

RTI : Without Fear or Favour

By RS Tolia

RTI and the Fourth Estate:

From the view point of our print media some of the major so-called 'scams' or 'bunglings', two relate to appointments; first, of revenue Patwaris, and the second relating to the Sub-Inspectors of Police/Platoon Commanders in the PAC. Facts which are common to both the so-called 'scams' are that no Patwaris ever got appointed, through the impugned selection, as the appointments were cancelled and the then district-magistrate of Pauri, said to have been responsible for the abortive 'appointments', was suspended and his departmental proceedings are still underway. Interestingly, the then district collector Pauri had to resort to the Information Commission's intervention, in getting his departmental proceedings expedited ? Why, the appointment department has taken all the time to bring out facts and bring the guilty individuals to book, does not seem to interest any one, the media included. As regards the second alleged 'scam', ASIs/PCs, not only all 'potential beneficiaries' were discharged from their respective services, as their probation was not extended by the Police department, the fact that two senior-most official of the related department ultimately responsible for the impugned selections, were put under suspension, the case was handed over to the CBI, prosecution sanction against the alleged individuals was given as soon as it was received, are facts which are public. As the matter is sub-judice, both at the local trial courts as well as at the High Court at Naini Tal, the latter through a petition filed by the former ASIs/PCs, the door of RTI are firmly shut, on further revelations, as details of any criminal investigations are outside the domain of the RTI. However, the media certainly has not been able to present a balanced picture on the second incident, in so far as it has not been able to highlight sufficiently the speedy and non-partisan manner and stand taken by the then government; which it could have easily ascertained through official documents, access to which was perhaps not barred. The Information Commission, not surprisingly, has been approached by concerned parties in both these cases and they have perhaps received what was permissible under the existing provisions.

The Battis, the Foreign Jaunts and the cost of the Security-guards

The exact information about the 'Lal -Nili Battis', a much talked-about phenomenon of the former government ; came to light thanks to information provided to a journalist, on the intervention of the Commission. Though it was a most routine information but the manner in which the concerned public authority tried to unsuccessfully prevent its disclosure forced the Commission to order each and every department concerned to part with its individual set of information to the journalist. As it was early days for the RTI Commission was keen to convey to the concerned public authority that the olden days of playing hide and seek are now over ! This successful intervention has thrown up many

issues, not least important being the fact that in many cases, where an important institution like a State Assembly fails to disclose an information of public interest, the RTI Act can be helpful ! I am told the journalist concerned confessed to senior public servant that this incident convinced him about the effectiveness of the RTI. But, when I read the story filed by the journalist on the 'Batti issue', using this instrument, he conveniently over-looked to mention the same. In contrast, the journalist who received information on 'all foreign jaunts of the public representatives and civil servants', openly acknowledged that not only he has received it from all related departments, including the State Assembly secretariat, very promptly and in its fullest details; he told me the other day, that even today he continues to receive additional information from the departments left out. The officers, he says with a smile, also check-up by telephone whether he has received the additional information sent by them or not! Some change this, he says.

Even though the Commission did not have to intervene in the case related to information about the individuals provided with security guards, including the cost being incurred on them, it routinely started receiving copies of information being furnished by the district police offices to the applicant, till the Commission had to order stoppage of such endorsements to the Commission by the senders ! Now, such routine endorsements to 'all concerned', a very old habit of the government system, dies hard. So much so the Commission had to develop a Template through which all such unsolicited endorsements are 'returned in the original (RIO)' to the over-solicitous -senders! It seems, whether acknowledged explicitly or not, the print - media, has successfully used the RTI avenue in collecting information and going by anecdotal evidence it seems that the trend is upwards. Is this true of the electronic -media as well, I have no evidence in support of the hypothesis or to the contrary ?

Room for improvement

Informed citizenry is a sine qua non for a vibrant democracy, therefore the print-media would do well to suggest to their reporters, regular or otherwise, to base their stories, at least the ones which are likely to titilate the readers, on hard facts now readily available courtesy the RTI. 'Readily', here means that the right to information now includes access and right to 'inspection of files' in government custody. Why a writer of a serious story, say an alleged 'scam' or imputed 'bungling', should not also now mention the efforts he has made to access facts mentioned in his 'story' using the RTI provisions, beats me. I think time has come when all such writers must now be made to mention this fact in their story and provide details of how, if at all, he or she was not allowed access to a relevant record or concerned file by the department or office concerned. Only after such a claim should he /she be allowed the freedom to quote any other evidence in support of an alleged 'scam'.

One of the best examples, to emphasize the above, would be a story recently covered by the Garhwal Post on the so-called 'Leasing of Government Gardens' and imputed 'bungs' in their allotment, by some one who has quoted all sources except the official government-papers on the subject ! It is public knowledge that such a decision was taken at the highest level, namely the Cabinet. To the best of my understanding section 8(1)(i)

of the RTI Act, which deals with the Cabinet papers, would not have been an impediment in accessing the Cabinet Note, which would have given the true back-ground of the high-level decision in question. The proviso to the sub-section would have allowed the access to any applicant, besides the right to 'free-inspection' within the application-fee. It is also public knowledge that the said decision was taken in view of the fact that without a single exception, some 100 plus government gardens maintained by the horticulture department all these years, have been in the red, showing losses, many have remained un-audited, almost all have no perennial water-sources, the main State Garden Chaubattia, had so many 'senile apple trees' that they had to be felled by the order of the government of the day. Perusal of the files would have additionally revealed that all these gardens were not leased out, some two dozen plus, which were the best amongst them, were retained to be worked by the department itself, with increased budget, increased man-power etc. For leasing an expert committee was constituted, which considered the applications on merit.

This decision, what the story perhaps fails to disclose, saved valuable public money which all these years was being drained off by those officials in charge of these gardens. By leasing out these non-profitable gardens while this public money was saved, through these leases government for the first time tried to earn some money for the exchequer, to the extent they were worked by the lessees ! True perhaps, many lessees opted out and there was nothing wrong in it, as it was very much part of the contract. Why these gardens had been in the red all these past decades, what happened to those gardens which were not leased out and continue to be in departmental supervision, why the senile apple trees at Chubattia gardens were shown for many years as full-grown' trees and why 100% gardens were in the red, are some questions which the filer of the story should have also covered. Any citizen would be interested in knowing whether there is a thing called government and public servant accountability ?

A public issue is a two-way lane and a citizen has a right to have all facts on board, not just a part of it or only partisan facts. There is no doubt, these government gardens are a 'horror-story', one of the biggest scandals no-doubt, but one that of 'government-control incompetence', 'rank public mismanagement' and 'official apathy', all these years; which was proposed to be set right through a 'public reform', also known as 'public-private partnership', an effort which may not have succeeded 100%, but a reform nonetheless which was tried out openly, after a decision at the highest level. Partisan reporting has done great public harm, and this story is a case in instance. What is being suggested is why not cross-check from related public documents, now available courtesy RTI; starting with this case itself; and kick-start a healthy and non-partisan public debate. Should I add, without fear or favour ?

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