

## **RTI : Without Fear or Favour**

**By Dr. RS Tolia**

### **RTI and the invisible BPL :**

In his last article the author had hinted how any innovation which is pro-poor, thus pro-people, has to happen outside the government and how every pro-poor and pro-people initiative receives strong opposition from the vested interests. As conceived, the RTI was expected to be out and out pro-poor and pro-people, and designed to be the most potent instrument to expose the shenanigans of such vested interests, hitherto protected by their supporters and cohorts. These supporters and cohorts come in all shapes and sizes, within and outside the government system; the former for obvious reasons now being more accountable under the RTI. Eighteen months down the line where is the poor, in context of the RTI regime of transparency and accountability ? What has been the take-away of the BPL, has s(he) been empowered, are there any 'red faces and criminal proceedings' on this account, are some questions which deserve to be addressed ?

### **On Paper**

Like most of government schemes and public pronouncements the poor, rather the poorest sections of the society, could not have expected a better deal from the drafters and crafters of the RTI Act, the instrument the poor is expected to effectively use to create a real space for himself or herself. As we all know, the RTI extends a whole of range of facilities, both physical and financial, for the poor ( the BPL ) and the marginalized people, including the physically challenged. All applications under the RTI have to be accompanied with an application - fee, fixed at Rs. 10 per application, by the state government ( section 6 read with the Rules notified by Notification No.266, issued on 13<sup>th</sup> October, 2005, under the rule making power given in section 27 of the RTI Act). No such application - fee, or for that matter even any reprography or information - product - cost, is to be charged ' from the persons who are of below poverty line ', and this ' poverty line ' is to be determined by the appropriate government ( here meaning the state government, under the direction of the government of India ) ( see provisos to section 7 ( 5 ) of the RTI Act ).

For the illiterate and the marginalized sections of the society, on the physical enablement -side, the RTI Act cannot be excelled by any other legislation in existence in India. Whenever any request for information 'cannot be made in writing' ( here the allusion is obviously to an illiterate or physically challenged applicant ), the public information officer, is mandated 'to render all reasonable assistance to the person making the request orally to reduce the same in writing ( see proviso to section 6(1) of RTI ).

Given the huge risks an individual runs in our country today, in challenging mal-practices and all kinds of other shenanigans of the powers-that-be; absence of any protection to the whistle-blowers, both within and outside the government system, and the sham that gets practiced in the name of 'freedom of the press' in the form of rampant yellow-journalism, the RTI Act has taken the trouble of protecting the identity of the information seeker. Accordingly, the applicant is 'not required to give any reason for requesting the information or any other personal details except those that may be necessary to contact him' ( section 6(2) of RTI ).

On paper, the poor and the marginalized sections of the society, including those physically challenged; could not have expected a better deal from the drafters and crafters of this eminently laudable piece of legislation. However, one has to apply the reality-check here and see where the matters stand. In the preceding article, readers were told how the Commission had to intervene when the administrative machinery was seen dragging its feet on the NGOs and they had to be given a road-map and time-frame to complete the remaining exercise and how the Commission had to take suo-moto notice by way of activating, as it were, the wake-up call !

### **Will the real BPL please stand up ?**

Transferred to terra-firma how do the abovementioned provisions, listed in favour of the poor and the marginalized, materialize ? For example sample some relatively easier set of questions which need to be addressed : ( i ) how does one define a BPL ?, ( ii ) are the norms of BPL in the city and the rural areas the same ?, (iii) how does a BPL i.e. the head of the BPL family identify herself or himself before a government functionary, including the public information officer under the RTI ?, ( iv ) how does a BPL family-member identify himself/herself before a public functionary ?, ( v ) in the absence of any identification arrangements, both for the BPL family - head and family-member, what arrangements exist to facilitate easy identification of a BPL ?, ( vi ) what arrangements exist for 'inspection' of BPL related records right from the Chief Development Officers down to the Gram Panchayat and are they applicant-friendly ?, ( vii ) finally, given the fact that the flow of not only rural development but several of decentralized functions have now started flowing through the panchayati raj institutions are the existing 'information-parting' arrangements at the official and PRI institutions-level in order and adequate ? These are, what the writer calls, just some of the 'desk-queries', the 'ground-queries' are much more difficult and intricate, also far more frustrating, to be savored by the applicants alone.

### **BPL Survey 2002 and After**

Enlisting of the BPL families of the state was concluded during 15-17<sup>th</sup> January, 2007 in meetings chaired by the respective district magistrates with the handing over of BPL beneficiary lists signed by the block development officers and the project directors of the DRDAs; one copy each of which are to be kept at the government and directorate level respectively, with copies at all levels down to the Gram Panchayat level ( rural development department communication dated 2<sup>nd</sup> March, 2007 ). This action brings to a

close a nearly five year-long process commenced in September 2002 and certainly has lick-started a process which will have to necessarily answer some of the queries which have been listed above. Quite a few queries obviously engendered by the enactment of the RTI Act in October 2005, which adds issues relative to safe-custody of all records related to past -BPL listing as well as current listing, facilities for inspection of all kinds of related records, not to mention reprography thereof, infrastructural logistics for all the above-mentioned 'rights' etc. All these get further compounded by the orders given by the Supreme Court of India in the Writ petition No. 196 of 2001, Peoples Union for Civil Liberties vs Government of India, in 2005 , whereby every year these lists are to be updated by adding new BPLs and deleting those gone above the poverty line ! It would be quite educative ( i ) to observe the entire process of disposal of the objections filed, ( ii ) observance of the time-table prescribed for the same, ( iii ) transmission of revised BPL lists by the directorate to the government, and ( iv ) application of the PBL quota-guillotine ! Hopefully, the dust will settle-down on the five -year long storm now and soon a mechanism would be in place, where a BPL family - head, or a member of the BPL -family, will be able to identify himself confidently without any danger of being challenged, and apply for an information about a scheme which was meant to benefit a BPL but never reached the targeted beneficiary!

### **Legacy of the Delay**

Those who have been involved in this long-drawn process of survey and finalization of the BPL lists, right from its beginning in September 2002, would be fully aware of what is in store for those who have to keep all records related to the entire process and make them available for inspection on demand, including providing copies thereof, free of any charges or otherwise, in itself a contentious issue. All told, in a state-wide door-to-door survey more than 13 lakh 21 thousand families were covered, these data were computerized by the DRDAs, a BPL quota on the basis of adjusted share of 6,21,200 was agreed between the Planning Commission and the Ministry of Rural Development, and thanks to a very large number of objections filed against the tentative lists notified and the time taken by the district magistrates in finally disposing them of took its toll. Four districts viz Uttarkashi, Tehri, Pithoragarh and Bageshwar, having failed in enlisting the BPL based on the cut off score added to this delay, and this further delayed the culmination of proceedings, as this again required harmonizing the process all over the state. This massive operation attracted as many as 1 lakh 18 thousand objections, disposal of which required surveying 11,368 additional families and ultimate addition of 2590 BPLs in the final list.

As we read this article the state has on its rolls 6,23,790 BPL families, repeat families and not individuals, and a simple multiplier of 5 per family gives us a most conservative number of 31,18,951 individuals living below the poverty line! Not to be left behind the operation of the Model Code of Conduct added its own bit and the final approval of the list could be obtained on the 6<sup>th</sup> of February, 2007.

The entire process of the listing of the state BPLs has been narrated with a view to underscore the fact that in the five-year long process a huge quantity of records have been

generated and even though an attempt has been made to invite objections to a tentative list of the BPLs and the same has been disposed off according to a uniform process, it does not take away the right of a citizen to ask for any kind of information, or inspect a set of papers; add to this a natural human trait to prove the his point by comparing with the past survey details, and so on. All this will require a huge amount of preparedness on the part of every office, which was involved in the entire process. Luckily, there has been substantial use of technology and it is where the Rural Development department should look for a potential solution viz. in so far as the requests which might now be received at various stages, from the Gram Panchayats to the state headquarters level.

## **Dead Man Never Speaks !**

There is a famous saying in the developmental - parlance : the Dead Man Never Speaks !, and it refers to situations when one visits distant difficult areas, where people have died of hunger, or diseases or natural calamities; one can only hope to meet the living ones and go by their version of a particular calamity. It is only those who perished ( dead ) who are not in a position to testify as to why they had to die ! How does one get to the real truth and do something which will reach the so called 'last-man', the poorest ?

Applied to the RTI regime one cannot help wondering how to give practical shape to the access and the rights which have been provided for the BPL, BPL-family members, and all that the author has listed out in the opening paragraph under the rubric of ' On Paper '. Will all that remain on paper, just to be looked at and admired by all, or will it ever be exercised and used for the benefit of those for whom it was meant ?

The dead man, indeed, never speaks, is yet again proved by the number of applications so far filed by the listed BPLs or their family members. As this article gets written the number of applications filed by all applicants in the state crosses the 15,000 mark, averaging some 700 applications per month, or even perhaps more as we are still fine-tuning the reporting system. But, how many of them from the BPLs ? Does it mean that the BPL do not have any need of information, every thing intended for them is reaching them, the delivery system is so perfect that no one from amongst the 31 lakh plus people of the state, mostly living in far off mountain regions do not have to disturb the peace of mind of those who are supposed to be responsible and accountable for their welfare ?

## **Give the BPL and BPL Family members an Identity Card**

The answer is certainly not in the affirmative, as even though the listing has been completed there is no way a BPL, including his family member, can identify himself as a BPL as the department has not bothered to provide him an identity card and as he cannot identify himself as a BPL, he cannot have free access to any information under the RTI Act, thus denying him official access to wrong-doings of those who are prone to indulge in the same; and this takes us back to where we started our analysis. As of now the benefits to the BPL under the RTI Act, like most other schemes, remain ' On Paper '. Applications filed under the RTI thus become an indicator of the care which is being taken by the sector to receive a feed-back from the beneficiaries and those who are

responsible for the quality-check of the programmes would do well to constantly review the arrangements which are in-built in the RTI Act..

### **The Urban -poors and Food - security**

What has been said above covers only the rural BPL, the issues related to the urban BPL are to be addressed by the Urban development department. The latter has necessary wherewithal to do the needful through the Jawaharlal Nehru Urban Revival Mission, of which the 'self-disclosure' is an integral ( third ) component. So much the better, as transparency and accountability go hand in hand with an effective and efficient public delivery mechanism. As regards, the so-called BPL cards issued under the Targeted P.D.S., by the Food and Civil Supplies department, there seems both a case ( i ) to re-visit the linkage between the revised documentation base ( earlier it was the Economic Registers kept at the Block level ), and ( ii ) new norms for the identification of the BPL in the urban slums ( malin bastis ).

In Delhi, as is well known, application of the RTI highlighted what ails the entire system of issuing the ration cards, on the one hand, and how the targeted PDS misses its target by miles, on the other. Verily, the entire range of all food-centric schemes, cries out for the most drastic reforms in the sector, if the huge resources being deployed in our procurement system are expected to make any tangible impact on poverty and food-security of the poorest. Not very surprisingly, the number of applications related to the food-centric schemes, TPDS or the MDM, is also almost negligible when compared to those related to other sectors like education and land matters etc..

The Information Commission has now taken up these 'grey-areas' on board and expects that the public authorities concerned would assume a pro-active posture and create an enabling ambience for the poorest, the BPL and the marginalized segments of the society in conformity with the 'letter and spirit' of the RTI provisions.

**Article ends.....**