

# “Four Years of RTI in India: Challenges in Implementation in Rajasthan”

## State Level Seminar

Organised by CUTS in Partnership with CHRI

Jaipur, October 23, 2009

### Overview

Centre for Consumer Action, Research & Training (CART) a programme centre of Consumer Unity & Trust Society (CUTS) International in collaboration with ‘Commonwealth Human Rights Initiative (CHRI), New Delhi, organised a state level seminar on “Four Years of RTI in India: Challenges in Implementation in Rajasthan” on October 23, 2009 at Conference Hall, RICEM, Jhalana Institutional Area, Jaipur.

### Background & Objective

This seminar was third of its kind in a series of annual seminars organised to commemorate the implementation of the Right to Information (RTI) Act on December 12, 2005. A series of seminars are organised annually with the objective of stocktaking of the issues that are hindering the effective implementation of RTI Act in Rajasthan and assessing the present status of its enforcement in the state government departments. This annual stocktaking is performed so that a set of recommendations and a strategy can be designed for its effective implementation in future.

The seminar offered a common platform to a varied group of stakeholders such as civil society organisations (CSOs), common citizens using the RTI Act and has hands on experience and assistant public information officers (APIOs), public information officers (PIOs) and appellate authorities (AAs) along with state implementing officials. This platform provides an opportunity to gather first hand information and ground realities of its implementation which are then converted into a set of recommendations to submit it to the government and concerned agencies for further actions and implementation.

### Participation

The seminar had more than 75 participants which included representatives from different CSOs, RTI activists from Jaipur and Tonk districts and PIOs from various government departments like Police, Food and Civil Supplies, Department of Water Resources, Muslim Wakf Board, Government Press and deputy secretary of State Chief Information Commission (SCIC).

### Proceedings

#### Inaugural Session

In the inaugural session, Madhu Sudan Sharma of CUTS CART welcomed the participants. George Cheriyan, Director, CUTS and Head CUTS CART in his introductory remarks said that October 12, 2005 can be observed as the second independence day of the nation when the RTI came into force. He also shared the objectives of the seminar and discussed the challenges that still exist in the effective implementation of the Act. Some of them are low level of awareness among people, lack of sincere efforts on part of the government regarding capacity building initiatives for the PIOs and strengthening measures for SIC by appointing more commissioners.



George further said that this Act has helped in bringing transparency in the working of the government, thus making the whole machinery accountable. With the opening up of the government processes before the public, awareness among the masses has increased which, in turn, has brought in accountability on part of the government, thus reducing corruption.

Venkatesh Nayak, Coordinator, Access to Information Programme, CHRI, New Delhi in his opening remarks briefed about the role of CHRI in the formation process of RTI Act 2005 at national level and informed that CHRI is organising seminars and workshops on RTI in 15-16 states for the first time and also monitoring the implementation of this law as well as opposing any changes in law which will reduce its effectiveness.

He further explained the seven objectives mentioned in the preamble of the RTI Act 2005 and expressed his concern over government's cryptic disposition rather than being open and upfront and exerting minimal efforts of generating awareness about the law among masses. He further said that due to this Act communication lines have opened up between the government and public, which have positive implications for the democracy.

Satya Prakash Baswala, Deputy Secretary, Department of Administrative Reforms, Government of Rajasthan, in his special address, said that so far the progress made in implementation of the RTI Act has been satisfactory but the feeling of alienation among people is a problem therefore common people do not participate in the governance process.



Baswala further said that all the PIOs are both consumers as well as policy implementers. But at the same time their approach on policy implementation is indifferent which should not be the case since they are also consumers as well and therefore should show a deeper understanding of problems among the masses. The role of media can be crucial in popularising this law at the grassroots level.

In the keynote address AK Ojha, Member Secretary, Centre for Good Governance, Harish Chandra Mathur Rajasthan State Institute of Public Administration (HCM-RIPA) said that there is a need for a change in the mindset of service providers and that they should realise that their accountability and responsibility does not only restrict to their senior management but also it runs deep down and its effect should cascade and reach the common man. He further said that maintenance of public records of all the flagship schemes is mandatory so that no need arises for filing of the RTI and that all information is available on line.

Ojha cited interesting examples where PIOs proved to be 'weak and powerless' and that more power should be delegated to them for their role to be made more effective. He also shared some instances of reforms in the process by using the RTI Act in some of the state government departments and talked about his experiences as a trainer of bureaucrats at HCM-RIPA by saying that common man is the key holder in democracy and officials must fully respect them.

### Technical Session

In this session Madhu Sudan Sharma discussed the challenges in the way of effective implementation of RTI Act 2005 in Rajasthan including the issue of demand and supply. As to the demand side, there are roughly 8-12 percent of total RTI applicants who are willing to go for first and second appeals respectively and very few women are using this law in Rajasthan. On the supply side, total number of PIOs in the state is less and there is a lack of curriculum-based training of PIOs thus resulting in their poor response.

He also reflected that the mindset of these officials is also not pro-RTI and hence there is a delay in the execution of the RTI applications, which in turn is causing monetary loss to the nation. Hence, there emerges a strong need of capacity building of these officials. He also said that due to non-compliance of Section 4 proactive disclosure of information is highly dissatisfactory and it is very difficult for common people to reach up to a PIO/AA of any department as a result of this.

### Floor Discussions

After discussing the challenges in the implementation of the Act, the floor was opened up for discussions and participants were invited to raise their concerns and seek clarifications on the RTI Act. Jaibala Sardana from HCM-RIPA said that the capacity of PIOs is not satisfactory therefore they raise several questions when a RTI is filed.

Anil Aswal, Assistant Commissioner, Food and Civil Supplies Department very rightly pointed out the followed way and process by PIOs and expressed his concern over the practice of sending the application with given information before the Appellate Authority which causes further delay in obtaining a response. He also said that clerical staff hurdles speedy disposal of the applications and try to mislead. He further pointed out that government department do not maintain a RTI register where details of the applicant and information sought are maintained. This clearly indicates the lack of seriousness on part of the government officials.

Om Praksh Sharma, Additional SP, (PIO Jaipur East) said that digitalisation of official records can be a solution of reducing high number of RTI applications and this way governance system will also become transparent. He further said that by asking specific questions voluminous information could be provided to RTI applicants.



Ravi Agarwal, from Water Resource Department said that information sought by an RTI applicant may not be relevant at all to the seeker and their sole intention may be to create problems for PIOs and in some cases may misuse the information.

Krishna Tyagi from Participatory Research in Asia (PRIA) said that PIOs do not care for the imposed fines and recover them from any *Sarpanch* and *Gram Sachiv*. The PIOs may also not help the applicants in the filing process, which is mandatory for them.

### **Responses**

The key resource person, Venkatesh Nayak appreciated the participants for their queries and responded to them. He said that computerisation/digitalisation of all the government records will be a helpful and long-term process, but until then there is a need for cataloguing, proper labelling and record keeping of the government records. He said that the problem in doing so is that, there is no budgetary provision of record keeping and that it can be done by budget estimation and allocation in the annual plans, which is done every year.

Venkatesh clarified that it is false to state that PIOs have less powers and do not have access to records within the department. The misuse of BPL cards is discouraged by making rules which say that the demanded information should be related to the BPL applicant himself. Pages can be given free of cost to the RTI applicant only up to the limit of Rs50-Rs100 and beyond this, pages become chargeable as per the law. He also responded to the query on some contradiction in RTI and Criminal Procedure Code by saying that if there is any clash between two laws then RTI Act will supersede the other and agreed that display of information on notice boards of government departments is unavailable.

AK Ojha intervened and responded that it is unfair on part of the PIOs to think that the applicant may misuse the demanded information. According to him, if some one is asking for some information, it means that he or she is a part of the process. As an example he stated that if a person of Meghalaya is asking information about something happening in Rajasthan, it does not mean that the demanded information is not related to the applicant and that it is illogical for him/her to demand such information.

### **Closing and Vote of Thanks**

Dharmendra Chaturvedi, CUTS CART summed up the proceedings of the seminar and said that due to healthy interactive sessions and active participation of all, the seminar had significant outcomes, which will

be documented and sent to the state government, concerned Act implementers and CSO partners. Chaturvedi thanked all the participants, PIOs, CSO representatives and resource persons.

### **Observations and Conclusion**

The following are the general observations and conclusion that emerged from the presentations and discussions:

- Low level of awareness among the common people.
- In the state, only small percentage of people utilise the RTI Act, 2005 and out of the total RTI applicants, roughly 13-15 percent of them go in for first appeal and 8-10 percent go for second appeal.
- Poor monitoring of RTI implementation process.
- Level of convenience of RTI applicants will have to be improved because of the far flung areas like Barmer/Jaisalmer in Rajasthan. The Maharashtra model of appointing regional commissioners is recommended.
- Department of Post has to be designated as APIO in Rajasthan as well and staff should assist to common people in filing applications and appeals.
- The position of PIOs is weak in terms of their response capacity, which has to be strengthened.
- Measures have to be taken for changing the attitude of PIOs towards RTI applications and applicants.
- Record management will have to improve and budgetary allocation has to be made.
- Practice of sending the RTI application to the first appellate authority before proving information needs to be eradicated.
- Infrastructure of state nodal departments, SIC and state training institutes for RTI must be improved and made better.
- A senior official should be nodal officer of RTI at district level to coordinate its smooth implementation
- Poor quality of awareness even among PIOs regarding the provisions of RTI Act, 2005 and lack of assistance by PIOs in filing RTI applications.
- Delay in securing sought information.
- Inadequate training of PIOs and their poor response capacity. There is an urgent need for an external agency for training of PIOs/FAAs.
- Lack of motivation among pro RTI officials/PIOs/AAS.
- Poor measures for proactive disclosure of information.
- Clarity of roles between the state government and SIC. There should be a clearly defined strategy for effective implementation of the law.
- More SICs need to be appointed for speedy disposal of applications.
- Hearings through video conferencing should be initiated.
- It is the responsibility of the government that the proposed move to amend the RTI Act 2005 should not be to weaken it further.

### **Recommendations**

The issues that emerged from similar seminars organised during the first and third year of implementation of RTI Act still remain unresolved, therefore, the progress made in the level of effective implementation is not encouraging. Following recommendations have to be adopted by the policymakers, law implementers and other stakeholders to improve the situation:

- Awareness generation programmes for the common mass on RTI Act and the filing process should be initiated soon in the state.
- Intensive training programmes for PIOs/FAAs have to be conducted so that their response capacity can be enhanced.
- Appointment of more and more PIOs at block level and down the line has to be done in all the government departments.

- Monitoring mechanism to oversee the effective implementation of RTI Act, 2005 has to be established including CSO and Activists working for RTI in the state.
- SIC and state nodal department for RTI (Department of Administrative Reforms) has to be strengthened and infrastructure facilities have to be developed with funds and functionaries. More Information Commissioners have to be appointed so that disposal rate of the appeals can be improved and hearings should be done through video conferencing.
- Steps have to be taken for giving incentives to best performing PIOs/FAAs and RTI Activists.

**Outcome**

- A set of recommendations for effective implementation of RTI Act, 2005 in Rajasthan to be submitted to the government that can be strategised into action, permitting willingness on part of the government.
- The issue got ample media attention and coverage for creating awareness generation.
- Awareness generation on the RTI Act, 2005 among the participants.
- Commemorating the birth anniversary of RTI Act through the presence of PIOs, CSOs and officials of state nodal departments and SICs.
- PIOs and some of the CSOs representatives got an opportunity first time to know about the RTI Act.

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