

Without Fear and Favour : X

CELEBRATING RTI WEEK

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As the country gets ready to celebrate the fourth anniversary of notification of the Right to Information Act (RTI Act henceforth) from the 6th of October, officially as the RTI Week, it is time both to reflect on the changes its implementation has brought about in public life on the one hand and various opportunities which lie ahead for its users, both again, inside the various public authorities and outside.

At the outset it must be appreciated that some Governments, at least the Government of India, have publicly acclaimed that the RTI Act is critical in so far as ushering in of good-governance is concerned, and it has accordingly directed all state governments and State Information Commissions, to suitably celebrate the occasion in a befitting manner. Continued indifference of some State Governments towards an effective implementation of the provisions of this Act is not only reprehensible but indicative of the feudalistic and partisan mind-set which had prevailed in a major part of this country for more than past two centuries or so. Uttarakhand Government have issued detailed instruction to all departments and field officers to suitably celebrate the RTI Week between 6th to 12th October, 2009.

Uttarakhand:

Various external evaluations have evaluated the efforts set afoot in Uttarakhand in this respect and it is not for this author to comment on them, either way, except to say that it could with all modesty be claimed that given its nascent status as a State and resource crunch it certainly has done “better than average” among the major states (using the criterion adopted by India Today in classifying the States of India in its annual rankings) and among the peers, in size and age, it should be at the top of the heap. Certainly there is a lot to be done and Uttarakhand Information Commission is now putting in place various measures in near future to provide sustainability to its existing initiatives and reach out the sectors and regions, where for various reasons it has not been possible to do so. The Government of India initiative of involving the Information Commissions and the various State Training Institutions in these efforts, including some monetary assistance, has been of great help and it also provides some hope for more effective action in near future.

Uttarakhand Information Commission, based on its past four year’s experience in the state, has divided its action approach into the following eight categories of action .:

1. **Managing RTI** : by all public authorities notified under RTI,
2. **Reporting RTI** : by press and media and Information Deptt.,

3. **Using RTI** : by the citizens and the public authorities themselves, with special focus on weaker sections of the society,
4. **Inclusive RTI**: reaching out to remote regions, sections of public with the benefit of this legislation,
5. **Mainstreaming RTI**: involving the Law Institutions and legal practitioners in legal profession for wide-spread legal education on RTI and other Rights,
6. **Sustaining RTI**: by launching Uttarakhand RTI Network (URTI Network) which not only continues pushing the frontiers of RTI coverage but involves all interested institutions and individuals who are public-spirited and strong advocates of transparency and accountability in public life,
7. **Dispensing RTI** : relates to qualitative disposal of applications received, right from the APIO/PIO level to the First Appeal Authority and the Uttarakhand Information Commission level, and beyond, and
8. **Monitoring & Supervising RTI** : addresses the issue of implementation of various provisions which have been incorporated into the RTI Act but either not fully appreciated by the various Information Commissions and the various Competent Authorities and Appropriate Governments or being implemented even on the eve of the fourth Anniversary of the RTI Act.

Action Approach :

Managing RTI :

It was realized from the very beginning that without a reasonable “supply-side” arrangement in the state all the big talk about transparency and accountability in the public domain would be anything if not just hot air and wishful thinking. Therefore the first two years in particular special efforts were made by this Commission to issue Best Practices Guidelines to all public authorities, helping them access related material on their departmental history, statistics etc to be used in compliance of section 4, issue of Records Weeding Rules etc.; for which workshops, seminars and meetings were held at the Commission office and elsewhere. Various publications have also been circulated, distributed and uploaded on the websites of UIC and NIC.

To what extent the various public authorities of this state have been able to gear themselves up and improved the “supply-side” arrangement of the RTI regime, has also been captured by an external evaluation sponsored by this Commission. Conducted by a retired Secretary to the Government of Uttarakhand this External Evaluation ranks 6 public authorities under “excellent”, 92 as “good”, 28 as “average” and 24 as “below average”. This Commission considers only the first six as passing muster of its standard and therefore all the remaining public authorities have their job cut out, as the External Evaluation Report also mentions their weak points and the areas where they have

to take urgent action. This report underlines the alarming physical conditions under which Government's 97 major offices are functioning and which has a direct bearing on the quality of their work, besides dealing with RTI applications.

Office space, use of computers, condition of record rooms, notice boards, departmental manuals and file-keeping are the critical office management areas which this report touches upon. This incidentally also became the first ever status report on all major government offices made by any study. This External Evaluation Report has been made available to all Secretaries and Heads of Department for immediate action and this Commission hopes that these public authorities will first improve their own working conditions if they wish to be any help to a citizen who approaches it.

Reporting RTI :

As the Commission gained experience it was realized that all that was being achieved for cleansing and honing up the public sector would be of no avail if the short-coming discovered in its proceedings did not reach the public ear. Besides making copies of all important judgments to the public authorities and government departments concerned arrangements were also made to systematically make them available to the members of the media and press. Accordingly all major judgments, involving matters of public interest, are made available to the local press and electronic media every Saturday at the Commission Office.

In addition all the judgments are also uploaded the same week on the UIC website, in full.

This measure has considerably improved reporting of RTI coverage and this has also sensitized the citizen about the potential of the RTI and the public good that is continuously emerging by the use of the RTI by the citizen and citizen groups. Frauds in public appointments, mis-use of public funds, embezzlement of Insurance money, non-payment of laborers wages, registration of fraudulent sale-deeds are several instances which have been brought to light during the past four years and continue to appear regularly. Ad-hoc functioning of public servants, transgression of delegated authorities has been severely curbed by citizen demanding copies of Governments Orders authorizing a public servants to use his or her powers. Severe fines have been imposed and sizeable compensations has been awarded to the harassed citizen in exemplary cases. More than 31,000 hits during the past one year shows that the Information Commission portal (uic.gov.in) has been furnishing useful information to its clients and citizens.

Garhwal Post, Dainik Jagaran, Amar Ujala, Hindustan, Uttar Ujala and Sahara Dainik besides others in the print media have done yeoman service to the cause of RTI and have highlighted major stories regularly from the very inception and this has significantly contributed to RTI's effective implementation in Uttarakhand.

Using & Inclusive RTI :

The test of the pudding, as they say, is in eating it, and I would like to add in enjoying it. Have the citizen 'enjoyed' using the RTI, it is difficult for the author to make a guess. It depends on what expectation a citizen has of the RTI as it stands and what has been his or her actual experience of using it. One tentative evaluation was made by this author itself after the second anniversary of the RTI and the results were published in one of the publications which has been brought out by it. The first two years' experience was mixed in the sense that people has had no similar experience to compare this experience with. The Consumers' Rights had preceded this one on "information" and the comparisons which had appeared two years back showed that this "right to information" had certainly scored over the previous one on the "consumers' right". Now, there is no denying of the fact that this right has earned its place under the sun and if the figures of applications, complaints and first and second appeals are any indicator, the RTI is now being increasingly used for various individual as well public rights. Mahila Samakhya, Mountain Forum of Children, Friends of Doon, Citizen's Consumers Forum and the Association of British Scholars has taken major initiative to outreach sections which are otherwise remote from the mainstream.

The fact that a citizen when requesting for any information matter of factly hints at use of the RTI as an alternative says much more than any evaluation study results.

The press and media stories which are appearing after making use of the RTI provisions speaks its own story. Yet, the fact remains that the reports emerging from the remote country side, on the rural issues, on the segments which deserve better deal at the hands of our public authorities proves that a lot more remains to be done in the domain of 'Reporting RTI'. This Commission feels that the role of the Ministry of Information and Broadcasting and the respective Information and Public Relations departments of the states in education and training of the journalists working in the rural areas or those who have beats like covering rural development, social issues etc is evident and there is an urgent need to mount a massive awareness and education programmes for the media and press persons in the Use and Reporting of RTI in journalism profession. Press Clubs of the districts and the Working Journalist Association also has this obligation towards a section of their own society. This would substantially add to the public good that the RTI Act has generated already.

That the public authorities themselves can make an effective use of the RTI provisions has not been highlighted sufficiently so far. This yet another dimension of the RTI discourse deserves to be highlighted through two well known examples. Andhra Pradesh Rural Development department has effectively used RTI to ensure transparency in the Rural Employment Guarantee projects and the Second Administrative Reforms Commission (Second ARC) used RTI both as its very first theme for reporting as well as collecting information from all the Ministries on their responses to applications under the RTI Act ! It is not

unlikely that one may find all major public expenditure projects and externally funded projects might make it mandatory that full-self disclosure be made mandatory.

Maintaining & Sustaining RTI :

Is one futuristic agenda to which almost all sections of the society, especially who believe in the philosophy of transparency and accountability in public and even in private life, have to contribute.

Just as there are two sides to the RTI regime viz. the “supply-side” and the “demand-side”, there are only two categories of people viz. those sincerely believe in it and those who do not believe in it. There seems to be no reason today as to why all public servants, who are also citizens and thus equally eligible to seek any information eligible under this regime, should ensure that no information at all is denied which is not under law prohibited from public access under the RTI and take pride in actions which he or she has himself or herself initiated under his /her own department/office. Four years down the line no such public official has come out as to what has been done under his or her own department to see that the RTI Act provisions are fully implemented. Once such a movement begins the very edifice of unnecessary secrecy would crumble and the real gains of RTI would start becoming available. This Commission awaits an initiative of this kind in this state, where any officer can officially go ahead, as the RTI Act is an official Act and every official is duty bound to follow and implement it.

The Commission is taking steps to ensure 100% compliance of its orders on Issuance of Compendium of Government Orders (GOs) in two volumes by every state level public authority, strict compliance of shortcomings highlighted by the External Evaluation Committee, Model Compliance of Self-disclosure provisions through Departmental Manuals in web-sites and otherwise, Model Records Management in Offices. To reach out to the remote regions of this mountain state an OB van is to be launched soon giving access to RTI experts for advise etc. and arrangements are also being made to respond to SMS messages automatically in addition to updated web-site on case listing, judgment reporting and sundry assistance. Launching of Uttarakhand RTI Network is an ambitious project of the Commission whereby all right thinking institutions and individuals are proposed to be brought together on a virtual forum which would deliberate, discuss and mobilize action on further measures for a more effective implementation of the RTI Act in this state. It might be hosted by the Commission itself or by a society constituted with the assistance and support of the Commission / Government of India.

Dispensing RTI : is the logical culmination of the first step of this Action Approach, namely Managing RTI. The chain commences with an application being received by the Assistant PIO (APIO) or the Public Information Officer (PIO), or even by a wrongly addressed Public Authority office (expected to send it to the appropriate public authority office or back to the sender, under the ideal

conditions) who transfers or deals with the application as per the provisions of the RTI Act. After this stage the application reaches the last and final stage within the public authority concerned, in the form of the first appeal submitted under section 19(1), or 19(2) and the same is expected to be finally disposed of suitably i.e. either in providing the sought for information or rejecting the same giving the grounds for doing so, by the first appeal authority. It was found that most of the public authorities were not well prepared for effective disposal of applications, as either the first appeal arrangements were not adequate or the first appeal authorities had not been sufficiently trained and sensitized about the crucial and important nature of this stage of disposal of application within the public authority itself. As the applications grew at the APIO/PIO stage, from month to month and year to year, it became clear to the Uttarakhand Information Commission (which continued to remain a single-member Commission during the first four years like four other states, namely Rajasthan, Gujarat, Sikkim and Nagaland) that there would be a corresponding increase in the first appeals at the First Appeal Authorities within the respective public authorities and ultimately at the State Information Commission level, it was extremely important that the arrangements to receive and dispose off first appeals improved very very significantly. Accordingly two steps were initiated. First, the Uttarakhand Academy of Administration was requested to use the DoPT financial assistance received by them exclusively for conducting a Training of Trainers (ToT) program for the departmental Trainers for improving their First Appeal disposal

mechanism and secondly, the Information Commission issued detailed instructions to all Public Authorities for taking a multi-pronged approach to address this lacuna. UIC publication No. 23 is exclusively addressed to this aspect of dispensing RTI first appeals at various levels. On its own part, the UIC had commenced forwarding various complaints received by it for disposal under section 19(1) to the First Appeal Authority, if it found that the so-called complaint indeed deserved to be first considered under section 19(1) and not by pass the dispensation which the statute had made under section 19(1) and even section 19(2), the latter for the third party. This decision of UI on the one hand ensured that the public authority also received its due share of 'natural justice' just like the applicant and more important the First Appeal Officers, also got an opportunity and taste of applications which their field officers were receiving under the RTI Act. A comparison of the provisions of section 18 and 19 would reveal that it is only for a narrow spectrum of grounds for which provisions under section 18 have been made and for the rest the public authorities must receive a second opportunity to address the requests, as provided by section 19(1) and section 19(2). In hindsight this early decision on the part of UIC has allowed a considerable experience of handling first appeals to the various relatively inexperienced First Appeal Officers an opportunity to deal with first appeals against the decisions of their PIOs. This has also kept the backlog of the UIC second appeals within manageable size for single-member Commission. The Daily Log exhibited by the UIC web-site provides an insight into this early decision of the UIC. However, this needs to be emphasized that all public

authorities must seriously undertake a close review of the quantity and quality of their first appeal disposal and improve their existing mechanism of first appeal disposal before it becomes unmanageable. ToT being undertaken at the Uttarakhand Academy of Administration level must also fully realize the cascading effect of improvement as envisaged under the three day ToT training package. The Trained Trainers must mainstream this knowledge within their respective organizations.

Making the UIC a multi-member Commission is something which has become overdue as has been repeatedly requested by the Commission itself and now joined in by the Uttarakhand High Court at Naini Tal, as well. Besides, this being the fifth and thus the last year of the only Information Commissioner, who is also the Chief Information Commissioner of the State Information Commission, it is of paramount importance that there is not only a smooth transition in 'general superintendence, direction and management of the State Information Commission' but also continuity and consolidation of the action agenda which has been charted out and acted upon by this Commission in consonance with the provisions of the RTI Act.

Strengthening of Legal Advisory mechanism at the Nodal department of the state government and Law Department besides all major departments of the state and Uttarakhand High Court is something which deserves urgent attention of the state government.

Monitoring & Supervising RTI :

Compared to the commencement of the Act time the monitoring and supervisory role expected of the Information Commissions is much clearer now; UIC took various steps right at the inception of the Information Commission and set in motion its monitoring and supervisory role, covering various aspects of reporting and monitoring. Chief Information Commissioner undertook review and monitoring cum awareness meetings at the district and block levels, during the past four years. Already three Annual Reports have been submitted by UIC to the state Government, with its recommendations; of which two Annual Reports have also been laid at the table of the State Assembly. Monthly Reports on filing of applications and disposal of First Appeals have been prescribed and Manuals under section 4 have also been prepared and voluntarily displayed by the public authorities. Position at the sub-district level, panchayati raj institutions and aided educational institutions deserves far better attention. The First External Review of all state level public authorities at the state, division and district level sets in a very clear relief the long haul ahead for all public offices as the years roll by which is required to be in place for an ideal 'supply-side' by all i.e. the Government of Uttarakhand and all public authorities under the three Competent Authorities.

Tenth Anniversary & Zero Tolerance Commission

One of the major objectives of the URTI Network would obviously be to see a ZERO TOLERANCE

INFORMATION COMMISSION in place in Uttarakhand by October 16th 2010 towards the end of the fifth year of its notification, a fair target for an Information Commission of a new state like Uttarakhand.

Would it not be the most fitting tribute to the new state on its Tenth Anniversary, due on 9th November, 2010 ?

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