

RTI : Without Fear or Favour

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(The author is the Chief Information Commissioner, Uttarakhand Information Commission and this article, being fifth in the series, deals with various aspects related to the Right to Information Act, which will be celebrating the second anniversary of its enactment in October, 2007. Readers are invited to seek their clarifications at : rs_tolia@rediffmail.com)

RTI : The End of the Early Days

Come the 12th day of October, 2007 and the RTI Act's second anniversary gets celebrated across the length and breadth of the country. An all-India stock-taking of the gains and losses is also scheduled at New Delhi, like the last October. RTI Act is perhaps the first and only central Law whose anniversaries get celebrated as national events ! The first two years of the Act had a special significance as with the end of this period the special dispensation provided by section 30 "to remove any difficulty in giving effect to the provisions of the Act" simply by publication of an order in the Official Gazette, also comes to an end. The sun sets on this clause on 11th October, 2007. Symbolically, one could even term it as "the end of the early days of the RTI". The preparatory phase being over it is about time now that the citizens start receiving the true benefits of all the preparatory work, both quantitatively and qualitatively. The Commission also now proposes to go into the next higher gear, putting the RTI on full throttle and six-cylinders.

These past 20 odd months have been, by any standard, quite momentous and full of learning opportunities. Full of learning opportunities for all stake-holders, as I reckon these past 20 months had been. In this article, and a couple more, I propose to share this learning with the readers, as it took place in Uttarakhand. RTI seems to have appeared as a strong anti-dote against corruption. These days, our policy - makers, and all those responsible for steering the ship of the state, if quipped about the steps being taken in India about its endemic corruption, just quote the transformation which has been brought about by the enactment of the RTI in the country. Surely Transparency International has upgraded India's rating, but not by many notches. The other day in a Hard Talk session of BBC Mr. Kamal Nath, the Trade and Industry Minister, when quizzed about the endemic corruption in the 60th year of independent India, in reply just mentioned the RTI and de-regulation and the interlocutor appeared more than satisfied ! Well, at a macro-level, perhaps that assessment may be correct and justified, but what about the grass-roots and across the states and sectors ?

Two Years Down the Line

In various pan-India stock-taking exercises Uttarakhand gets clubbed as a category apart, neither too big like UP, nor too small like Sikkim. One may call it an "average" state. Accordingly, its performance could well be taken as an average for the country. One could therefore, unless Uttarakhand has performed exceptionally well during the past two years, take these figures as the average or median for the country. In Uttarakhand by July, 2007(twenty months) as many as 15, 386 applications have been filed, or some 14,500 individuals have had an experience of seeking information through the RTI route, assuming that some 600 individuals applied under it more than once. On an average now more than 1100 applications get filed every month or let us say some 40 applications per day. Commencing with 50 application per month the trend remained under 500 applications per month during the first year and during the second year the average has climbed to more than 1100 per month. We are thus in a current plateau of 1100 application per month and there is an upward rise. As I write this column out of 15, 385 applications filed as many as 14,232 applicants have neither filed a complaint nor an appeal before the Information Commission, leading one to infer that the satisfaction rate has been as high as 92.50%, meaning that 93 persons out of the 100 who applied were satisfied with the information supplied by our departments. This deduction flows from the fact that during the same period as many as 1,153 persons either preferred a complaint (under section 18 ; 767 in number) or an appeal (under section 19 ; 386 in number) before the Commission, as they were not satisfied at the Public Information Officer (PIO) and / or Departmental Appellate Authority (DAA)..

Satisfaction - rate : 92 per cent

Prima facie, a satisfaction rate of 92.50% from all applications filed under the RTI does not appear as unsatisfactory. But, then there is a catch here. This number includes, or hides if you like, the number who might have just given up and turned into skeptics, considering the hassles involved and painful experiences gained in tracking one's application with the incorrigible system ! You can never tell, or at least this would require a social- audit at the sub-district level, and this certainly will have to be the Commission's next area of investigation. Anyway, there are some faint hints towards it, in the feed-backs which the Commission has received as a part of its self-evaluation exercise of the past two years' performance, and we would deal with this issue in a subsequent article. Suffice here to know the over-all picture of disposal of application and the need to investigate at the sub-district level the number of those who just gave up trying ! For a qualitative implementation of the RTI this would remain an on-going and perpetual agenda.

Unsatisfied : 8 percent

If an applicant is not satisfied with the information provided, or for any other reason, he is left with two options; first, he complains to the Commission directly under section 18 of the RTI Act, or alternately, he appeals to the departmental appellate authority under section 19 of the Act. Undertaking an in-depth analysis of those applicants who persisted

with a direct complaint to the Commission or through the departmental appeal route was naturally a matter of extreme importance for the Commission, on many counts.

The ambit of a complaint which can be filed is indeed very wide and extensive. It could be as routine as the application or the application -fee not being received to any of the hundreds of situations which could present themselves in the process of approaching any public office for any work. We could call these "the supply-side shortcomings", physical, infrastructural, systemic, or even attitudinal and behavioural. Section 18 of the Act assumes this wide range of situational complaints and expects of the Commission to conduct a "preliminary inquiry". As many as 767 complaints, constituting nearly 5% of all applications presented so far, were preferred before the Commission. Out of this 154 complaints (26% of 767) were found deserving of regular hearing or deserving detailed inquiry as a civil suit. This did not include 22 complaints which were considered prima facie serious enough to be dealt as a regular suit. The first category of complaints, which are of relatively simpler nature, the disposal rate is approximately 51 % (301 out of 591), and this category is known as section 18 (1) types. The other genre of complaints, called section 18 (2) types, the disposal rate is about 78% (138 out of 176).

Appeal disposals on-line

In appeals the applicant, dissatisfied with the public information officers disposal, tries to seek remedy from the next higher nominated officer, within the same department. If not satisfied even at this level the applicant appeals to the Information Commission, known as the second appeal. As many as 386 appeals have been preferred before the Commission and here the disposal rate is 93% (359 out of 386). Appeal disposal at the Commission level has nearly become on-line and longer time is normally taken where some major administrative reform issue gets involved or where the Commission feels that the appeal should be taken up as an exemplar case, in order to avoid replication of similar appeals in future. Very often, these are cases where systemic failure get noticed and where the Commission has to ensure that the systemic failure gets repaired or substantially addressed. Several administrative reforms issues have thus been flagged and recommendations of the Commission forwarded to the appropriate level in the State administration. This will be touched upon in a subsequent article.

A Service Work - force of 15, 210

The above performance has been a handi-work of a work - force of 15, 210 individuals, nominated by 58 departments, as Assistant Public Information Officers (3, 863), Public Information Officers (10,288) and Departmental Appeal Officers (1,059). It is this network of service providers, now well-armed with 16 departmental Manuals for each department approved by the Information Commission, a Hand-book for the PIOs, adequate exposure of handling applications in excess of 15,000 and provided with necessary directions from the Government and various rulings of the Information Commissions on many a points of doubt, up-loaded on internet week after week, which provides a sound foundation on which the edifice of RTI is now to be painstakingly

raised. Ushering in a transparent and accountable public delivery system, is by any standard, a big ask and it tantamounts to re-inventing governance.

Feed-back for Next -Steps

The above quantitative analysis of the past twenty months' performance does not provide us any insight into the qualitative aspect of the experience. The qualitative insights of these early days were captured through a 9-point questionnaire which was circulated amongst all those who actually used the RTI and were not satisfied either with the service of the PIO or the DAA. As many as 216 RTI applicants, who took their application to the wire, as it were, and appeared before the Commission either as a complainant or appellant, provided us extremely valuable insights into these early days. These are to be discussed in the next two articles.

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