notice to such third party within 5 days from the receipt of request inviting such third party to make a submission).

45 days: Information pertaining to allegations of violation of human rights from scheduled security and intelligence agencies.

- If the PIO fails to give decision on the request within the period specified, he shall be deemed to have refused the request.
- Information exempted from disclosure Section 8(1) pertain to the following areas:
- Sovereignty and Integrity, Security, Strategic Scientific or Economic interests of State, Relation with foreign State or lead to incitement of an offence
- Contempt of court
- Breach of privilege of Parliament or State Legislature
- Harm competitive position of a third party (commercial confidence, trade secrets or intellectual property)
- Fiduciary relationship
- Confidential information from foreign Government
- That which would endanger the life or physical safety or identify the source of information given in confidence
- Which would impede the process of investigations, apprehension or prosecution of offenders
- Cabinet papers – including records of deliberations of Council of Ministers, Secretaries and other Officers
- Personal information - invasion of privacy.

- The Act has mandated the Constitution of Central and State Information Commissions to be set up by the Central and State Governments respectively.

The Information Commissions will receive complaints from any person:

- who has not been able to submit an information request because a PIO has not been appointed / APIO refuses to forward an information request or appeal;
 - who has been refused information that was requested;
 - who has received no response to his / her information request within the specified time limits ;
 - who thinks the fees charged are unreasonable ;
 - who thinks information given is incomplete or false or misleading ;and
 - any other matter relating to requesting or obtaining information under this law.
- The Act prescribes a two-step appeals process
 - First Appeal: An officer senior in rank to PIO (within 30 days) – [Sec.19 (1) and 19 (2)]
 - Second Appeal within 90 days – with the Information Commissions – [Sec. 19 (3)]
 - Penalty Provision for penal action against non-compliance and clear indication of timelines for compliance and implementation
 - Information Commission can penalize the PIO if the PIO has, without any reasonable cause, refused to receive an application or not furnished the information within time limits specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information.
 - The Central Information Commission and the State Information Commissions shall prepare a report at the end of each year on the implementation of the provisions of the Act during that year and forward a copy to the Appropriate Government.
 - Overriding Effect of Act
 - Section 22 of the Act contends that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in

force or in any instrument having effect by virtue of any law other than the Act.

- Bar of Jurisdiction of Courts
 - Section 23 of the Act provides that no court shall entertain any suit, application or other proceeding in respect of any order made under the Act and no such order shall be called in question otherwise than by way of an appeal under the Act.
- The Appropriate Government may develop and organize educational programmes for the public and encourage public authorities to participate in such programmes. They are also required to promote timely and effective dissemination of accurate information and train PIOs and produce relevant training documents for use by public authorities.
- The Appropriate Government shall, within 18 months from the commencement of the Act, compile a guide containing such information as may be required by any person who wishes to exercise any right specified in the Act. It should also update and publish guidelines at regular intervals that should include contact details of PIOs of every public authority, manner and form in which request for access to any information may be made, assistance available from PIOs and Information Commission; remedies available to citizens under the Act, provisions for voluntary disclosure, notices regarding fees to be paid for accessing information and any additional regulations or circulars issued relating to the Act.

Discussion on Module 1

Talking Points

- Ask the participants to share their thoughts on the RTI Act, 2005.
- Initiate a talk on the overriding effect of the Act and its ramifications.
- Narrate to the participants an instance of how the RTI Act has brought a sudden change in the way things were earlier. This could be done best by narrating a particular success story. Please refer to the Case Studies / Success Stories in Part III of this handbook.
- Any particular concept or term or salient feature of the Act that any participant may want to discuss.

Module 2

Training Fundamentals for Prospective Trainers on RTI

Learning Objectives

At the end of this module, the participants should be able to:

- ✓ Appreciate the characteristics and competencies of an effective Trainer.
- ✓ Know about standard training techniques that they can use.
- ✓ Learn how to assess / evaluate a training programme.
- ✓ Get key tips for undertaking training on RTI.

Learning Material

2.1 Characteristics and Competencies of an Effective Trainer / Facilitator

Conducting a quality training experience is not an easy task. A trainer / facilitator has a responsibility to be the stimulus for the growth and development of the participants of the training programme. The trainer's / facilitator's role is to determine what the trainee is capable of learning at any given time and then present the training and development activities in a clear and logical manner so that the trainee becomes capable of performing all the required job tasks.

In conducting a training programme, the trainer / facilitator has to consider three basic factors *viz*:

- Subject matter expertise;
- Communication skills; and
- Personal traits and qualities.

2.1.1 Subject matter expertise

A trainer / facilitator needs to possess sound technical knowledge of the subject. Apart from this the trainer needs to possess a broad knowledge of the context, the general rules, regulations and policies. The trainer / facilitator should also have the knowledge and ability to select between a wide variety of instructional methods, skills to guide trainees and counsel them - all of which form a part of his / her skill. The trainer / facilitator must have the ability and vision to customise the training programme to suit the needs of a wider audience.

2.1.2 Communication Skills

Good communication skills (both in oral and written language) are an asset to any trainer / facilitator. Questioning, explaining, listening, illustrating and preparing training material demand very high level communication skills.

2.1.3 Personal Qualities

Personal qualities among successful trainers greatly affect the credibility of the trainer / facilitator and training. The learning is not restricted within the classroom. In becoming resource persons in the field, trainers can gain a lot of credibility and match up to changing environments and expectations.

Trainer-like Qualities – To Be / To Do

Role Model	Change Agent
Good Communicator	Purpose Driven
Subject Expert	Value Driven
Enabler	Competent
Mentor	Tolerant
Developer	Patient
Learner	Disciplined
Coach	Innovative
Negotiator	Empathy
Listener	Flexibility
Demonstrator of Integrity	Confidence
High Performer & Highly Motivated	Resourcefulness
Positive Thinker	Positive Attitude
Team Builder & Visualiser	Perseverance

Trainer-unlike Qualities – Not To Be / Not To Do

Arrogant	Aloof
Egoist	Inflexible
Abrasive	Monopoly of Wisdom
Impulsive	Aggressive
Secretive	Driven by No Risk Syndrome
Frustrated	Blaming others for All that is Bad
Status Quoist	Taking Credit for All that is 'Good'
Reactive	Putting Others Down
Shirker	Unaccommodating and highly Individualistic
Demotivator	

It is important to:

- distinguish between training and presenting;
- apply techniques that accelerate adult learning ;
- develop techniques for delivering technical information;
- understand the training design cycle;
- create an optimal learning environment;
- write a purpose-objectives-benefits statement;

- create a training outline;
- develop techniques for promoting participation;
- present yourself with confidence;
- conduct a short training session in class; and
- measure the effectiveness of your training.

Verbal Communication

- Ask questions that encourage responses. Open-ended questions like “What do you think about...,” “Why...,” “How...,” “What if...,” etc. will help. If a participant responds with a simple “Yes” or “No,” ask the reasons for his response
- Ask the other participants if they agree with a statement someone makes.
- Be aware of your tone of voice, and speak slowly and clearly.
- Be sure the participants talk more than you do.
- Don’t answer all questions yourself. Participants can answer each other’s questions.
- Say, “Does anyone have an answer to that question?”
- Paraphrase by repeating statements in your own words. You can check your understanding and reinforce statements.
- Summarise the discussion. Be sure everyone understands it. Keep the discussions going in the direction you want.
- See if there are disagreements and draw conclusions.
- Reinforce statements by sharing a relevant personal experience.

Non-Verbal Communication

- Maintain eye contact with everyone in the group as you speak. Don’t appear to favor certain people in the group.
- Move around the room without distracting the group. Avoid pacing or addressing the group from a place where you can’t be easily seen.
- React to what people say by nodding, smiling, or other actions that show you are listening.
- Stand in front of the group, don’t sit – particularly at the beginning of the session.
- It’s important to appear relaxed and at the same time be direct and confident.

2.2 Training Techniques

2.2.1 Presentation

Presentation helps the trainer / facilitator to:

- introduce participants to a new subject;
- convey facts, statistics;
- address a large group;
- cover a lot of material in a short time;
- adapt to any kind of learner;
- precede more practical training techniques.

Points to Know about a Lecture

- It involves the risk of becoming a one-way communication;
- It is not experiential in approach;
- A learner's role remains largely passive;
- A lecturer needs skills to be an effective presenter;
- It is inappropriate for changing behavior or for learning skills;
- A learner's retention is not great unless it is followed up with a more practical technique;
- A presentation is common in more formal situations.

Presentation Process

- Introduce the topic;
- Present the material using visual aids;
- If slides are presented, do not have too many slides or too many points in any one slide;
- Summarise the key points you've made;
- Invite the learners to ask questions.

2.2.2 Demonstration

A demonstration is a presentation of a method for doing something. A trainer / facilitator can use the demonstration method to:

- teach a specific skill or technique; and
- model a step-by-step approach.

A demonstration method helps the trainer to:

- easily focus learner's attention;
- show practical applications of a method; and
- involve learners in trying out the method themselves.

Points to know about a Demonstration

- It requires planning and practice ahead of time;
- The demonstrator needs to have enough materials for everyone to try the method;
- It is not useful in large groups;
- It requires giving feedback to learners when they try themselves.

Demonstration Process

- Introduce the demonstration;
- Present the material you're going to use;
- Explain each step;
- Invite the learners to ask questions;
- Have the learners practice themselves;
- Discuss how easy / difficult it was for them—summarise.

2.2.3 Questions and Answers (Q & A)

Q&A is one of the fundamental and useful participatory training methods of all. Only one member can answer one question at a time, but it is to be hoped all participants will be trying to think of the answer. This increases the rapport between the trainer and participants. It can initiate a group discussion. However, questions will need to be carefully framed covering the core of the subject of training.

2.2.4 Case Study

A case study is a written description of a real / hypothetical situation that is used for analysis and related presentation by the participants / discussants of their understanding and the insights gained from a focused study of the given case and usually followed by a discussion:

- to discuss common problems in a typical situation;
- to analyse, diagnose and / or attempt solution;
- to provide an opportunity to develop problem-solving skills; and
- to promote group discussion and group problem-solving.

The most important advantages of case study method are:

- the learner can be thoroughly involved and relate to the situation; and
- an element of novelty / surprise / involvement which makes the session / module interesting.

Points to know about a Case Study

- The case must be closely related to the learners' experience;
- Problems are often complex and multi-faceted;
- There is not always just one right solution;
- Requires a lot of planning time if you need to write the case yourself;
- Discussion questions need to be carefully designed.

The Process of a Case

- Introduce the case;
- Give learners time to familiarise themselves with the case;
- Present questions for discussion or the problem to be solved;
- Give learners time to solve the problem/s;
- Have some learners present their solutions / answers;
- Discuss all possible solutions / answers;
- Ask the learners what they have learned from the exercise;
- Ask them how the case might be relevant to their own environments;
- Summarise.

2.2.5 Role Play

In a role play, two or more individuals enact parts in a scenario related to the training topic. Role playing enables participants to discover how others see them and therefore helps to bridge the gulf between knowing and doing. Feedback on behaviour and its effects on the receiver is rarely available in real life. Role reversal is another learning opportunity. Even the observation is a useful experience as each role play is a demonstration of skills and approaches that can be analysed and discussed.

The advantages to be derived from employing Role Play method are that:

- it helps change people's attitudes;
- it is stimulating and fun;
- it enables people to see the consequences of their actions on others;
- it engages the group's attention;
- it provides an opportunity for learners to see how others might feel / behave in a given situation;
- it provides a safe environment in which participants can explore problems they may feel uncomfortable about discussing in real life; and
- it enables learners to explore alternative approaches to dealing with situations.

Points to know about a Role Play

- A role play is spontaneous — there is no script to follow;
- Actors must have a good understanding of their role for the role play to succeed;
- Actors might get carried away with their roles.

The Process for Role Play

- Prepare the participants to take on specific roles and understand them and the situation;
- Set the climate so that the observers know what the situation involves and introduce the rules and the time-frame;
- Observe the role play and facilitate the exercise wherever necessary, but the facilitator's involvement should be the least;

- Discuss different reactions to what happened;
- Ask the learners what they have learned and develop principles;
- Ask the learners how the situation relates to their own lives;
- Summarise.

2.2.6 Group Discussion

A group discussion is an activity that allows learners to share their experiences and ideas or to solve a problem. Discussion method enhances problem-solving skills among the participants and the participants learn from each other. It gives participants a greater sense of responsibility in the learning process and promotes team work. Groups orally explore a particular topic which has no set answer to be deduced.

Points to know about a Group Discussion

- The task given to the group needs to be very clear;
- The group should be aware of time limits for the discussion;
- Participants should be able to listen to each other, even if they don't agree;
- Group discussion should not be dominated by any one or two people;
- Certain pointed questions can help guide the discussion;
- Everyone should be encouraged to participate.

Group Discussion Process

- Arrange the learners in groups of four to seven (if need be and depending upon the number of participants);
- Introduce the task that describes what should be discussed;
- Ask each group to designate a discussion facilitator, a recorder, and a person to present the group's findings to the larger group;
- Check to make sure that each group understands the task;
- Give groups time to discuss—this should not require the trainer's involvement unless the learners have questions for the trainer;
- Have one person from each group summarise the findings of the group - solution(s) to problem(s), answer(s) to question(s), or summary of idea(s);
- Identify common themes that were apparent in the groups' presentations;
- Ask the learners what they have learned from the exercise;
- Ask them how they might use what they have learned

2.2.7 Maintaining Audience Interest

Some techniques for sustaining interest that could be appropriately and adequately used are:

Props	Posters	Quotations
Stories and real life examples		Secure and encourage audience participation
Quizzes	Keep asking questions to the audience	Humour

2.2.8 Techniques for Answering Questions

- If a person needs any clarification- give an example;
- If a person asks a technical question-answer simply & briefly;
- If a person goes on a tangent- be tactful and gear the person back;
- If a person misunderstands- be tactful in making him understand.

2.3 Evaluation (Assessment) of Training

Evaluation of training is the most critical component for a trainer. In the first level, the trainer can measure the learners' satisfaction with the training programme or a workshop and in the second level the trainer can make an assessment of the subject knowledge acquired by the participant. The aspects that the trainer needs to observe, make note of and, if appropriate, address include:

2.3.1 Preliminary reaction

- Did the participants like the programme?
- How well they liked the instructor's presentation techniques;
- How adequately were the topics covered; and
- How valuable they perceived each module of the programme or the relevance of the programme content to their specific job.

2.3.2 Subject Learning

- What knowledge was acquired?
- What skills were developed or enhanced?
- What attitudes were changed?

A Trainer's Checklist on RTI

- Know your audience
- Explain the need, concept and evolution of Access to Information;
- Explain the salient features of the RTI Act;
- Define what is 'Right to Information';
- Define what is Information;
- Define what is a Record;
- Describe the role of a Public Authority;
- List out the items of information to be disclosed proactively;
- List out the items exempted from disclosure;
- Describe the role of Public Information Officer / Assistant Public Information Officer;
- Explain the procedure for collection of fee when application is made;
- Explain the role of Information Commission;
- Describe the procedure in respect of Appeal;
- List out the organisations, which are exempted from RTI;
- Analyse given cases;
- Prepare Action Plan and present;
- Explain the role of a trainer with respect to training on RTI.

Discussion on Module 2

Talking Points

- The participants may be asked about their opinions on the technique(s) best suited for training for capacity building for the implementation of the RTI Act.
- Those participants who may have conducted training before may be asked to share their experiences with others.
- The participants may be asked to share their thoughts on what, in their opinion, are the particular aspects to be kept in mind for conducting such training.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 3

Public Authorities and their Obligations Under the Act

Learning Objectives

At the end of this module, the participants should be able to know:

- What is a Public Authority?
- Who are the Public Authorities covered under the Act?
- Which Public Authorities are exempted from the ambit of the Act?
- Obligations of Public Authorities.

Learning Material

3.1 Definition of Public Authority: Who is covered under the Act?

The Act defines public authorities as including all authorities, bodies or institutions of self-government established or constituted by or under the Constitution, by the laws passed by Parliament / State Legislatures as also those set up by notification issued or order made by the Central or State Government as the case may be. They include bodies owned, controlled or substantially financed and also Non-Government Organisations substantially financed, directly or indirectly by funds provided by the Government [Section 2(h)].

The Act extends to the whole of India (except the State of Jammu & Kashmir), at all levels of the Government: Central, State and Local. It covers both Houses of Parliament, States & UTs, all Courts, and all Municipal and Panchayati Raj Bodies. In so far as the Government is concerned, ideally, it is for the Ministries / Departments to identify the public authorities falling under their jurisdiction including NGOs 'substantially financed' by Government. However, it would be appropriate if the Appropriate Government notifies a "Directory of Public Authorities" and updates it from time to time.

3.2 Obligations of Public Authority

The obligations of public authorities under the Act are enumerated in the sections below:

3.2.1 Records Management

The ability to store and retrieve information is important to the normal functioning of a public authority. To provide easy access to information, the Act specifies that, every public authority shall maintain all its records duly catalogued, indexed, computerised and connected through a network all over the country.

Section 4(1)(a) of the Act stipulates that every public authority shall:

- maintain all its records duly catalogued and indexed in a manner and form which facilitates the right to information under the Act;
- ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated.

The above provisions of the Act may necessitate a critical review of the existing record management practices, record retention schedules for different categories of records and systems of indexing and numbering of records in public authorities. They may also call for

changes in the legal framework for record management, especially with regard to the creation and destruction of electronic records. The proper cataloguing and indexing of records based on country-wide data / metadata standards is critically important for building a system of national information highways. Pending the above, appropriate up-gradation of the existing record management systems in public authorities would be necessary in practically all public authorities.

3.2.2 Proactive Disclosure of Information

Section 4(1)(b) of the Act provides that every public authority shall:

- publish within 120 days from the enactment of the Right to Information Act:
 - i.* the particulars of its organisation, functions and duties;
 - ii.* the powers and duties of its officers and employees;
 - iii.* the procedure followed in the decision making process, including channels of supervision and accountability;
 - iv.* the norms set by it for the discharge of its functions;
 - v.* the rules, regulations, instructions, handbooks and records, held by it or under its control or used by its employees for discharging its functions;
 - vi.* a statement of the categories of documents that are held by it or under its control;
 - vii.* the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - viii.* a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - ix.* a directory of its officers and employees;
 - x.* the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - xi.* the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

- xii. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - xiii. particulars of recipients of concessions, permits or authorisations granted by it;
 - xiv. details in respect of the information, available to or held by it, reduced in an electronic form;
 - xv. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - xvi. the names, designations and other particulars of the Public Information Officers;
 - xvii. such other information as may be prescribed;
- update the publications under Section 4(1)(b)(i) to (xvii) every year.

Section 4(1)(c) of the Act requires that every public authority shall publish all relevant facts while formulating important policies or announcing the decisions which affect the public. Section 4(1)(d) requires that it shall provide reasons for administrative or quasi-judicial decisions to affected persons.

To facilitate disclosure of various categories of information listed in Section 4(1) (b), sets of templates or guidelines have been prepared and circulated by many State Governments to their departments and public authorities. These templates are meant to achieve uniformity among the public authorities in their publication schemes and to facilitate convenient and easy access of information to citizens. The individual public authorities may, where necessary, devise their own modified formats, by broadly conforming to the templates even as they adapt these formats to the nature of functions being performed by them.

The fact that a public authority is required to proactively publish information under various categories following the comprehensive list included in the Act under Section 4(1)(b), does not prevent the public authority from carrying on its existing publication schemes like bringing out periodicals, annual reports etc. Public authorities may continue their existing disclosure activities with the necessary additions to the information already being published, as per the requirements of the Act. It may be appropriate that the obligation of proactive disclosure by public authorities be linked to the publication of their 'Citizen's Charters' which specify timelines and standards for delivery of various services.

3.2.3 Dissemination of Information

Sections 4(2), (3) & (4) call for a regime of maximum *suo motu* disclosure on the part of the public authorities so that the public sparingly resort to the use of the Right to Information

Act to obtain information. The law stipulates that every public authority shall:

- constantly endeavour to take steps in accordance with publication under Section 4(1)(b) to provide as much information as possible *suo motu* to the public at regular intervals through various means of communications, including internet;
- proactively disseminate information widely and in such form and manner which is easily accessible to the public, subject to taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area.

All published material may be made available to the public at a reasonable price as determined by the concerned public authority conforming to rules, if any, made under the Act. In addition, information can be communicated through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means. It is highly desirable that standardised formats are used in the publication of information. These assume critical importance in the context of the nation-wide networking of information envisaged under Section 4(1)(a) of the Act so that a citizen can access official information “anywhere” and “anytime”.

3.2.4 Designation of Information Officers

To enable easy access to information, every public authority has to designate “Public Information Officers” who shall be responsible for dealing with requests for information.

According to Section 5 of the Act, every public authority shall:

- designate, within 100 days of the enactment of the Act, as many officers as Central Public Information Officers or State Public Information Officers (referred to as “PIOs” in this Manual), as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for information under the Act;
- designate an officer, within 100 days of the enactment of the Act, at each sub-divisional / sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer (referred to as “APIOs” in this Handbook), as the case may be.

The number and level of officers designated as PIOs would, of course, vary from authority to authority. However, in order to be able to meet the expectations of persons requesting for various kinds of information, the number of PIOs designated by a public authority should be reasonably large in keeping with the size and functions of the authority.

Since PIOs are the points of decision-making on the requests by citizens for information, the rank of the officers assumes considerable importance. If they are relatively senior officers, then they can take quick decisions, accessing information available with other officers in the authority concerned.

3.2.5 Availability of Information with PIOs

Section 4(4) of the Act requires every public authority to make information easily accessible, to the extent possible, in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, so that the same can be made available to applicants requesting for information free or at such cost of the medium or the print cost price as may be prescribed. This is important because the PIOs are required under the law to provide information to the applicants within 30 days, in general.

3.2.6 Transfer of Misdirected Requests

Section 6(3) of the Act prescribes that every public authority shall transfer request for information (i) which is held by another public authority; or (ii) the subject matter of which is more closely connected with another public authority, in full or part, as may be appropriate, to that other public authority within five days of receipt, informing the applicant immediately about such transfer.

3.2.7 Implementation of Decisions on Appeals

Section 19(7) of the Act stipulates that the decisions of the Information Commission on appeals “shall be binding”. Thus, every public authority will be required to implement the decisions of the Information Commission whether it is regarding steps to be taken to secure compliance with the provisions of the Act, or compensating the complainant for loss or other detriment suffered, or imposing penalties on erring Public Information Officers etc.

As per Section 19(8) (a), the Information Commission may require compliance by a public authority with the provisions of the Act in terms of one or more of the following:

- providing access to Information in the form in which it is sought;
- designating a PIO;
- publishing certain information;
- making necessary changes in relation to maintenance, management and destruction of records;
- enhancing provision of training for officials; and
- providing an annual report.

Similarly, the Information Commission may require payment of compensation to a complainant [Section 19(8)(b)], impose penalty on and/or recommend disciplinary action against PIOs [Section 20 (1) & (2)].

3.2.8 Management Information Systems & Annual Report

Under Section 25(1) of the Act, the Information Commission is required to prepare an Annual Report and the same would be laid before the appropriate Legislature. Section 25(2) indicates that all public authorities keep records and provide information as required by the concerned Ministry or Department every year in connection with furnishing of consolidated information needed by the Information Commission for its Annual Report. This calls for the adoption and maintenance of appropriate Management Information Systems by public authorities, and departments. Proper tracking systems covering aspects such as number of requests for information of different kinds, type and manner of information provided, fees collected, grounds for denial of information, whether any appeals were preferred to Appellate Officer / Information Commission, the decisions on appeal, action taken on those decisions etc. will facilitate electronic consolidation of information for the Information Commission's Report.

Sections 4(1) (a) and 4(1) (b) suggest that it would be appropriate and beneficial for ministries, departments and public authorities to develop standard online information systems such as Human Resources Management Information System, Financial Management Information System, Benefit Management Information System, Project Management Information System, Performance Management Information System etc. These would promote easy access to information held by public authorities to Public Information Officers, other officers and citizens across the country through electronic networks being created under the National e-Governance Plan.

Section 4(3) of the Act requires every public authority to disseminate information widely and also in such form and manner that is easily accessible to the public. In this regard, shifting to the electronic medium for storage and dissemination of information will be greatly beneficial in extending the outreach of information maintained at one level to other levels geographically.

Given the requirement of Section 4(1)(b) in connection with *suo motu* disclosure of information and that of Section 25(2) in connection with keeping records for providing annual information to the Information Commission, it is suggested that every Ministry / Department / public authority publish an annual report of its own conforming to the vision, mission and priorities of the Ministry / Department / public authority, the explicit

requirements of disclosure under the Act, and information required by the Information Commission.

The spirit of the Act requires every public authority to be duty-bound to create, maintain, store, retrieve, publish and disseminate information as widely as possible. Right to information needs to be preceded by the duty to inform on the part of public authorities and public functionaries.

3.3 Organisations exempted under the RTI Act

Section 24(1) provides that the Act shall not apply to certain intelligence and security organisations established by the Central Government or any information furnished by such organisations to the Government.

These intelligence and security organisations have been provided in the box below:

Intelligence and Security Organisations established by the Central Government exempted from the purview of

The Right to Information Act, 2005

- Intelligence Bureau.
- Research and Analysis Wing of the Cabinet Secretariat.
- Directorate of Revenue Intelligence.
- Central Economic Intelligence Bureau.
- Directorate of Enforcement.
- Narcotics Control Bureau.
- Aviation Research Centre.
- Special Frontier Force.
- Border Security Force.
- Central Reserve Police Force.
- Indo-Tibetan Border Police.
- Central Industrial Security Force.
- National Security Guards.
- Assam Rifles.
- Special Service Bureau.
- Special Branch (CID), Andaman and Nicobar.
- The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
- Special Branch, Lakshadweep Police

Section 24(4) of the Act stipulates that the Act shall not apply to such intelligence and security organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify.

3.4 Can information still be accessed from these Public Authorities?

If the information pertains to allegations of corruption and human rights violations, then it can be accessed under the RTI Act. But approval from the CIC / SIC (as the case may be) has to be obtained for disclosure of information pertaining to allegations of violation of human rights. The Public Authority shall provide this information within 45 days from the date of the receipt of request [Section 24(1)].

Discussion on Module 3

Talking Points

- Involve the participants in some order to enumerate the steps that a Public Authority should take to promote access to information.
- As per the Act, what information should a public authority publish proactively so that the citizens can have access to the information? Ask if the participants would like to comment anything in particular on any of the aspects of proactive disclosure or share any of his / her ideas regarding how it could be done.
- Has the Public Authority (that any of the participants may be belonging to) published information as per the provisions of the Act?
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 4

Role of Public Information Officers: PIOs & APIOs

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ The requirement for designation of Information Officers – PIOs / APIOs – in public authorities
- ✓ The specific Duties & Responsibilities of Information Officers.
- ✓ The liabilities of a PIO for non-compliance with the provisions of the Act.

Learning Material

4.1 Designation of Central / State Public Information Officers

Section 5(1) of the Act requires a Public Authority to designate “as many” officers as Central Public Information Officer or the State Public Information Officer, as the case may be, in “all administrative units or offices under it” as may be necessary to provide information to persons requesting for the same. They were to be designated within 100 days of the enactment of the Act.

Similarly, Central or State Assistant Public Information Officers are to be designated at “each sub-divisional level or other sub-district level” to receive applications or appeals and forward them on to the concerned Public Information Officers, Designated Appellate Officers and the Information Commission, as the case may be [Section 5(2)]. This is to ensure that the public can apply for information in their own local areas without the need for traveling long distances to the offices of the Public Information Officers.

4.2 Duties & Responsibilities

The Act prescribes the obligations of a Public Information Officer (PIO), Assistant Public Information Officer (APIO) and other officers as follows:

4.2.1 Public Information Officer

- to deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, taking the assistance of any other officer, if considered necessary by him or her for the proper discharge of duties [Section 5(3) & 5(4)];
- to render ‘all reasonable assistance’, where request for information cannot be made in writing, to the person making the request orally to reduce the same into writing [Section 6(1)];
- to dispose request for information under the Act, either providing the information requested on payment of prescribed fee or rejecting the request for reasons specified in s.8 and s.9 within the time period stipulated under the Act [Section 7(1)].

4.2.2 Assistant Public Information Officer

- to receive applications for information or appeals under the Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or Appellate Officer or the Central Information Commission or the State Information Commission, as the case may be [Section 5(2)].
- **Officer Whose Assistance is Sought:**
 - to render all assistance to the Public Information Officer who sought his or her assistance;
 - to be treated as a Public Information Officer for the purposes of any contravention of the provisions of the Act. [Section 5(5)]

4.2.3 Dealing with APIOs & Other Departments

The appointment of APIOs has been envisaged under the Act to enable citizens to make request for information from sub-district / sub-divisional levels to the place of location of the PIOs. Where an application or an appeal is received by the APIO, a period of 5 days is to be added in computing the time limit for response.

The APIOs need to inform the PIO from time to time about the status of the applications received along with date of receipt, date of forwarding to PIOs, the fees paid etc. Similarly the PIO needs to inform the concerned APIOs about the information provided, information denied, the grounds for denial, applications wherein the decision has extended beyond the prescribed time limit etc.

A PIO shall transfer the request for information either in totality or partially to another public authority if the subject matter pertains to that other public authority. Similarly a PIO could get a request transferred to him / her from another public authority. In both the cases, a period of five days is to be added in computing the time limit for response.

The responsibility of the PIO does not cease when a request is transferred to another public authority. While transferring, he / she has to immediately inform the applicant about the same. He / she is also required to keep a record of transfer in his / her 'Outward Register' for future reference and monitoring. Coordination between the two public authorities in such cases would also enable the PIOs concerned to present the correct picture before the Appellate Officer or the Information Commission, as the case may be, if and when the applicant prefers an appeal.

4.2.4 Dealing with Citizens

With the Right to Information Act, 2005 firmly in place, disclosure is the rule and secrecy is an exception.

The Act confers a right to 'information' and not just 'records' or 'documents'. "Information" is defined by the Act very broadly. Right to Information includes inspection of works covering taking of certified samples by a citizen. Keeping the importance attached to the citizens' Right to Information, the Act bars the courts from entertaining any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question "otherwise than by way of an appeal under this Act". Seeking information is the citizen's right and an applicant making a request for information cannot be asked to give any reason for requesting the information or any other personal details except those that may be necessary for contacting that applicant. There is also provision of compensation to the citizens by the public authority concerned for any loss or detriment suffered.

An individual's right to privacy, however, is protected under the Act. The exemption accorded to personal information under the Act seeks to prevent "unwarranted invasion" of the privacy of an individual unless the PIO concerned is satisfied that the larger public interest justifies disclosure of such information.

The PIOs are required to render reasonable assistance to applicants for information. Such help for the citizens could be in any form as stated below:

- Where a citizen is unable to make a request in writing, the PIO shall render assistance to the person making the request orally to present the same in writing;
- Where the information sought concerns the life or liberty of a person the PIO shall take all steps to provide the required information within 48 hours of receipt of such request;
- When the person to whom the access to record is to be provided is sensorily disabled, the PIO shall provide necessary assistance to enable access to the information, including such assistance appropriate for the inspection;
- As the right to information includes inspection of records, the PIO will reserve place and time for such inspection. Necessary arrangements have to be made to ensure that the citizen can carry out the inspection without any disturbance or distraction;
- The PIO would also make necessary arrangements for giving certified samples of material, wherever required.

“Justice delayed is justice denied”. There should not be any undue delay in providing information sought by the public. The Act, therefore, stipulates time limits for supply of information. If the requisite information is not provided to the applicant within the stipulated period, the same will be construed as deemed refusal under the Act and the applicant can prefer an appeal against it.

4.2.5 Dealing with Appellate Authorities

The PIOs should be well conversant with the role of the Appellate Officer (an officer senior in rank to the PIO) and Information Commissions as envisaged under the Act.

While rejecting request for information or intimating the fee amount to be paid etc., the PIO is required to indicate the right to appeal and the details of the Appellate Authority to whom the applicant can appeal. This amounts to paving the way for appeal to be preferred, if considered necessary by the applicant, and getting ready for meeting the requirements of the Appellate Authority.

The State / Central Information Commission (as the case may be) shall impose a penalty on an erring PIO, if in its opinion the PIO has without any reasonable cause:

- Refused to receive the application for information;
- Not furnished information within the specified time; or
- Malafidely denied the request for information; or
- Destroyed the information which was the subject matter of the request; or
- Obstructed in any manner the furnishing of the requested information.

In the event of the above, the Information Commission shall impose a penalty of Rs. 250/- per day on the PIO till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25000/-. The Information Commission shall also recommend disciplinary action against the PIO under the service rules applicable to him / her in certain cases.

The Information Commission is legally bound to give an opportunity to the PIO to be heard before deciding to impose a penalty. The PIO has, therefore, to prepare himself / herself to justify the action taken by him / her and prove that he / she acted reasonably and diligently. Needless to say, that the PIO should keep the public interest paramount all the time. When it comes to making a decision to determine public interest versus private interest, it is important that the PIO makes a decision after considering the legal position and all the possible aspects of the issue(s) at hand.

4.2.6 Guidelines for Authorities & Officers

It will be proper for the Public Authorities to prepare guides / handbooks for Public Information Officers and Assistant Public Information Officers / Appellate Officers. A simplified “Dos and Don’ts” list in official language of the area could be prepared by every public authority for use as a check list by the APIOs, PIOs and AOs.

As time proceeds, more and more information may be made available in the electronic form to citizens by the public authorities. All the APIOs, PIOs, and Appellate Officers may be provided access to computer facility and networks; and adequate training in the use of computers and information systems for retrieval of information may also be provided to them.

4.2.7 Some Important Tips for PIOs

The PIOs need to constantly keep the following in mind:

- information which cannot be denied to the Parliament or the State Legislature shall not be denied to any citizen;
- notwithstanding the exemptions permissible under Section 8(1), access to information is to be allowed, if public interest in disclosure outweighs the harm to the protected interest;
- the Right to Information Act, 2005 overrides inconsistent provisions of the Official Secrets Act, 1923;
- any material relating to occurrence, event or matter, which has taken place, occurred or happened twenty years before the date of the application has to be given to the applicant subject to exemptions under Section 8 (1) (a), (c) and (i);
- access to information should not involve an infringement of copyright subsisting in a person other than the State;
- the burden is on the PIO to prove before the Information Commission in appeal that he / she acted reasonably and diligently. He has to support the same with documentary evidence.
- The PIO is personally liable to pay penalty if the same is imposed by the Information Commission while deciding on complaints and appeals.

Discussion on Module 4

Talking Points

- Any specific experiences that the participants would like to share with regard to role of Information Officers.
- Call upon the participants to enumerate a few things that the PIO needs to take into account in applying the public interest test.
- Problems that PIO may face in obtaining information from other officials within the public authority.
- Responsibilities of other officers in assisting the PIO.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 5

Accepting an Information Request, Processing and Disposing it

Learning Objectives

At the end of this module, the participants would be able to know:

- ✓ How to accept information requests and assist citizens in making information requests?
- ✓ What is the process for disposal of requests?
- ✓ The time limits for disposal of information requests.
- ✓ The fees and costs to be charged for providing information.
- ✓ The grounds on which requests can be rejected and the procedure for such rejection.

Learning Material

5.1 Making a Request for Information under the Act

Section 6 of the Act stipulates that the request for information may be made to the Central Public Information Officer or State Public Information Officer of the concerned public authority or given to the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be.

A request for information can be made as follows:

- in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made;
- oral request has to be reduced to writing and it is the duty of the Public Information Officer to assist the applicant where such request cannot be made in writing;
- specifying the particulars of the information being sought by the applicant;
- accompanying the request by fee as prescribed under the rules made under the Act.

The applicant is not required to give reason for requesting the information or provide any other personal details except those that may be necessary for the purpose of contacting the applicant.

5.2 Disposal of Request for Information

Section 7 of the Act contains provisions regarding the disposal of request for information as follows:

- request for information shall be disposed by the Public Information Officer within
 - 30 days of receipt in general cases and 48 hours of receipt in cases where the information sought for concerns the life or liberty of a person [Section 7 (1)];
 - a period of 5 days shall be added in computing the response time where an application for information is given to an Assistant Public Information Officer [Section 5(2)];
- forward the application to the appropriate public authority, where information sought pertains to another public authority, at the earliest and in any case, not exceeding five days;

- request to be deemed to have been refused by the Public Information Officer, if decision on the request for information is not given within the period specified as above [Section 7(2)];
- where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving
 - the details of further fees representing the cost of providing the information as determined by him or her, together with the calculations made to arrive at the amount in accordance with fee prescribed, requesting him / her to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of 30 days and
 - information concerning the right of the person making request with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms [Section 7(3)];
- where access to the record or a part thereof is required to be provided under the Act and the person to whom access is to be provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection [Section 7(4)];
- where access to information is to be provided in printed or in any electronic format, the applicant shall pay the fee prescribed [Section 7(5)];
- before taking any decision to provide information, the Public Information Officer shall take into consideration the representation made by a third party under Section 11 [Section 7(7)];
- where a request has been rejected, the Public Information Officer shall communicate to the person making the request —
 - the reasons for such rejection;
 - the period within which an appeal against such rejection may be preferred; and
 - the particulars of the appellate authority [Section 7(8)].

5.3 Fees & Costs

The Act prescribes the following fees and costs to be charged from persons making request for information:

- **Cost:** Section 4(4) – Cost of medium: electronic or print or print cost price
- **Fee:** Section 6(1) – Fee accompanying application of request for information
- **Fee:** Section 7(1) – Fee as prescribed under rules for furnishing information
- **Fee:** Section 7(5) – Fee prescribed under rules for supply of information in printed or electronic format.

Other charges and costs, if any, need to be specified while disposing requests for information.

No fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government [Section 7(5)];

Further, the person making request for information shall be provided the information free of charge where a public authority fails to comply with the stipulated time limits for disposal of request applications [Section 7(6)];

5.3.1 Scale of Fees

The Department of Personnel & Training, Government of India has, under the Right to Information (Regulation of Fee and Cost) Rules, 2005, prescribed an application fee of rupees ten for a request for obtaining information under Section 6(1). This could be in cash against proper receipt or by demand draft or by banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority.

The Government of India Right to Information (Regulation of Fees and Cost) Rules, 2005 provide that the public authority may also charge the following as fees for providing information under Section 7(1):

- Rs. 2/- for each page (in A.4 or A.3 size paper) created or copied.
- actual charges or cost price of a copy in larger size paper.
- actual cost or price for samples or models.
- for inspection of records, no fees for the first hour; and a fee of Rs. 5/- for each subsequent hour (or fraction thereof) thereafter.

The fee amounts could be paid in cash against proper receipt or by demand draft or by banker's cheque or Indian Postal Order payable to the Accounts Officer of the concerned public authority.

Further, for providing information under Section 7(5), the prescribed fee pattern is:

- a) for information provided in diskette or floppy – Rs. 50/- per diskette or floppy.
- b) for information provided in printed form at the price fixed for such publication or Rs. 2/- per page of photocopy for extracts from the publication.

The above fee pattern has served as a model for several State Governments to determine the structure of fees to be applicable in their States. However, the specific rules made by a State may be studied and explained to the trainees from that State.

5.4 Form of Access to Information

Section 7(9) provides that information shall ordinarily be provided in the form in which it is sought unless it would “disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question”.

The information provided to an applicant, to the extent possible, has to be in the form which is easily understandable to him or her. The information becomes more meaningful if the same is given in the local language.

An aspect to be considered here is: whether any information supplied under this Act could be properly stamped as, for example, ‘supplied under RTI Act’ for easy identification of such material supplied.

5.5 Time Limits for Disposal of Requests

Section 7(1) requires that the information requested by an applicant to a PIO shall be furnished “as expeditiously as possible”. The time limits prescribed under the Act for disposal of requests for information are as follows:

- 30 days: On receipt of a request for information, the PIO has either to provide information on payment of such fees as prescribed or reject the request with reasons for the same.
- 48 hours: If the information sought concerns the life or liberty of a person, the same has to be provided immediately, in any case, within 48 hours.

- 35 days: 5 more days to be added to the above time limits if the application is submitted to the Assistant Public Information Officer.
- 40 days: Where third party is involved (If the PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by it, the PIO has to give a written notice to such third party within 5 days from the receipt of request inviting such third party to make a submission).
- 45 days: Information pertaining to allegations of violation of human rights from scheduled security and intelligence agencies.

Under Section 6(3) of the Act, if a request is made to a public authority for which information is held by another public authority, the same shall be transferred to that other authority, as soon as practicable, but in no case later than 5 days from the date of receipt of the application. The other public authority will be subject to time limit for disposal from the date of receipt of the application.

As per Section 7(3) of the Act, the period intervening between the despatch of information to the applicant and the deposit of further fees representing the cost of providing the information shall be excluded from the time limit of 30 days stipulated.

5.6 Information up to 20 Years

Section 8(3) of the Act stipulates that subject to exemptions relating to information linked to sovereignty, integrity and national security matters, breach of privilege of Parliament or the State Legislature and cabinet papers [s.8(1)(a) (c) and (i)], any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made, shall be provided to any person making a request under the Act. However, where any question arises as to the date from which the period of 20 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Act.

5.7 Protection of Copyright

Section 9 of the Act provides that a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

5.8 Access to Part of Record

Section 10 provides that where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record “which does not contain any information which is exempt from disclosure under the Act” and “which can reasonably be severed from any part that contains exempt information”. Where access is granted to a part of the record the Public Information Officer shall give a notice to the applicant under Section 10(2), informing —

- that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- the name and designation of the person giving the decision;
- the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the Appellate Officer or the Information Commission, time limit, process and any other form of access.

5.9 Third Party Information

“Third Party” is defined under the Act to mean a person other than the citizen making a request for information and includes a public authority [Section 2(n)].

Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

If, however such above information is treated as ‘confidential’ by that third party, the following steps will have to be taken:

- The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed;

- The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation against the proposed disclosure;
- The PIO can, within 40 days after the receipt of application for information if the third party has been given an opportunity to make representation, make a decision on disclosure;
- The third party is entitled to prefer an appeal against the decision of the PIO.

Except in the case of “trade or commercial secrets protected by law”, disclosures involving third party information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8(1)(j).

Steps for Disposal of Requests

The procedure to be followed by the PIO right from the stage of receipt of application for information till the disposal involves a number of steps as follows:

- Receive application along with the application fee
- Scrutinise the application received and the fees prescribed
- If required, render reasonable assistance to the applicant by reducing the oral request to writing
- Register the application in the Inward Register
- Issue acknowledgement and receipt to the applicant
- Seek information from other officials within the authority, or, if necessary, send the application to another official concerned (who becomes the PIO with respect to the application in question. A proper register has to be maintained to record all such action taken, as well, for such action is an action in good faith will be an action in good faith on the PIO's part
- Transfer the application / part of it to another public authority, if required
- Inform the applicant about such transfers
- Make necessary entries in the Register being maintained
- Seek and consider representations of a 'third party', if applicable

- In case of rejection, convey reason for it, the period within which an appeal may be preferred and the details of the Appellate Authority to whom appeal can be preferred
- Intimate the applicant the further fee, representing the cost of providing the information, to be paid along with its calculations
- (Also) Intimate about the modalities of deposit of fee, the right of the applicant for seeking review of the fees charged and appeal against the calculation
- Wherever required, provide assistance to citizens for inspection of works, materials, certified samples of materials
- Waive fees for information requests from citizens belonging to the 'Below Poverty Line' category
- Retain record on each application, disposal etc. so that materials as required may be furnished to appellate authorities in case first / second appeal is preferred and to the public authority concerned in connection with the furnishing of information for the Annual Report of the Information Commission.

5.10 Inspection of Work / Record and Taking Sample(s)

Right to Information includes, *inter alia*, inspection of work, documents, records, taking notes, extracts and certified samples of material. In consultation with the concerned sections / divisions / offices in Government Departments, PIOs may fix a day or two of the week for applicants to take samples and for inspection of works. Such an arrangement may not disturb the work in the section / division / office and the citizen would also be aware of the days of visit to the PIO / Public Authority.

The General Clauses Act, 1897 defines:

'document': shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter.

Further, the Oxford Dictionary of English (2nd edition revised) defines some of the terms used in the RTI Act as follows:

'inspect': look at (something) closely, typically, to assess its condition or to discover its shortcomings...;

‘material’: the matter from which a thing is or can be made, things needed for an activity, the basic material from which a product is made;

‘sample’: a small part or quantity intended to show what the whole is like;

‘work’: activity involving mental or physical effort done in order to achieve a result, denoting things or parts made of a specified material or with specified tools... denoting a mechanism or structure of a specified kind...

5.11 Exemptions from disclosure of information

The following sections need to be taken note of in this regard:

- (a) Section 8(1): Information exempted from disclosure;
- (b) Section 9: Infringement of the copyright;
- (c) Section 11: Third party information treated as confidential; and
- (d) Section 24: Exempted Intelligence and Security Organisations.

Note: The exemptions under the above-mentioned provisions have been detailed in the next Module (Please refer 6.5)

5.12 Procedure for Rejection of Requests

A PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request within the time limit prescribed. The Act stipulates that where a request for information is rejected by the PIO, the PIO will communicate the decision to the person making the request along with:

- the reasons for rejection;
- the period within which an appeal against such rejection may be preferred (within 30 days from the date of receipt of the decision); and
- the particulars of the Appellate Officer (to whom the applicant may prefer a first appeal).

5.14 Delays & Incomplete Information

In the case of delay in providing the requisite information to the person seeking the same or if the information provided is incomplete, such an eventuality could be a basis for appeal. Therefore, the PIO, in addition to maintaining registers for receipt of requests for information and disposal of such requests, will also have to develop checklists and keep a check on the pendency and / or completeness of the information provided. This is important because

the burden of proving that the PIO acted reasonably and diligently would be solely on the PIO himself or herself and that would certainly require production of documentary evidence.

Checklist for PIOs

In order to discharge their functions effectively, PIOs should be ready with:

- Relevant details of the administrative unit / office / organisation.
- Information proactively published by the public authority.
- Information made available electronically.
- Annual report and other documents published by the public authority.
- Names, addresses and other details of the Appellate Authorities: Designated Appellate Officers and Information Commission.
- The contact details of the other Public Authorities, PIOs and APIOs.
- Proforma for the acknowledgement of application for request of information.
- Forms for receipt of fees and acknowledgement, deposit of fees, communication of decision including rejection.
- Proper arrangements to facilitate easy accessibility of citizens to information handbooks, portals, websites etc.
- Register for receipt, acknowledgements - separately for inward and outward and *roznama*
- Checklist for monitoring the disposal - pendency and disposal of the applications for information pending
- Arrangements for inspection of records / taking certified samples by persons making requests and fix a particular day or two in the week for the above purposes and be ready with an appropriate contingency plan.

An Instance of Information Commission Imposing Penalty

Decision: A – 223 / SIC / 53 / Gwalior / 2006 – dt. 30. May, 2006

A penalty of Rs 18,000/- was imposed [under Section 20(1)] on a Public Information Officer (PIO), Mrs. Sajan Aloona, of the District Women and Child Development Office for not having provided the information that was requested by the appellant, Mr. Balwant Singh Hehayavanshi.

The Chief Information Commissioner, Mr. Shrivastav found no merit in the reasons provided by the PIO in not giving the information i.e. that the appellant was a suspended government employee and that giving such information would be used in a manner that would adversely affect the ongoing departmental inquiry against the person concerned. However, the Commission found that the PIO was attempting to use Sub-sections 8(1)(e) and 8(1)(h) unjustifiably and only to deny the requested information to the applicant. The decision also rejects the submission of the PIO that she was busy with other duties and therefore could not provide the information in time.

The Chief Information Commissioner also took serious note of the failure on the part of the PIO to give the requested information, in spite of the fact that even the First Appellate Officer (i.e. Collector, Murena district) had upheld the first appeal in favour of the applicant and issued an order that the information (photocopy of the documents carrying the requested information) be given to the applicant upon the payment of fees as may be appropriate.

Furthermore, the decision stated that the requested information be provided to the applicant within 7 days from the decision and that any failure by the PIO to do so shall be proceeded against under Section 20(2) of the RTI Act, 2005. The Collector has been asked to ensure that the Commission's decision is carried out.

(The case presented above is a translated version of the MP SIC decision available on its website. Any error or discrepancy while translating is unintentional.)

Discussion on Module 5

Talking Points

- Involve the participants to enumerate the steps required in disposing requests.
- Recapitulate the timelines, with respect to compliance to the Act's provisions by both the information officers and the citizens (as applicants and / or appellants).
- Any specific experience that the participants would like to share regarding the above points.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 6

Exemptions from Disclosure of Information, Partial Disclosure and “Third Party” Information

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ Specific provisions of the Act which exempt certain kinds of information – the classification of such exempted information.
- ✓ Application of public interest test with respect to exempted information.
- ✓ Grounds that allow for partial disclosure of information.
- ✓ The concept of ‘Third Party’ and the issues and considerations revolving around its involvement.

Learning Material

6.1 Information Exempted from Disclosure

Section 8 of the Act provides a list of 10 categories of information 8(1)(a) – 8(1)(j) as follows:

Information Exempted from Disclosure

[Section 8(1)]

- information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- information received in confidence from foreign Government;
- information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- information which would impede the process of investigation or apprehension or prosecution of offenders;
- cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over;

Provided further that those matters coming under exemptions specified shall not be disclosed;

- information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the PIO or the AO, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

6.2 Primacy of Public Interest

Section 8(2) of the Act provides that notwithstanding anything in the Official Secrets Act, 1923, nor any of the exemptions permissible under Section 8(1) of the Right to Information Act, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

What Is The Public Interest Test?

- The starting point should be to consider whether there is a public interest in disclosure
- In contrast, consider whether there is public interest for withholding information
- But the right to know must be balanced against the need to facilitate effective government

How to do the Test

- Officials must weigh the public interest considerations in favour of releasing the information
- Then weigh the public interest considerations in favour of not disclosing the information:
 - If the public interest in withholding the information outweighs the public interest in disclosure, the applicant does not have a right of access to this information
 - If the arguments are evenly balanced, then the outcome must be disclosure

What can You rely upon for Testing

- The law and the practice of public interest test will develop by decisions made within Government, by Information Commissions and by the Judiciary.
- The assessment of the public interest is a judgment in which policy and legal interpretations will be involved to some degree.
- It is an inherently dynamic concept.
- The balance of public interest may shift as information becomes older. To disclose a piece of information before a policy decision is made may prejudice the formulation of policy. But this will not be the case indefinitely. Such decisions will therefore have to be made on a case-by-case basis.

In the Indian context, and especially in the context of the RTI Act, 2005, a significant judgment of the Supreme Court of India can be taken note of in understanding the term “public interest”.

In *‘S. P. Gupta v President of India’*, AIR 1982 SC 149, Justice Bhagwati, in referring to ‘public interest’, maintained: “Redressing public injury, enforcing public duty, protecting social, collective, ‘diffused’ rights and interests vindicate public interest... [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected”. In *State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others* AIR 2006 Supreme Court 212, the Apex Court held “the interest of general public (public interest) is of a wide import covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]”.

Furthermore, one of the decisions of the CIC also throws some light on this term. Public interest includes “disclosure of information that leads towards greater transparency and accountability” [in the working of a public authority]

(Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006).

6.3 Access to Part of Record

Section 10 provides that where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record “which does not contain any information which is exempt from disclosure under the Act” and “which can reasonably be severed from any part that

contains exempt information”. Where access is granted to a part of the record the Public Information Officer shall give a notice to the applicant under Section 10(2), informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the Appellate Officer or the Information Commission, time limit, process and any other form of access.

6.4 Third Party Information

“Third Party” is defined under the Act to mean a person other than the citizen making a request for information and includes a public authority [Section 2(n)]. Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

If, however such above information is treated as ‘confidential’ by that third party, the following steps will have to be taken:

- The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed or not.
- The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation against the proposed disclosure.
- The PIO should, within 40 days after the receipt of application for information, if the third party has been given an opportunity to make representation, make a decision on whether or not to disclose the information and give in writing the notice of his decision to the third party which shall include a statement that the third party is entitled to prefer an appeal against the decision.

Hence the PIO must provide the third party an opportunity to exhaust the appeals process as provided under the Act before disclosure of the information.

Except in the case of “trade or commercial secrets protected by law”, disclosures involving third party information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8(1)(j).

6.5 Exemptions: Basis for Rejection of Requests

(a) Section 8(1): dealing with exempted information maintains that there is no obligation on the part of a PIO to give any citizen the following:

- Information where disclosure would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with the foreign State or lead to incitement of an offence;
- information expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute the contempt of court;
- information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature;
- information including commercial confidence, trade secrets or intellectual property where disclosure would harm the competitive position of a third party, unless larger public interest warrants the disclosure of such information;
- information available to a person in his fiduciary relationship, unless larger public interest warrants the disclosure of such information;
- Information received in confidence from a foreign Government;
- Information, the disclosure of which would endanger the life or physical safety of any person or identity the source of information or assistance given in confidence for law enforcement or security purposes;
- Information which would impede the process of investigation or apprehension or prosecution of offenders;
- Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

- Personal information, which would cause unwarranted invasion of the privacy of the individual unless larger public interest justifies the disclosure of such information.

(b) Section 9: Infringement of the copyright subsisting in a person other than the State. This is the only absolute exemption. Here the PIO need not consider the public interest in disclosure.

(c) Section 11: Third party information treated as confidential by the concerned and involving the case of trade or commercial secrets protected by law and other third party information where the public interest in disclosure does not outweigh the importance of any possible harm or injury to the interests of such third party.

(d) Section 24: The Act shall not apply to exempted intelligence and security organisations or any information furnished by such organisations except information pertaining to allegations of corruption and human rights violations.

Procedure for Rejection of Requests

A PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request for any of the reasons specified in Sections 8 and 9 within the time limit prescribed. The Act stipulates that where a request for information is rejected by the PIO, the PIO will communicate the decision to the person making the request along with:

- the reasons for rejection
- the period within which an appeal against such rejection may be preferred (appeal can be preferred within 30 days of the date of the receipt of the decision)
- the particulars of the Appellate Officer concerned for First Appeal

Discussion on Module 6

Talking Points

- Involve the participants in the recapitulation of the factors that a PIO needs to take into account in rejecting a request for information because it requires disclosure of exempted information.
- Ask the participants to further deliberate upon the concept of “public interest” in the context of not disclosing / not providing exempted information.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 7

First Appeals and Appellate Officers

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ The roles and responsibilities of Appellate Officers within Public Authorities.
- ✓ The process involved in making first appeals to designated Appellate Officers.
- ✓ Timelines for making a first appeal and disposal of the appeal.

Learning Material

7.1 Channels of Appeal

The Act provides two channels of appeals against the decision of a PIO on the request for information by a citizen – an internal or ‘first’ appeal to a designated “officer senior in rank’ to the PIO – the first appellate authority as notified by the Public Authority and a ‘second’ appeal to the Information Commission.

In this Handbook, the term “Appellate Officer” (AO) connotes the appellate authority to whom the first appeal can be preferred under the Act if an applicant feels aggrieved by any decision by a PIO. This module covers the first appeal process.

7.2 First Appellate Authority

The Act does not define the First Appellate Authority precisely. Under Section 7(8)(iii), it refers to “appellate authority” to whom appeal can be made by a person whose request has been rejected. Section 19(1) refers to first appeal being made to such “officer who is senior in rank to the Central PIO or State PIO, as the case may be”.

It is important to note that the Appellate Officer must be an officer senior in rank to the PIO such that he is fully conversant with the work of the organization, the subjects dealt with by it and the functions discharged by various PIOs. The number of designated Appellate Officers in a Public Authority could be small as compared to the number of PIOs. One Appellate Officer could easily meet the requirement of appeals arising out of the decisions of a number of PIOs. However, keeping the nature of responsibilities to be discharged under the Act and the structure and functions of the organisation at various levels in view, each Public Authority has to determine the number of senior officers to be designated as AO, the rank at which the designation would be made and (if applicable) the PIOs against whose decisions they would hear appeals.

The Appellate Officer within a Public Authority should attempt keep himself / herself updated such that he / she:

- would be fully conversant with the functioning of the organisation;
- Would be able to command various sources of information of the authority and meet the access requirements of the public;
- would be able to present to the parent department a complete and correct picture regarding the state of implementation of the Act by the authority;

- would usually have first hand knowledge of the operation of the Act within his / her organisation.
- would be in a position to explain to the next appellate authority, i.e. the Information Commission regarding the reasons behind the outcomes of first appeals.
- would be able to inculcate a sense of responsibility among the PIOs and APIOs within the authority to be responsive to the requests of citizens for information.

Furthermore as the head of the authority, analysing the type of information sought from the organisation, he or she can be in a better position to determine additional areas requiring proactive disclosure / publication.

The advantages listed above may be weighed against factors such as whether the head of the public authority would be in a position to devote time for deciding time-consuming appeals, given the nature and extent of his / her workload. The departments concerned may take appropriate decisions weighing the pros and cons.

7.3 Disposal of First Appeals

Section 19(1) of the Act stipulates that any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the PIO including intimation of fees to be paid may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to the designated AO. Section 19(2) allows a third party to make an appeal against the order made by the PIO.

The AO may admit the appeal after the expiry of the period of 30 days if he / she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Where an appeal is preferred against an order made by a PIO to disclose “third party” information, the appeal by the concerned third party, however, shall be made within 30 days from the date of the order.

The Act prescribes that the appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

7.4 Importance of Public Interest in Disposal of Appeal

The Right to Information Act, 2005 calls for a paradigm shift in the approach to governance. It is an Act which will be implemented by the people and acted upon by the Government. The larger public interest will always be more important than private or protected interest. Overall, if the public interest in disclosure to the citizen outweighs the harm to the protected interest, then the public authority may provide information.

The Appellate Authorities would need to give due consideration to 'public interest' as the predominant consideration in the supply of information to citizens where dealing with appeals, including cases where the PIOs might have erred in judging the privacy of individual.

7.5 Action in Good Faith

Under Section 21 of the Act, any action taken in good faith is protected. The General Clauses Act, 1897 defines 'good faith' as "a thing ... deemed to be done in "good faith", where it is in fact done honestly, whether it is done negligently or not."

No suit, prosecution or other legal proceeding lies against the person who has done or intended to do anything which is in good faith. That an action was done in good faith must, however, be proved based on documentary evidence.

The documents to be presented as proof to establish that a decision was taken in good faith cannot be got prepared overnight. To a large extent, quick and effective disposal of information requests will depend on the manner in which the Public Authority maintains and manages its records. Yet, in any case, the registers to be maintained for receipt of request applications, acknowledgements, those for transfer of applications to other public authorities and officers with dates (and the acknowledgement of such transfers), reasons for decision etc. would all be required. The entries in such registers will have to be to be correct and complete.

Section 5(5) states that any officer whose assistance has been sought shall render all assistance to the PIO by furnishing information, and in the event of any contravention of any provisions of the Act by such other officer, the said officer shall be deemed to be a PIO. Hence, it is important for the PIO to maintain records / acknowledgements of letters seeking assistance from other officers.

Since the Appellate Officer (or the Information Commission) is to hear evidence, peruse and inspect documents and receive evidence for arriving at a decision on an appeal, the PIO is to be provided ample opportunity to defend him / herself with supporting evidence (in the form of records of the disposal of a request at his end).

7.6 Well Reasoned Order

The onus to prove that a denial of request was justified is on the PIO, who denied the request. This burden of proof under Section 19(5) has to be supported by documentary evidence.

As per the provision of Section 7(8) of the Act, the PIO, when rejecting a request has to communicate (to the person making a request) the following:

- The reasons for such rejection;
- The period within which an appeal against such rejection may be preferred;
- The particulars of the Appellate Authority to whom appeal can be preferred.

Similarly, for the requests where information is provided, he / she is required to intimate the amount of fees to be paid, the calculation details of fees charged and also that the decision of charging a certain amount of fee can be appealed against, details of Appellate Officer and the period within which the appeal could be preferred.

While providing requisite information or rejecting the request, the PIO has to issue well-reasoned communications. The reasons are to be given in proper order and the rights of the citizen to appeal are to be explicitly stated. Such communication should clarify the position to the applicants and enable the AO (or the Information Commission hearing a second appeal) to identify the cause for rejection or basis for fee determination etc. It will also help the Appellate Officer or the Information Commission in issuing decision(s).

7.7 Principle of Natural Justice

The procedure for deciding an appeal by an Appellate Officer (or the Information Commission) must take into account the application of the principles of natural justice. No person should be condemned unheard. Both the sides will have to be given opportunity to be heard and also to submit any document etc. for perusal and inspection by the concerned, during appeal. Fair play will thus be an essential ingredient of any decision taken.

An Instance of Information Commission Imposing a penalty on the PIO and issuing strictures against the Appellate Officer

Decision: A –

4

6 / SCI / 06 /

Vidisha – dt. 23 May, 2006

The Madhya Pradesh State Chief Information Commissioner, Mr. T. N Shrivastav, in deciding upon an appeal on 23 May, 2006, imposed a penalty of Rs.25000/- [under Section 20(1)] on the Public Information Officer (PIO) of the Tehsil office, Vidisha District.

The PIO, concerned, was found to not only have violated the provisions of the RTI Act, 2005, but also to have given wrong information to the State Information Commission to avoid appearing before it for a hearing.

Mr. Manojkumar Sharma, the appellant, had requested information from the Tehsildar, Gyaraspur, Mr. H. S. Chouhan (also the PIO) with respect to a certain plot of land (in the name of the appellant). It was suspected that the Patwari had fraudulently transferred the ownership of the plot of land in question, in the name of another person, who had forcibly encroached upon the plot of land in question. The PIO, concerned, was guilty, not only of unreasonably and unjustifiably, not giving the information that was requested, but also of holding back certain information that should have been given to the applicant, and further also of giving such limited information only after the lapse of 100 days from the date when the information should actually have been given to the requester.

It should be noted that the Information Commissioner also issued strictures against the First Appellate Officer, Mr. Sharad Shrotri for not having decided upon the first appeal within the time limit (stipulated under the RTI Act, 2005) and for attempting to shield the erring officials of the public authority concerned, for his conduct unbecoming of the dignity of his office.

Mr. Shrivastav, thus found the First Appellate Officer unfit to discharge his responsibilities. His decision went on to suggest that, (though the State Information Commission cannot proceed against the First Appellate Officer under the Act) the State Government should consider disciplinary action against him. Importantly, the decision also draws attention to the larger malaise incident in the functioning and the rather non-transparent processes of the public authority concerned and the neglect of the need for bringing reforms in the same. This, the decision states, is clearly having an adverse impact on the rights of the citizens. The decision clearly states that though this particular issue falls outside the IC's jurisdiction, yet the State Government should take this into account.

It also states that the District Collector concerned, should ensure that the amount of the penalty is deposited and that the SIC is intimated about it.

(The case presented above is a translated version of the MP SIC decision available on its website. Any error or discrepancy while translating is unintentional)

Discussion on Module 7

Talking Points

- Call upon the participants to discuss the rationale and the significance of the First Appeal process.
- If the group of participants consists of Appellate Officer(s), they may be called upon to share their experiences with respect to their performance of their role as an Appellate Officer.
- Discuss the case of an Appellate Officer reversing the decision of a PIO denying information to an applicant.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 8

Information Commission: Powers and Functions

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ The Role and Responsibilities of the Information Commissions.
- ✓ The relevant provisions in the RTI Act dealing with Complaints to the Information Commission and the specifications thereof.
- ✓ The “Second Appeal” process and the Commissions’ mandate for the same.
- ✓ The power of Information Commissions with regard to enforcing compliance of public authorities with the provisions of the RTI Act, imposing penalty / recommending disciplinary action against erring PIOs etc.

Learning Material

8.1 Information Commissions

Section 12 and Section 15 of the Act provide for the constitution of the Central Information Commission (CIC) and State Information Commission (SIC) respectively to exercise powers conferred on it by the Act (Chapter V, Sections 18 – 20). The setting up of the Commissions to ensure the effective implementation of right to information regime in the country is one of the most important provisions of the Act.

Their importance can be judged from the fact that the long title of the Act itself makes a mention about the Information Commissions.

The key provisions for the Central and State Information Commissions relate to the following:

- the (Central / State) Information Commission shall consist of (a) the Chief Information Commissioner / State Chief Information Commissioner and (b) such number of (Central / State) Information Commissioners, not exceeding ten, as may be deemed necessary [Section 12(2) and Section 15(2)];
- the Chief Information Commissioner / State Chief Information Commissioner and (Central / State) Information Commissioners shall be appointed by the President / Governor on the recommendation of a committee consisting of—
 - the Prime Minister / Chief Minister, who shall be the Chairperson of the Committee;
 - the Leader of Opposition in the Lok Sabha / Legislative Assembly; and
 - a Union Cabinet Minister / Cabinet Minister in the State to be nominated by the Prime Minister / Chief Minister [Section 12(3) and Section 15(3)];
- each Commission would function as an autonomous body exercising the powers conferred on, and performing the functions assigned to it under the Act [Section 12(4) and Section 15(4)];
- the general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Information Commissioner / State Chief Information Commissioner who shall be assisted by the respective Information Commissioners [Section 12(4) and Section 15(4)];
- the Chief Information Commissioner / State Chief Information Commissioner and every Information Commissioner shall hold office for a term of five years from the

date of entering upon office or till attaining the age of 65 years whichever is earlier [Section 13 and Section 16];

- the Chief Information Commissioner / State Chief Information Commissioner or any Information Commissioner shall be removed from office only by order of the President / Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President / Governor, has, on inquiry, reported that the Chief Information Commissioner / State Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed [Section 14(1) and Section 17(1)];
- the Central / State Government shall provide the Chief Information Commissioner / State Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under the Act and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of the Act, shall be such, as prescribed [Section 13(6) and Section 16(6)].

8.2 Powers and Functions of Information Commissions

The Act empowers the Central Information Commission and State Information Commission, as the case may be, to receive and inquire into complaint from any person in respect of any matter relating to access to information under the control of public authorities, including imposing penalties on the erring PIOs and recommending disciplinary action against them. They are the authorities to deal with and dispose of appeals against the decisions of the PIOs and appellate officers, including imposing penalties on and recommending disciplinary action against the erring PIOs.

They may also make recommendation to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity.

Given the important powers and functions bestowed on Information Commissions, the latter, as 'remedy provider', 'enforcer' and 'educator', can play a critical role in the effective implementation of the RTI Act..

8.3 Inquiry into Complaints

Section 18 of the Act stipulates that the Information Commission shall receive and inquire into a complaint from any person —

- (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the

Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or Appellate Officer or the Information Commission as the case may be;

- (b) who has been refused access to any information requested under the Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under the Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

The Commission may initiate an inquiry in respect of complaint, if satisfied that there are reasonable grounds to inquire into the matter.

Section 18 further stipulates that while inquiring into a complaint, the Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Further, the Commission, during the inquiry of any complaint under the Act, may examine any record to which the Act applies which is under the control of the public authority. No such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be.

8.4 Disposal of Second Appeals

Section 19(3) of the Act provides that a second appeal against the decision of the Appellate

Officer shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission. The Information Commission may admit the appeal after the expiry of the period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time;

If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party;

8.5 Onus of Proof

Section 19(5) of the Act provides that in any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request.

8.6 Decisions in Second Appeals

The Act provides that appeal filed before the Information Commission shall be decided by it in accordance with the prescribed procedure and its decision shall be binding. The Information Commission has the power to—

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including—
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing a Public Information Officer;
 - (iii) publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (v) by enhancing the provision of training on the right to information for its officials;
 - (vi) by providing it with an annual report in compliance with Section 4(1)(b);
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under the Act;
- (d) reject the application [Section 19(8)].

The Information Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

Though it is for the Government concerned, to give appropriate operational and budgetary autonomy to the Central or State Information Commission (as the case may be), every public authority needs to gear itself to provide all required support to the Information Commission. Among other things, to enable the Commission to arrive at consistent decisions, the public authority's information base has to be comprehensive and available in easily retrievable form and in a format which is also understandable.

The number of second appeals preferred would directly be proportionate to the way public authorities identify appropriate officials as PIOs and AOs, designate them in adequate numbers, the way they publish information proactively and finally the extent and quality of training imparted to the PIOs and the AOs. In this regard, the Information Commissioners may have to be like 'roving' ambassadors and be on the move to see for themselves the manner in which the provisions of the Act are being implemented at various levels: State, District and Local.

The due considerations pertaining to 'importance of public interest', 'action in good faith', 'well-reasoned order' and 'principles of natural justice' (See Module 7 – First Appeals and Appellate Officers) have equal relevance for Information Commissions.

8.7 Appeal Procedure

The Central Government has issued a notification on 'Central Information Commission (Appeal Procedure) Rules, 2005', which prescribes the procedure for deciding appeal by the Central Information Commission. These Rules require that the Order of the Commission shall be pronounced in open proceeding and be in writing duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.

Central Information Commission (Appeal Procedure) Rules, 2005

Contents of appeal:

- (i) Name and address of the appellant;
- (ii) Name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, the particulars of

the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;

- (vi) Prayer or relief sought;
- (vii) Grounds for the prayer or relief.
- (viii) Verification by the appellant; and
- (ix) Any other information which the Commission may deem necessary for deciding the appeal.

Documents to accompany appeal

- (i) Self-attested copies of the Orders or documents against which the appeal is being preferred;
- (ii) Copies of documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

Procedure in deciding appeal

- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorised officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

8.8 Imposition of Penalty

Section 20(1) of the Act provides that the Commission, while deciding a complaint or appeal, shall impose penalty on erring PIOs in cases where the PIO has, without any reasonable cause:

- refused to receive an application for information or
- has not furnished information within the time specified [Section 7 (1)] or
- malafidely denied the request for information or
- knowingly given incorrect, incomplete or misleading information or
- destroyed information which was the subject of the request or
- obstructed in any manner in furnishing the information.

The scale of the penalty to be imposed is Rs. 250/- each day till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs. 25,000/

The Information Commission is legally bound to give the Public Information Officer a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her.

The burden of proving that a Public Information Officer acted reasonably and diligently shall be on him / her.

8.9 Disciplinary Action

Section 20(2) of the Act provides that the Commission shall, while deciding a complaint or appeal, recommend for disciplinary action against the Public Information Officer under the service rules applicable to him or her in cases where the PIO has, without any reasonable cause and persistently:

- failed to receive an application for information; or
- has not furnished information within the time specified; or
- malafidely denied the request for information; or
- knowingly given incorrect, incomplete or misleading information; or
- destroyed information which was the subject of the request; or
- obstructed in any manner in furnishing the information.

8.10 Report of Information Commissions

Section 25 of the RTI Act mandates an Annual Report to be submitted by the Central / State Information Commission to the Parliament / State Legislature. The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of the Act during that year and forward a copy thereof to the appropriate Government for placing the same before the Parliament / State Legislature.

It is mandatory for the Annual Report of the Information Commission to contain, among other things, the following information:

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (e) the amount of charges collected by each public authority under this Act;
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to the Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

Section 25 (2) of the Act clearly specifies that each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide information required by the Information Commission to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of the Act.

Discussion on Module 8

Talking Points

- The significance of the Information Commissions' role as an oversight authority.
- Narrate a few landmark decisions of the Information Commissions (refer www.cic.gov.in). Call upon the participants to discuss gist of these decisions such that they could summarise and encapsulate them for their trainees.
- Reiterating the importance of maintenance of proper registers with respect to disposal of request. The participants need to be explained the significance of this, both, for the public authority to report to the Department and for the Department to report to the Information Commission. Importantly, such register-keeping will also be useful for the PIO to present his / her side to the IC, concerned in case of a 'Second Appeal'.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 9

RTI and Good Governance: Role of Civil Society Organisations and Media

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ The Role of Civil Society Organisations and Media in strengthening the demand side in the Right to Information Regime.
- ✓ Responsibility of certain Non-Government Organisations (NGOs) categorised as Public Authorities under the Act.
- ✓ Strategies that can be adopted by CSOs / Media for creating awareness on the Act and facilitating its effective use.

Learning Material

9.1 Right to Information & Good Governance

'Right to Information' (RTI) refers to the right of every citizen to access information held by or under the control of public authorities. Information is crucial for good governance as it reflects and captures Government activities and processes. It is said that information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process.

Professor Amartya Sen has identified five substantive freedoms as being integral to the concept of development, namely political freedom, economic facilities, social opportunities, transparency, and security.

"Transparency guarantees deal with the need for openness that people can expect: the freedom to deal with one another under guarantees of disclosure and lucidity. When that trust is seriously violated, the lives of many people - both direct parties and third parties - may be adversely affected by the lack of openness. Transparency guarantees (including the right to disclosure) can thus be an important category of instrumental freedom. These guarantees have a clear instrumental role in preventing corruption, financial irresponsibility, and underhand dealings"

Development As Freedom, Amartya Sen, 1999

Right to information can be used as an effective tool to usher in a regime of good governance. The major characteristics of good governance include: strategic vision and consensus orientation, participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency and accountability.

Transparency means that decisions are taken openly and enforced in a manner that follows rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media.

Public accountability means that public institutions are answerable to the people and to their institutional stakeholders. In general, an organisation or an institution is accountable

to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency.

In the above background, the right to information can be an instrument to lead to transparency and accountability in the working of public bodies and to good governance. Internationally, the campaign for good governance has included the right to information as a significant element.

A direct relationship exists between right to Information and good governance. For RTI Act to achieve its purpose, the public should have free access to Government information. This provides them the opportunity of being informed of what the Government does for them, why and how it does it. Good governance provides a platform that enables the Government to operate efficiently, effectively and transparently and to be accountable to the public. It aims to put an end to inconsistent Government practices and help in establishing a responsive State. Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of Government, and the like which are the core values of good governance, can be realised only if the right to information is implemented in the right spirit. The principles of good governance clearly highlight the need for Governments to include Civil Society in the governance process. However, when Governments fail to do so, Civil Society's immediate prerogative on broad political socio-economic issues should be to hold the Government accountable for policies and programmes, particularly those that concern the fundamental rights of citizens. Right to information can be used as a weapon by the Civil Society to make Governments more responsible and accountable.

Freedom of Information in the Promotion of Good Governance

Over 50 countries now have freedom of information laws and another 15-20 are actively considering adopting one. These nations are joined by a growing number of inter-Governmental bodies – including the World Bank, European Union and UNDP – that have established FOI policies.

The right to FOI derives primarily from the guarantee of freedom of expression found in Article 19 of the Universal Declaration of Human Rights. It provides that all citizens enjoy rights of freedom of opinion and expression, including the right to “seek, receive, and impart information and ideas, a guarantee now generally considered to include an obligation of openness on the part of Government.

The democratic rationale for FOI legislation is that public bodies hold information not for themselves but as custodians of the public good, and such information must be

accessible to members of the public. In this respect, FOI laws reflect the fundamental premise that Governments ought to serve the people. Added to this are many practical benefits – promoting effective democratic participation, controlling corruption, enhancing accountability and good governance, and promoting efficient information exchange between Government and the public. The result is a powerful argument for adopting FOI legislation.

Source: World Bank, “Legislation on Freedom of Information: Trends and Standards,” PREM Note No.93, October2004.

9.2 Civil Society and Right to Information

The Civil Society Declaration to the World Summit on the Information Society, held at Geneva on 8 December 2003 declared that:

“We are committed to building information and communication societies that are people-centred, inclusive and equitable. Societies, in which everyone can freely create, access, utilise, share and disseminate information and knowledge, so that individuals, communities and peoples are empowered to improve their quality of life and to achieve their full potential.”

“Everyone, everywhere, at any time should have the opportunity to participate in communication processes and no one should be excluded from their benefits. This implies that every person must have access to the means of communication and must be able to exercise their right to freedom of opinion and expression, which includes the right to hold opinions and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

“A democratic perspective on information and communication societies, in which information is crucial for citizens, is necessary in order to make choices grounded on the awareness of alternatives and opportunities. Information and communication are the foundation for transparency, debate and decision-making. They can contribute to a culture and a practice of cooperation, basis for a renewal of democracy.”

The Right to Information Act, 2005 is an important legislation that provides opportunities to CSOs to be involved in governance and social transformation processes by using the Act as a weapon to monitor, review and evaluate Government policies, programmes and schemes. CSOs can infuse greater transparency and accountability in the administration of developmental programmes and arrest the abuse of power and misuse of public resources with the help of the RTI Act. Some of the primary roles that the CSOs can play with regard to RTI are as follows:

1. As CSOs are involved in basic service delivery, they can provide necessary institutional basis to the RTI movement when questions of effectiveness and responsiveness of the State arise.
2. At the local level, CSOs as grassroots organisations can promote collective action using the RTI Act to improve access to basic services like health, education and welfare etc.
3. CSOs can take up education and awareness programmes on RTI Act to help mobilise people and encourage groups to use the Act to access information.
4. CSOs can become effective vehicles for representing and negotiating citizens' interests vis-à-vis the State.
5. CSOs can promote good governance and social equity by accessing information and also monitoring both state and market performance.
6. Volunteers from CSOs can increasingly use the RTI Act in accessing and disseminating information on current legislations, public expenditure, policy implementation, achievements and drawbacks in promotion of the rule of law, good governance, and respect for human rights etc.
7. CSOs can use various social accountability tools such as Social Audit in assessing the performance of a public authority.
8. CSOs can assist in the demystification of the Act, Rules and procedural requirements concerning access to information which might deter people making requests.
9. CSOs can systematically persuade Government Departments to prepare for mass divulging of information and address the saying that old habits die hard; they may work closely with 'champions' and 'strategic partners'.
10. CSOs may keep a vigil on how the law is being interpreted by PIOs, Public Authorities and Information Commissions.
11. CSOs may disseminate important decisions of Information Commissions across the country so as to facilitate learning of lessons by public authorities and education among the citizens.
12. CSOs must prompt government organisations towards a "right to know" approach to automatically publish all relevant information rather than waiting for information requests.

Under the RTI Act, volunteers from Civil Society Organisations can:

- Demand from the Government information pertaining to any of its departments
- Demand photocopies of Government contracts, payment, estimates, measurements of engineering works etc.
- Demand from the Government certified samples of material being used in the construction of roads, drains, buildings etc.
- Demand to inspect any public development work that may be still under construction or completed
- Demand to inspect Government documents - construction drawings, records books and registers etc.
- Demand status of requests or complaints, details of time delays etc.

The RTI Act provides unique opportunities to tackle many corporate issues. The latter may cover exposing unlawful and unjust activities of corporates in the areas of banking, insurance and pensions, eliciting information on status of pollution control, pollution testing and disposal of hazardous / toxic wastes, asking about safety testing and consumer protection, getting information on the costs and quality of drugs, etc.

At the same time, NGOs substantially financed, directly or indirectly, by funds provided by the Government are recognised as 'Public Authorities' under the RTI Act and thus have an obligation to comply with all provisions mandated for public authorities under the Act including appointment of Public Information Officers (PIOs) and Appellate Officers, proactive disclosure of information etc.

There are a number of actions which would need the involvement of CSOs in furthering the cause of RTI. However the primary actions that the CSOs can embark upon are as follows:

Forming partnerships

CSOs can form partnerships with the Government in promoting the RTI Act. Civic engagement and responsible governance both necessitate the establishment and strengthening of participatory mechanisms, including access to information.

Further, CSOs can specifically support RTI by:

- Organising local, regional, and national consultations of partners;
- Establishing and strengthening the networks between CSOs working on RTI;

- Strengthen new partnerships between Community Based Organisations (CBOs) and NGOs.

Strengthening participatory mechanisms

CSOs, especially NGOs along with the government at local, national and international levels can facilitate and enable broad-based participation of community organisations in monitoring the implementation of provisions under the RTI Act. CSOs can promote RTI by:

- Organising awareness campaigns on Right to Information;
- Participating in the sessions of the Information Commission that would help in enhancing their information and knowledge base;
- Disseminating the RTI Act with emphasis on all the pro-people provisions and the commitments by Governments;
- Acting as a facilitator to monitor and promote the implementation of the RTI Act;
- Implementing mechanisms to monitor selected aspects of the implementation of the Act at the local, national and international levels;
- Continuously advocating for the right to access information;
- Improving modalities for collaboration of CSOs with Governments, local authorities and other partners;
- Mobilising media to increase public awareness on the RTI Act.

Promoting capacity enhancement

The effective implementation of the RTI Act requires strengthening of the local authorities, village organisations, neighbourhood committees, NGOs etc. CSOs can undertake capacity building programmes in critical areas like, participatory approaches, implementation and evaluation, research, information and advocacy.

CSOs can help build capacities by:

- Preparing model local agendas on RTI and facilitate their implementation;
- Providing training in participation and civic engagement through meetings, workshops etc., at all levels;
- Assisting in strengthening the capacity of the community in understanding RTI;
- Translating provisions of the RTI Act into local languages;

- Facilitating information exchange on all relevant aspects of access to information.

Initiate and promote enabling approaches

CSOs can help retain transparency and accountability on the part of the Government. Under this strategy, CSOs can create a situation in which the potential and resources of all actors involved under the RTI Act can be applied. The CSOs can help to enable:

- Information sharing among various civil society partners;
- Identifying NGOs and individuals who have championed the cause of RTI;
- Active participation of community in various RTI forums and initiatives;
- Promotion of political and legislative means that will allow community to influence the concerned government departments / officials in implementing the RTI Act.

Promotion of Equity

CSOs can ensure that the benefits accrued through the implementation of the RTI Act are reaped by every section of society. This is possible by facilitating and enabling broad-based participation of all people specifically:

- By helping women participate in knowing their rights through access to information;
- By helping vulnerable and disadvantaged groups, including people living in poverty and other low-income groups in using RTI to realise their rightful entitlements;
- Through institutional measures to ensure the promotion of the RTI Act;
- Through such techniques as advocacy training and meetings, including those that develop mediating and consensus-building skills that will facilitate effective networking and alliance formation for propagating RTI

9.3 Right to Information and Social Audit of Public Service Delivery

RTI is a significant law which enhances the scope of social audit of public policies and programmes. Without access to certain necessary information it is impossible to conduct a social audit and hold public officials socially accountable. Right to Information makes this possible because it secures for every citizen the enforceable right to know, examine, audit, review and assess Government activities and decisions and also ensure that these are consistent with the principles of public interest, probity and justice. By securing access to relevant information and knowledge, the citizens would be able to assess Government performance and participate in and influence the process of Government decision making,

policy formulation and programme implementation, particularly on issues relating to public service delivery.

RTI can facilitate a regime of transparency and accountability by enabling:

- Disclosure of Information in the public domain;
- Public access to all relevant documentation;
- Demystified and understandable formats for better public comprehension;
- Verification of recorded information by the community.

CSOs, therefore, can undertake social audits of Government processes, activities, programmes, schemes etc., by using the RTI Act and help improve public service delivery and the efficacy and accountability of public officials. Volunteers from CSOs can use the RTI Act to inspect various processes, programmes and schemes of any public authority. They can even examine the works undertaken by any Government Department at any stage and take certified samples of materials, goods, etc. being used.

Furthermore, CSOs can check the quality of work when the work is in progress and the same can be made public if any misappropriation is found. CSOs can also collect and verify records, documents and samples of particular works undertaken by the Government.

Case Study

Social Audit of National Food for Work Programme (NFFWP) In Andhra Pradesh

Kadarpathy is a village located in Nakrekal Mandal of Nalgonda District in Andhra Pradesh. The social audit of works undertaken under the NFFWP in this village was initiated by Department of Rural Development, Andhra Pradesh in association with the Centre for Good Governance. It also involved ActionAid India and MKSS, Rajasthan.

The work started with information collection on the works performed under the National Food for Work Programme for the financial year 2004-2005 from the village. The information was collected nearly one week prior to the social audit. It was decided to conduct social audit for two works taken up in the village: de-silting of a feeder channel and construction of a road. In both the cases, the information collected from different documents available at the district and block level offices. Once collected, all the information and records were sorted and filed work- wise.

The next step in the process was to analyse the available information. Records were studied for violation of norms and guidelines for minimum and equal wages, execution

of works by contractors, breaching of estimates, and so on. The team also converted technical data into information that could be easily triangulated with the information collected from villagers. This was followed by visits to villages by the social audit team for nearly one week during which they developed good rapport with the villagers. During this period, an engineer checked the physical works that had been completed and audited last year. He gave his assessment of the expenditure incurred and of deviations from the plans submitted in the Gram Panchayat.

A public hearing was held subsequently to disseminate the findings of the social audit. Around two hundred people from the Gram Panchayat gathered to participate in the first opportunity they ever had of questioning the public servants for their commissions and omissions.

Some key findings and observations from the social audit were:

- Some muster rolls were empty (without names) with only signatures. Names of some labourers who worked were not registered in the muster roll.
- Measurement books were not available in files for some works.
- The wages recorded in the muster roll were higher than the amounts actually paid to the labourers as per muster roll
- There were no display boards of works undertaken.
- The team leader of the workers took all the rice coupons from the officials and collected the rice from the fair price shop.
- Some finger prints in the registers did not match with those of the actual workers - even the literate workers had their fingerprints in the muster roll.
- Labourers from the other villages were engaged in contravention of the rules.
- Measurements of the works were not taken in the presence of the workers.
- The quality of the rice issued was not good. Rice distributed to the workers was not properly measured.
- There was a difference of 2 meters when a feeder channel was measured and compared with the M Book.

9.4 Strategies that CSOs can adopt for RTI

There are a number of actions which would need the involvement of CSOs in furthering the cause of RTI. However the primary actions that the CSOs can embark upon are as follows:

Networking and Forming Partnerships

Interested CSOs and other groups can form networks for sharing development experiences and lessons learnt on a regular basis. The networks can also act as ‘policy watch groups’ for tracking developments in the law, and identifying opportunities for intervening in the policy process. Some examples of networks working on Right to Information issues in India are: The National Campaign for People’s Right to Information (NCPRI), a network facilitating and advocating the people’s right to information, *KRIA-Katte*, a forum of groups and individuals involved in spreading awareness regarding use of the RTI Act in Karnataka, the *Mahadhikar* Group (recently renamed as “*Hum Janenge*”), an apolitical, web-based forum for facilitating interaction among Civil Society members interested in the use of the RTI in India.

Advocacy

The RTI presents a strong case for Civil Society Organisations to engage in advocacy on key issues of public interest. Advocacy by a networked group of Civil Society Organisations can go a long way in enabling greater access to information and effective implementation of the RTI Act.

Awareness Generation

A conscious effort has to be made by some CSOs to generate greater awareness among the general public on their Right to Information and its implications. Apart from carrying out mass generation campaigns, CSOs should also enable nurturing cadres of social activists on RTI who can speak on behalf of their community and seek accountability and transparency by invoking provisions under the RTI Act.

Capacity Building

Civil Society Organisations must develop strong capacity for using RTI to undertake evaluation and audit of Government programmes. Implementation of such programmes and their wide replication requires a cadre of well-trained resource persons at different levels, effective communication campaign for community mobilisation, regular impact assessment and evaluation studies and dissemination of case studies and best practices.

9.5 Right to Information and Role of Media

The World Association of Newspapers (WAN), the global organisation of the world's press has long argued that a free and unfettered press is a positive force for accelerated and equitable socio-economic development. It held that the predominance of free and independent press accompanies economic growth and human development. In countries with free press, human development indicators such as school enrollment, teacher-pupil ratio, pupil performance, infant mortality, maternal mortality, nutritional status of women and children etc. tend to fare better than countries with restrictions on press and freedom of information. The work of the Nobel Laureate, *Amartya Sen* has even established a link between active media and the avoidance of disasters like famines. The role of media as a watchdog of the government and the corporate sector, a transmitter of new ideas and information, a voice of the poor, a safeguard against the abuse of power and neglect of the socially vulnerable, and a builder of public consensus

to bring about change is pervasive.

Article 19 of the 'Universal Declaration of Human Rights' states:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

In fact, mass media is the most important vehicle for information, knowledge and communication in a democratic polity:

- They are pervasive and play a significant role in shaping societies; they provide the public sphere of information and debate that enables social and cultural discourse, participation and accountability.
- They are the most accessible, cost-effective and widespread source of information and platform for expression.

The impact of the Freedom of Information laws has varied across different countries but the trend towards an access regime is fostering greater Government accountability, and more headlines. For example:

- Requests under Japan's 2001 access law revealed that the Government tried to limit the geographic definition of areas affected by "Minamata disease" (mercury poisoning) in order to reduce compensation payments.

- Requests under Mexico's 2002 law are pressuring the Government's Human Rights Commission to address more than 3400 complaints lodged by citizens, of which only a fraction were resolved last year, mostly in secret.
- A request under the 2001 Delhi state-level Right to Information Act for documents on a promised sewer (supposedly under construction since 1983) in the Sunder Nagari neighborhood embarrassed the Government into finally completing the project.
- British journalists waiting for the 2005 implementation of the U.K.'s new access law used Sweden's (the oldest in the world, dating from 1766) to obtain letters from Prime Minister Tony Blair to the Swedish Prime Minister, after Blair's Government refused to release the documents, citing possible damage to foreign relations.
- South African opposition parties used the new South Africa access law to open internal Government documents on a controversial oil contract with Nigeria, all of the benefits from which went to an offshore company rather than to the South African people. Meanwhile, the Nigerian Parliament is on the verge of passing its own access law.
- Irish reporters used their 1997 freedom of information law to show collusion among four private license-holding companies and the Government that has stymied the development of wireless and broadband Internet access in Ireland.
- Israel's freedom of information law compelled the Yad Vashem Memorial Council to open its files showing how it chooses which "righteous gentiles" to honor on its "Avenue of the Righteous" (non-Jews who helped Jews during the Holocaust).
- The Bulgarian NGO, Access to Information Programme, used Bulgaria's FoI law to reveal that the Government's Minister of Science and Education had illegally (and under the table) rented out his agency's lobby to a private company.

Traditional systems of information access in India have made journalists dependent on sources they must cultivate. Whether bureaucrats or politicians, much depends on the privilege and patronage of the individual source. Such relationships of patronage not only make journalists depend on very feudal relationships, it often makes them use the information regardless of its veracity.

The RTI regime can enable credible, evidence-based and factual reporting on key issues of public interest. It can enable the media to expose mal-administration, corruption and inefficiency and to propagate stories and instances relating to accountability, transparency, effective administration and good governance. By using the RTI Act, the media can play

an important role in highlighting issues related to public service delivery and the efficacy and accountability of public officials.

9.6 Strategies that Media can adopt for RTI

The media can play a constructive role in the governance process by:

- **Catalysing Effective Implementation of the Act:** As the ‘fourth pillar of democracy’, the media not only has an important stake in what the RTI Act purports to provide and achieve, but also in catalysing and entrenching the implementation and enforcement of this significant piece of legislation.
- **Providing Information to the Citizens and Building Awareness on the Act:** Despite the provisions that have been made to access information, citizens resort to media like newspapers, radio, television etc. for day to day information about public authorities and their activities. The media provides a link between the citizens and their government. The media’s right to information or right to tell is not a special privilege but rather, an aspect of the public’s right to know. The media should fulfil this obligation.
- **Acting as a Watchdog on behalf of the Citizens:** The best service that the media can provide to the public, whether in a mature or emerging democracy, is that of a community watchdog. Journalists should see and perform their role keeping in mind public interest. Using RTI, the media can expose corruption and inefficiency. However, in performing a watchdog role and digging out the truth, journalists should be careful in interpreting facts and evidence.

It is important that the media plays the role of an honest broker of information for its readers without deliberate bias or favouritism. The media must consider its independence to be its most valuable commercial, editorial and moral asset. Maintaining its independence through thoroughly professional behaviour and a code of conduct that is subscribed to by all journalists, the media can be a powerful user of the RTI Act and an agent for the empowerment of people through an Information Society. The objective of the Act to usher in a practical regime of right to information cannot be attained without a proactive role played by the media.

Among other things, the media can use the RTI Act in:

- monitoring implementation of the Act and promote awareness
- reporting on the effectiveness & efficiency of public service delivery

- highlighting corruption and fraud related issues
- highlighting citizen grievances
- highlighting significant cases or efforts made by organisations / individuals on RTI.

NDTV in partnership with leading civil society organisations launched a nationwide campaign on RTI that sought to build public awareness on RTI. Under the campaign people were encouraged not to pay bribes, but to ask for information under the RTI Act to solve their problems.

The Drive Against Bribes campaign was undertaken from July 1-15, 2006. Nearly 1500 trained volunteers were available at various centres in 48 cities around the country. Eight media partners and more than 700 civil society groups were part of this initiative.

To know more about it visit <http://www.ndtv.com/rti/>

Discussion on Module 9

Talking Points

- If the group consists of participants from Media and Civil Society Organisations, they may be asked about narrate the / their organisation's activities related to spreading awareness about the Right to information movement that they may have undertaken.
- The strategies they may have adopted in conducting their campaigns and the experiences in implementing these strategies.
- The RTI Act can be used for social audits of Government processes, activities, programmes, schemes etc. Can the participants enumerate some instances / where they think the RTI can be used?
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Module 10

Records Management for Effective Implementation of the Act

Learning Objectives

At the end of this module, the participants should be able to know:

- ✓ The importance of records management.
- ✓ The broad issues relating to the keeping, maintaining, managing and destructing records and how they matter for RTI.

Learning Material

10.1 What is Records Management?

Records management relates to the creation, keeping, using storing, preservation and destruction of records. It encompasses the life cycle of a piece of information from when it is created to when it is destroyed, or if appropriate, to put into permanent storage and transferred to an archive.

10.2 Records management vis-à-vis Information Act

The ability to store and find information is important to the normal functioning of a public authority. To provide easy access to information, the Act specifies that, every public authority has to maintain all its records duly catalogued, indexed, computerised and connected through a network all over the country.

Section 4(1)(a) of the Act stipulates that every public authority shall:

- maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act;
- ensure that all records that are appropriate to be computerised, are within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated.

10.3 A Case for Good Records Management

A message that representatives from a public authority – whether PIOs, APIOs, AOs and Other Officials – could take back with respect to effective implementation of the RTI Act can be regarding the crucial importance of Records Management within their organisation.

Record keeping is a fundamental activity of public administration. Without records there can be no rule of law and accountability. Public servants must have information to carry out their work and records represent a crucial source of information. Records are vital to virtually every aspect of the governance process. The effectiveness and efficiency of the public service across the range of government functions depends upon the availability of and access to information held in records.

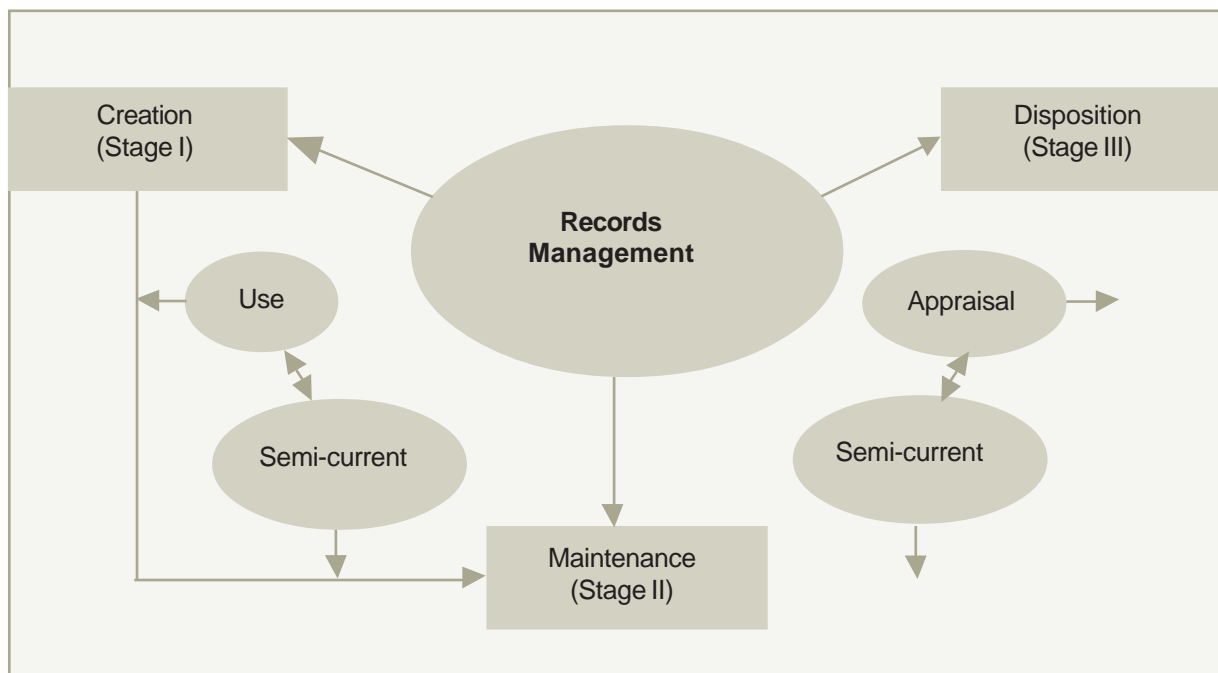
It is an essential function of every government employee to manage the records within his / her purview. Each day public servants create, compile index, access, maintain, and / or transmit government information irrespective of the job title and department they work for. The personal responsibility for records management will not end until public employment

of the employee ends. In today’s information age the management of Government information and the records that contain it, must be recognised as a fundamental government process – a crucial day-to-day activity.

A ‘record’ can be defined as *information generated in the course of an organisation’s official transactions and which is documented to act as a source of reference and a tool by which an organisation is governed*. The records themselves form a part of or provide evidence of such transactions. They are subsequently maintained, as evidence, by or on behalf of those responsible for the transactions.

10.4 What is records management?

Records management is “the field of management responsible for the systematic control of the creation, maintenance, use and disposition of records”, (NARA, 2003). Records management addresses the life cycle of records, i.e., the period of time that records are in the custody of the Government agencies. The life cycle usually consists of the three stages illustrated below:



The table below describes the various phases shown above in the diagram including the degree of records management activity involved.

Phase	Activity Level	Comments
Creation / Receipt	-	Records are created or received and captured into a record-keeping system
Maintenance and Use	High	Records are being used for the business purpose for which they were created
Semi-current	Medium	Records are stored and maintained for reference purposes
Appraisal	Low	Survey methods and retention schedules are used to appraise records for their value
Disposal	Very Low / Nil	Records are destroyed or sent to Archives

(Source: Records Management handbook, DTI, 2000)

Advantages of Records Management

Records management is concerned with the effective management of records throughout their life cycle.

- Facilitates effective performance of activities throughout an agency
- Protects the rights of the agency, its employees and its customers
- Provides continuity in the event of a disaster
- Meets statutory and regulatory requirements including archival, audit and oversight activities
- Provides protection and support in litigation
- Allows quicker retrieval of documents and information from files
- Improves office efficiency and productivity
- Supports and documents historical and other research

To achieve the goal of having an effective records management system it is necessary to enact and implement comprehensive legislation to regulate the life-cycle, management of records and archives, irrespective of medium and format, designating a single authority to oversee the process and assigning clear responsibility for actions at each stage. Government of India enacted the “Public Records Act, 1993” which lays down the principles for managing, maintaining and monitoring records in Government departments. Every records creating agency shall nominate a “Records Officer” to discharge functions under

this Act.

From a records management perspective, a document is a office record if:

- Your office created it.
- Your office acted upon it.
- Your office received it for action.
- Your office is designated as the custodian because of oversight duties or for other reasons.
- Your office needs it to document its activities or decisions.
- Your office can access it under any law.

Use records schedules as a guide to eliminating unnecessary records. Retention of each type of records maintained in your office is governed by a records schedule which has been rigorously reviewed to ensure the records are kept a sufficient length of time. Schedules should be reviewed and approved by Commissioner of Archives and serve as the legal authority for destruction of records or their transfer to the Archives.

Here are other methods for reducing the amount of paper in your office:

- Review your files for outdated reference materials and discard (recycle) superseded or obsolete items.
- Microfilm your records. In most cases if they are properly filmed, the paper original can be destroyed.
- Use image technology to eliminate the need to keep massive amounts of paper on site

10.5 Idealised Steps for Records Management

Step 1:

Determine who will be responsible and what resources will be needed

Establish a project team with representatives from all sub-units and job series (including, but not just support and clerical staff) to oversee the project.

The project team should:

- Set up a network of “records liaisons” with a lead person and liaisons for each office
- Decide if everything will be done “in house” or if outside help (e.g., contractors) will

be needed

- Select one office or sub unit in which to initiate the project. Based on the experience obtained in this one office, you can estimate the resources needed to do other offices

Step 2:

Identify records that document the activities and functions of the organisation / unit

Conduct an inventory of the materials in your office. Don't forget to include empty offices, closets, and other areas where things may have been "stashed."

At a minimum, document where materials are located, how much there is, and the format (e.g., paper, electronic, maps, etc.). (When you have a "snapshot" of the scope of materials in your office, you may need to go back to Step 1 and review the resources available to complete the project.)

An inventory will help you identify which materials are:

- Records
- Reference materials (non records)
- Personal papers (non records)
- Extra copies of documents, publications, and forms (non records)

The inventory will also help you identify which records would need to be immediately available in the event of an emergency (vital records).

A records survey is a complete inventory of an agency's records holdings. It identifies all records, where they are located, and in what quantity. The survey includes all types of records with an agency. Having a records survey is an essential first step in any records management program, at a later stage the survey will prove to be a vital document in identifying vital records, formulating disaster management plans and above all it acts as a working document for preparing a records retention and disposition schedule. After completing a records survey, agencies usually discover that many records can be destroyed or moved to inactive storage. Empirical studies of record surveys have shown that approximately 30% of the total volume of records can be destroyed, 30% can be moved to inactive storage and the balance can be retained as active files. A survey form should be used by an agency to capture vital information on the type of records and record series in a record room. An agency may design its own form to carry out a records

survey. However the survey worksheet should be able to capture vital information such as:

- Type of file
- Record series title
- Description of the record series
- Inclusive dates
- Number of records in the series
- Public access restrictions
- Recommended retention period

Step 3:

Establish your procedures

Now that you know what you have in your office, the project team needs to determine:

- If records will be kept in a “centralised” area, or “decentralised” at individual work stations
- The type of documents that are included in the record files
- How draft documents, working papers, and concurrence copies will be handled
- Who will be responsible for maintaining the record copy (records custodian)

***Remember:** – Non-record materials such as convenience copies and personal papers need to be maintained separately from records.*

Step 4:

Match your records to the records schedules

The next step in the project is to match the records identified in your inventory with the *records retention and disposition schedules*. Records schedules provide information on how long records are to be kept in the office and what happens when they are no longer needed in the office. Retention periods as stated in the schedules are **mandatory**. If a records schedule is still in draft, you can not destroy records covered by that schedule until it has been approved by the competent authority.

The retention and disposition schedule is developed directly from the records survey and it lists by record series title every record series created and maintained by the

agency. Record series titles remain the same throughout the life cycle of the record series, from creation to disposition.

There are two types of record retention schedules that apply to an agency's records. The first is a 'general schedule' which includes guidelines for record series maintained by most state agencies. That is this schedule contains records which are common to most Government offices. Examples of records described in the General Schedule are employee personal records, audit reports, budget preparation records, etc.

The second type of schedule is an 'office specific schedule' which contains retention and disposition requirements for record series that are unique to the organisation. 'Office specific schedules deal with records not listed in the 'general schedule'.

Records should only be destroyed systematically and under an approved records retention program. Organisations should avoid selective destruction and selective retention. As far as possible the element of subjectivity and discretion must be reduced while retaining or destroying records. When determining minimum retention periods and final disposition requirements, the value of records can be broken down into four categories:

- Administrative value
- Fiscal value
- Legal value
- Historical value

Step 5:

Prepare a "file plan"

Now that you know what records you have and what the appropriate records schedules are, you can begin to organise them. Once you have identified the file code, place them in alphabetical and numerical order then, determine if there will be sub-categories or sub-folders and what they will be.

Step 6:

Clean out records which are beyond the approved retention periods

Once you have documented your file plan you can begin to organise your records. First, however, it is a good idea to get rid of those materials in your office which are not needed. If authorised by the records schedule, you can:

- Retire records which are no longer needed in the office to offsite storage e.g., the Records Center
- Transfer permanent records to the National Archives, if appropriate
- Recycle materials which have passed their approved retention period. Remember to shred materials containing confidential or personal information

Step 7:

Organise your records

Now you can begin to implement your file plan.

First, prepare folders and organise documents within the folders. Follow the procedures established in your file plan.

Place reference sheets in folders, when necessary, to refer users to the location of related non-paper materials such as maps, drawings, videotapes, etc.

Organise electronic documents (e.g., Word documents, e-mail messages) residing on individual computer or local network directories using the file codes.

Remember to spend the majority of your time on the “mission-related” records and less on administrative or “housekeeping” records such as routine correspondence.

Step 8:

Maintain your records on an on-going basis

Once everything is organised, it is important to keep it current and up to date. Be sure to:

- File new materials on a regular basis (e.g., weekly)
- Protect records containing confidential information such as confidential business information or personal information
- Establish a check-out system (e.g., “out” cards) to track the location of your records so you always know where they are. (Similar to AIIMS system)
- Clean out inactive materials on a regular basis, usually at the end of the year (as per your written procedures)
- Retire eligible records to the Records Centre
- Clean out superseded or obsolete reference materials

Step 9:**Train**

Once a file plan has been put in place and all unnecessary materials have been cleaned and the necessary materials have been organised, then the last important step to be taken is to make sure that all staff members know about their recordkeeping responsibilities.

Records liaisons need to brief senior management on the importance of your records management program and train office staff on how the records management processes work.

You can refer to the 'Public Records Act' (1993) of the Government of India regarding the key record keeping responsibilities.

Discussion on Module 10*Talking Points*

- The state of records management in public offices and key issues.
- Ask participants to make a note of what they think lacks in the records management in their organisation.
- Any other thoughts that any participant may like to share on good records management.
- Any other issue(s) / aspect(s) that any participant(s) may want to discuss.

Annexure – I

International Perspective on Right to Information

The 'People's Right to Know' has a long history of prolonged debates, deliberations, discussions, struggles and movements at both national and international levels.

The importance accorded to Freedom of Information internationally can be gauged from the fact that the United Nations General Assembly, in its very first session in 1946, adopted Resolution 59 (I), which states:

"Freedom of information is a fundamental human right and... the touchstone of all the freedoms to which the UN is consecrated".

Article 19 of the 'Universal Declaration of Human Rights', a United Nations General Assembly Resolution 217(III) A of 1948, has laid out equal rights for all people and three fundamental principles governing human rights: these rights are "universal", meaning that rights apply to everyone whoever or wherever that person is; "inalienable", in that they precede state authority and are based on the "humanity" of the people; and indivisible in that all rights are of equal importance. The Declaration recognises Freedom of Expression (FoE) - including Freedom of Information (FoI) and Free Press - a fundamental human right. Freedom of Expression includes the right to seek, receive and impart information and right to access information held by public authorities.

Article 19 (2) of the 'International Covenant on Civil and Political Rights' (ICCPR), a United Nations General Assembly Resolution 2200A(XXI) of 1966 states:

"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Article I of the UNESCO Declaration on 'Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War' [1978] states:

“The strengthening of peace and international understanding, the promotion of human rights and the countering of racialism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information.”

Article II of the Declaration states:

“...the exercise of freedom of opinion, expression and information, recognised as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding...”

Article 13 of the ‘UN Convention against Corruption’, adopted by the United Nations General Assembly on 31 October 2003 identifies: ‘(i) effective access to information for public; (ii) undertaking public information activities contributing to non-tolerance of corruption (including conducting public education programmes) and (iii) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption...’ as important measures to be taken by Governments for ensuring the participation of society in governance.

Article 10 of the ‘UN Convention against Corruption’ states: “... to combat corruption, each (member State) shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organisation, functioning and decision-making processes and take measures for:

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organisation, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- (c) Publishing information, (including) periodic reports on the risks of corruption in its public administration.”

Freedom of Expression and Information has been adopted as fundamental human right by regional human right treaties from time to time e.g. the European Convention of Human Rights, 1950, the African Charter on Human and Peoples’ Rights 1981, the Inter-American

Declaration of Principles of Freedom of Expression 2000 and Declaration of the Principle of Freedom of Expression in Africa 2002. These conventions have reiterated Article 19 of the Universal Declaration of Human Rights. For example, Principle IV of the Declaration of Principles of Freedom of Expression in Africa states:

“Public bodies hold information not for themselves, but as custodians of the public good and every one has a right to access this information, subject only to clearly defined rules established by law”.

Principle III of the Recommendations on Access to Official Documents adopted by the Committee of Ministers of the Council of Europe in October 2002 provides:

“Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities. This principle should apply without discrimination on any ground, including that of national origin”.

The World Conference on Human Rights, held in Vienna in 1993 has declared that the Right to Development adopted by United Nations General Assembly in 1986 is a universal and inalienable right and an integral part of fundamental human rights. The declaration recognises that democracy, development and respect for human rights and fundamental freedoms are interdependent, and mutually reinforcing. Right to Freedom of Expression is regarded as closely linked to the Right to Development. The right to seek, receive and impart information is not merely a corollary of freedom of opinion and expression; it is a right in and of itself. As such, it is one of the rights upon which free and democratic societies depend. It is also a right that gives meaning to the right to participate which has been acknowledged as fundamental to the realisation of the Right to Development.

The fundamental values associated with the concept of freedom of expression and right to information in a democratic society, are widely acclaimed internationally as follows:

- Freedom of expression is essential to the development of an individual's personality. The “right to express” and to communicate is central to self-development and realisation of one's potentiality as a human being. Any restriction on expression of opinion or access to information can adversely affect individual dignity, integrity and growth.

- If development is to be realised, people need the freedom to participate in public life with full information as “informed” citizens, exercise their “right to say”, put forth their views, and demand, without fear of discrimination, that their Governments uphold their obligations and deliver.
- Knowledge is power and freedom of information is vital to the advancement of knowledge society. Enlightened judgment is possible only if one is provided with opportunity to consider all facts and ideas, from whatever source, and to test one’s conclusion against opposing views.
- Sustained human development requires that the people, especially the poor have the “right to know” and are provided with access to relevant information, including that relating to the conservation of the environment so that they can take their own “informed” decisions and realise their right to development.
- Free flow of information promotes accountability and transparency, prevents corruption, and strengthens the capacity of community groups and civil society organisations to participate in decision-making. The right to freedom of information is crucial not only in determining policy but also in checking the Government in its implementation of policy.
- The lack of access to information on Government policies, programmes, schemes, benefits and deliveries makes corrupt practices thrive. When corruption siphons off amounts from employment guarantee, unemployment or disability benefit, misdirects public funds for service delivery or delays pension and social security payments, it is usually the poor who suffer the most. Freedom of information can be a potent tool to prevent and fight corruption, i.e. the abuse of public power for private gains.
- Freedom of information is a necessary part of our democratic polity. All power in a democracy belongs to the people who are the masters and the Government is their servant. If the people are to perform their role as sovereign and instruct their Government, they must have access to all information, ideas, and points of view. Thus, democracy must extend

beyond the ballot box and be deepened through “social citizenship” and “citizen governance”.

- Freedom of information is vital to the process of peaceful social change. It allows ideas to be tested in advance before action is taken, it legitimises the decision reached, and it permits adaptation to new conditions without the use of force or violence.

Realising the importance of the freedom of speech and expression including the freedom to receive and impart information, many countries – Sweden, the United States of America, Finland, the Netherlands, Australia, Canada, the United Kingdom, Japan, South Korea, Jamaica, Israel, South Africa, Thailand, India etc. – have enacted Freedom of Information Laws. The objective behind these enactments is to ensure that Governmental activity is transparent, fair and open.

Most enactments are based on the paradigm that except in matters of defence, atomic energy and matters concerning the security of a country, there is no room for secrecy in the affairs of the Government. Whether it is a matter of taking a decision affecting the people or whether it is a transaction involving purchase or sale of Government property or whether the matter relates to entering into contracts - in all these matters, the Government should act in a transparent manner. This means that every citizen who wishes to obtain any information with respect to any of those matters should be entitled to receive it.

Annexure – II

List of Select Web Resources on Right to Information

- www.righttoinformation.gov.in
- www.rti.gov.in
- www.cic.gov.in
- www.r2inet.org
- www.freedominfo.org
- www.indiatogether.org
- www.humanrightsinitiative.org
- www.parivartan.com
- www.righttoinformation.org
- www.prajanet.org
- www.geocities.com/mahadhikar
- <http://groups.yahoo.com/group/mahadhikar>
- <http://indiarti.blogspot.com>
- <http://groups.yahoo.com/group/kria>
- <http://www.delhigovt.nic.in/right.asp>
- <http://www.nagrikchetna.org/>
- <http://www.mahadhikar.org/>
- www.nyayabhoomi.org
- www.agnimumbai.org
- www.sakshitrust.org
- <http://www.adrindia.org>
- www.article19.org
- <http://www.info.gov.hk/access/code.htm>
- <http://www.globalknowledge.org>
- www.freedomhouse.org
- www.foiadvocates.net
- www.transparency.org

Part III
Group Exercise – Case Studies

Case 1: Request for Application made to Police Commissioner

Shri Ramesh Chandra Gupta applies to the office of the Police Commissioner, Delhi seeking information on the crime trend in the city for the last two years. Under normal circumstances of the implementation of the Act, the applicant has the right to receive a reply from the PIO. But in this case Mr. Gupta got a reply signed by the APIO.

Group Work

Discuss the possible reaction of the applicant and the stand that the PIO will take as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case Briefing

- **Can an APIO Sign a Response Letter?**

The Act has limited the APIO's role only to receiving applications for information and appeals and transmitting the same to their proper destination. His responsibilities are not co-extensive with that of the PIO's. However, this action of the APIO should not create any special disability for the requester in exercising his / her rights under the Act. In the normal circumstances the applicant will receive a reply from the PIO and the APIO only. There is however no legal difficulty for the PIO in using the services of the APIO to transmit his decision on the application to the requestor. Though, it is necessary to caution the Public Authority that any order issued by a APIO on behalf of the PIO must clearly state that the former was only transmitting the orders of the PIO and should also state the name and designation of the PIO on whose behalf he is acting.

CIC Decision: CIC/AT/A/2006/00059 – dt. 5 May, 2006

Case 2: Information Pertaining to Commercial and Trade Secrets

A proposal to increase sales tax on a particular product range has been prepared by the Commissioner, Commercial Taxes and the concerned Minister will table the proposal in the forthcoming session of the House, after it is approved by the Cabinet. A manufacturer will be adversely affected by the Amendment and has asked for a copy of the proposal to the PIO.

Group Work

You are the PIO for that Office. What will you do? Will you provide this information? Make a presentation on your case analysis.

Case Briefing

- **Rejecting a Request**

As per the Section 8(1)(a) of the RTI Act, information disclosure of which would prejudicially affect the...economic interests of the state... is exempted.

Secondly, as per Section 8(1)(i) of the Act, there is no obligation to give any citizen cabinet papers including records, deliberations of Council of Ministers, Secretaries and other officers until the decision has been taken and the matter is complete.

Therefore the PIO needs to consider both the abovementioned provisions before taking a decision. If information is denied under any of these clauses, the PIO must communicate to the applicant reasons for applying these clauses.

Case 3: Access to Medical Information

Rajaram, a rickshaw-puller, has been admitted to a Government hospital in a serious condition. He has been treated at the hospital for a week but his condition has worsened. His wife has asked the PIO of the hospital to furnish details about the medicines and details of treatment administered to Rajaram after his admission. What action will the PIO take in this situation?

Group Work

Discuss the procedure that needs to be adopted by the PIO as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case Briefing

- **Access to Information**

Although an applicant has to pay the prescribed fee to seek the information under Section 6(1), Rajaram's wife need not pay any fee as the Act provides that persons below poverty line need not pay any fee.

As per section 7(1) since the information sought relates to the life of Rajaram, the PIO is supposed to give the details of treatment given to Rajaram within 48 hours of the receipt of the request. The PIO may request the doctor treating the patient / official concerned to provide the necessary information; the liability of providing the information sought would, thus, rest on the official whose assistance is sought by the PIO who would then be considered as a deemed PIO.

Case 4: Access to Information More Than 20 Years Old

20 years ago Govinda (since deceased) was working as a labourer on the employment guarantee scheme, which was a drought relief measure in Karjat Taluka of Ahmednagar District. His son has requested details about the number of employees with their attendance sheets; wages paid etc. who were then employed.

Group Work

Discuss the case in your group. Can Govinda obtain this information? Discuss the relevant provisions of the Act and Make a presentation on your case analysis.

Case Briefing

- **Information up to 20 Years**

Section 8(3) reads as follows:

Subject to the provisions of clauses (a),(c) and (i) of sub section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty Years before the date on which any request is made under section 6 shall be provided to any person making a request under that section.

Hence the details requested about the number of employees with their attendance sheets, wages paid etc, who were then employed in that drought relief work shall be disclosed if held by the public authority.

Case 5: Information Pertaining to Third Party

In 1994, Public Interest Litigation was filed in the Bombay High Court regarding the malnutrition deaths of children in Melghat region of district Amravati, Maharashtra. A citizen of Uttaranchal has requested the Uttaranchal state government for a copy of the affidavit filed by the Maharashtra state government.

Group Work

Discuss the alternatives available for the PIO as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case Briefing

The Application was received in Uttaranchal seeking information about Maharashtra under section 6(1) of the RTI Act.

Since another PA holds the matter it should be transferred to that Public Authority under section 6(3) within 5 days and the applicant should be informed.

Since affidavit is a public document, the concerned PIO in Maharashtra should furnish the information within in 30 days of the receipt of the application.

Case 6: Answer Sheets

Ms. Treesa has requested to furnish a photocopy of her evaluated answer sheet of the departmental exam. The PIO has refused to furnish the same on the ground that there is no public interest involved in her request. Ms. Treesa prefers an appeal to the Information Commission.

Group Work

What will be the decision of the Information Commission? Make a presentation of the case explaining the decision taken with relevant provisions of the Act.

Case Briefing

- The Commission was of the opinion that furnishing copies of the evaluated answer papers would be against public interest and that supply of a copy of the evaluated answer paper would compromise the fairness and impartiality of the selection process.

CIC Decision on Appeal No.ICPB/A-2/CIC/2006 – dt. 6 February, 2006

Case 7: Public Interest and Privacy

The case pertains to one Dr. Venkateswar Prasad who had studied in AIIMS and got an MBBS degree in the year 1986 and later opened a deluxe hospital, the 'Krishna Institute of Medical Science (KIMS) in Hyderabad. Dr. Prasad treated Shri Sanjeev Kumar Jain's son who allegedly died at his hands. Shri Sanjeev Jain and his wife Smt. Anju Jain, a lecturer in Zoology, felt that Dr. Prasad was not a competent doctor and according to them on further enquiries, they discovered several discrepancies in the certificates the doctor had earned not only during his term of education, but even later. There were also discrepancies in the details of the passport that he had used to go to America. The couple, Shri Jain and Mrs. Anju Jain delved further into the matter and were convinced that this is a case of a fake doctor.

To strengthen their case, as also to procure documents to pursue the matter further, they applied to AIIMS to provide them with photocopies or certified copies of the degrees and certificates that the AIIMS has in possession regarding this doctor. They also applied to the Regional Passport office, New Delhi for details of the passport number as well as the photograph on Dr. Prasad's passport in order to find out whether he was using more than one passport.

Group Work

Discuss whether these disclosures invade the privacy of the Doctor? Is there public interest in disclosure of the requested information?

Case Briefing

The AIIMS supplied the requester some documents which according to the couple were not only incomplete but unsatisfactory. The Passport Office too refused to entertain their request on the ground that the request was an “invasion of the privacy” of the individual in question and, therefore, they could not disclose the information under Section 8(1)(j) of the Right to Information Act, 2005. The couple then approached the Central Information Commission for help in getting the requisite documents from AIIMS as well as the Passport Office.

The Commission heard the case in detail and also examined several documents produced by the Appellants and came to the conclusion that the case had prima facie evidence of forgery, impersonation and falsification of documents. To establish the truth, therefore, it was necessary that all the documents regarding Dr. Venkateswar Prasad be made available to the Appellants.

The Commission ordinarily would not have entertained the request of the Appellant as the information related to the third party and being personal, the third party should be given notice in the interest of equity but this is a case of a Doctor who already allegedly mishandled a case causing loss of life and is also the Director of an entire medical set up. Therefore, the matter is definitely in public interest and is covered by Section 8(2) of the Act and warrants a thorough investigation. The Commission directed CPIO, AIIMS to make available to Shri Sanjeev Kumar Jain and Mrs. Anju Jain all the records regarding Dr. Prasad and also provide them photocopies of the documents they required without payment of fees.

The Commission also directed the Passport Office to provide to Shri Sanjeev Kumar Jain and Smt. Anju Jain a copy of the photograph of Dr. Prasad as in his passport and also the passport number without payment of any fee and also allow them also to inspect any other passport carrying the same name but with different details. It was also required that the information shall be provided to the appellants without delay.

CIC Decision: CIC/OK/C/2006/00048 – dt. 3 July, 2006 and dt. 3 August, 2006.

Note: The Trainer / facilitator needs to keep himself / herself updated with respect to the issues covered in the cases included above and facilitate the group exercises based upon such updated information. Likewise, the trainer / facilitator can also choose other relevant and more important cases to be analysed by the participants through a group exercise.

Group Exercise – Role Play

Briefing Notes

- *Invite the participants for a comprehensive Role Play that would test their understanding of the entire lifecycle of a request for information*
- *Identify few participants from the entire group of trainees who can play the roles of various authorities.*
- *The role play can enact the entire life cycle of a request under RTI with*
 - *receipt of information request by an Assistant Public Information Officer (APIO)*
 - *its transmission to the PIO*
 - *PIO seeking information from other officers*
 - *PIO asking for further fees to be paid*
 - *seeking Third Party representation*
 - *First Appeal*
 - *Second Appeal*
 - *the decision of the Information Commission*
- *If the trainer / facilitator feels appropriate, he / she may introduce a specific situation (real-life or hypothetical) against which the aforesaid steps for the proposed role play could be modeled charted out.*
- *Different scenarios can be simulated in different groups – such as rejection of application, partial disclosure etc.*

Part IV

Quiz Digest

Pre-Test

(This pre-test could be useful to be administered as an ice breaker in the very first session after the participants would have introduced themselves)

The facilitator would do well to conduct a pre-test that would enable him / her to gauge the participants' awareness about the Act. The pre test would also be a good follow-up to 'Breaking the Ice'.

This pre-test can be administered by throwing up quick questions for quick oral answers from the participants.

The questions could be as follows:

- 1. What is the purpose of the Right to Information Act?**
- 2. When did all the provisions of the Act come into force?**
- 3. Who is covered under the Act?**
- 4. What information can be accessed under the Act?**
- 5. What is the time limit for responding to a request for information?**
- 6. Can a citizen inspect the works undertaken by a Public Authority?**
- 7. Is there a fee charged for providing information?**
- 8. Are there any penalties for violation of the provisions of the Act?**
- 9. What is the essence of the Role of the Information Commission?**

Quiz No. 1**(on topics covered on Day 1)**

Instruction: Please Tick Mark (✓) the Correct Answer Time Limit: 30 Minutes		
Sr. No.	Questions	Options
1.	Even an oral request will be treated as a request under RTI Act	Yes / No
2.	An Application for request for information can be done only in a prescribed format	Yes / No
3.	The applicant is not required to give reasons for seeking information under the Act	Yes / No
4.	If the same information is sought by a large number of people, it may be made available to only one person	Yes / No
5.	There is a limit on the number or kind of information sought in one single application	Yes / No
6.	No penalty will be imposed on the PIO if it is shown that he took action in good faith	Yes / No
7.	The PIO has the power to know the intention of the applicant in seeking information	Yes / No
8.	If the PIO is illiterate, he / she can refuse to accept the request in writing	Yes / No
9.	BPL families requesting for information should be charged an application fee	Yes / No
10.	Can a person belonging to the BPL category seeking information be charged additional fees for providing the requested information	Yes / No
11.	If the applicant does not pay additional fee towards the cost of providing information within the prescribed time limit, the PIO can be penalised for not providing information	Yes / No
12.	If the applicant pays the additional fee but after the expiry of the time limit, the PIO can refuse to provide information	Yes / No
13.	The documents issued by a Public Authority under RTI Act should have a distinct mark, like a stamp impression, etc Yes / No	
14.	Can a citizen seek information that is 20 years (or more than 20 years) old?	Yes / No
15.	As per RTI Act, Proactive disclosure of information by Public Authorities was to completed within 120 days of the enactment of the Act	Yes / No

16.	The RTI Act overrides the Official Secrets Act of 1923	Yes / No
17.	Certain Intelligence & Security Organisations are exempted from the Act	Yes / No
18.	A request for information can be made only to the APIO	Yes / No
19.	If an authority responds to a request for information within 30 days, this will satisfy the statutory requirements	Yes / No
20.	If an authority considers that an exemption applies in respect of the information requested, then before reaching its final decision, the authority must apply the public interest test	Yes / No
21.	The Public Interest Test involves looking at whether information that is covered by an exemption should nonetheless be disclosed because the public interest in disclosing the information outweighs public interest in maintaining the exemption.	Yes / No
22.	If information pertains to life or liberty of a person, the PIO has 72 hours to provide such information	Yes / No
23.	Decisions on grant of partial access to a record is taken by a) The PIO b) The Appellate Authority c) The Public Authority d) By an officer of the level of Joint Secretary and above	
24.	If the information requested relates to the work of several public authorities, the PIO can a) reject the application b) give partial information c) forward copies of the application to the concerned PIOs d) give details of PIOs to the applicant to submit applications to them	
25.	If the information sought relates to more than one state, the PIO can a) reject the request b) give partial information c) refer to the other concerned state (s) d) refer to the central government	
26.	A PIO is required to dispose of a request for information within a) 90 days b) 50 days c) 30 days d) 20 days	

27.	<p>If the information sought pertains to life or liberty of a person, the PIO has to provide it within</p> <ul style="list-style-type: none"> a) 24 hours b) 48 hours c) 72 hours d) 96 hours
28	<p>The role of a Public Authority is to –</p> <ul style="list-style-type: none"> a) Maintain all records duly catalogued and indexed b) Computerise records within a reasonable time c) Proactive disclosure of Information d) Designate PIOs / APIOs / AOs <p>1. a) and c) 2. b) and d) 3. c) and d) 4. All the above</p>
29.	<p>Which of the following are all the valid grounds for serving a refusal notice</p> <ul style="list-style-type: none"> a) The information requested is covered by an exemption and does not have to be disclosed. b) The information is voluminous c) The cost of providing such information results in unreasonable diversion of the authority's resources <p>1. a) and c) 2. b) and c) 3. a) and b) 4. None of the above</p>

Quiz No. 2

(on topics covered on Day 2)

Instruction: Please Tick Mark (✓) the Correct Answer Time Limit: 30 Minutes		
Sr. No.	Questions	Options
1.	A PIO can also be an Appellate Officer	Yes / No
2.	The details about Appellate Officers are required to be published in the Official Gazette	Yes / No
3.	While considering an appeal, the Appellate Officer has to consider whether the PIO acted in 'good faith' or not	Yes / No
4.	There is no appeal against the decision of the Appellate Officer	Yes / No
5.	The Appellate Officer cannot determine the 'reasonableness' of fee charged for providing information	Yes / No
6.	Quasi-judicial powers, in addition to administrative powers, are given to Appellate Officer.	Yes / No
7.	The aggrieved applicant can directly approach the Information Commission, bypassing the Appellate Officer	Yes / No
8.	The Appellate Officer has the power to impose penalty on PIOs	Yes / No
9.	For preferring an appeal to the Appellate Officer, the applicant has to pay fees	Yes / No
10.	The Appellate Officer has discretionary power to accept an appeal preferred after the expiry of deadline	Yes / No
11.	The Information Commission can summon the Appellate Officer to appear before the Commission	Yes / No
12.	Interpretation of exemption under section 8 in the light of public interest, is one of the important decisions of the Appellate Officer	Yes / No
13.	In the event of the applicant preferring a second appeal, the Appellate Officer should provide necessary material for use by the Information Commission.	Yes / No
14.	Information falling under the category of exemptions can still be provided if it serves a larger public interest	Yes / No

15. All exemptions made under the Act are time-bound exemptions.	Yes / No
16. A public authority may not allow access to information, even if public interest in disclosure outweighs the harm to the protected interests.	Yes / No
17. In which of the following cases, the Appellate Officer can receive an appeal a) Where PIO has failed to provide the information in the stipulated period b) Where the applicant believes the rejection by PIO is unjustifiable c) Where PIO has refused to accept the application d) Where APIO has refused to forward the applications to the PIO or appeals to Appellate Officer 1. a and b 2. c and d 3. a ,b and c 4. All of the above	
18. Normally, the time limit for making the first appeal to the Appellate Officer is: a) 30 days b) 45 days c) 90 days d) 120 days	

Quiz No. 3

(on topics covered on Day 3)

Instruction: Please Tick Mark (✓) the Correct Answer Time Limit: 30 Minutes		
Sr. No.	Questions	Options
1.	The function of Information Commission is only to inquire into appeals	Yes / No
2.	There is no procedure for deciding on appeals by the Central Information Commission	Yes / No
3.	Is there a time limit set for the citizen to make a second appeal to the Information Commission	Yes / No
4.	Is there any time limit set for the Information Commission to decide the appeal	Yes/ No
5.	The decision of the Information Commission is final and there cannot be any petition against it before High Court or Supreme Court	Yes/ No
6.	Can a complaint be made to the Information Commission directly if the Act's provisions are not complied with?	Yes / No
7.	The Information Commission can impose penalties if the Public Authorities, are found guilty of violation of the Act's provisions upon the investigation of a complaint.	Yes / No
8.	Information Commission can impose a penalty on PIO.	Yes / No
9.	Information Commissions must prepare an Annual Report	Yes / No
10.	Does the Act direct the State / Central Information Commission to place the Annual Report which shall contain certain implementation-specific statistics before the Parliament /Legislature	Yes / No
11.	If the decision of the Public Information Officer against which an appeal is preferred relates to information regarding a third party, then the IC has to give reasonable opportunity of being heard to that third party	Yes / No
12.	The Information Commission has the same powers as those vested in a Civil Court while inquiring into any matter u/s 18	Yes / No
13.	The PIO shall have to be present during the proceedings of the second appeal.	Yes / No
14.	The Information Commission has to dispose off the second appeal within 100 days from the date of the appeal being made	Yes / No
15.	The second appeal to the Information Commission has to be made within days a) 30 b) 45 c) 90 d) 120	–

Quiz No. 1 - Key

Key		
Sr. No.	Questions	Options
1	Even an oral request will be treated as a request under RTI Act	No
2	An Application for request for information can be done only in a prescribed format	No
3	The applicant is not required to give reasons for seeking information under the Act	Yes
4	If the same information is sought by a large number of people, it may be made available to only one person	No
5	There is a limit on the number or kind of information sought in one single application	No
6	No penalty will be imposed on the PIO if it is shown that he took action in good faith	Yes
7	The PIO has the power to know the intention of the applicant in seeking information	No
8	If the PIO is illiterate he / she can refuse to accept the request in writing	No
9	BPL families requesting for information should be charged an application fee	No
10	Can a person belonging to the BPL category seeking information be charged additional fees for providing the requested information	No
11	If the applicant does not pay additional fee towards the cost of providing information within the prescribed time limit, the PIO can be penalised for not providing information	No
12	If the applicant pays the additional fee but after the expiry of the time limit, the PIO can refuse to provide information	No
13	The documents issued by a Public Authority under RTI Act should have a distinct mark, like a stamp impression, etc	No
14	Can a citizen seek information that is twenty years (or more than twenty years) old?	Yes
15	As per RTI Act, Proactive disclosure of information by Public Authorities was to be completed within 120 days of the enactment of the Act	Yes
16	The RTI Act overrides the Official Secrets Act of 1923	Yes
17	Certain Intelligence & Security Organisations are exempted from the Act	Yes

18	A request for information can be made only to the APIO	No
19	If an authority responds to a request for information within 30 days, this will satisfy the statutory requirements	Yes
20	If an authority considers that an exemption applies in respect of the information requested, then before reaching its final decision, the authority must apply the public interest test	Yes
21	The Public Interest Test involves looking at whether information that is covered by an exemption should nonetheless be disclosed because the public interest in disclosing the information outweighs public interest in maintaining the exemption.	Yes
22	If information pertains to life or liberty of a person, the PIO has 72 hours to provide such information	No
23	Decisions on grant of partial access to a record is taken by	a) The PIO
24	If the information requested relates to the work of several public authorities, the PIO can	c) forward copies of the application to the concerned PIOs
25	If the information sought relates to more than one State, the PIO can	c) refer to the other State(s) concerned
26	A PIO is required to dispose of a request for information within	c) 30 days
27	If the information sought pertains to life or liberty of a person, the information has to be provided within	b) 48 hours

28	<p>The role of a Public Authority is to –</p> <ul style="list-style-type: none"> a) Maintain all records duly catalogued and indexed b) Computerise records within a reasonable time c) Proactive disclosure of Information d) Designate PIOs / APIOs / AOs 	<p>4. All of the above</p>
29	<p>Which of the following are all the valid grounds for serving a refusal notice</p> <ul style="list-style-type: none"> a) The information requested is covered by an exemption and does not have to be disclosed. b) The information is voluminous c) The cost of providing such information results in unreasonable diversion of the authority's resources 	<p>1. a) and c)</p>

Quiz No. 2 - Key

Key		
Sr. No.	Questions	Options
1.	A PIO can also be an Appellate Officer	No
2.	The details about Appellate Officers are required to be published in the Official Gazette	No
3.	While considering an appeal, the Appellate Officer has to consider whether the PIO acted in 'good faith' or not	Yes
4.	There is no appeal against the decision of the Appellate Officer	No
5.	The Appellate Officer cannot determine the 'reasonableness' of fee charged for providing information	No
6.	Quasi-judicial powers, in addition to administrative powers, are given to Appellate Officer.	No
7.	There is nothing in the Act to prevent the aggrieved applicant from directly approaching the Information Commission, bypassing the Appellate Officer	Yes
8.	The Appellate Officer has the power to impose penalty on PIOs	No
9.	For preferring an appeal to the Appellate Officer, the applicant has to pay fees	No
10.	The Appellate Officer has discretionary power to accept an appeal preferred after the expiry of deadline	No
11.	The Information Commission can summon the Appellate Officer to appear before the Commission	Yes
12.	Interpretation of exemption under section 8 in the light of public interest, is one of the important decisions of the Appellate Officer	No
13.	In the event of the applicant preferring a second appeal, the Appellate Officer should provide necessary material for use by the Information Commission.	Yes
14.	Information falling under the category of exemptions can still be provided if it serves a larger public interest.	Yes
15.	All exemptions made under the Act are time-bound exemptions	No
16.	A public authority can not allow access to information, even if public interest in disclosure outweighs the harm to the protected interests.	No

17.	<p>In which of the following cases, the Appellate Officer can receive an appeal</p> <p>a) Where PIO has failed to provide the information in the stipulated period</p> <p>b) Where the applicant believes the rejection by PIO is unjustifiable</p> <p>c) Where PIO has refused to accept the application</p> <p>d) Where APIO has refused to forward the applications to the PIO or appeals to Appellate Officer</p>	3.a,b and c
18.	<p>Normally, the time limit for making the first appeal to the Appellate Officer is:</p> <p>a) 30 days</p> <p>b) 45 days</p> <p>c) 90 days</p> <p>d) 120 days</p>	30 days

Quiz No. 3 - Key

Key		
Sr. No.	Questions	Options
1	The function of Information Commission is only to inquire into appeals	No
2	There is no procedure for deciding on appeals by the Central Information Commission	No
3	Is there a time line set for the citizen to make a second appeal to the Information Commission	Yes
4	Is there any time lines set for the Information Commission to decide the appeal	No
5	The decision of the Information Commission is final and there cannot be any petition against it before High Court or Supreme Court	No
6	Can a complaint be made to the Information Commission directly in the event of non-compliance with the provisions of the Act	Yes
7	The Information Commission can impose a penalty on PIO	Yes
8	Are the Information Commissions required to prepare an Annual Report	Yes
9	The Information Commissions are required to prepare an Annual Report	Yes
10.	Does the Act direct the State / Central Information Commission to place the Annual Report which shall contain certain implementation-specific statistics before the Parliament / State Legislature	Yes
11.	If the decision of the Public Information Officer against which an appeal is preferred relates to information regarding a third party, then the IC has to give reasonable opportunity of being heard to that third party	Yes
12.	The Information Commission has the same powers as those vested in a Civil Court while inquiring into any matter u/s 18	Yes
13.	The PIO shall have to be present during the proceedings of the second appeal.	Yes
14.	The Information Commission has to dispose off the second appeal within 100 days from the date of the appeal being made	No
15.	The second appeal to the Information Commission has to be made within days a) 30 b) 45 c) 90 d) 120	c) 90

Part V
RTI Success Stories

Case 1: It Happens Only in Bangalore, or Does it?

It happens only in Bangalore Mahanagara Palike. Paying Rs 10 lakh to a contractor for a road not asphalted and also patting him for “satisfactory execution of work!”

The case in point is a perfectly good Rama Iyengar Road, perpendicular to the famed Food Street in South Bangalore. But BMP prepared an impressive sounding detailed estimate for — “depression filling, levelling coarse for camber correction, applying bituminous tack coat at Rs 2.5 per 10 sq. metres, brushing and cleaning the road surface...” at a cost of Rs 10,76,808.

The road has not seen any asphaltting. But the contractor was paid his dues. This fraud came to light thanks to S R Venkataram, president of residents’ welfare association, Suprajaa. Using the RTI (Right to Information Act), he procured details on the non-work. Explains Venkataram: “I have lived in this area all my life and no one can bluff to me about the work. So I asked for technically and administratively sanctioned copy of the estimate, tender rates and copy of the duplicate bill. I was shocked when the papers claimed that this road has been asphalted for Rs 10 lakh.”

What is happening to the tax-payers’ money? The executive engineer at Basavanagudi under whose jurisdiction this road falls has declared: “Certified that the measurements were checked by me and found correct.” The contract certificate, a copy of which was obtained by The Times of India, reads:

“Certified that the contractor has executed the work satisfactorily and the work is as per schedule. Certified that the contractor has removed all the debris from the work spot.” The contractor has been paid Rs 10,67,808 vide cheque No. 037508.

Venkataram has forwarded all the documents to the Lok Ayukta.

Source: *Times of India*, dated June 15, 2006

Case: 2 Public Hearing on Food for Work

On 17 October 2005, five days after the Right to Information Act, 2005 came into force, a public hearing in Lakshmangarh village (Surguja District, Chhattisgarh) showed how the Act can empower ordinary people and enable them to fight corruption. It focused on the recent construction of a lake under the Food for Work Programme for which the Irrigation Department sanctioned Rs. 3.1 lakhs, all of which was shown to be spent on labour over three “muster rolls” covering one week each.

Getting the muster rolls was no easy task. It took weeks of running from pillar to post and it was only after the Rozgar Adhikar Yatra occupied the local office of the Irrigation Department that the concerned officials finally agreed to part with two of the three muster rolls. The public hearing convened on 17 October immediately showed that the muster rolls had been fudged. Only 63 of the 320 names on the rolls were genuine. Residents of all the three villages from which the labourers were supposedly drawn attended the public hearing, and they confirmed that the 257 untraceable names were fictitious. That those labourers who actually were employed were paid the statutory minimum wage of Rs 55 per day (so that they do not raise their voice) was corroborated at the public hearing, but only one fifth of these “labourers” were actually there.

The wages of the other four fifths were appropriated by corrupt officials. Interestingly, however, all the thumbprints in the muster rolls were fake, even in the case of “genuine” labourers. All the labourers present, literate or illiterate said that they had never put their signature or thumbprint on the official muster roll. Instead they had been asked to put it on a different document – the “kacchha muster roll”. The evidence is incontrovertible. The names were checked from the voters’ lists, and checked again in public proceedings available on video tape. Those who attended the public hearing unanimously signed a memorandum summarising the evidence. And the thumbprints on the muster rolls can be easily checked against the samples provided at the public hearing. This explains why the muster rolls were sought to be made inaccessible to the public.

Lakshmanagarh, therefore, will be a useful test of the Government’s willingness to crack down on corruption. At the end of the public hearing, a delegation was sent to the District Collector, and the evidence was presented to him. He promised to take action against the culprits. Earlier experiences with most of such exposes are not encouraging. Corrupt officials are rarely caught, let alone punished. The silver lining though is that public tolerance of corruption is rapidly dwindling, making it harder and harder for the administration to remain passive.

What is heartening about the public hearing in Lakshmanagarh is that the entire exercise was conducted by local residents with no special expertise in the matter. The verification of muster rolls was initiated by Gangabhai Paikra, an adivasi youngster with five years of schooling. Once the muster rolls were obtained from the Irrigation Department, verifying them was a simple matter. Therein lies the hope of eradicating corruption in public works: the simple act of making muster rolls readily accessible will empower ordinary people to act as “freelance inspectors”. If it can be done in and by the local people themselves without any outside expertise involved as was the case with this public hearing in Lakshmanagarh,

it can be done elsewhere in the country. This is the empowerment that the RTI Act, 2005 envisions.

Source: www.indiatogether.org/direct/

Case 3: Right to Information — Path to Swaraj

A simple yet very powerful example of the use of the Right to Information (RTI) is of a slum dweller who applied for a new ration card. He was told he would have to give a bribe of Rs.2000 to obtain it. Our friend — an RTI-empowered citizen — smiled, and just went ahead and applied for the ration card without offering any bribes. His neighbours warned him he would never get his ration card. They also told him how he would now have to keep visiting the rationing office. Some well meaning friends praised him for being courageous. They suggested he should approach some non-governmental organisation to take up his case, so that ultimately he would get his ration card.

Our citizen had decided to become an enforcer of good governance. He found out in how many weeks everyone who paid bribes got their ration cards. He waited for an extra four weeks after applying for his card, and then applied for information under the RTI. Using the simple format with an application fee of Rs.10, he delivered it to the Public Information Officer of the Food and Supply office. He had asked up to which date applications for ration cards had been cleared and the daily progress report of his application. This shook up the officials, since they would have to acknowledge in writing that they had given ration cards to others who had applied after him, which would be conclusive evidence that they had no justification for delaying his card. Happy ending: the ration card was given to him immediately.

Source: *The Hindu*, dated October 07, 2005

Case 4: Five Women Receive Pension while Attempting to File RTI Application

Ramkaran, from Tilonia took 5 women to submit a right to information application on the issue of old age and widow pension to the SDM's office. The SDM immediately called the concerned officer from the pension department. He told the officer that for the last 4 months these women have not received their pension, and the files should be brought to his table immediately. Before accepting the application he began questioning the officer on the issue.

The officer informed that these women had not filed their birth certificates and that was delaying the release of their pension. The SDM instructed the officer to release their pensions and take their birth dates from Ramkaran and the Patwari (government officer who oversees the matter related to land) of the village. So without filing an application the four women were given their four month pension immediately even though the office had

closed down and they would have had to wait for the next day under normal circumstances.

Submitted by: *Manish Sisodia, www.righttoinformation.org*

Case 5: Right to Information helps a Retired Government Servant

Pune, July 4: Ramesh Pongde retired from government service after serving for 40 years, out of which he had served 27 years in the Pune Municipal Corporation (PMC). When he received his first monthly pension cheque, he was shocked to find that it was for Rs. 5000/- instead of Rs. 7000 that was due to him every month. He continued to receive Rs. 5000 every month.

Over the next four years, Mr. Pongde wrote many letters to the PMC in this regard but did not get a single response for four years. He made 16 representations to the Government. He attended the pension court five times. When he requested for his pension papers, he was asked to pay bribes by officials.

When Mr. Pongde came to know of the RTI Act, he decided to use it to obtain his papers. Using the RTI Act, he obtained all his pension papers from PMC. He also got the details of his representations sent to the Government highlighting the mistakes made by PMC in computing his pension. Ramesh got his total pensions due to him within 3 months. Government corrected his pension enhancing the same from Rs.5000/- to Rs. 8000/- per month. Further, he was paid the difference of amount due to him for the last four years amounting to Rs. 1,78,000/-. Ramesh is happily telling everybody that he got his due because of the Right to Information Act.

RTI is a powerful tool that people can use to make the government transparent, responsive and accountable.

Source: *Andhra Prabha, dated July 5, 2006 (translated version)*

Case 6: PIO Fined Rs. 8000 for Providing Misleading Information

The imposition of Rs. 8000 as penalty on a District Sports Officer for giving incorrect information in Pune came as a wake up call for Public Information Officers (PIOs) in the State of Maharashtra. The Maharashtra Right to Information (MRTI) Act had one of the most progressive penalty provisions amongst the states with access laws in India. The Act permitted the imposition of a fine of Rs. 250/- per day for unreasonable delay in providing information, and permitted fines 'not exceeding Rs. 2000/- on a PIO who has knowingly given incorrect, misleading, wrong or incomplete information'. Using such provisions, this case sets an impressive precedent and should act as a serious deterrent for PIOs unwilling to disclose information under the provisions of the Act.

The PIO concerned, Wali Jamadar, deposited the fine amount in the Government treasury after consumer activist Dhyanchandra Patil was given incorrect information on four application requests made under the MRTI to the PIO at the District Sports Office.

By citing an outdated circular, the PIO had misled the requester, claiming that there was no law on the right to request such information. Arguing that the PIO's claim was clearly misleading information, Patil called for a penalty of Rs 2000 to be imposed on the PIO. In his capacity as Appellate Authority, the Deputy Director asked the PIO to explain his actions and then reprimanded him for furnishing misleading information. Patil was not satisfied with the Deputy Director's response and informed him that as the Appellate Authority, it was imperative that he impose a penalty and fine on the PIO and that the appeal had to be decided within 30 days or only in exceptional cases in 60 days. Patil was clear that if his appeal was not decided within the stipulated time, he would be forced to approach the Lokayukta. Responding favorably, in November 2004, the Deputy Director ordered the PIO to pay a penalty of Rs. 2000 for violating Section 12(2) of the MRTI Act. Yet, Patil was adamant that the PIO be penalised for providing misleading information on all four applications made by him and should be penalised for each act of non-compliance with the law. Patil's argument was soon conceded. This is perhaps the first such penalty imposed under the MRTI Act for giving misleading information.

Source: *Indian Express Pune, PIO Denies Information; Pays Rs 8000 Penalty* <http://cilies.expressindia.com/fullstory.php/newsid=122321>

Case 7: Polluting Factory Shut Down

Kapil Jain, a resident of Vishwas Nagar in east Delhi, doesn't fancy himself as a hero. "I am an ordinary person who wanted to lead an ordinary life. I live according to the principles of my father," says the 34-year-old, who gave up engineering because his father wanted him to become a teacher.

However, when his neighbour began running an illegal plastic recycling factory, he couldn't sit back and watch. "It was hell, absolute unbearable hell. The walls kept shaking, nauseating gases hung in the air," he says, recalling the circumstances that led him to use the Delhi Right to Information Act.

The factory was started in 1993, a year before he got his job. "But my father would say, 'how can we complain against our own neighbour?'" remembers Kapil. He first complained to the police in 1995 but that didn't bring much relief. He had almost given up hope and was contemplating selling off his house when he came across newspaper reports on the Right to Information Act in 2001. He has soon picked up a booklet.

In December 2002, he filed a complaint with the Deputy Commissioner of Police and forwarded a copy to the SDM of the area as directed in the booklet. “I visited the SDM’s office at least five times between February and August 2003. Finally, I approached the Deputy Commissioner’s office again and filed an application under the RTI Act, wanting to know what was happening to my complaint.

“On September 1, I received a reply saying they had forwarded my complaint to the Delhi Pollution Control Committee but no reply had been received. So, on September 3, I filed an RTI application at the DPCC. Then, surprise of surprises, they replied they had already sent an inspection report of the unit categorising it a polluting unit liable to be shut down,” he says.

Jain got a copy of the DPCC’s letter classifying the unit as illegal and himself approached the SDM. “The factory was sealed the next day,” says Jain triumphantly...

Source: *Indian Express, Delhi in August 2004, www.sakshitrust.org*

Case 8: Garbage Collection by MCD

S.P.S. Nagar retired two years ago from the Municipal Corporation of Delhi (MCD) but he has not lost his interest in the civic body. Since he no longer has access to files and records, the 60-year-old, who has worked as a health and sanitation expert, is using the Right to Information Act to keep track of the way the agency is working. His attention was drawn to MCD’s garbage collection by the overflowing dhalao in his Yamuna Vihar colony.

“In my colony, the garbage is never lifted. The dhalaos never maintained and there are unutilised trucks lying around,” says Nagar. So he decided to find out why.

Nagar sought details on MCD and garbage collection from 1978 onwards, and the civic body furnished him with information from 1998 to 2003. He discovered that the MCD is not charging commercial and industrial units for picking up their garbage. According to his calculations, this is causing a revenue loss of Rs 91 crore per annum.

Under Section 356 of the DMC Act, all commercial and industrial units are to either take the responsibility of transporting garbage produced by them to landfill sites or pay the MCD to do it. Despite the provision of the DMC Act, the MCD never charges either,” says Nagar.

MCD had not recovered these costs from four zones — Rohini, Sadar Paharganj zone, Najafgarh and Shahdara (South). In some zones, the MCD had recovered partial costs such as Rs 16,720 and Rs 62,264 from banquet halls in the Central zone in 2000-01 and 2002-03 respectively.

Through the RTI Act, Nagar also found out that MCD is short of more than 200 trucks (a total of 500 trips daily) to pick up garbage. After calculations, Nagar concluded that the MCD could make up part of its deficit by just charging commercial and industrial units.

Source: *Indian Express, Delhi, August 2004:*

Case 9: Using RTI for Getting Electricity Connection

Ashok Gupta applied to the Delhi Vidyut Board (DVB) for a new electricity connection, in February 2001. Because he refused to pay a bribe, for a year no action was taken on his application. In February 2002, he filed an application under the Delhi RTI Act. In his application, he asked for the following information:

- The daily progress made on his application till date.
- The names and designations of the officials who were supposed to take action on his application and who have not done so.
- As, according to the Indian Electricity Act, a requester should get a new connection within 30 days of application – thus are these officials guilty of violating the Electricity Act?
- As these officials have not provided the connection in time, does the DVB plan to take any action against these officials?
- If yes, in how much time?
- When will he get his connection?

In ordinary circumstances, such an application would have been consigned to the dustbin. However, given that the Delhi RTI Act mandated penalty at the rate of Rs. 50 per day of default, they had to reply to this application. In March 2002, he was granted a new connection.

Source: *Right to Information Act, 2005: A Primer, National Campaign for People's Right to Information, 2005.*

Case 10: Getting PDS Entitlements

A number of citizens in several parts of Delhi had applied for ration cards under the Below Poverty Line (BPL) categories about a year and a half back. They had neither received any cards nor any information whether they would be issued such cards or not. Several visits to the ration office have yielded no replies from the concerned authorities. Using the RTI Act, the citizens sought for a list of such beneficiaries in Sundernagari and New Seemapuri. This list showed that there were several people whose cards had been made

months back and these cards were in possession of local ration shopkeepers, who were siphoning off the ration entitlements on these cards for all these months.

Since then, with the intervention of the most senior officials of the Food Department, these cards have been returned to their respective owners and action has also been initiated against these ration shopkeepers.

The experience of Triveni, another citizen was no different. She ran into a different kind of malaise at the ration shops. Whenever Triveni would go to her ration shopkeeper, he would always say “No stock”. She never got her rice entitlements for several months. She was given only 10 litres of kerosene against her entitlement of 14 litres and she would get only 10-15 Kgs of wheat against her entitlement of 25 Kgs. The wheat was given to her at Rs 5 per Kg, whereas the official price is Rs 2 per Kg.

Triveni applied under the RTI Act and asked for official records of rations issued to her and also copies of cash memos purported to have been issued to her. To her utter surprise, she was told that she had been issued 25 Kgs of wheat @ Rs 2 per Kg, 14 litres of kerosene and 10 Kgs of rice every month for more than a year. The cash memos showed thumb impressions having been made in her name, whereas she always signed her signature. Naturally, the thumb impressions were found to be fake and this showed that the ration dealer had been drawing her ration by forging her thumb impressions for several months. Triveni has since filed complaints to higher authorities, and what’s more she has started getting the proper amounts of rations at the right price.

Source: Arvind Kejriwal, April 2003, Parivartan New Delhi. parivartan_india@rediffmail.com

Case 11: Exposing Foodgrain Pilferage in Public Distribution System

The RTI approach has been successfully used by Parivartan and Satark Nagrik Sangathan to ensure food supply through the Public Distribution System (PDS) for poor people. Poor people often depend on Government ration shops for purchasing food at subsidised prices. However, due to rampant corruption, food meant for the poor is often sold at higher rates in the open market by making false entries in the record books.

Parivartan obtained the sales and stock registers of some ration dealers in the Welcome Colony area of Delhi for the month of June 2003 using their right to obtain Government information. This information was cross-checked with 182 families residing in the area. Out of a total of 4,650 kg of wheat supposed to have been distributed to the people, only 595 kg (13%) had actually been supplied to them. The remaining 87% found its way to the black market. Out of a total of 1,820 kg of rice supposed to have been distributed as per daily sales registers, only 110 kg (6%) was supplied to the people. The balance of 94%

was siphoned off. All the while, the ration dealers had been maintaining that they were not receiving stocks from the Government. After the details of sales and stock registers were made public, the food supply through the fair price shops improved significantly.

Source: *Parivartan and Satark Nagrik Sangathan, Delhi*

Case 12: Ensuring Public Health and Sanitation

a) In some areas of Patparganj in Delhi, drinking water was getting contaminated with sewer water resulting in illness of a number of residents. Complaints were made to the Delhi Jal Board (Water Supply Agency) but nothing happened. Subsequently, an application was filed under the Right to Information Act seeking the status of the complaints and the names of the officials responsible for dereliction of duty. The necessary repairs were carried out within two days of filing the application. The Delhi Jal Board even carried out testing of the drinking water at different points in this area and submitted the test reports as part of the reply to the application.

Similarly, a recently replaced water pipeline in the Pandav Nagar area of Delhi started leaking soon after its installation. The residents made several complaints but in vain. Ultimately, the residents filed an application under the Right to Information Act seeking the following details:

- Status of complaints filed earlier and names of officials who should have attended to their complaints and have not done so
- Copy of contract of the pipeline laid
- Copy of completion certificate issued for the said pipeline and copy of the bill
- Names of officials who issued the completion certificate

Within three days of filing this application, the pipeline was repaired.

b) A community garbage house / deposit area was repaired by the Municipal Corporation of Delhi (MCD) in Patparganj in the month of June 2002. The residents noted that only the floor of the garbage house / area was made and no other work was carried out. The residents sought the copy of contract using their right to obtain Government information. The contract revealed that an iron door was to be installed and the walls were supposed to be plastered. These works were not carried out even though payment for the same had been made to the contractor. Before the residents could take any further steps, they found that the contractor started making the necessary additions to the disposal point. The mere seeking of a copy of the contract had resulted in immediate remedial measures, as the contractor feared punitive action after contract details became public.

- c) The operator of a public toilet was charging one rupee per use from all residents of the slum cluster of Jagdamba Camp in Delhi. However, when a copy of contract was obtained from the MCD using people's right to seek information, people came to know that the operator was supposed to allow free usage for children below the age of 12 years as well as handicapped persons. This information was used for the benefit of these two categories of persons.

Case 13: Villagers Inquire into the Whereabouts of Village Postman

In Bahadur's village, Khandela in Sikar district, Rajasthan, there is a branch post office with a postman who distributes the post in the nearby villages. When he was newly posted there, he worked regularly for 6 months. Then he disappeared. The postmaster would bring the letters to the post office and the villagers had to collect the letters from the post office.

Bahadur says that an application was submitted requesting for information along with a complaint letter to the postmaster regarding the absence of the village post man. In their application the postmaster was asked to supply the information on, how many posts there are in the village, what is the system for distributing the letters and what are the expenses incurred. He did not provide the information but in the next 7 days we spotted the postman distributing letters in the villages again but two months later he disappeared again.

We inquired about his absence from the postmaster, the villagers were told that he has been promoted and transferred to another village. When Bahadur, went to submit his right to information application under the Central Act, the postmaster refused to accept it. However, through sources the villagers were able to learn that the fellow who was deputed as postman in their village was the son of an inspector, so he is engaged in his personal work elsewhere, while he still draws his salary to distribute letters in the villages.

Submitted by *Manish Sisodia, www.righttoinformation.org*

Case 14: Unlawful Transfer of an Honest Officer Reversed

If people wish, they can force the Government to change its decision by using the right to information.

Alert citizens in Mumbai's Chembur area set a unique example by forcing the Government to reverse the transfer orders of an honest official in their area. Sudhir Naik, an Assistant Commissioner in Greater Mumbai Metropolitan Council was transferred to the BMC headquarters. He had been to the ward only a year ago but had the image of a good officer. He had initiated projects like "Zero garbage drive" to keep the ward clean and the people were very happy with the results. The cleaning staff had begun to perform their

duties. He was suddenly transferred out.

The decision to remove him from the area after just a year was not acceptable to the local residents. A member of the Chembur Citizens' Forum, N Ganeshan talked to an organisation working for the right to information in Maharashtra and it was decided to seek information on the transfer of Sudhir Naik. Kewal Semlani of the Rights Group sought details from the BMC over:

- Which officer proposed the transfer of Sudhir Naik?
- As per rules, an officer cannot be transferred before three years – what are the reasons for his premature transfer?
- Whether this is a violation of any laws?
- Photocopy of the files involving the transfer were also sought.

But before the beans could spill, Naik was reinstated in his post in the same ward. This may be the first instance of the power of public prevailing upon the government to stop the transfer of an official who is considered honest, upright and delivering the goods.

Submitted by *Manish Sisodia, www.ndtv.com*

Part VI
Questions and Answers
(Q & A)

(1) When did the Right to Information Act, 2005 come into force?

The Right to Information Act came into force fully on the 12th October, 2005 (on the 120th day from the date of its enactment i.e. 5th June, 2005). Some provisions came into force with immediate effect viz. obligations of public authorities [Section 4(1)], designation of Public Information Officers and Assistant Public Information Officers [Sections 5(1) and 5(2)], constitution of Central Information Commission [Sections 12 and 13], constitution of State Information Commission [Sections 15 and 16], non-applicability of the Act to Intelligence and Security Organisations [Section 24] and power to make rules to carry out the provisions of the Act [Sections 27 and 28].

(2) Who is covered under the Right to Information Act, 2005?

The Act extends to the whole of India except the State of Jammu and Kashmir [Section 1].

(3) Are “file notings” included in the definition of Information?

Section 2 (f) of the RTI Act defines ‘information’ which includes ‘record’. Section 2(i)(a) states that a ‘record’ includes any document, manuscript and file. The operative definition of a ‘file’ is given in the Manual of Office Procedure prepared by the Central Secretariat, Government of India. The definition of ‘file’ in the Manual includes ‘notes’ and ‘appendices to notes’.

The CIC has held that “file notings are not, as a matter of law, exempt from disclosure”. Thus, file notings can be disclosed under the Act. [CIC Decision No. ICPB/A-1/CIC/2006 dt.31.01.2006].

(4) If the law under which a Public Sector Unit (PSU) has been constituted does not allow access to information to the people such as agendas of board meetings etc., will such information have to be given under the RTI Act?

PSUs fall within the category of public authorities. Even if the law constituting a PSU does not allow disclosure of certain categories of information, the RTI Act, 2005 overrides any such law in existence. Hence the designated PIO for the organisation under question has to provide the information.

However, if an applicant seeks information, that includes commercial confidence, trade secrets or Intellectual Property Rights (IPRs) etc. the disclosure of which will affect the competitive position of that PSU, such information may not be given unless there is a larger public interest involved.

- (5) Government offices have been providing information to people on the basis of their oral requests in the past. Does the RTI Act require such informal practices to end?**

No, there is no need to discontinue the conventional and informal practice of giving information upon oral request. The RTI Act does not put an end to such practices. If information can be given without delay upon oral request it is better to give such information to the requester rather than require him / her to put in a formal application. This helps reduce paper work for the public authority.

- (6) Can Government officers get access to Annual Confidential Reports (ACRs) under the RTI Act?**

As per decision No.18/IC(A)/2006 dt.28.03.2006, the CIC held that “the assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8(1)(j) of the RTI Act”.

In the case stated above, the Central Information Commission upheld the public authority’s (Indian Oil Corporation’s) decision that ‘Annual Performance Appraisal Reports’ cannot be shared as they are confidential in nature.

- (7) Can students ask for copies or inspection of their answer scripts if they are unhappy with the marks awarded by the examiner in public examinations?**

The present position is that the Central Information Commission has ruled, on an appeal submitted to it, that students cannot have access to answer scripts / supplements [CIC Decision No. 22/ICPB/2006 dt. 18.05.2006]

- (8) Every department performs different kinds of functions at different levels of operation from the Secretariat to the Taluka / Village level. Will disclosure under Section 4(1)(b) have to be made for every one of these levels separately?**

Yes. In several states more than one public authority are notified within every department from the secretariat level to the district and sub-district levels. Every such public authority will have to develop its own proactive disclosure documents or Information Handbooks unique to its powers, functions, area of operation etc.

Section 4(1)(b) is designed to ensure that public authorities disclose certain information which are important to the public voluntarily at every level of operation. It is to be noted that, if implemented properly, Section 4(1)(b) will reduce the workload

of officials and public authorities with regard to the requirement of providing information on request. This is because the information which is regularly needed by the public can be accessed by them without the need of going through a process of making specific request.

(9) Will not the publication of the 17 manuals mentioned under Section 4(1)(b) be very difficult and burdensome?

The requirement to publish 'manuals' reflects the objectives of Section 4 (1)(b) for proactive disclosure on the part of every public authority, which is simply to publish and disseminate key information routinely in a manner and form which is easily accessible and understood by the public [Sections 4(3) and 4(4) of the RTI Act which specifically require this].

The 17 subsections of Section 4(1)(b) are 17 categories of information that a public authority is required to prepare and disseminate proactively through handbooks, notice boards, print and electronic media etc.

Most of the information required to be published proactively under this section may already be available within the public authority albeit in a scattered manner. These will need to be collected and collated to fulfill the requirement of Section 4(1)(b). Several officials are pleased with Section 4(1)(b) as it will help them streamline their own recordkeeping, monitoring and reporting procedures. Once the information is compiled and published in a suitable format it will be easy to update it.

Furthermore, not every public authority may be required to collate information under all categories of Section 4(1)(b). For example, the Finance Department in a State may not be issuing any permits or concessions. As it does not perform such functions the Finance Department will not be held at fault for not including this category of information in its Public Information Directory.

The CIC has, in one of its letters (dt. 10.05.2006) to all Ministries / Departments, stated that "it is in the interest of the public authorities to make available all the 17 manuals to the citizens, which is likely to reduce the volume of requests for information under the RTI Act".

If appropriate management information systems are developed and maintained by departments using information and communication technologies, the preparation of the information to be published at different levels annually can be a simple affair

(10) Is it enough to disseminate information under Section 4(1)(b) on the Internet?

Information under Section 4(1)(b) shall be disseminated through notice boards, news papers, public announcements, media broadcasts, the Internet or any other means.

(11) Is it enough to publish information under Section 4(1)(b) only once at the time of the commencement of the RTI Act?

No. The Act requires that every public authority has to update its publications under Section 4(1)(b) every year. The Central / State Government / Departments will have to come out with general instructions for time-bound updating of all categories of information, including formats for publication. Every public authority may in turn publish updated information that is specific to its functions following the guidelines.

(12) What will be the penalty if a public authority / department is not able to meet the deadline for proactive disclosure (120 days)?

It is advisable to publish as much information as possible under Section 4(1)(b) within the deadline and give it wide media publicity so that people know that the public authority / department is earnest about implementing the law. Any person can make complaint to the relevant Information Commission under Section 18(1)(f) of the Act and the Commission may even require the public authority to compensate the complainant for any loss or other detriment suffered.

It must be noted that the Information Commission has the power under Section 19(8)(a)(vi) to receive from a public authority an annual compliance report in relation to Section 4(1)(b). This reporting mechanism will technically make the public authority answerable to the Information Commission for all acts of commission and omission in relation to proactive disclosure.

(13) Can a request be denied if it is too big? If not, how can we handle such requests best? How much information can a citizen request in one application? If s/he asks 20-30 kinds of information in one application should it be given? Or should the citizen be asked to put in fresh applications for each point of information requested and also be asked to pay application fees every time?

The Act does not permit rejection of an application simply because it relates to a large number of documents. Under Section 7(9), information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority. A PIO can request the applicant to visit his / her office personally

and inspect the required documents or files. However, the PIO shall communicate the date and time to the applicant for such inspection. The PIO has to determine and justify what constitutes 'disproportionately divert resources'.

An applicant can ask for 20 to 30 different kinds of information in the same application and cannot be asked to apply afresh.

If the information published under Section 4(1)(b) of the Act is comprehensive and proper information systems are maintained to enable such publication, even if an applicant requests for many pieces of information, the same can be provided to the applicant without much difficulty. Appropriate record management systems need also to be instituted.

- (14) If in a single application the applicant requests information that relates to a public authority and also other public authority / authorities, is the PIO responsible for giving all that information himself / herself?**

The RTI Act makes it clear that the PIO has the power to transfer an application or parts of it if the same relates to information held by another public authority [Section 6(3)]. The application shall be transferred to the PIO concerned immediately - within 5 days - and the applicant has to be informed about the transfer in writing.

- (15) Is it possible that some elements may misuse this law and use the information to blackmail / threaten officers?**

The fact that the Act requires making as much information as possible available with the public authorities in the public domain may actually prevent blackmail to honest and sincere officers. If information is divided into two types, namely 'open to disclosure' and 'not open to disclosure', that which is not disclosed must be based only on the exemptions stipulated under the Act. Thus, the question of blackmail or threatening may not arise. As far as possible, information must be made public so as to reduce any possibility of blackmail. An honest and sincere officer need not fear blackmail at all. The strict adherence to the law would facilitate smooth functioning of such officers as they will be protected by law.

- (16) Some unscrupulous elements may misuse the copies of documents they access under the RTI Act. How does one prevent such misuse of information released under the RTI Act?**

The Government may have to devise a means of authenticating documents released under the RTI Act to ensure that they are not misused. One suggestion is to mark

every page of a document accessed under the RTI Act with a rubber stamp impression saying -"Document released under the RTI Act containing xx pages." If electronic files are requested the same may be provided in PDF or TIF format on floppies or CDs. This will also obviate the need for certifying the documents separately if the requester wishes to use the same in some litigation.

- (17) If there is a flood of applications for inspection of records how will the PIO provide access to all applicants and also do justice to his / her other designated duties? What if one such applicant mutilates or destroys a record during inspection?**

Under the Act, every public authority will need to designate as many PIOs as may be required to deal with requests for information from citizens. The PIOs may fix one or two particular days in a week for inspection of records. The Competent Authority needs to make rules and guidelines for public authorities regarding the procedure to be followed for allowing inspection of records [The Public Records Rules (1997), Rule No. 11 (2) prepared by the Government of India may be adopted as a model].

It is important that the PIO takes adequate precautions for the safety of records being inspected. If, however, it is found that a person examining a record or document has mutilated or tampered with the document or attempted to do so it will be appropriate for the PIO / public authority to lodge a criminal complaint immediately.

- (18) If the same kind of information is sought by more than one person should it be made available to all such requesters?**

Yes, it has to be made available. However it is advisable that such records be digitised as far as possible and uploaded on the Internet to facilitate easy access.

- (19) If the information requested by a citizen has already been proactively disclosed can a PIO refuse to accept the request?**

There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. If such information is requested the same can be provided in the available formats upon payment of fees / charges at rates prescribed by the Government.

(20) Is the Assistant Public Information Officer (APIO) an assistant to the Public Information Officer (PIO)?

No, the APIO is not an assistant to the PIO. A Central / State APIO (as the case may be) may be designated at the sub-district or sub-divisional level where a public authority may not have an office or administrative unit [Section 5(2)].

Designation of APIOs is particularly useful for Departments of the Government of India which rarely have offices below the district level. However, it has been decided that the CAPIOs of Department of Posts will also act as CAPIOs for other Central Government Public Authorities, which do not have an office / or an administrative unit operative at the sub-district / sub-divisional level.

These CAPIOs (of the Department of Posts) will receive requests on behalf of the Central Government public authorities and forward them to the CPIOs concerned.

(21) If the information requested by the applicant is in the possession of the APIO should he / she not give that information to the applicant?

Under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith – within five days.

(22) If a PIO has touring duties as well, then he will not be physically present to receive application in the office. Will his absence amount to refusal to accept information request?

The best solution for such situations is for the public authority concerned to designate another official within the same public authority (to act as PIO) and to receive applications. The duty of this PIO in maintaining the PIO's register will be the same. This will ensure that citizens' applications are always received to suit their convenience and prompt action is taken on the same.

Incidentally, a particular public authority may appoint multiple numbers of PIOs such that each PIO is designated for a specific area of the organisation's functioning. Yet, if an applicant approaches any PIO, he / she cannot refuse to accept the application on the ground that it does not belong to his / her jurisdiction.

Accepting the application, the PIO has to seek the requested information from the officer/s in control of the requested information (who may be another PIO, but for the purpose of dealing with this application, he / she becomes an 'Other Officer' – in

control of the requested information). S/he cannot direct the applicant to take his / her application to the other PIO.

(23) Will Panchayats / Municipalities / any local authority have to appoint PIOs irrespective of the size of their office / administrative unit?

Yes. Every public authority shall have to appoint a PIO, irrespective of the size of its office / administrative unit.

(24) Should BPL applicants be charged the further fees for providing information requested?

Persons belonging to the 'Below Poverty Line' category cannot be charged any fees / charges at all. The form of access can be decided by the PIO concerned subject to the provision of the Act that information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority.

(25) If the applicant does not pay the additional fees towards cost of providing information within the 30 days deadline will the PIO be penalised for failing to provide information to the applicant?

No. The PIO will not invite any penalty in such cases. The 30-day clock stops ticking from the date of dispatching the intimation for further fees issued by the PIO and restarts on the date on which the applicant pays the additional fee [Sections 7(3)(a) & 7(3)(b)].

For example, if the PIO dispatches the intimation letter on the 5th day from the date of receipt of the complete application only 5 days would have elapsed from the 30 days limit. The clock will restart on the date on which the applicant pays the 'further fees'. The PIO will have to provide the information within 25 days from the date of payment of such further fees. If the applicant chooses to seek a review of the additional fee from the appellate authority or the SIC / CIC the period taken for giving a decision on this matter (if it is decided that no further payment is needed) or for actual payment of further fees (if it is decided that further fees would need to be paid), will not be included in the 30 day limit.

(26) If the applicant does not respond to the intimation letter of the PIO requesting payment of further fee will the PIO be duty-bound to provide information to the applicant? Will the PIO be duty-bound to provide information within 30 days even in such cases?

No. The PIO is not duty bound to provide information to the applicant in such cases. The RTI Act states very clearly that the PIO will provide access to information only upon payment of further fee as may be determined [Section 7(1)] by him / her (for non-BPL cases).

- (27) Are officials required to give information about themselves and their families under the law? Can the public request this kind of information? Should it be given?**

Officials are not required to provide private or personal information which is exempted under Section 8(1)(j) of the Act. Again, this must be decided on a case by case basis (as has indeed been the case with the decisions of the CIC). If public interest is served by disclosing such information then it must be given.

- (28) Can any citizen ask any information that is more than 20 years old even if it does fall within the category of exemptions? Will the PIO be penalised if he / she is unable to provide such information?**

Yes, any citizen can ask any information more than 20 years old held by or under the control of a public authority, irrespective of whether the information requested for falls within the category of exempted information or not. Nothing in the Act bars a citizen to ask for such information. The PIO concerned has to provide information 'held' under the control of the public authorities subject to the provisions of the Act relating to exemptions stipulated under the Act.

- (29) In cases where building plans and designs of bridges or other important public structures have been requested and if the PIO has reasonable suspicion that the applicant will use those plans for commercial purposes and make a profit out of it, should such information be given?**

If disclosure of building plans and designs would prejudicially affect the economic or security interests of the State or if they relate to commercial confidence, or trade secrets or intellectual property rights, the disclosure of which would harm the competitive position of a third party, then such information would attract exemption under the Act. However, if the concerned authority is satisfied that larger public interest warrants the disclosure of such information, the same can be disclosed.

- (30) If a case is still under consideration (i.e., 'live' or 'current' file) for final decision, can that file be made available to the requester before the decision has been taken?**

A request cannot be rejected on this ground. The requester will have to be given the requested information. It is important to note, however, that such disclosure cannot run contrary to the provisions of the Act that exempt certain categories of information. If so, the PIO cannot provide such information, but has to clearly state the reasons for not doing so. If partial disclosure is possible and is not exempted, then the PIO should disclose that part of the record.

(31) What if existing departmental manuals prevent disclosure of information to the people?

All such manuals were drawn up before the RTI Act came into force. These manuals will have to be reviewed in the light of the new law and all procedures for denying access to information will have to be done away with unless they relate to the exempt categories of information. Even in the case of exempt information the manuals should be so designed as to facilitate complete or partial access in the public interest. All new departmental manuals likely to be drawn up in future must conform to the new regime of transparency set up under the RTI Act, 2005.

(32) Periodic weeding of files results in destruction of many documents which are not important enough to maintain for as long as 20 years or more. So it will not be possible to give such information after they have been destroyed. Will the PIO be penalised for this?

If a record has been destroyed legally the question of penalisation does not arise. But the RTI Act clearly requires a review of all weeding practices in existence to ensure that information which could be requested under the Act is not destroyed. More generally, it is necessary to consider a review of current records management processes.

(33) What is the process for taking a decision on granting partial access to a record? Who is the authority to make this decision within a public authority?

Section 10(2)(b) of the RTI Act makes it clear that the PIO is the deciding authority for granting partial access to records that may contain exempted information. However, when partial information is disclosed the PIO needs to provide valid reasons for the decision. He also needs to mention his name and designation as the decision maker and the applicant's right with respect to the review of the decision, including the particulars of the AO, time limit, process etc.

Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided.

(34) Will the APIO be punished for giving wrong or misleading information just as a PIO can be penalised under this Act?

Given that, under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith - within five days, the question of punishment for an APIO for giving wrong or misleading information does not arise. In one of its decisions, the CIC has stated that the APIO has a limited role of transmitting applications and appeals to their proper destination... and that the APIO's responsibilities are not co-extensive with the PIO.

(35) Will a PIO be penalised if the superior officer orders him not to release information to the requester?

It needs to be mentioned here that the PIO must note that it is not necessary on his / her part to seek the permission / approval of a superior officer of the public authority concerned for providing information under his / her control. The Act is clear about the fact that the PIO is an independent authority under the law and no approval is required from any superior official to release the requested information.

If a PIO acts upon any order of his / her superior and malafidely rejects requests fully / partially, he / she is liable to be penalised under the Act. In case the information sought for is not available with a PIO, he / she can take the assistance of any other officer including asking for information under that officer's control and such officer will be treated as a PIO for the purpose of the Act and its penal provisions.

In the event a PIO seeks information from another official for providing information, his / her communication and receipt of information (to and from the other official) should be put down in writing and a proper record of the same should be maintained. This will be helpful, in the defense of the PIO concerned, should the information, turn out to be misleading or wrong, and an appeal is made against the PIO.

(36) If the information given by the PIO in response to a request turns out to be wrong, false or misleading but the PIO was not responsible for the creation of that record or such information will he / she be penalised by the ICs?

The RTI Act provides protection to the PIO for 'action taken in good faith'. If the requested record has not been prepared by the PIO but by some other officer or if

the data compiled by the PIO was received from some other officer and the PIO merely passed on that information to the applicant without having prior knowledge that such information was wrong or false or misleading he / she is not guilty of an offence under the RTI Act. The Information Commission will penalise PIO only in such cases where it may find him / her guilty of giving wrong, false or misleading information in a malafide manner.

(37) What if the applicant claims that he / she did not receive the intimation letter from the PIO and files an appeal with the AO and the Information Commission? Will the PIO be penalised?

The PIO would do well to maintain a copy of the intimation letter in his / her records for use in such cases. Furthermore, the PIO may send the intimation letter Under Certificate of Posting (UCP) to the applicant. This should be ample proof that the PIO had taken action in good faith. The PIO will not attract penalty in such cases.

The law requires that the PIO be given an opportunity to present his / her case before the relevant Information Commission issues a decision imposing penalty. But a default may invite penalty for the PIO.

(38) The PIO continues to be under the purview of the Official Secrets Act (OSA) of 1923. How will he reconcile his duties under the RTI Act with the secrecy required to be maintained under the OSA? What happens to the oath of secrecy every officer is required to take while joining service?

It must be noted that the provisions of the RTI Act, 2005 shall be effective notwithstanding anything that may be inconsistent with its provisions in the Official Secrets Act, or any other Act of the Union or the State Governments (see RTI Act, 2005, Chapter VI, Section 21).

The 'Oath of Secrecy' taken by Government employees therefore only applies to the information that has been exempted from the ambit of the provisions of the said Act. Broadly, this exempted information pertains to matters / issues related to national security, defence, and integrity of the country. The Oath will not be adequate and the test of public interest is the overriding consideration.

(39) What is "Public Interest"?

In the Indian context, and especially in the context of the RTI Act, 2005, a significant judgment of the Supreme Court of India can be taken note of in understanding the term "public interest". In '*S. P. Gupta v President of India*', AIR 1982 SC 149, Justice Bhagwati, in referring to 'public interest', maintained: "Redressing public injury,

enforcing public duty, protecting social, collective, 'diffused' rights and interests vindicate public interest... [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

In *State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others* AIR 2006 Supreme Court 212, the Apex Court held "the interest of general public (public interest) is of a wide import covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]".

One of the decisions of the Central Information Commission also throws some light on this term. Public interest includes "disclosure of information that leads towards greater transparency and accountability" [in the working of a public authority] Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006.

(40) Who are the Appellate Authorities and what are the key provisions for appeal under the Act?

1. First Appeal: First appeal to the officer senior in rank to the PIO in the concerned Public Authority within 30 days from the expiry of the prescribed time limit or from the receipt of the decision (delay may be condoned by the Appellate Authority if sufficient cause is shown).
2. Second Appeal: Second appeal to the Central Information Commission or the State Information Commission as the case may be, within 90 days of the date on which the decision was given or should have been made by the First Appellate Authority (delay may be condoned by the Commission if sufficient cause is shown).
3. Third Party appeal against PIO's decision must be filed within 30 days before first Appellate Authority; and, within 90 days of the decision on the first appeal, before the appropriate Information Commission which is the second appellate authority.
4. Burden of proving that denial of Information was justified lies with the PIO.
5. First Appeal shall be disposed of within 30 days from the date of its receipt. Period extendable by 15 days for reasons to be recorded in writing. [Section 19(6)]

6. There is no time limit prescribed under the Act for deciding second appeals.

(41) What is the jurisdiction of courts?

Lower Courts are barred from entertaining suits, applications or other proceeding against any order made under this Act [Section 23]. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the Constitution respectively remains unaffected.

For a more comprehensive and up-to-date understanding of the intricacies of the RTI Act, it is suggested that www.cic.gov.in may be referred to.

