

Study on Constraints Faced by RTI Activists in Telangana

Research Report
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“Knowledge will forever govern ignorance and people who mean to be their own governors must arm themselves with the power knowledge gives. A popular Government without popular information or the means of obtaining it, is but a prologue to a farce or tragedy or perhaps both “– James Madison

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List of Abbreviations

APIC	-	Andhra Pradesh Information Commission
APIO	-	Assistant Public Information Officer
BPL	-	Below Poverty Line
CBI	-	Central Bureau of Investigation
CIC	-	Central Information Commission
CSO	-	Civil Society Organisation
DCE	-	Department of Collegiate Education
DoPT	-	Department of Personnel and Training
DPAR-	-	Department of Personnel and Administrative Reforms
FAA	-	First Appellate Authority
FIR	-	First Information Report
FOI	-	Freedom of Information
HLC	-	High Level Committee
JD	-	Joint Director
IPO	-	Indian Postal Order
NAC	-	National Advisory Council
NGO	-	Non-Government Organisation
PIL	-	Public Interest Litigation
PIO	-	Public Information Officer
RTI	-	Right to Information
SIC	-	State Information Commission

1. Introduction

A number of Acts and Policies have been enacted by the policy making body of the Independent India, however, very few of them are key enablers towards strengthening the democracy or to affirm faith in the democracy. Right to Information Act (RTI) is the single most Act which has the potential to change the transparency levels in India, the benefits of which range from knowing how the system is currently working towards plugging the leakages in various welfare schemes.

Right to Information Act 2005 is aimed at transcending one step closer in proximity to the open society, where the State is highly transparent in nature and consequently progress towards strengthening the democracy. When citizens gain the knowledge of how the Government is functioning, it enables them to take a better judgment on its real time implementation.

Ironically, the Act whilst aimed at improving implementation of key Government policies suffers in the key implementation phase.

Right to Information Act, which is derived from Right to Life of the constitution of India, enables the Right to question.

The spirit of the Act is compromised under the following circumstances:

- If the information seeker believes that his/his family's personal safety is at risk.
- If the information seeker is harassed later.

- If the information seeker is not confident that he/she will be receiving the information sought.
- If the information obtained cannot be used in the court of law.

In lieu of media reports on abuse faced by RTI activists, this research is to study the constraints faced by activists while exposing cases of corruption. This study is undertaken to identify and elucidate the factors which discourage citizens to receive information or to file an RTI application in the first place.

There was lot of excitement amongst members of public when the act was introduced in 2005. The perception that this Act alone might be the solution to the corruption and lethargy of Indian Bureaucracy is slowly replaced by the cynicism. This view gains further ground, when the incidents of not receiving information, and incidents of abuse faced by the Information Seeker outnumber the success stories of the Act.

1.1. Evolution of Right to Information Act

Though the judiciary has expanded the scope of right to free speech to include the right to information, statutory guarantee was achieved by a movement involving members of the public. The real movement for right to information sprung from the grass roots level. A mass based organization called the Mazdoor Kisan Shakti Sanghatan (MKSS) took an initiative to lead the people in a very backward region of Rajasthan, Bhim Tehsil, to assert their right to information by asking for copies of bills, vouchers and names of personnel listed in the muster rolls on the construction of schools, dispensaries, small dams and community centres as having been paid wages. On paper, such development projects were all completed, but it was common knowledge of the villagers that there was gross

misappropriation of funds with roofless school buildings, dispensaries without walls, dams left incomplete, and community centres without any doors and windows, besides poor quality of cement/other construction material being used for construction.

After pursuing officials for years and confronting the usual apathy of the state government, the MKSS succeeded in getting photocopies of certain relevant documents. Misappropriation of funds was clearly obvious. In some cases, the muster rolls contained names of personnel who either did not exist at all or expired a few years ago. MKSS organized a “Jan Sunwai” (Peoples hearing), the first ever in the history of Rajasthan.

Politicians, administrators, landless labour and private contractors were all invited to listen, respond and if willing, to defend themselves. Popular response was phenomenal, whereas, understandably most Government officials and politicians stayed away and remained silent.

Between December 1994 and April 1995, several other public hearings were organized. People’s anger made one engineer of the state electricity board to return, in public, an amount of Rs. 15000 he had extracted from a poor farmer. Such event had never happened in the history of corruption, through the process. This movement spread fast to other areas of Rajasthan and to other states establishing firmly that information is power and people should have the right to official information pertaining to the issue of how the public money is spent and how the same is accounted for.

After years of struggle for the central legislation on right to information, the civil society groups emerged into the National Campaign for People’s Right to Information in 1996. Justice P.B.Sawant, then chairman of Press council of India and other prominent persons drafted a bill for NCPRI, which is known as Press Council draft. In response to Supreme

Court's directive, the National Democratic Alliance Government passed Freedom of Information Act, 2002 which was not effective and never notified.

The United Progressive Alliance Government's Common Minimum Program made a solemn pledge to provide a government that is corruption free, transparent and accountable at all times and to make the Right to Information Act "more progressive, participatory and meaningful".

The state in a democratic society has an obligation to disclose the information that is generated for the purpose of serving its people. There is no doubt that the entire information built in files of the state government office is for the people and that entitles the people to have an implied right to access that information. It is one of the cardinal principles of administration that the officers dealing with people should be transparent and information must be made accessible to the people. As the officers tend to believe themselves to be the masters of the people and forget the fact that they are supposed to serve the interests of the people, there is a need to declare that people have right to access the information confined by the officers.

The right to information as available under Act of 2005 is the result of favorable interpretation of legal regulation for people by judiciary, understanding of futility of secrecy regime, and fierce struggle of the people. The people fought for information, access to information and then for right to have the relevant information. The entire struggle will go in vain if people are discouraged to use the Right to Information Act.

RTI can be acclaimed as a citizen-centric and change oriented law in Indian administrative history. The Right to Information (RTI) Act enables the people and impacts the Indian

Administration with greater degree of transparency in functioning of public authorities; disclosure of information regarding government rules, regulations and decisions. Every public authority is mandated to maintain all records, duly catalogued and indexed methodologically. Information is the wealth of knowledge, which aids an individual to become strong and powerful. In a case where Information should be related to Government and Administration, the person becomes active in good governance and aids in ensuring the delivery of value against the effectiveness of governance. The RTI act empowers the people of India against administrative corruption, irregularities and irresponsive attitude of administrative machinery. The Right to Information promotes transparency and accountability in the working of every public authority. In other words, through this act, the citizens of India have been empowered to question, audit, review, examine and assess the government acts, policies and decisions to ensure consistency with the principle of public interest, good governance and justice.

Due to the perceived benefits of transparency and accountability, the number of RTI applications has annually multiplied by 8 to 10 times. There is thus a massive use of the right to information.

Under the RTI regime, there is an unprecedented transparency in the working of public departments. As a result, there is better understanding of the decision making process and greater accountability of government. This led to reduction in corruption in the country as evident from Transparency International which has consecutively reported in the last two years that perceived corruption in India (a score of 3.5 out of 10) has declined at the rate of about 15-20 per cent per year, due mainly to the implementation of the RTI Act.

The United Nations General Assembly, in its very first session in 1946, adopted Resolution 59(1), which states:

“Freedom of information is a fundamental human right and...the touchstone of all the freedoms to which the United Nations is consecrated”.

Article 19 of the “Universal Declaration of Human Rights” an UNGA (United Nations General Assembly) resolution 217 (III) A of 1948 recognizes Freedom of Expression, including Freedom of Information and Free Press as a Fundamental Human Right.

Article 19(2) of the “International Covenant on Civil and political Rights (ICCPR), an UNGA Resolution 2200 A (XXI) of 1966 states: “Everyone shall have the right to Freedom of Expression; (Which) shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally in writing or in print, in the form of art, or through any other media of his choice”.

Article I of the UN Educational, Scientific and Cultural Organization (UNESCO) declaration on “Fundamental Principles concerning Contribution of Mass Media to Strengthening Peace and International Understanding, a promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War’ (1978) states:

“The strengthening of peace and international understanding, the promotion of human rights and the countering of racism, apartheid, and incitement to war demand a free flow and a wider and better balanced dissemination of information”.

Article - II of the UNESCO Declaration states:

“The exercise of freedom of opinion, expression and information, recognized as integral part of human rights and fundamental freedoms, is vital factor in strengthening of peace and international understanding...”

Article 10 of the UN Convention against corruption states:

“...to combat corruption, each shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making process and take measures.”

“Freedom of expression and information has been adopted as a ‘Fundamental Human Right’ by Regional Human Right Treaties from time to time e.g. the European Convention of Human Rights, 1950, the African Charter on Human and People’s Rights, 1981, the Inter-American Declaration of Principles of Freedom of Expression, 2000 and Declaration of Expression in Africa, 2002. These conventions have reiterated Article 19 of the Universal Declaration of Human Rights”.

1.2. Importance of Right to Information Act

Information is a very vital element of any democracy. Right to information is a basic democratic requirement. A vibrant citizenry is a pre-requisite for survival of democratic society and good governance. It is not possible to have a rightful expression as a right without the right to information which is basis of freedom of speech. The quality of life in a civilized society depends on the quality of exchange of information pertaining to governance and other associated aspects. The struggle between human rights and government by

secrecy should not continue indefinitely. A citizen cannot afford to reconcile with the strong trend that government might run only on secrecy and human rights is a mirage. It is not possible for any democratic government to survive without accountability, which can be realized when the people have information about the functioning of the government and the efficiency of the governance. The whole effort must be to make democracy a really effective participatory democracy. The representative rulers should allow the real sovereigns, i.e., the people to decide, and the people have to decide or take part in every decision making process.

The universal declaration of human rights recognizes right to information as a human right. The right to information is now guaranteed as a fundamental right by the constitution of approximately 60 countries.

The constitution of India does not contain an explicit reference to the right to information. The constitution through article 19(1)(a) guarantees us the right to freedom of speech and expression. The Supreme Court has consistently recognized that freedom of information was part of freedom of expression guaranteed by the constitution.¹

1.3. Significance of the study

Right to Information Act is essential to the Indian democracy because, it is an act of vital importance, which can transform ordinary citizens to informed citizens and enable them make better decisions.

¹ For example: Bennett Coleman v. Union of India, AIR 1973 SC 60, People's union for civil liberties v. Union of India, 2004(2) SCC 476.

Right to Information Act, at the time of inception was perceived as ray of hope to question the administrators on various issues in the interest of greater benefit to the society. However, the Act is being diluted at various levels, by various administrative parties. The time is ripe to conduct a study to identify the factors discouraging Activists from accessing the required information from public office.

1.4. Scope of the Study

The aim of the study is to understand the constraints discouraging RTI activists of Telangana in filing RTI applications with the Public Authority and the factors amplifying the level of difficulty to receive the information, and use it for the welfare of the public at the following levels

1. Writing the RTI application
2. Filing the Application
3. Receiving the information
4. First appellant authority
5. Second appellant authority
6. Using the received information.

1.5. Methodology

The methodology adopted for this study is a combination of a questionnaire based survey and qualitative discussions. The research is conducted with the help of a questionnaire; the questions to aid in procuring the data, to analyze and to draw the conclusions. The data is collected from 50 RTI activists across Telangana, 5 per each district.

The districts included in the survey are:

1. Adilabad
2. Nizamabad
3. Karimnagar
4. Medak
5. Ranga Reddy
6. Warangal
7. Khammam
8. Mahaboobnagar
9. Nalgonda
10. Hyderabad

Note: At present, Telangana state has 31 districts. The above list includes the names of the districts at the time of the field research.

Defining RTI activist: A person who uses RTI for the greater public welfare is defined as RTI activist for the purpose of this study. Citizens who used RTI for personal use e.g., to solve issues of delayed entitlements, are not considered for this study

Interviewees were selected based on the list of Activists who approached APIC more than 3 times in the last two years, where the reason for filing the RTI application is for public welfare, along with the aid received from the NGOs at field level to identify the activists. Factors, such as, geographical location of the activist, educational status, area of activism and livelihood of the activist were considered to make the sample study maintain diversity.

Care is taken to include more open ended questions in the questionnaire, to ensure that, data collection is not limited to few well known constraints faced by RTI activists, but to gather additional information.

2. Constraints experienced at various levels

2.1 Writing RTI application

Having knowledge on the information sought will aid the Information Seeker to decide if RTI application is essential to procure the relevant information or, if the information is available on public domain or in the form 4.1.B manual. The knowledge of relevant Laws/Acts/Policies on the issues associated with the relevant departments and ministries, prior to writing RTI application will enable the seeker frame the questions with a high degree of precision.

14% of the respondents mentioned that they experienced difficulty in collecting basic information pertaining to the issue on which they intend to get information through RTI. In the discussions with the activists it is revealed that, in such situations, they approach senior activists to acquire more understanding about the problem, which includes, Laws/Acts/Policies related to the issue and history of the problem.

Experienced activists confess that, initially they had difficulty in finding the laws/acts pertaining to an issue, and filed RTI to know the same.

2. 2. Filing RTI Application

In this study it is identified that constraints in filing the application are multi-fold, from not accepting cash as fee to asking the applicant to get approval from Head of the Department. The following Pie-chart depicts major constraints faced by RTI activists in Telangana while filing RTI application.

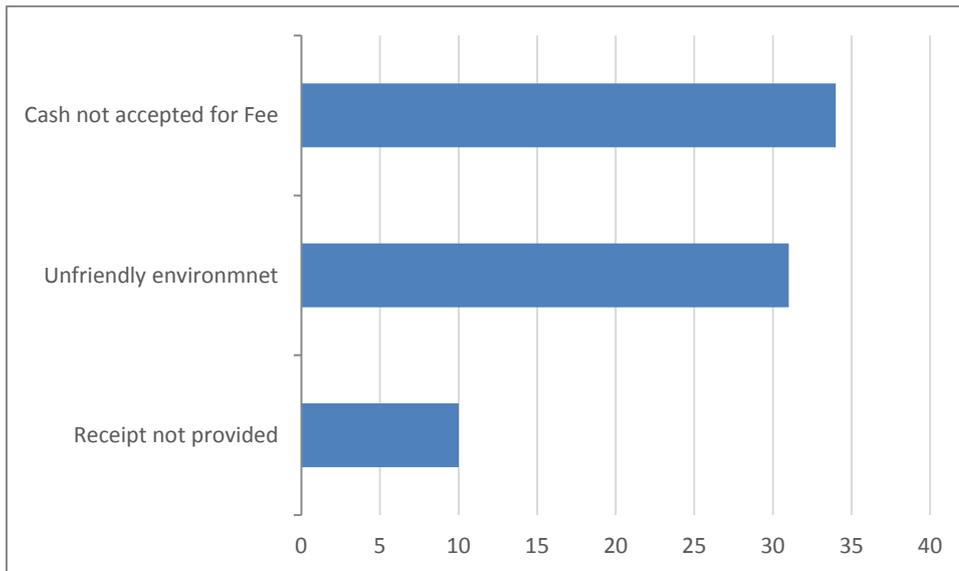


Chart 1: Constraints in Filing RTI Application

2.2.1 Fee

Cash is to be accepted as fee for RTI application but 68% of the Information seekers complained that cash is not accepted as fee at public offices. According to activists, most of the public information officers reject currency as fee. The seekers were asked to pay the fee in the form of Demand Draft. Mr. Naresh from Medak district shares his experience of an instance where he had to explain the Public Information Officer that currency notes are accepted form of fee and how in some cases the explanation quickly escalated into a heated argument with the PIO.

Activists informed that, most of the PIOs ask the applicant to pay fee in terms of DD / Cheque /IPO (Indian postal order).

Irrespective of the Demographic and geographic location, activists use Court Fee stamps, colloquially referred to as “Tickets”. Two reasons identified for this practice is that they do not

have to pay commission as in the case of IPO or DD and Court Fee stamps can easily be procured at Courts of Law.

2.2.2 Acknowledgement

Acknowledgement plays an important role as it is used as proof that the seeker filed RTI application, while approaching FAA and Information Commission. According to Activists, very few Public Offices maintain acknowledgement slips for RTI. Many Government offices take RTI applications in inward section and provide receipts to applicants.

The usual practice is that the seeker approaches the PIO with application and photocopy of it. The PIO signs with date on the photocopy of the application, which can be used as acknowledgement that the RTI application is received by the PIO. Absence of PIO or APIO at their respective desks results in the seeker waiting for the concerned authority or in postponing the filing process to another day so that they can receive acknowledgment from PIO. 21% of the activists told that they had to go to Public Office next day because the PIO is not available at office.

15% of the respondents complained that there were incidents where they waited at PIO to receive acknowledgement, as PIO is busy with non-RTI work.

Activists of Rangareddy and Hyderabad mentioned that to avoid such issues, they resort to filing an application via Register Post. This method is suggested by all the senior activists across Telangana as the acknowledgement slip the Registered Post by postal department is accepted as acknowledgment to the RTI application by FAA and Information Commission.

2.2.3 Postal address of the Public Office

Activists complain that, it is reasonably difficult to find the postal address of the public office which holds the information, especially in urban areas. Either activists have to approach the office physically or send the application by registered post. When official website of the concerned Ministry or Department doesn't publish the list of PIOs and APIOs and addresses, seekers send the RTI application to the address mentioned in "Contact Us" tab of the website, which usually is the ministry's headquarters in the capital city. The application then gets transferred to the lower level public office which holds the information. The intimation letter to the seeker regarding the transfer of the application from higher to lower office is the only way applicant can learn about the postal address of the local public office holding the information. Activists based at rural localities file the application to Collector of the District in such situation, the collectorate in turn sends the application to the concerned office with a copy sent to the applicant.

30% of the respondents informed that, they faced difficulty in finding the postal address of the Public Office.

2.2.4 Need for Information is often questioned

According to RTI Act 2005, the information seeker need not specify the reasons for seeking the information unless in the case of requesting for 3rd party information. However, as per interviewees, the PIOs, in most cases, verbally ask the seeker to specify the reasons.

20% activists complained that, often, such questions lead to heated discussions. To avoid the verbal question, activists prefer to send the applications via Registered post, even though the office is in closer proximity. During the post-interview informal discussion, activists from Nizamabad revealed that, they don't specify the phone numbers in the

applications, as they will have to face the question on motivation to file RTI application over phone from PIOs.

2.2.5 Approval from the higher officials

It is observed that, PIOs follow the practice of asking the Information Seeker to get approval from the higher officials which is the FAA, to accept the RTI application. Often, the FAA is a senior officer working from District Headquarters, this practice poised to be a hurdle for the Information Seekers from Villages. 6 % of the respondents faced this constraint at various Public Offices.

2.2.6 Behaviour of PIO

The below pie graph gives the status of cooperativeness of PIO towards the Information seekers.

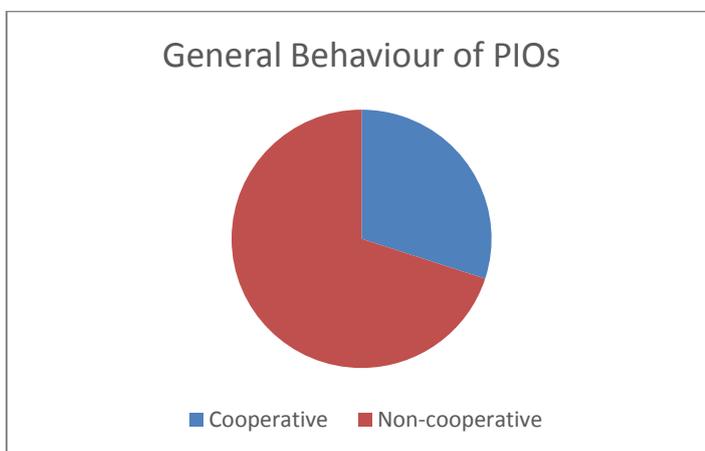


Chart 2: General Behavior of PIOs to Applicants

70% of the respondents complained that the General Behavior of Public Information Officers is discouraging.

2. 3. Constraints while receiving information

The following pie diagram depicts the major constraints faced by activists while receiving information.

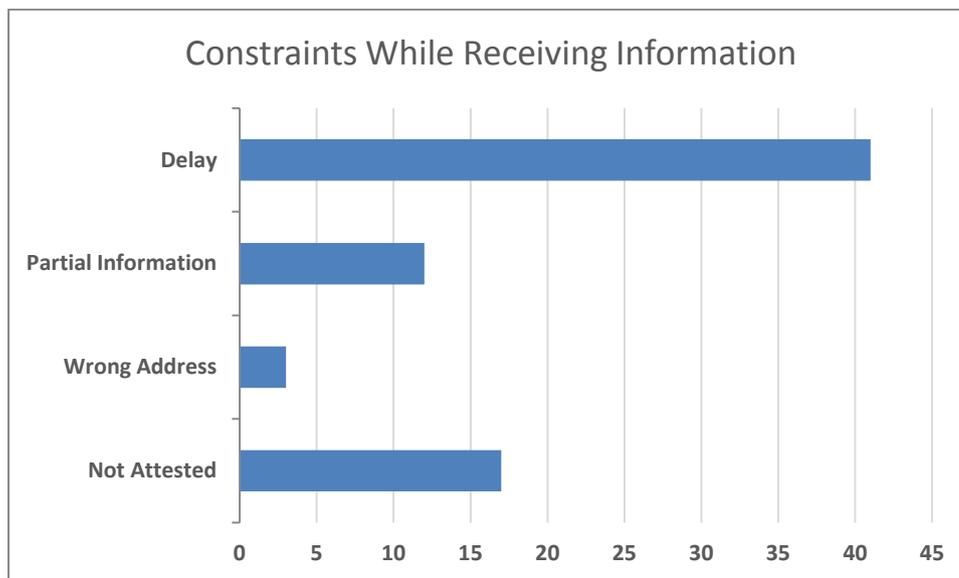


Chart 3: Constrains While Receiving Information

2.3.1 No response from PIO

100% of the respondents experienced the problem of not receiving information / grounds on which the application is rejected from the Public Information Officer. Respondents of Karimnagar, Rangareddy and Nalgonda districts revealed that the probability of not receiving any reply for RTI application filed to the Police Department is high. While their counterparts from Warangal appreciated police department for prompt replies.

2.3.2 Delay in Receiving the Information

Delay in receiving the information is another constraint faced by all the activists across Telangana. 82% of respondents complained that the delay in receiving information is affecting their social activism. 18% of respondents informed that, the time lapse in receiving the information is not an obstacle as long as information received is complete.

2.3.3 Receiving Partial Information

Receiving partial or incomplete information raises a different problem at the FAA and Second Appeal levels i.e. Activists complain that, the FAA and second appellate authority do not focus on the cases of partial information in satisfactory way.

In the words of Mr. Srinivasa Rao, from Hyderabad, the FAA or Information Commissioner do not allocate much time at the time of hearing and the moment PIO says he/she furnished the information and the seeker says he/she received it, the case will be closed without checking if the information is received in full or not.

24% of activists complained of receiving partial or incomplete information. This constraint is observed at both State and Central Information Commissions.

2.3.4 Receiving Information without Attestation

Circulars from the competent authorities and requests from the information seekers failed in encouraging the Public Information Officers to furnish the information with attestation. Without attestation, the information holds no value in court of law or similar institutions for grievance redressal, as attestation gives the authenticity that the information received is from a Public Office. 34% of the activists interviewed expressed that they have received

information without attestation, which can be used only for the purpose of analysis or for publishing in media..

Mr. Chinta Krishna from Nalgonda district shared his experience on how the authorities at Revenue divisional office refused take a complaint based on the information received through RTI, due to the lack of attestation. Mr. Chinta Krishna, convinced the officer with the help of Postal Envelope in which he received the information that the information is supplied by the Government authorities.

2.3.5 Information received in Non- Native Language

42% of the respondents complained that the information received is in English, though they specifically requested for the information to be provided in Telugu which is the local language of Telangana.

The archaic language used by the PIO to send the information is posing a problem in understanding the information received. Mr. Bapu, activist from Karimnagar says that he goes to a lawyer to decode the information supplied in high sounding words. Not receiving information in a language which is understandable to the seeker mitigates its purpose.

2.3.6 Information Sent to incorrect address

Two activists from Adilabad District and one from Nalgonda District complained that the information was sent to incorrect address. When they have approached the FAA assuming that the PIO didn't respond, the PIO who attended the hearing at FAA showed them the acknowledgements of Registered posts only to realize that the address was incorrect.

2.4. Constraints at FAA

First Appellate Authority is the primary conflict resolution centre between PIO and Information seeker. FAA has the authority to conduct hearing between PIO and applicant for the speedy supply of information to the applicant. RTI activists across the state opined that FAA has become ineffectual. Few activists reveal that, they file complaint to FAA only to comply with the procedure and their real hopes are only with Information Commission alone.

Senior activist Mr. Sidiq from Warangal district of the opinion that, caseload at Information Commission will be reduced, if the office of FAA functions efficiently.

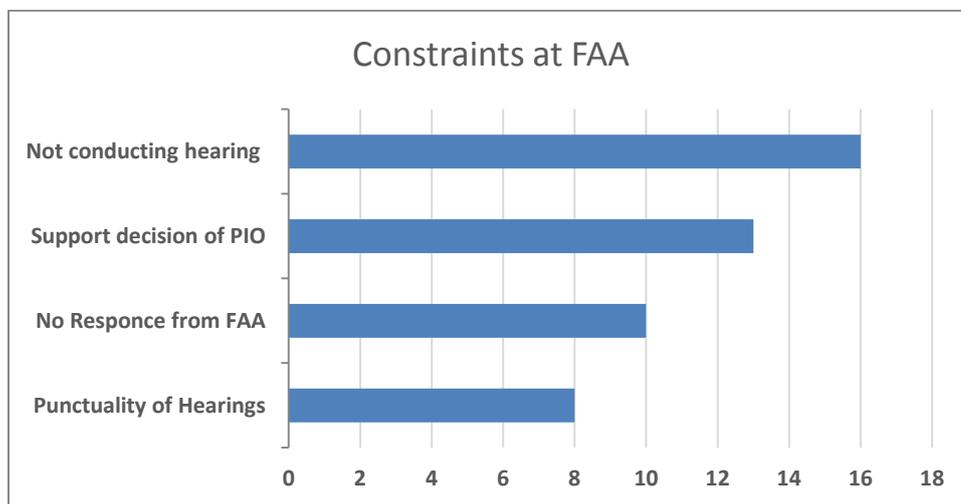


Chart 4: Constraints faced by Information Seekers at FAA

2.4.1 Absence of Hearing procedure at FAA

If the hearing procedures are not adhered to, at the FAA level, it may result in large number of second appeals and complaints filed at Information Commission. Activists of Rangareddy District and Medak District complained that, though they receive notice from FAA to attend the hearings, often the hearings were postponed by FAA, indicating the low priority given by public servants to RTI matters.

32% of the respondents complained that hearing was not held at FAA level.

2.4.2 FAA Endorsing Decision of PIO

26% of respondents complained that , the First Appellate authority endorse the decision of PIO with respect to furnishing information, and giving less priority to the argument of the Information Seeker.

2.4.3 FAA Not Responding

Non Functioning of the FAA is an obstacle in the process of receiving information. Senior Activists of Karimnagar say, they bypass the FAA and go for complaint (Section 19(1) of RTI Act) discarding the option of second appeal to the Information Commission.

20% of respondents complained that the FAA does not respond to the requests for First Appeals.

2.4.4 Hearings not conducted on Time at FAA

Similar as in the case of PIO , as the FAA is not a separate designation, but a duty attached to the officer of higher rank than PIO, the designated officer tend to fail in performing his duties as the FAA due to other pressing issues demanding his attention. It becomes a constraint to the seeker in receiving the information. It adds to the existing problem to the residents of other districts when the FAA is situated in the capital city i.e., Hyderabad.

In the case of Mr. Thakur from Hyderabad, he was asked attend hearing at FAA in Medak district, however, the hearing was postponed thrice, because the FAA had to divert his attention to other issues. Mr. Thakur, fed up, stopped pursuing the case. He revealed that, he is currently waiting for a new FAA or PIO to be appointed in the department with the hope that new officers in charge might respond better.

2.5. Constraints at Information Commission

The primary purpose of information commission is to undertake second appeals and complaints from the information seekers. The standard procedure of Information commission is to conduct the hearing and deliver orders which are to be aimed to keep the spirit the RTI alive.

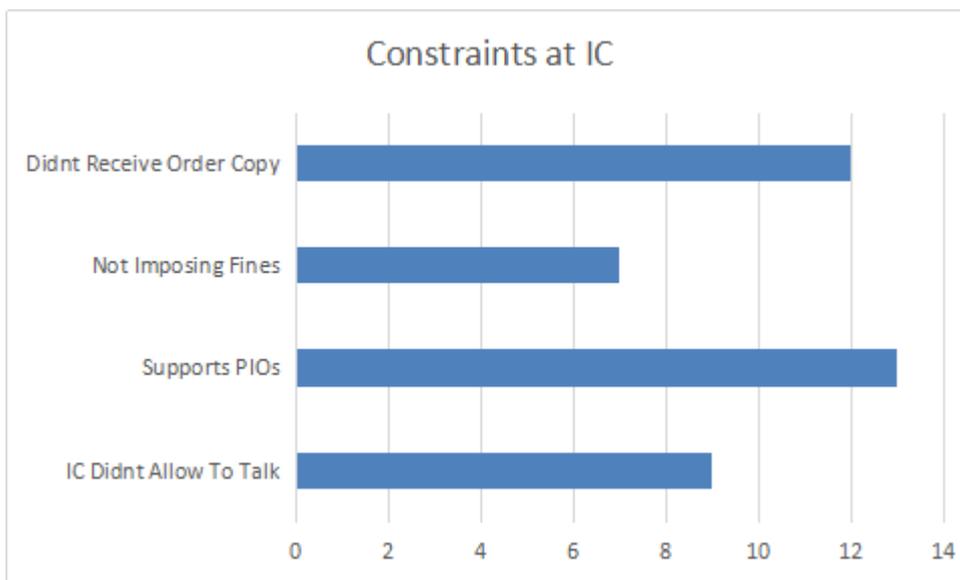


Chart 5: Constraints faced at Information Commission

2.5.1 Non-imposition of Penalties

According to RTI Act 2005, Information commissions are bestowed with the authority to send show cause notices to the Public Information Officers, who partially or fully failed in performing their duties and impose a penalty on such officers as prescribed in the RTI Act.

32% of activists felt that, the commission is not strictly imposing penalties to the PIOs who failed to provide information on time. The activists who work at Village level and Block Level issues, mentioned that, imposition of penalties will improve the responsiveness of PIOs and lack of penalties are resulting in diminishing apprehensiveness towards RTI matters.

Mr. Veerabadhra Rao, activist from Warangal district opined that, the fear of penalty among officials is diminishing as Information commission is lenient in penalizing and making sure that the penalty is imposed. According to him, this practice of Information commission is diluting RTI. "When PIOs don't fear IC, quality and quantity of information supply to the general public will be compromised."

2.5.2 Information not received after IC direction

Senior activists Mr. Thakur, Mr. Bapu and Mr. Veerabadhra Rao opined that, the complaint or second appeal made at IC should be closed only after the acknowledgment from the Information seeker that sought information is received.

Mr. Bapu from Kariminagar District, had to file a RTI to APIC receive a copy of order, so that he can remind the PIO to provide the information.

16% of the respondents complained that, even after the directions from Information Commission to the PIOs to provide information, they have not received any.

2.5.3 Behaviour of Information Commissioners

22% of the Activists complained that the Behaviour of Information Commissioners is not cordial. Activists felt that Information Commissioners are not giving enough time to explain their argument at hearing. One Activist from Nizamabad shared the humiliation when the Information Commissioner asked him to get out of the room.

Mr. Deepala Suresh, a Green- Activist from Hyderabad, shared his experience with CIC, where the commissioner is not patient to listen to his appeal. He felt, travel and lodging

expenses to the Delhi become fruitless along with the time and effort he put on the issue. He complained that he had to start from beginning i.e filing RTI application, hoping that a new PIO appointed will furnish the information.

It is observed that, in the informal discussions, many activists complained of one particular State Information Commissioner from APIC, that the Commissioner is impatient in listening to the Information seeker.

3. Abuse

3.1 Timing of Abuse

Based on time of abuse, abuse faced by RTI activists can be categorised into two.

1. Incidents of abuse after receiving the information
2. Incidents of abuse happening after filing application to the Public information officer and prior to receiving information.

Senior activists opined that, the second category of abuse has far higher potential to diminish the spirit of RTI in general public and can cause substantial damage to idea of democracy.

3.2. Types of Abuse

Abuse faced by activists is of many forms. It ranges from leering to personal safety. The abuse faced by activists can be broadly divided into following categories.

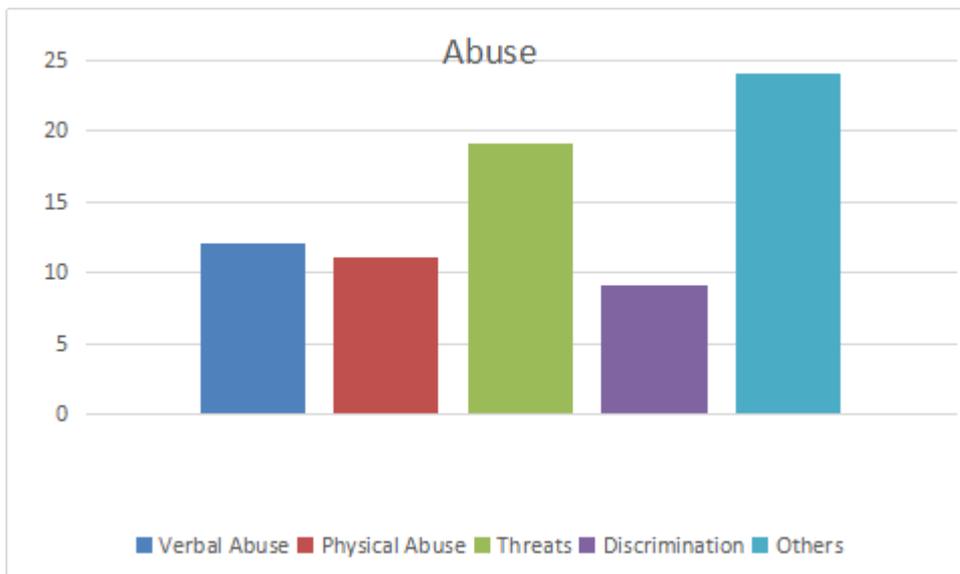


Chart 6: Abuse faced by Information Seekers

In the data analysis it is identified that there is no perceivable connection between abuse and area of domicile, and abuse and type of activism the activist is involved.

3.3 Threats & Verbal Abuse

Threats have been received both in direct and indirect fashion from state and non-state factors by the Activists.

Mr. Vakiti Madhubabu from Rangareddy shared his experience when the PIO called him and told him that the requested information is with road contractors and that the PIO is going to send notices to those contractors asking them furnish the information as Mr. Madhubabu has sought it. This can be considered as indirect threat. 38% of the activists told that they have received threats & verbal abuse.

3.4 Physical Abuse

Physical attacks on activists are rare but not unheard of. An activist, Mr. Satyanarayana from Khammam district was murdered for his perseverance in using RTI to save forest land from encroachment. He was killed and the body was dumped on the road, to make it look like an accident, however police caught the culprits.

Interviewed activists inform that, the physical abuse is endeavored only by non-state factors. The physical abuse follows verbal abuse and threat. The physical abuse ranges from holding the shirt collar as an indication of threat to hurting the activist physically.

Mr. Jitender from Rangareddy district was physically abused when he was working against the encroachment of a lake at Attapur, Hyderabad. Mr. Rajkumar Singh, who is with SOUL (Save Our Urban Lakes) had similar experience when he exposed the scam in Revenue

Department. Mr. Laxman from Karimnagar, had to take police protection, when he exposed Rs. 400 Cr scam regarding crop compensation.

Senior activists like Mr. Venkateswarlu from Kareemnagar, who work for Loksatta organisation, trained and guided many activists, opined that any kind of issue related to Revenue department is tricky and risky.

22% of the total interviewed activists revealed that they have faced incidents of physical abuse.

3.5 Other forms of Abuse

While incidents of physical abuse and threats are severe in nature, other forms of abuse faced by activists cannot be neglected.

3.5.1 Sociological

Sociological abuse is not considered as actual abuse; however, it discourages the activists to pursue the solution to the problems of community. Sociological abuse can range from officials sneering at the activists, mocking them with words such as “Here comes the RTI activist, who is going to transform India”, to character assassination of the activist. Leering RTI activists is quite a common form of abuse.

The story of Mr. Venkatesh from Warangal is peculiar in nature. After he started working on the encroachment of the school land, a rumour in his village is spread blaming Mr. Venkatesh for the cancellation of PDS cards to underserved persons. Each time, a public work is halted for any reason, the blame goes to Mr. Venkatesh and Right to Information Act.

As more rumours spread, general antagonism against Mr. Venkatesh grew and he decided to move to Hyderabad.

Mr. Chinta Krishna from Nalgonda district, faced a peculiar problem, when all anganwadi teachers in the Block, came to his home at 6 AM and waited for him to request him to withdraw the RTI application he filed. 66% of the activists complained of various forms of discrimination.

3.5.2 Registration of False cases against Activists

Threatening RTI activists with SC/ST atrocities act is also noted. 12% of the activists complained they are currently facing false cases for seeking information or for publishing the information received through RTI. Mr. Vakiti Madhubabu, activist from Rangareddy district, mentioned that his birth in Schedule caste is shielding him from such false cases.

4. Specific Case studies

The following case studies of two activists are undertaken to provide snapshot of constraints and issues faced by RTI Activists.

4.1 Case of Mr. Satyanarayana

Late Mr. Satyanarayana, an activist from Rajupet, Khammam district was brutally murdered, for his fight against encroachment of lakes and forest land using RTI. When contacted the family members over the issue, they have revealed that, Late Mr. Satyanarayana who was associated with Bharatiya Janata Party, was working relentlessly over the local issues, including encroachment of lake and forest of the district. He used RTI to receive the information on boundaries of lakes and forest land, with which he filed cases against the encroachers.

He was called out by the people known to him, took him in a car, killed him and discarded the body at a road curve to make it appear like an accident. However police caught the culprits, and the case is still pending in court of law.

When contacted the villagers for fact finding, they have vouched on the good character of Mr. Satyanarayana, and praised him for trying to solve local issues using various means including RTI.

4.2 Mr. Venkatesh : Activism made him an outcast

Mr. Venkatesh is young activist from Warangal District. He had a dream is to improve conditions of his village. Mr. Venkatesh resorted to Right to Information Act, when he needed information regarding boundaries of a school area which is being encroached.

He became famous and notorious for using RTI for his activism. Rumours were spread that the road work halted because he filed RTI, and white ration cards being cancelled because of him in the village. He faced verbal abuse and had moved to Hyderabad for his personal safety.

5. Hitherto Work Done

Following steps were taken by State regarding the abuse of RTI activists.

1. Information commission considers the requests from the activists who need protection for personal safety and forward the request to the police department.

As per the information collected from Andhra Pradesh Information Commission, 19 such cases from Telangana were reported to the APIC in the year 2015.

2. District Collector orders police department to provide security if the activist made his case before him.

3. National Crime Records Bureau issued a circular to all states asking for information attacks on RTI/Social Activists.

4. India is part of the UN General assembly which adopted the resolution on “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”. The resolution in short is referred to as “The Declaration on Human Rights Defenders”.

5. Central Information Commission has resolved “that if it receives a complaint regarding assault or murder of an information seeker, it will examine the pending RTI applications of the victim and order the concerned Department(s) to publish the requested information suo motu on their website as per the provisions of law.”²

² Minutes of the meeting of Commission held on 13.9.2011

6. Observations

Following are the observations made in the post-interview discussion with the RTI activists across Telangana.

1. The abuse / threats faced by activist is inversely proportional to his popularity. Senior activists shared their personal experience that, once they are established as RTI activists in the society working for public causes, there is positive change in the general behaviour of government employees towards them. Similar pattern is observed for the activists with Media background and members associated with Loksatta organisation.

2. It is observed that PIOs forward the request to lower sections and ask them to send the requested information to the seeker. The seeker might not get the information from all the lower sections, and cannot proceed with issue he is working on. To elaborate with an example, if a seeker intends to know the tax collected at Block level, his request will be forwarded to all the Village Revenue Officers of the block. Each village revenue officer need to draft the reply and send it to the seeker. The seeker who will receive information in one post if Block level PIO has collected the information from Village revenue officers and send it to him, will now receive posts from all the village revenue officers of the Block, and, there is also a high probability that, he may not receive any information from some of the villages. If the seeker wishes to go for the First appeal or Second appeal, it's the block level PIO who has to attend the hearing.

1. There were incidents where registered posts were not received by PIOs.

2. There is a general belief that it's futile to approach First Appellate authority. Activists from Mahaboobnagar, Nalgonda and warangal revealed in informal discussions, that they prefer approaching Information Commission if the information is not supplied by PIO, instead of wasting few more months by complaining and waiting for the response from FAA.

3. As information is only a tool in advocating the cause, the sought information must be used for the public welfare. In the field study it is observed that, except senior activists and activists who studied law, awareness on how to use the received information is low. For many activists are relying on media to expose the findings from the received information and complain to higher officials, the other ways to take the advocacy forward to bodies like Lokayukta or to court of law is very low.

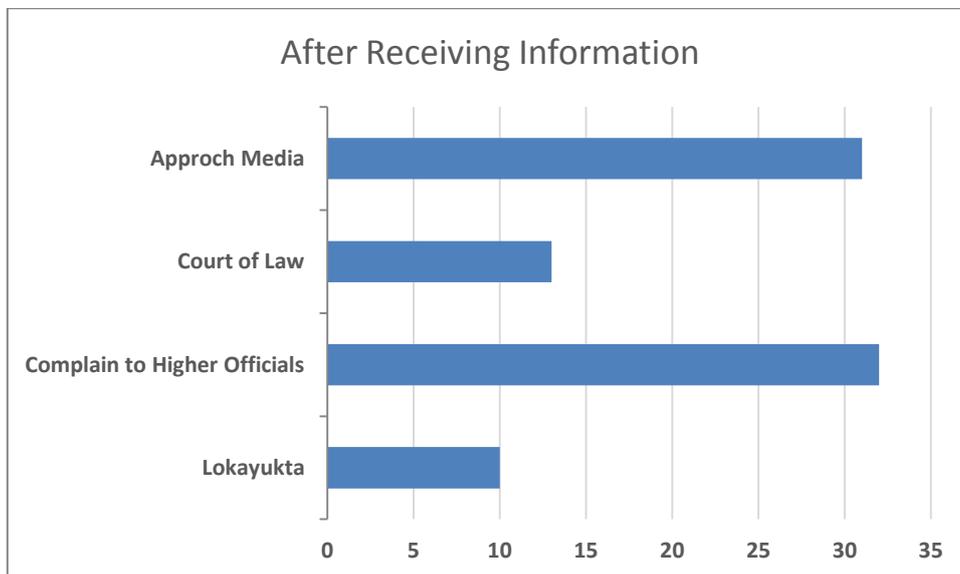


Chart 7: Approaches in using the received Information

4. Activists involving in any kind of activism pertaining to the areas of education, corruption , rural development etc faced abuse / threats when the issue they are dealing with, is related to land records.

7. Gender Concerns

The participation of women in RTI process, especially as applicants, has been minimal across all over the nation and Telangana reflected the same. Researcher failed to find a female RTI activist who is willing to provide the information for study. Though there is evidence of women filing RTI related to personal matters. Since, they don't fall under the definition of RTI activist for the purpose of this study; information from them has not been collected.

Ms. Vasundhara, resource person for the Government officials in the Nizamabad for the training on Right to Information Act, opined that, the gender disparity among RTI activists can be attributed to the patriarchal society and various other political and cultural factors. Right to information Assessment and Analysis Group (RAAG) and National Campaign for People's Right to Information (NCPRI) conducted a study of RTI for the period 2011-13, which found that the national average of women as applicants is only 8%. Many reasons can be attributed to for this gender imbalance, but there is no scientific understanding of why fewer women file RTI applications. If RTI is a means of empowerment, then there should be a special focus on ensuring that women are aware of the RTI Act and are able to use it.

Smt. Lam Tantiya Kumari, state Information commissioner in Andhra Pradesh Information Commission, expressed her concern regarding the gender imbalance and told that the women should make use of this Right for empowerment.

8. Recommendations

1. Except the information, which cannot be provided according to the Act, all other information should be made available online. As the public information and private information are tentatively demarcated, and the information which is exempted from providing to the general public, the scope of 4.1(B) of the Right to Information Act , which concerns with proactive disclosure should be extended. This enables the activists to have the information in the public domain, without the need to apply. This move can bring down the workload on Public Information Officers.
2. RTI act should be amended so that along with individuals, organisations and companies should also be allowed to seek information. This will hide the personal details of the seeker, making it hard for state or non-state factors to apply measures to discourage him from seeking the information.
3. The Act should be amended such that, details of the information seeker should be retained as confidential information and must not be disclosed. Provisions in the act should be changed in such way to make the information seekers personal details confidential. This will ensure the privacy of the seeker till he decides to use the information for public good.

“The RTI law doesn’t provide that the name of the applicant should not be disclosed by the public authority. As soon as such an application is filed, the identity of the person gets disclosed to those whose interest may get harmed if the information is disclosed,” said Ventakesh Nayak of the Commonwealth Human Rights Initiative, a Delhi-based advocacy group that has collated data on RTI victims.

4. Circulars must be released to make inward section accept the RTI applications without questioning the motive to seek the information.

Non uniformity in the knowledge of Public Information Officers and other Assistant Public Information Officers regarding Right to Information Act is building obstacles in the process of seeking the information. Circulars must be issued to avoid such administrative hurdles due to lack of knowledge on the act.

5. Instead of retired bureaucrats, retired judges must be appointed as information commissioners.

Senior Activists complained that, some of the Information Commissioners who are retired bureaucrats are continuing the legacy of Officials Secret Act and are lenient towards officials.

6. High priority should be given to digitization of Information and paper less offices.

Some studies also found that the delay in supplying the sought information is mainly due to the ordeal of searching the information, especially when the information sought is of previous years. Speedy Digitization of records can be the solution to this problem.

7. Periodical Analysis must be done on Information sought by seekers at department level and highly sought information should be made available online.

Periodic analysis should take place on the information sought at Department level, and administrative measures need to be taken to make highly sought information readily available for disclosure.

8. Instead of each commissioner attached to a particular sector, cases must be lined up in a queue for speedy disposal.

Right to Information Act, 2005 is not specific on the topics of how the workload to be shared among the Information commissioners. The practice followed at Andhra Pradesh Information Commission is to allot Departments to each commissioner to deal with the cases. This practice is leading to the situation where the number of cases dealt by commissioners is uneven for a given period of time. For the speedy disposal of cases, cases must be lined up in queue at Information Commission.

9. Open data policy must be followed regarding public data. Periodic Data sets should be released by the Departments in XLS or CSV format, which will reduce the number of RTI applications received at departmental level.

10. PIO must collect the information from the department instead of forwarding the request for the information to lower sections.

According to the Act, the PIO should forward the request for information, to the office which holds the information. However, in reality, it is evolving as a constraint for the information seeker to receive the full information he sought. For example, if an activist, wishes to collect the number of schools operating in all the villages of a district. He or she will file RTI application to the district education office and

expects the reply from the same office. The district office forwards the application to block level concerned office, and in return it gets forwarded to the village level.

The Act should be amended, restricting the transfer of application only in the case where the information sought is not concerned with the department. The duty of the PIO should be collecting and drafting the sought information and send it to the seeker.

11. A Database Management System needs to be employed at each public office which can improvise the records keeping process.

12. The post of Public Information Officer should be an independent post. Instead of having the PIO role attached to an officer with a designation, the PIO designation should be independent, limiting its functions to Right to Information Act only.

13. RTI cell is to be established at District level which collects the applications and furnish the information.

District level RTI cell should be established, which collects the information from the public offices of the district and send the information to the seeker. This will eliminate the constraint of not knowing the postal address of the public office which holds the information the information seeker is looking for.

9. Conclusion

Right to Information Act has the ability to turn an ordinary citizen to CAG. The success stories of RTI across India reveals the same.

However, apathy, negligence and lack of awareness at various levels are the hurdles the Act is facing from reaching its full potential in empowering citizens. While the Act is proving its strength in solving problems of citizens in case of delay in services, it appears that corruption and the nexus between bureaucracy and non-state factors has become the bottleneck in receiving the information for the welfare of public.

RTI is to help democracy which will allow the citizens to take informed decisions. If the abuse on activists continues to happen, there is a high probability that citizens may lose faith in it, which in turn will weaken the faith in political system of India. Implicit in the fundamental right to freedom of speech and expression guaranteed under Article 19 of the Constitution of India, was the right to receive information without which it was not possible to develop and express a well-considered opinion in any matter.

Research has shown a strong correlation of transparency and existence of freedom of information laws and frequent publication of Government economic data with quality of governance. Transparency is also associated with lower levels of corruption, better socio-economic and human development indicators and greater economic competitiveness. On a more specific level, there is growing evidence that transparency in budget is associated with better governance standards and improved economic and social customs. Opening union budget processes to civil society

engagement can promote improvements in budget accountability and the effectiveness of pro-poor expenditures. A recent study of budget focus organizations in six countries Brazil, Croatia, India, Mexico, South Africa and Uganda – has shown that civil society engagement in the budgeting process had a direct impact on improving the quality of the budget system, pro-poor allocation, and the quality of expenditures.

If people were to be discouraged to use RTI, then the dream of corruption free Nation, where people are actively participating in the democracy for the betterment of the society becomes more distanced.

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Questionnaire

Questionnaire for Research

This questionnaire is for the research " Constraints faced by RTI activists In Telangana" , funded by Department of Personal Training.

***Required**

1. Name of the respondent *

2. Gender *

Mark only one oval.

Male

Female

Transgender

3. Age

4.Reservation category

Mark only one oval.

OC

BC

SC

ST

5. Location of the interview *

6. Applications filed to ?

Tick all that apply.

Central Government

State Government

Mandal level

Other:

7. Areas of interest (Education , corruption , rural development etc)

8. For how many years you have been using RTI

9. Please list the issues faced when visiting a public office, to submit RTI or to check files .

10. How many applications filed so far (exact number not required)

11. How RTI is helping you in the activism

12. If you had received any of the following regarding RTI

Tick all that apply.

verbal abuse

Physical Abuse

Discrimination

Threats

others

13. Please elaborate your answer to above question

14. Have you received positive response from FAA if PIO did not furnish the information?

Mark only one oval.

Yes

No

15. Are you satisfied with the General behavior of PIOs ?

Mark only one oval.

Yes

No

16. Please be specific if the answer to above question is "No"

17. Are you associated with ...

Tick all that apply.

NGO

political party

18. Source of income *

19. Do you see any change in power equation between citizen and government after RTI?

Mark only one oval.

YES

NO

Can't say

20. Please elaborate your answer to above question

21. Do you know people who use RTI for financial gains? Please provide details.

22. How you were introduced to RTI?

23. How do you proceed after getting information from the public authority.

24. What is your observation on RTI awareness in your area. Please specify reasons .

25. Constraints regarding collecting basic information to file RTI

26. Constraints faced while filing RTI application

27. Constraints faced while receiving the information.

28. Constraints faced at first appellate authority.

29. Provide your experience with Information commission.

30. Do you think there is a need for a supportive Govt policy for RTI , to reduce the issues faced by citizens ?

31. Your suggestions to improve RTI act.

32. District of residence *

Mark only one oval.

Adilabad

Nizamabad

Medak

Kareemnagar

Mahaboobnagar

Warangal

Nalgonda

Khammam

RangaReddy

Hyderabad

33. Phone number

34. Email ID