

The Implementation of Right to Information Act, 2005 in India

Shalini Singh (Corresponding author)
Associate Professor, Department of M.B.A
Cambridge Institute of Technology, Jharkhand, India
Tel: +91-9934173003 E-mail:shalini_singh02@yahoo.com

Dr. Bhaskar Karn
Associate Professor, Department of Information Technology
Birla Institute of Technology, Jharkhand, India
Tel:+91-9431382601 E-mail:bhaskar@bitmesra.ac.in

Abstract

RTI Act is a milestone in the democracy of India as it has tried to build a new institutional mechanism for ensuring transparency and accountability in the functioning of public institutions. The crux of the RTI Act is to create an information dispensation regime in which information can be accessed by any citizen in an affordable manner. In India, the implementation of the RTI Act has been quite uneven across states. Nearly seven years have passed since the enactment of the Act but the implementation of the act has not been successful in the way it should have been. The present Research paper tries to assess the implementation of the Act in India with particular reference to the implementation in Jharkhand, a State of India. The paper concludes that there is less awareness, less usage of the act and the act has not led to much improvement in the information seeking and delivery mechanisms in the state.

Keywords:

Right to Information Act (RTI), Governance, Public Information Officer (PIO), Public Authority (PA).

1. Introduction

The RTI Act, 2005 is a revolutionary legislation in the history of democratic India. The Act has the unprecedented potential to transform governance and bring in accountability and transparency in the government functioning. It is also an instrument to herald participatory governance where citizen's can become active participants in the governance process rather than being mute spectators with little or no potential of demanding accountability from public institutions. The Right to Information Act, 2005 came into effect on October 12, 2005. This law empowered Indian citizens to seek information from public authorities thus making the government and its functionaries more accountable and responsible. The time taken to operationalise the act was inadequate to change the mindset of the people in government, create infrastructure, develop new processes and build capacity to deliver information under this Act. This has led to implementation issues. The State of Jharkhand came into existence in 2000. In 2001, the Jharkhand State Right to Information Committee, a group of civil society organisations, prepared a draft on Right to Information Bill. Jharkhand Government did not take necessary action to implement the Right to Information until the Central Freedom of Information Act was passed in December 2002. Although, Jharkhand administration implemented the RTI Act in 2005, its effect and impact have not been fully realised.

2. Right to Information Act,2005

The Right to Information Act, 2005 has been granted to all the citizens of India. It extends to the whole of India except the State of Jammu and Kashmir. The Act defines information in very broad manner. It includes any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, 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;

The Act defines 'record' as

- 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" means the right to information accessible under this 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;
- Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode.

It prescribes the process for obtaining information and disposal of requests. The application under RTI can be submitted either in writing or electronically in English, Hindi or the official language of the area in which the application is being made, along with the prescribed fee to the Public Information Officer (PIO) or Assistant Public Information Officer (APIO).

- Information is to be provided within 30 days (35 days if sent to APIO)
- 48 hours where life or liberty is involved
- The period can extend to 35 days where request is given to the Assistant PIO

However, the time taken for intimation and payment of fees is excluded from the above time frame. If no action is taken within the stipulated time, it is deemed as a refusal. It constructs a two-tier mechanism for appeal. The first appeal lies to an officer within the organisation who is senior in rank to the PIO. The second appeal lies to the Information Commission.

3. Methodology

The main aim of this paper is to identify issues and constraints in the implementation of the Act by analysing its impact on the various sections of the society in Jharkhand. The aim of this chapter is to highlight the grey areas in the implementation of the RTI Act, which would draw attention of civil society to these key issues and perhaps instigate the government agencies into taking some measures to curb it. It has been analysed from both Demand side as well as Supply side. The paper tries to assess the implementation of the Right to Information among the different sections of the citizens spread across the different districts of Jharkhand.

Research Questions:

- What is the level & Quality of awareness among the citizens?
- What are the constraints faced by them in filing the RTI applications?
- What are the difficulties faced by citizens in accessing information from government departments?
- What is the attitude and availability of PIOs in the various government departments?
- Do the PIOs facilitate access of information among the citizens?

To assess the implementation of the Act questionnaires were circulated among the different sections of the society. The questionnaire mainly dealt with indicators like the awareness of the act, availability of the list of PIOs, the availability of the self-disclosure manual, the mode of payment of fees, Number of days within which the information was provided, the attitude of the PIO, etc.

The data on the questionnaire was collected from December 2009 to January 2011 from various sections of the citizens. The sample size of the study was fixed at 500 and an effort was made to make the sample as representative as possible i.e. variety in terms of their location in the various districts of the state; in terms of gender, their socio-economic profile and he job profile of the citizens.

Selection of Sample:

A questionnaire on The RTI was designed which covered the experiences of the citizens who have actually used the RTI Act in accessing information from any public Authority. The sample size of the respondents for the study was fixed as 129 for those citizens who had actually used RTI. The method of sampling was random and the effort was to collect the required data in the questionnaire from individuals spread across various districts.

The respondents were from different sections of the society viz.,

- Lawyers
- Businessmen
- Academicians

- Students
- Others

4. Demand side issues in the implementation of the Act

This dimension pertains to the information seeker side and follows the issues and constraints faced by the information seeker while filing for information request. The study of this dimension included a survey of

- Citizens (irrespective of whether they have sought information under RTI or not)
- Past Applicants

Key Issues faced on the demand side:

4.1 Low Public Awareness

Section 26 of the Act states that the appropriate government may develop and organise educational programmes to help in a better understanding of the Act especially the disadvantaged communities regarding how to exercise the rights contemplated under the Act.

It was further observed that the awareness level is low especially among the disadvantaged communities such as:-

Women: - Among all the sections, the awareness level among women was found to be low in comparison to men. The difference in awareness level between men and women ranged from 9% to 50%. The average awareness among women was 17% in comparison to 28% awareness level among men.

4.2 Quality of Awareness:

This is related to the quality of awareness regarding types of organisations covered under the RTI Act. It is important to highlight that the quality of RTI awareness in common public is significantly low. The respondents claiming to be aware of the RTI Act were asked some “trap” questions. The “trap” questions were asked to know the quality of awareness of RTI Act among the respondents. It was observed that the respondents had a very low awareness level. Only 67% knew that they have the Right to ask for all Information about any organisation. Only 47% knew that they can ask information from private sector.

4.3 Constraints faced in filing Applications:

The RTI Act under section 27 (1) and 28 (1), specifies to the appropriate Governments and the competent authorities to make rules pertaining to the implementation of the Act. PIOs are required to provide reasonable assistance to the applicant in drafting and submission of the application.

- *Non-Availability of user guides for RTI implementation for information seekers:* Under Section 26 of the RTI Act, the appropriated government is expected to publish and distribute user guides (within 18 months of the enactment of the Act) for information seekers. However, it was highlighted by many of the citizens that the same was not published in many of the departments.
- *Inconvenient Payment Channels for submission of Application Fees:* While it is desirable for the State Government to have various channels for fee collection, however in the absence of clear guidelines and instructions, Public Authorities have chosen a subset of the allowed payment channels. It was noted in the survey that a majority of PIOs used cash and Postal Orders, which causes inconvenience to citizens. Further, collection of fee through cash necessitates the presence of the applicant in the state, whereas the Act does not provide for any such restriction.
- *Presence of Signboards:* For submission of application through the PIO’s office is the most prevalent submission channel, therefore proper signage with the location details and availability time of the PIOs is crucial. However, a large number of respondents said that no signboards are present, with a few saying that signage was present but with insufficient information. The lack of signage and lack of proper information regarding the availability of the PIO could be a reason for the multiple visits to the PIO office for submission of an RTI application.
- *Assistance Provided by PIOs:* Under section 5(3) of the RTI Act 2005, it is expected from the PIO to assist citizens in drafting RTI applications. However, it was observed in the survey that about 49% of the respondents did not receive any assistance from the concerned PIO while drafting and

filing RTI applications. Their general attitude was ranked as “Poor” or “just fair”. This discourages the citizens from filing RTI applications.

4.4 *Poor Quality of Information Provided:*

During the survey, it was found that more than 48% of the citizens were dissatisfied with the quality of information being provided. The percentage of people who said that no information was provided to them was very low and the percentage of citizens who were satisfied was about 45%.

5. **Issues faced on the Supply Side**

5.1 *Inadequate trained Public Information Officers (PIOs) and first appellate Authorities:*

An in-depth understanding of the RTI Act is a basic requirement of a PIO to discharge duties effectively. However, as per the interviews conducted of the PIOs, only few of surveyed PIOs had received RTI training. During discussions with the PIOs, it was highlighted that the frequent transfer/changes in the PIOs adds to the challenge. This places additional work-load on the training institutes entrusted with providing RTI training. Subsequently, on perusal of the Annual Report of SIC, the above fact was corroborated. RTI implementation is still in the process of evolution, resulting in new dimensions being added routinely. Hence, RTI refresher training needs to be made available to the PIOs.

5.2 *Availability of central Repository of Knowledge:*

With the current levels of basic training of PIOs, the refresher training still seems a distant reality. A central repository of knowledge should be made available to the PIOs for reference. A few initiatives have been taken by CIC (<http://www.cic.gov.in>) and centre for good governance and a website for RTI (<http://www.rti.org.in>) has been created using capacity building project, wherein knowledge repositories and landmark judgements are provided. However, the awareness of these initiatives/websites amongst the PIOs is significantly low.

5.3 *Lack of behavioural training:*

During the survey, it was also observed that the training provided to the PIOs is restricted to the RTI Act. While this is a bare minimum, the PIOs are expected to

- ❖ Provide assistance to the applicants as per the section 5 (3) of the Act.
- ❖ Manage official records as per the record management guidelines.

5.4 *Obsolete Record Management guidelines:*

As per section 4 (1a) of the Act, a Public Authority, needs “to maintain all its records duly catalogued and indexed in a manner and form which facilitates the Right to Information under this Act and ensure that all records that are appropriate to be computerised are within a reasonable time and subject to the availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated. Record management system plays a vital role in timely disposal of RTI applications 76% of PIOs cited record management system as a reason for delay. These findings point towards a weak record management system being followed where critical field level information is not available at the higher levels of hierarchy.

5.5 *Non-availability of basic infrastructure:*

The implementation of RTI required the PIOs to provide information to the applicant through photocopies, soft copies, etc. While these facilities are considered to be easily available at district level, it is a challenge to get information from block/panchayat level. PIOs highlight that the lack of infrastructure hampers the RTI implementation at the Public Authority level. In order to service RTI requests, basic infrastructure such as photocopier, machines at each public authority and basic level of automation such as necessary applications and connectivity is required.

5.6 *Limited use of IT:*

The use of information Technology in acceptance or delivery of RTI application is minimal in the public authorities. At the central level, RTI MIS developed by NIC has been deployed in central ministries and Departments, this system has the following features:

- ❖ Facility to update the list of PIOs and AAs.
- ❖ Auto generation of responses for PIOs and AAs
- ❖ Reporting and MIS generation

However, in Jharkhand there isn't rampant use of IT and therefore the results are dismal.

5.7 Lack of motivation among PIOs:

In addition to lack of resources, PIOs lack the motivation to implement RTI Act. There are no incentives for taking on the responsibility of a PIO; however penalties were imposed in case of non compliance. Also, in most of the public Authorities there is no additional allocation of staff for RTI related activities.

5.8 Ineffective implementation of Section 4 (1) (b):

As per the Act, one of the basic responsibilities of the PAs is to disseminate information on suo motu basis. Section 4 (b) sub clauses i-xvi; specifically mention the type of information which needs to be provided by the PAs. Beyond this stipulated information, the act also mandates the PAs to provide other information as per section 4 (1)(b) sub clause xvii, section 4(1)(b) sub clause xvii, section 4(1)(c), section 4 (1d) and 4(2). However what was observed was:

- The internal processes within the Public Authorities are not defined, so as to take care of the requirement suo motu clauses. The information has still not been posted in the websites.
- The proactive disclosure does not have a time stamp on it to ascertain whether they had been updated or not.
- Also, most of the information have not been updated regularly and therefore are obsolete.
- The PIOs are not aware that they can disseminate information on suo motu basis. This leads to higher number of RTI applications.
- At places where suo motu information is being provided, the quality of disclosure is quite low and does not cater to the information needs of the citizens.

6. Conclusions and Suggestions

After the survey and on an in-depth analysis of the situation, my conclusions have led to the following suggestions which if properly implemented can bring some changes in the present situation and scenario.

1. While the Act has been clear in defining the responsibility of the Appropriate Government, with respect to creating awareness on the Act, there has been lack of initiative from the Government's side. The efforts made by the appropriate Government and Public Authorities have been restricted to publishing of rules and FAQs on websites. These efforts have not been helpful in generating mass awareness of the RTI Act.
2. There are severe lacunae's in the record management procedures with the public authorities. There is non-availability of trained PIOs and the enabling infrastructure. The Public Authorities need to meet the requirements of the RTI Act to review their current record keeping procedures and other constraints and plan out the resources.
3. The training of PIOs is a big challenge due to huge number of PIOs to be trained and frequent transfer of PIOs to other posts. The training institutions also possess a huge constraint with respect to the availability of training resources. There is also a significant dependence on the ATI institutes for training of the PIOs. Therefore, the poor performance of the Act to a large extent is due to the lack of training of the PIOs.

The survey concludes the situation as following:

- i. The current record management guidelines being followed in the state does not meet the requirements specified under the RTI Act.
- ii. There is lack of any electronic document management system in any of the departments.

- iii. Majority of the PIOs surveyed do not even maintain the list of RTI applications electronically.
- iv. There is insufficient or no use of information technology in acceptance or delivery of RTI Applications.

Knowledge level of RTI Act across different sections of people (Table 1)

	All total	Lawyers	Businessmen	Academicians	Students	Others
Answering Base- People who are aware	129	27	04	33	23	42
Right to ask for all information provided about any organisation	67%	81% (22)	25% (01)	76% (25)	52% (12)	64% (27)
Right to ask for information related to government bodies	91%	100% (27)	75% (03)	94% (31)	78% (18)	93%(39)
Right to ask for information related to private sector	47%	67% (18)	25%(01)	42%(14)	39%(9)	43%(18)
Information that you are not allowed to disclose any reason	70%	89% (24)	50% (2)	67% (22)	57%(13)	69%(29)

The above table demonstrates that the awareness levels among the citizens is quite low and when asked the “trap” questions the awareness levels came to be even low.

Response regarding presence of Signage (Table 2)

Total Answering base	73
Complete list of PIOs available	10
Presence of proper signage in the concerned government department	50
Very little signage was present	20
No signage present	3

The above table points to the presence of signage in various public authorities.

References:

- Naib, Sudhir,. (2011); “The Right to Information Act, 2005- A Handbook”. Oxford University Press. New Delhi.
 Goel, S.L,. (2007); “Right to Information and Good Governance”. Deep and Deep Publications.
 Mishra, N,. (2003); “People’s right to Information Movement: Lessons from Rajasthan”. Discussion Paper Series-4, Human Development resource Centre. UNDP. India.
 Jenkins, Rob. Goetz, Marie Annie. (1999); “Accounts and accountability: theoretical implications of the right-to-information movement in India”. Third World Quarterly. Vol. 20, No. 3. pp 603-622
 Ashraf Tariq (2008); “Empowering people through Information: A case-Study of India’s Right to Information Act”, The International Information ad Library Review, Vol.40, Issue-3, Pp. 148-152, Elsevier Publications.