

*Accessing Information under RTI:
Citizens' Experiences in Ten States - 2008*

“© PRIA 2008.

All contents of this publication are the sole and exclusive property of PRIA and may be treated as such. Any reproduction, publication, adaptation, translation, modification, extraction, import or export of the whole or any part of this work, without the express written consent of PRIA shall be deemed to be an infringement of its copyright. Such act(s) may be subject to the imposition of severe civil, criminal and/or other liabilities under applicable law.”

First published by PRIA in September 2008

"This publication has been brought out under the present PRIA programme entitled "Governance Where People Matter" which is supported by Cordaid, dvv international, Institute of Development Studies, SDC and Sida. Publication of this document has been supported by dvv international."

Published by:



42, Tughlakabad Institutional Area,
New Delhi - 110 062
Tel.: +91-11-2996 0931/32/33
Fax: +91-11-2995 5183
E-mail: info@pria.org Website: www.pria.org

Contents

S.NO.		Page No.
	Acknowledgements	4
	Executive Summary	5-10
	Introduction	11-14
Section 1	Methodology	15
1.1	Rationale	16
1.2	Objective and Research Questions	16
1.3	Selection of Sample	17-19
1.4	Limitations	20
Section 2	Seeking Information from Government Departments	21-24
2.1	Availability of directory of Public Information Officers	25
2.2	Suo motu disclosure in Public Authorities	26-30
2.3	Rate of Application and Additional Fees	31-32
2.4	Mode of Payments	33-35
2.5	Restrictive RTI Rules	36-37
2.6	Success in getting Information	38-42
2.7	Non-cooperative PIOs	43-46
2.8	Citizens Priority of Departments in Seeking Information	47-49
Section 3	Response of the Appellate Authorities (First Appellate Authorities and State Information Commissions)	50-52
3.1	Response of the First Appellate Authorities	53-54
3.2	Response of State Information Commissions	55
Section 4	Evaluation of Performance of State Information Commissions	56-57
4.1	Disposal of Appeals and Complaints by State Information Commissions	58-64
4.2	Composition of State Information Commissions	64-66
4.3	Non-transparent and Expensive Information Commissions	67-69
4.4	No Support from the State Governments	70-71
Section 5	Conclusions and Recommendations	72
	List of Acronyms	76
	List of Tables	77
	List of Figures	78
	List of Boxes	79
	References	80

Acknowledgements

The Right to Information Act has the clear mandate of creating a climate of all round transparency and accountability in governance. The crux of the Act is to create an information dispensation regime in which information can be accessed by any citizen in an affordable and convenient manner. It is important to regularly assess the implementation of the RTI Act in the country in order to identify the bottlenecks and do advocacy for corrective action. PRIA through this study has tried to gather experiences from the grass roots in the ten states and suggested some recommendations.

This study could not have been possible without the dynamic inspiration of our President, Dr. Rajesh Tandon. No less important was the guidance of Dr. S. S. Srivastava who has provided help in designing the

methodology for the study. Thanks are due to my supervisor, Mr. Harsh Jaitli for his active encouragement.

We are thankful to by Sahbhagi Shikshan Kendra (SSK), Luck now; Samarthan (Madhya Pradesh); Unnati and Gujarat Mahiti Adhikar Pahel (Gujarat); SAHAYI (Kerala); Himalayan Action Research Centre (HARC), Uttarakhand, SAAD (Bihar); Young India, The Humanity (Orissa) and RTI personnel in PRIA for collection of data from the grassroots. Thanks are also due to Jun Research Logistics Development Consultant Limited for data entry and data tabulation, Ms. Madhuri Lamba for carefully editing the study, Mr. Pradeep Sharma and other PRIA staff for logistical support.

Vikas Jha
Right to Information Unit,
Society for Participatory Research in
Asia, New Delhi.

Executive Summary

The Right to Information Act (RTI) 2005 came into effect on 12th October 2005. In India, the implementation of the RTI Act is quite irregular across the states. Some states have taken initiatives to facilitate easier access to information, while in a large number of states citizens are still not provided information on time. The overall implementation of RTI in the country has been slow and tardy. Hence, the need was felt to assess the progress of RTI in selected states. For this purpose, PRIA (Society for Participatory Research in Asia, New Delhi) decided to undertake a study on *“Accessing Information under RTI: Citizens’ Experiences in Ten States”* in ten selected districts (Bihar- Madhubani, Gujarat- Ahmedabad, Haryana- Mahendragarh, Jharkhand- Jamtara, Kerala- Kollam, Madhya Pradesh- Sehore, Orissa - Puri, Rajasthan- Jhunjhunu, Uttar Pradesh- Sitapur and Uttarakhand- Chamoli).

The objective of the study was to assess the implementation of the Right to Information in ten selected districts of ten states. The study tried to find answers to two questions, “what are the difficulties faced by citizens in accessing information from the government departments?” and “do State Information Commissions facilitate access of information to the citizens?” We tried to find answers to these questions through a questionnaire and the collection of data about the functioning of the State Information Commissions (SICs). The questionnaire mainly dealt with indicators like the availability of the list of Public Information Officers (PIOs), the availability of the self disclosure manual, the mode of payment of fees, number of days within which the information was provided, was the PIO cooperative and the response of the First Appellate Authorities and SICs in dealing with Appeals. Details about the disposal rates of Appeals and Complaints,

number of penalties levied and disciplinary action recommended and SIC's budget was collected from the SIC.

The data on the questionnaire was collected from December 2007 to January, 2008 from citizens who had used the Right to Information. The sample size of the study was fixed at four hundred and twenty and an effort was made to make the sample as representative as possible i.e., variety in terms of geographical regions (rural and urban contexts), gender, socio-economic profile and education of the respondents was given due importance. The data from the SICs was collected from January 2008 to July 2008.

The study has been divided into three sections: (1) Citizens Access to Information (2) Response of the Appellate Authorities (First Appellate Authorities and State Information Commissions) (3) Evaluation of performance of State Information Commissions.

(1) Citizens' Access to Information

For filing the application, the applicant requires the address of the PIOs of the Public Authority where the application can be filed in person or sent by post. The study shows that a list of PIOs or a directory of PIOs at the district level was simply not available in the majority of the states, except Haryana and Uttarakhand. In the selected districts of Bihar, Jharkhand, Kerala, Madhya Pradesh, Orissa and Uttar Pradesh, the unavailability of the PIOs' directory is nearly 90 percent or more. So citizens have a difficult time in filing applications at the appropriate offices.

As far as the processes involved in filing an application are concerned, 78 percent of the respondents find the rate of application and additional fees reasonable, but the respondents found the mode of payment of fees in Bihar, Kerala, Madhya Pradesh, Gujarat and Orissa restrictive. They however, felt that the mode of payment in Haryana, Jharkhand, Rajasthan, Uttar Pradesh

and Uttarakhand was quite broad based. At the same time, some states like Karnataka, Punjab, Orissa, Madhya Pradesh and Himachal Pradesh have tried to make the application procedure complex by making identification proof mandatory, limiting the application to 150 words, requiring a separate application with respect to each subject and each year etc. Such complex procedures for filing RTI applications deter citizens from seeking information.

Citizens, who take the trouble to file applications despite so many difficulties, have to make at least two to five visits to the government offices, before they are provided information, usually after 30 days. In addition, cases of threats and harassment by the PIOs are abundant. 68 percent of the respondents said that they were able to get the information only after facing a number of difficulties in filing applications. The study shows that citizens mostly approach the gram panchayat, Block Development Office,

Deputy Commissioner's Office and Zila Parishad for accessing information.

Some important details about the Public Authorities, which should be in the Public Domain under Section 4 (1) (b) of the RTI Act, are not available in all the states. The study demonstrates that nearly 90 percent and more respondents in Bihar, Haryana, Jharkhand, Madhya Pradesh, Kerala and Uttar Pradesh said that the self-disclosure manual was not available in the Public Authorities to which they had applied for information. This shows that the various Public Authorities have not taken this provision seriously and even after two and half years of the RTI Act have not implemented the provision.

(2) Response of the Appellate Authorities (First Appellate Authorities and State Information Commissions)

Section 19 of the RTI Act provides two steps of Appeals - Senior Officer of the department and SIC against the

decision of a PIO. The study demonstrates that a significant percentage of RTI applicants do not go in for First and Second Appeal as they feel it would not be of any help and they would be unnecessarily wasting their time and resources on the appeal process. Out of a small percentage of citizens who file a First Appeal, 70 percent of the respondents were still unable to get the information. A significant percentage of citizens going in for Second Appeal were still unable to get the information.

(3) Evaluation of Performance of State Information Commissions

Indicators like disposal rate of Appeals and Complaints, number of penalties imposed, number of disciplinary actions recommended can reveal a lot about the SIC's performance. The point out that the number of penalties imposed on PIOs in Uttar Pradesh, Madhya Pradesh, Rajasthan and the Centre are very few in view of the fact that they have dealt with nearly 2,500 to 35,000 cases till now.

study shows that the disposal rate of Appeals of Haryana, Rajasthan, Uttar Pradesh and Uttarakhand SICs is between 77 to 93 percent, which can be considered good. It is worth noting that the disposal rate of Complaints by the Haryana and Uttarakhand SICs is above 90 percent.

Detailed analysis of the functioning of SICs shows that citizens are not satisfied with them. For example, SICs in Uttar Pradesh and Bihar have given decisions, which have just one line orders without explaining why and under which clause of the RTI Act, the information is being denied to the citizen. In some of the decisions of Bihar and Orissa SICs, the date of registration of the case with the SIC, the name of the PIO and first Appellate Authority is not given. RTI applicants

Non-action on the part of SICs in the face of large-scale denial of information in some states is a cause of concern. The long wait i.e., four to six months before the SICs for a hearing, is causing the citizens to feel that filing a

Second Appeal is a waste of time and resources. The casualness of the SICs, the apex body for ensuring compliance of RTI, about suo-motu disclosure raises questions about their functioning. Yet, the blame for the poor implementation of RTI in the states cannot be entirely laid on the SICs, as they face tremendous budgetary and infrastructure constraints.

The central and the state governments have not provided the necessary resources and staff to the SICs; they

have not appointed Information Commissioners (ICs) despite the fact that the Commissions have numerous pending appeals and complaints; the non-action of central and state government vis-à-vis non-compliance of the orders of the Commission by the Public Authorities - these incidences clearly show that the central and state governments have not made a serious effort to make the SICs a strong institution and they pay lip service to transparency and accountability in governance.

Introduction

Physically handicapped woman gets entitlements - Jamtara, Jharkhand; seventy year old woman gets old age pension, Sitapur, Uttar Pradesh; damaged roads get repaired, Raipur, Chhattisgarh; RTI improves Public Distribution System, Fatehabad, Haryana; woman gets plants and pesticides from Horticulture Department, Kangra, Himachal Pradesh, student gets a scholarship in Dhanbad, Jharkhand - these are numerous examples of the common man in remote areas of the country, using RTI to get entitlements from the government. Getting entitlements from the government prior to the enactment of the RTI Act 2005 was a difficult task as officers always said either that there was no budget allocated, there was no supply or that the stocks had finished. Now, citizens can ask for all the details of a development programme like budget, name of beneficiaries, stock etc. under the RTI Act. Public disclosure of such information about the functioning of the department makes government institutions transparent and

accountable. It helps expose large-scale corruption in government institutions and solves the service delivery problems faced by citizens.

Rampant corruption in different fields of civic administration and public life remains the key challenge of democratic practice and it erodes and undermines democratic institutions in India. The RTI Act can check corruption by strengthening public vigilance. Widespread use of the Act by citizens in inspections, social audits, citizens' report cards and other watchdog initiatives will strengthen public vigilance, which will build a direct relationship of accountability between the citizens and the government.

The RTI Act 2005 thus expands the meaning of 'accountability' in India. Accountability has been traditionally regarded as compliance and counting, assigning performance indicators and safeguards against corruption and inertia. Accountability, hitherto, limited to cross checking, verifications,

inspections, audits etc. by the government bodies has been brought into the public realm by the RTI Act. The public can make government institutions accountable by actively taking up vigilance roles at different levels. The Mazdoor Kisan Shakti Sangathan in Rajasthan and Parivartan in Delhi have shown the way for conducting such vigilance exercises by using the RTI Act. The relationship between the use of the RTI Act and the strengthening of public vigilance has been clearly established, but the key question remains, "Are citizens able to get information easily under the Act?" or "Is the Act being implemented effectively?" In this study, we have tried to probe into the question of difficulties faced by citizens in accessing information and the role of SICs in facilitating access to information.

This study is similar to a study carried out by PRIA in early 2007. In the 2007 study, respondents were civil society organisations (Non-Governmental Organizations, RTI activists and media

persons) who had been working on RTI in 21 districts of eight states. While in the 2008 study, the respondents are RTI users from the ten districts of ten states. Though the respondents in the two studies are different, the indicators, which we have used in the studies, are similar. In the 2007 study, an attempt was made to assess the implementation of RTI on a set of indicators viz. the availability of directory of PIOs, the self disclosure by Public Authorities, the response of PIOs to citizens, the rate of application and additional fees, the mode of payment, simplicity of RTI rules, the response of First Appellate Authorities and State Information Commissions. The 2007 study had highlighted the dominance of retired IAS officers in the SICs, non availability of directory listing PIOs, poor self disclosure by Public Authorities, non-cooperative and hostile PIOs and lackadaisical SICs as the key bottlenecks in the implementation of RTI Act.

After exactly one year, we again probe the same question with a similar set of

indicators. An attempt has been made to find out whether the bottlenecks in the implementation of RTI Act, as pointed out in the 2007 study, have been addressed or not. We expect that the study will help in highlighting again the grey areas in implementation of RTI Act, which would draw attention of civil society to these key issues and perhaps spur government agencies into taking corrective measures.

Section 1

Methodology

1.1 Rationale

The Right to Information Act (RTI) 2005 came into effect on 12th October 2005. In India, the RTI Act has not been implemented equally across the states. In some states, information was being provided to citizens in time; while in a large number of states, the implementation was slow and tardy. Hence, the need was felt to assess the progress of RTI in selected states. For this purpose, PRIA (Society for Participatory Research in Asia, New Delhi) decided to undertake the study *“Accessing Information under RTI: Citizens’ Experiences in Ten States”*.

1.2 Objective and Research Questions

Objective: Assessing implementation of the Right to Information Act in selected districts of ten states.

Research questions:

- What are the difficulties faced by citizens in accessing information from the government departments?
- Do State Information Commissions facilitate access of information to the citizens?

1.3 Selection of Sample

A questionnaire on the Right to Information was designed, which covered the experiences of citizens who have actually used the RTI Act in accessing information from any public authority. The sample size of the respondents for the study was fixed as 420 of those citizens who had actually used RTI [Table 1.2]. The method of sampling was random and our effort was to collect the required data in the questionnaire from one district of each state. Data were collected from citizens, who have used the RTI Act during the period of December 2007 to January, 2008. An effort was made to make the sample as representative as possible. While collecting data for the questionnaire, variety in terms of geographical regions (rural and urban contexts), gender, socio-economic profile and education of the respondents was given due importance. The data from the State Information Commissions was collected between Jan 2008 to July 2008.

Selection of Sample

The total sample size was pre fixed as 400. This was in keeping with the overall time and budgetary constraints of the proposed survey. The aforesaid sample size was apportioned between different districts in proportion to the population size of each district. That is $n_i = (X_i \div Y) \times 400$, where n_i and X_i are

sample size and population of the district I and $Y = \sum X_i$. In case the above formula resulted in few units, sample size was marginally increased. Likewise, a cut off of 75 citizens was laid down for restricting the upper limit of the sample size. After the calibration, the sample size came to be 420.

Table 1.1: District Distribution of Rural Urban Population of the States

S. No.	States	District	Rural	Urban	Population of the district
1	Bihar	Madhubani	3450736	124545	3575281
2	Gujarat	Ahmedabad	1152986	4663533	5816519
3	Haryana	Mahendragarh	702885	109636	812521
4	Jharkhand	Jamtara	490856	54000	544856
5	Kerala	Kollam	2119230	465978	2585208
6	Madhya Pradesh	Sehore	885172	193740	1078912
7	Orissa	Puri	1298654	204028	1502682
8	Rajasthan	Jhunjhunu	1518573	395116	1913689
9	Uttar Pradesh	Sitapur	3186973	432688	3619661
10	Uttarakhand	Chamoli	319656	50703	370359
	All States		14634865	6639967	21274832

Table 1.2: Sample size

S. No.	State	District	Sample Size	Population of the district (Above 15 years) (appx)
1	Bihar	Madhubani	50	20,80,000
2	Gujarat	Ahmedabad	75	40,74,000
3	Haryana	Mahendragarh	25	5,18,000
4	Jharkhand	Jamtara	20	4,20,000
5	Kerala	Kollam	50	19,57,000
6	Madhya Pradesh	Sehore	50	6,43,000
7	Orissa	Puri	30	10,54,000
8	Rajasthan	Jhunjhunu	50	11,56,000
9	Uttar Pradesh	Sitapur	50	21,36,000
10	Uttarakhand	Chamoli	20	2,39,000
	Total	10 districts	420	1,77,50,000

Note: This sample size was fixed taking into consideration the population of the concerned district. We have taken into consideration the population of 15 years and above as this population was considered to be the best proxy for 18 + population which is what is required (but not available) for the study. .

Table 1.3: Rural- Urban Ratio in the sample

S. No.	States	District	Rural	Urban	Total
1	Bihar	Madhubani	43	7	50
2	Gujarat	Ahmedabad	45	30	75
3	Haryana	Mahendragarh	18	7	25
4	Jharkhand	Jamtara	13	7	20
5	Kerala	Kollam	30	20	50
6	Madhya Pradesh	Sehore	35	15	50
7	Orissa	Puri	20	10	30
8	Rajasthan	Jhunjhunu	30	20	50
9	Uttar Pradesh	Sitapur	40	10	50
10	Uttarakhand	Chamoli	6	14	20
	All States		280	140	420

Figure 1.1: Distribution of Sample

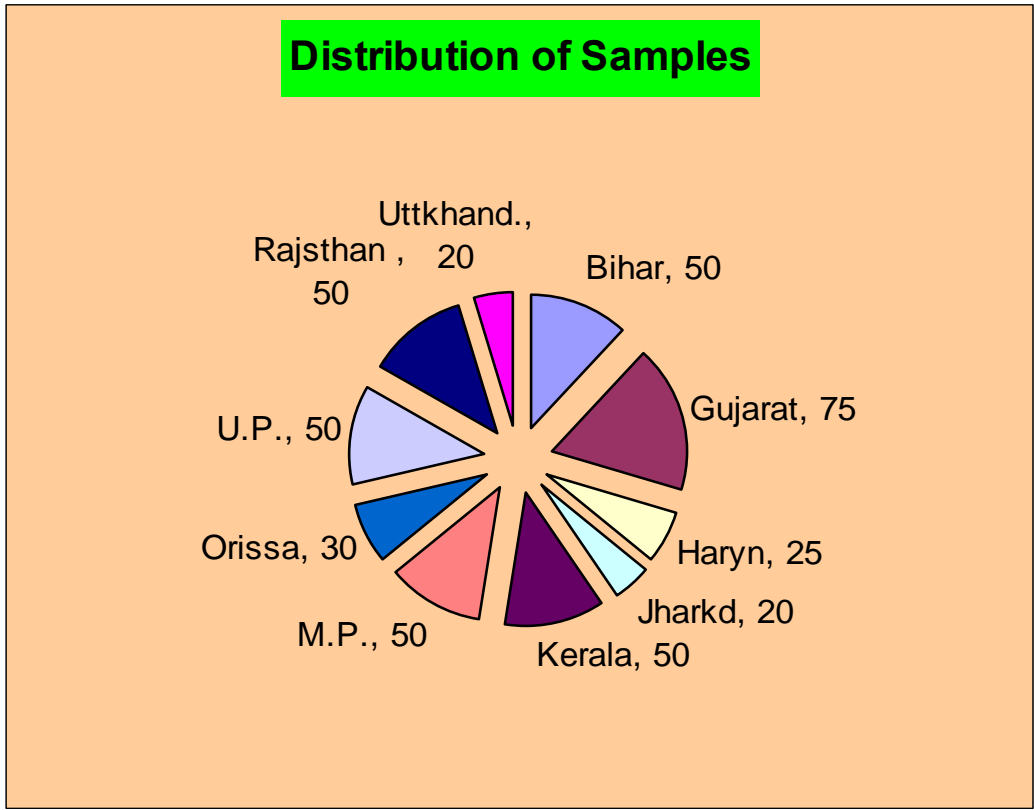
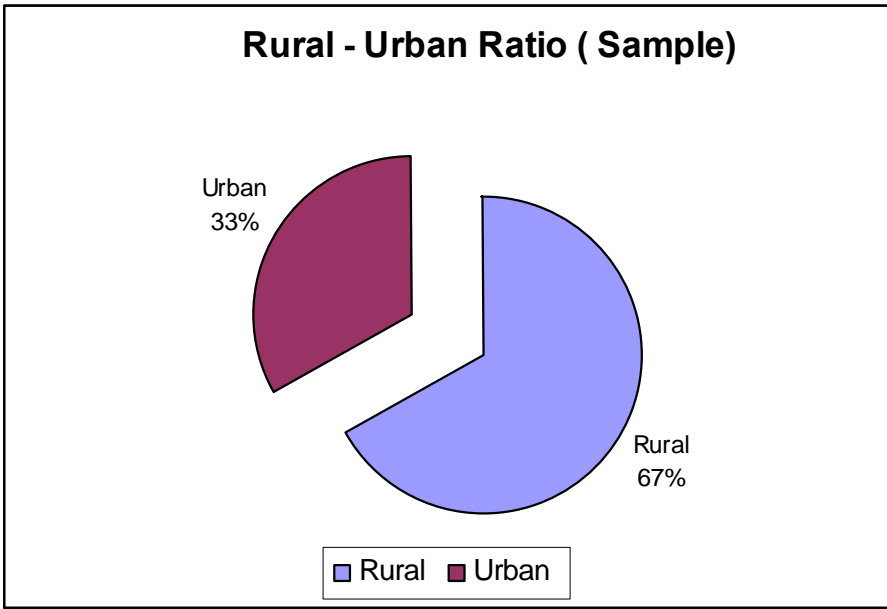


Figure 1.2: Rural - Urban Ratio (sample)



1.4 Limitations

- Selected samples will not give a complete picture of the implementation of RTI in the state. However, they certainly give some insight into the working of RTI in the states.
- Data on a set of indicators was collected from districts where PRIA and its partners have been working on RTI for nearly three years. The implication of PRIA's intervention has been that citizens' are more aware of RTI in the district and Public Authorities are under greater pressure to furnish information to citizens. Trends in the study might give a slightly positive picture of RTI compliance in these districts; while in districts / locations where RTI networks do not exist, the compliance to RTI might be poorer.
- Data collection from SICs has been the most difficult part of the study. Our investigators, RTI activists from prominent
- Networks and organisations in the state had to visit SIC offices several times to collect the data. The SICs of Haryana, Kerala, Bihar and Rajasthan had to be visited twice / thrice for getting information; while Uttarakhand, Uttar Pradesh, Gujarat and Orissa provided the information on request under RTI. Jharkhand and Madhya Pradesh SICs provided the information after a number of visits by RTI volunteers.

A large yellow rectangle with a slight wavy bottom edge, centered on the page. It contains the section title in blue text.

Section 2
**Seeking Information from Government
Departments**

Section 3 of the Right to Information Act gives the right to all the Indian citizens to access information from the public authorities. A citizen shall submit the application for obtaining information to Public Information Officer or Assistant Public Information Officer of the public authority. The application should be submitted to the Public Information Officer of the public authority under whose jurisdiction the subject matter of the application falls. PIOs are the designated officer in all the administrative units or offices of Public Authorities who have been given responsibility of providing information to persons requesting for information under this Act. In addition, PIOs must provide all kinds of help to citizens including helping illiterate or blind in writing application for obtaining information.

The application procedure for seeking information is very simple and citizen friendly (Section 6 of RTI Act). The application can be written in English or Hindi or the official language of the

state. Oral requests shall be reduced in writing with assistance of the Public Information Officer, if the applicant is not literate. The applicant must clearly specify the information, which he is seeking.

Right to Information Act clearly sets the time limit for disposal of requests by Public Information Officers, so that citizens do not have to run around the public authorities for information endlessly. Under Section 7 of the Act, information must be provided to the citizens within 30 days of receipt of application by the Public Information Officers. But if the information relates to life and liberty of a person, then Public Information Officers must provide the information within 48 hours. If the PIO does not provide the information asked within the time limits above, the information asked would be treated as being refused, in such case he can file 1st Appeal to the senior officer of the department.

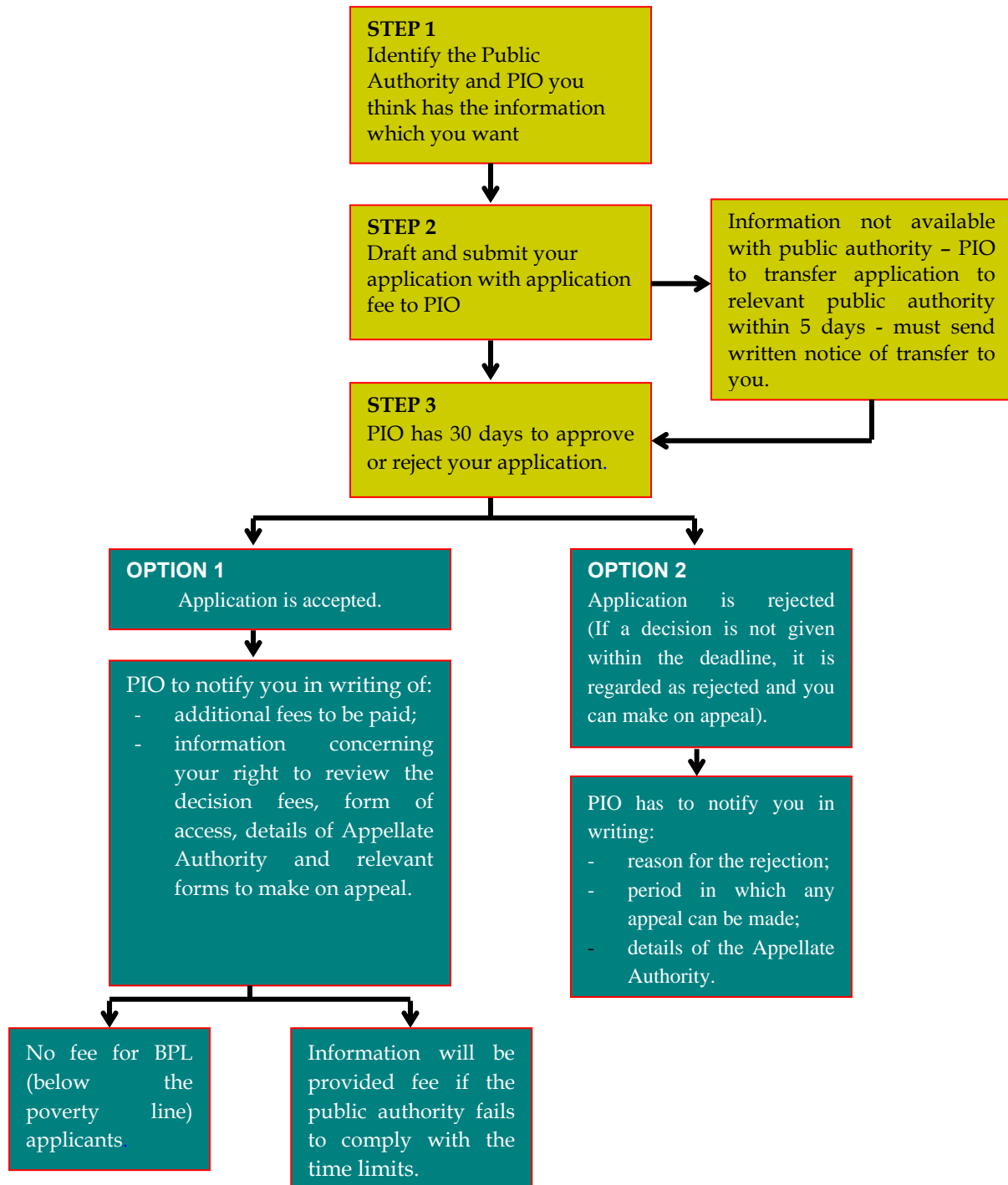
Last but not the least; application should be accompanied by necessary application fees as prescribed under

the respective state rules. In large number of states, it can be paid in the form of cash / demand draft / postal order / treasury challan / non-judicial stamp etc. The application can be made on a plain paper and there is no prescribed form or format for application. The applicant is not required to give any reasons for requesting the information; he is only required to give his contact details /

addresses, so that information sought can be sent to him by the Public Information Officer. The application procedure for obtaining information has made very simple in the Act in order to enable poor and marginalized to use the Act most.

It would be worthwhile to probe the extent to which the above-mentioned provisions of RTI Act are followed in letter and spirit.

Flow Chart 1: Application Process



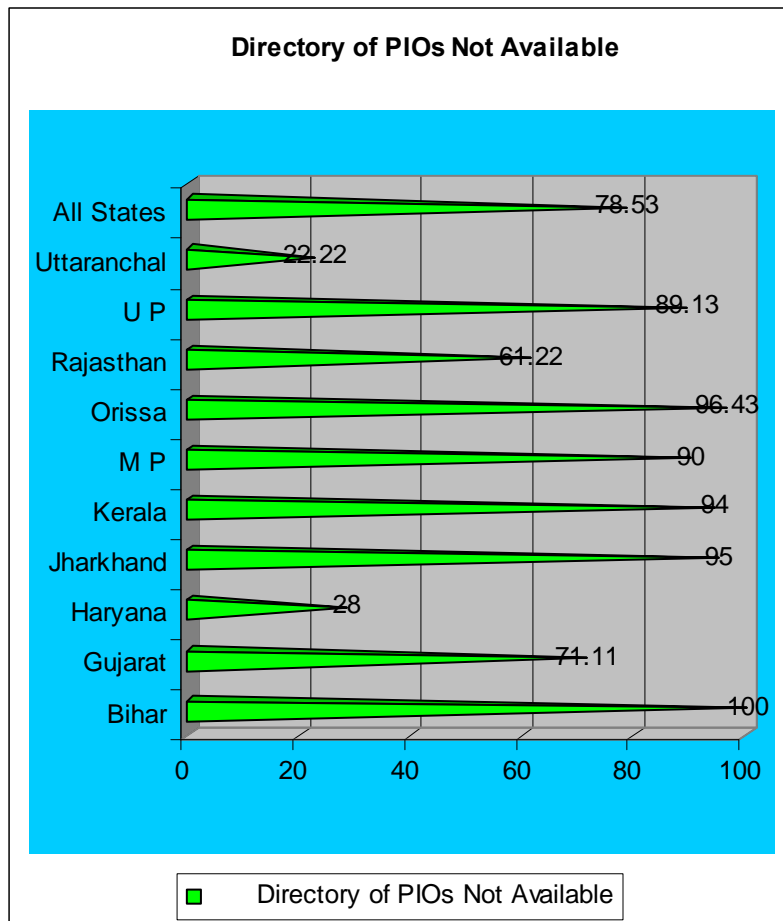
[Courtesy –Guide on RTI, CHRI (2006)]

2.1 Availability of Directory of Public Information Officers

Section 6 (1) of the RTI Act specifies that a person who desires to obtain any information shall make a request in writing to the PIO of the concerned Public Authority. For filing the application, the person requires the address of the PIOs of the Public Authority where the application can be filed in person or sent by post. The study shows that the list of PIOs or the directory listing PIOs at the district level is simply not available in all the states, except Haryana and Uttarakhand. In the selected districts of Bihar, Jharkhand, Kerala, Madhya Pradesh, Orissa and Uttar Pradesh,

non availability of the PIOs' directory is nearly 90 percent or more. [Figure 1.3] While the citizens who have access to the internet can get some information about PIOs from the state government web site, citizens at the village, block or district level have a tough time in getting the addresses of the PIOs. It gets particularly tough if a Public Authority has a number of PIOs e.g. the Indian Postal Department, Delhi Development Authority and their jurisdiction is not clearly defined. In such cases, citizens do not have any clue where to file the application. The only option left with the person is to approach RTI activists or NGOs for help.

Figure 1.3: Non-availability of the List of Public Information Officers or Directory of PIOs at the District Level (%)



(sample)

In the selected districts of Bihar, Jharkhand, Kerala, Madhya Pradesh, Orissa and Uttar Pradesh, non availability of PIOs' directory is nearly 90 percent or more.

2.2 Suo Motu Disclosure in Public Authorities

For accessing information, especially macro details of the Public Authority, citizens have the option of going through the self-disclosure manual of the Public Authority. The RTI Act 2005, Section 4 (1) b requires all public authorities covered under the law to

publish *suo motu* (on their own) or proactively a wide range of information, even if no one has specifically requested it. This is a key provision, because it recognises that some information is so useful and important to the community at large, that it should be given out regularly,

without anyone specifically requesting it.

Section 4(1) b of the Right to Information Act 2005 requires all Public Authorities to routinely publish 17 categories of information, which should be updated regularly. This ensures that citizens always have access to authentic, useful and relevant information. Proactively disclosed information minimises time, money and effort required by the public to access important, but routine information. It helps people to understand better what information they can access and how to seek it. Moreover, it reduces the number of requests that bureaucrats are required to process, thereby reducing the administrative burden on the government of implementing access to information laws. The status of self-disclosure in selected districts is appalling. The study demonstrates that nearly 90 percent and more respondents in Bihar, Haryana, Jharkhand, Madhya Pradesh, Kerala and Uttar Pradesh said that the self-disclosure manual was not available

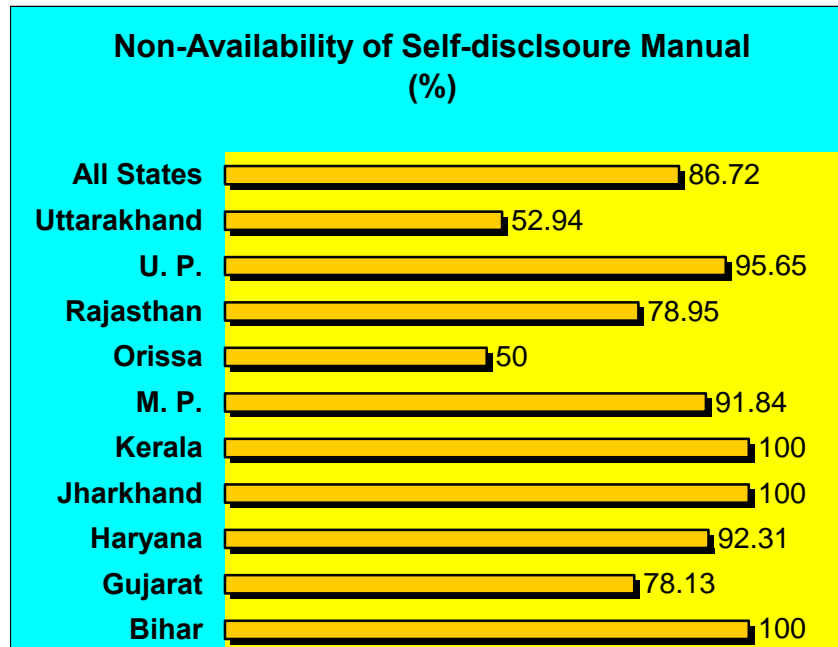
with the Public Authorities to which they had applied for information. It evidently shows that the various Public Authorities have not taken this provision seriously and not implemented the provision even after two and half years of the RTI Act. [Figure 1.4] Even where the self-disclosure manual is available, the quality of self-disclosure is a cause for concern e.g. the Delhi Development Authority has no systematic disclosure of information as per the RTI Act, it has just put up orders, documents, orders, reports etc., in a hap-hazard manner leaving the onus of understanding the information on the citizens.

In such an environment of non-compliance with self-disclosure provisions by a large number of Public Authorities across 10 states, self disclosure of health data in the four tribal blocks of Gujarat stands out. This example quite pertinently shows that self-disclosure of key details of any government department is not as difficult a task as it is made out to be. Tribals from the remote regions of

Gujarat have been able to maintain the health data of the villages with the cooperation of a NGO at the gram panchayat level and publish these. This has resulted not only in an improvement in health services, but also an increase in the demand for emergency services [Box No. 1]. The health workers' (Aanganwadi) resistance to self disclosure points to the fact that transparency in the functioning of public institutions threatens the vested interests of those who are corrupt and inefficient. It reflects the larger picture of the country where self-disclosure in public institutions has been resisted by local level officials. At the same time, the role of some government functionaries in promoting self disclosure, as has been done by the

District Development Officer in Vadodara, cannot be denied. The Chief Information Commissioner (Central Information Commission) Shri Wajahat Habibullah has repeatedly emphasised that every public authority should maintain all records in a catalogued, indexed, computerised and networked form. His assertion underlines the importance the CIC gives to self-disclosure [Box No. 2]. Sadly, they remain isolated examples of efforts made in this direction.

Figure 1.4: Non-availability of Self Disclosure Manual [Section 4 (1)] in the Public Authorities where you Applied for Information (%)



Source: Primary Survey by PRIA

Box No. 1

RTI Effect: Shining example of proactive disclosure in Vadodara

In four tribal blocks of Vadodara District, wall paintings keep tabs on health check-ups and visits by officials, which have helped to boost mother and child care. The 600 odd villages in four tribal blocks of Vadodara have a different kind of writing on their walls now. A village woman notes down the number of pregnant as well as lactating mothers, number of health check-ups, birth and death registrations and, most importantly, the number of talati visits, along with the days the Aanganwadi remains open. In an innovative experiment of the RTI Act, where health data is put up in the public realm, the efforts of a NGO - Deepak Foundation's health workers has led to the monitoring of as well as the creating of a demand for health services.

It has been around a year that in addition to Aanganwadi workers, a village-level health worker, usually a women from the village, appointed by Deepak Foundation, notes down each birth and death as well as details of expectant mothers, and puts the data on a 'wall painting' each month. The painting is put up by contributions from village women and many times the sarpanch has chipped in half of the approximately Rs 200 required for it.

Thereafter, the painting is in a public space, be it the Aanganwadi, the health centre or a panchayat wall. Though literacy is not too high in these tribal blocks, the writings on the wall are beginning to have an impact.

The grassroots innovation of the RTI Act, to give a boost to mother and child care, has village walls sporting the 15-point data, which are put up every month, with the comparative account of three months available at a glance. However, it has not been a cakewalk. Predictably, the most resistance came from Aanganwadi workers and even nurses.

At some places, village children took to rubbing off the data, and in one village, the painting found its way into a cowshed. Yet, by and large, nurses as well as talatis have become more regular in their village visits. Manjula Tadvi, a health worker in Bharosewadi village, recounts an interesting spin off after a year long exercise.

"We needed to fill up below poverty line (BPL) forms. This time the talati himself came and gave me the forms for all the villagers and now listens to us. Earlier, we had to go searching for him," said Tadvi. Also, with the emergency mobile number for seeking ambulance services jointly run by Deepak Foundation and the state health department displayed on each of these paintings, the number of emergency calls has gone up wherein ambulances take expectant mothers to government or private hospitals in record time. This helps to reduce both maternal and infant mortality rates.

Also, with the parallel compilation of the data, the Aanganwadi worker has become more particular as both the data are compared and cross-checked in government health meetings too. The Vadodara District Development Officer (DDO) M Thennaresan said, "The demand for emergency services has picked up. Also, it has given the village community monitoring powers over the system."

Source: Indian Express, Tuesday November 28, www.indiartiblogspot.org, April, 2008)

Box No. 2

Habibullah asks government to play more pro-active role in implementing RTI Act

Chief Information Commissioner (Central Information Commission) Wajahat Habibullah said as per the provisions of the Act, every public authority should maintain all records in a catalogued and indexed form, which further should be computerised and networked.

Stressing the need to make people in villages aware of their rights under the Act, he hailed the legislation saying "the very essence of democracy requires an informed citizenry and transparency of information is vital to its functioning."

(Source: www.indiartiblogspot.org April, 2008)

Nearly ninety percent and more respondents in Bihar, Haryana, Jharkhand, Madhya Pradesh, Kerala and Uttar Pradesh said that the self-disclosure manual was not available with the government departments to which they applied for information. It demonstrates that these bodies have not taken steps to implement Section 4 (Self disclosure) of RTI Act.

2.3 Rate of application and additional fees

With regard to another critical aspect of the access to information, the response regarding the rate of application and cost of additional fees (Photostats, CDs, floppies etc.,) for obtaining information, more than 75 percent of the respondents felt that they were reasonable in the states of Bihar, Gujarat, Jharkhand, Kerala, Madhya Pradesh, Rajasthan, Uttar Pradesh and Uttarakhand. A significant percentage of respondents in Gujarat and Orissa felt that the fees were low [Table 2.1]. It should be noted that according to the provision of Section 7 of the RTI Act, the application fees and the additional fees (further fees), should be reasonable, it is quite creditable that all the states have prescribed fees, which have been found to be reasonable by the respondents.

One more factor, which hinders citizen's access to information, is the high application fees fixed by a number of competent authorities. State governments and some competent authorities like the Delhi High Court and the Allahabad High Court, under Section 27 and 28 of the RTI Act have framed RTI Rules, which hinder a common man seeking information. It is worth noting that the Delhi High Court and Allahabad High Court have fixed Rs.500/- as the application fee for seeking information. The Noida Authority had tried to fix Rs. 400/- as charges for filing an appeal in case information is not provided, for which it was reprimanded by the Central Information Commission as it was not a legitimate body for framing rules on fees[BoxNo.3].

Box. No. 3

Pay Rs. 400/- for Appeal

The Noida Authority today said it will charge Rs 400 for filing an appeal if the information requested under the Right to Information Act is not provided. But Chief Information Commissioner Wajahat Habibullah has said that it has no Authority to do so.

If the Noida Authority has its way people will need to pay Rs 100 to get a copy of the judgment. However, the rate for filing an RTI application under Section 6 of the Act remains unchanged at Rs 10. Saying that the "decision was taken according to the provisions made in the Act", Noida Authority Additional CEO K. Ravindra Naik said the fee would deter non serious applicants and save on time and money.

But Habibullah has said: "Such a move should be challenged straightaway since the public authority (Noida Authority) is unauthorized to make such rules. Rules regarding fees can be framed only by the Competent Authority."

(Source: www.indiartiblogspot.org, April, 2008)

It also demonstrates that rate of the selected states, but the fixing of application and additional fees are not high fees by Competent Authorities a constraint for accessing information are certainly restrictive in nature. from the government departments in

Table 2.1: How Do You Rate the Application & Additional Fees? (%)

States	Low	Reasonable	High
Bihar	1.96	96.08	1.96
Gujarat	37.33	60.00	2.67
Haryana	7.39	10.00	82.61
Jharkhand	15.00	85.00	0.00
Kerala	10.00	88.00	2.00
M P	23.53	76.47	0.00
Orissa	42.86	53.57	3.57
Rajasthan	6.00	94.00	0.00
U P	2.17	95.65	2.17
Uttarakhand	0.00	100.00	0.00
All States	20.39	74.15	5.46

Source: Primary Survey by PRIA

The rates of application and additional fees were found to be reasonable by more than 75 percent of the respondents in all the states except Haryana and Orissa.

2.4 Mode of Payment

Another critical component, which is attached to application and additional fees, is the mode of payment, as it determines whether fees can be paid easily or not. The study shows that cash is the favourite mode of payment for 42 percent of the respondents, 21 percent used non judicial stamp papers followed by 17 percent who used Postal Orders. Nearly 16 percent of the respondents did not pay the fee as they belonged to BPL families [Table 2.2]. It is important to note that cash was the preferred mode of payment in Gujarat, Jharkhand, Madhya Pradesh, Orissa and Uttarakhand. A large percentage of respondents used Postal Orders in Haryana and Rajasthan. In Bihar and Kerala, the use of non judicial stamp papers is predominant. Non judicial stamp papers were widely used in Bihar, as it was the only mode of payment of application fee in the state;

hence, citizens had no other option. Various news reports indicate that the RTI call centre is quite popular in Bihar as a large percentage of RTI applications are being filed through it. Here the application fee (Rs.10.00) is charged through the applicant's telephone bill. Citizens find this mode of payment quite convenient.

Most respondents do not use bank drafts, banker's cheques and Treasury Challans, because they find such modes of payment complex or expensive. The waiver of application fees for the BPL families seems to have helped RTI applicants in Bihar, Jharkhand, Orissa and Uttar Pradesh. Table 2.2 shows that some modes of payment, like cash and postal orders, are preferred by citizens as they are less complicated as compared to bank drafts / challans / banker's cheque. The latter options are time consuming

and cost more. So, the facility of paying the fees by cash or Postal Order should be available in all the states, as it greatly facilitates the filing of RTI applications. It is pertinent to mention here that the mode of payment in Rajasthan, Jharkhand, Kerala, Uttar Pradesh and Uttarakhand is broad based, while Bihar, Gujarat, Haryana, Madhya Pradesh, and Orissa have restrictive modes of payment. The restrictive mode of payment definitely affects the filing of RTI applications.

The central government has allowed liberal modes of payment for central Public Authorities; the application fees can be paid through cash / Indian Postal Order / Demand Draft / Treasury Challan. The mode of payment through a variety of means allows the applicant to choose the mode of payment convenient to him / her. As far as the question of convenience of payment of fees is concerned, a significant percentage (74 percent and above) of respondents of seven states felt that mode of payment

of fees was convenient for them [Table 2.3]. A significant percentage of the respondents from Orissa, Haryana and Madhya Pradesh did not find the mode of payment convenient as these three states offer limited options for the payment of fees. The fees in Orissa can only be paid through cash / Treasury Challan; in Haryana, fees can be paid through cash / Treasury Challan / Postal Order and in Madhya Pradesh, fees can be paid through cash / non judicial stamp paper; it means that an applicant has only two / three modes of payment in these states, which hinders the filing of RTI applications [Table 2.3].

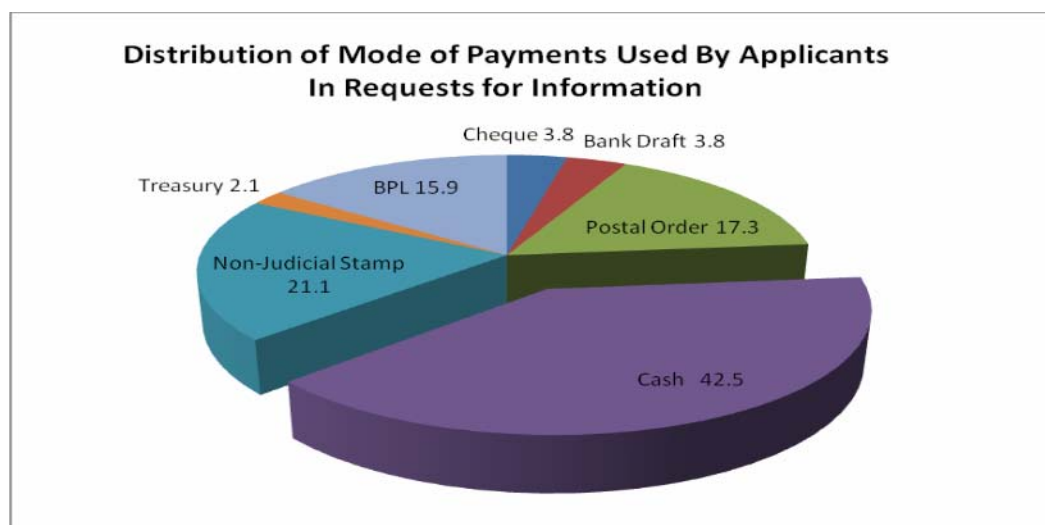
It is to be noted that the ease of access to information, is one of the prime priorities of the RTI Act and accordingly a wide variety of modes of application fees should be allowed, so that the mandate of the RTI Act is duly respected. This would also mean that State RTI Rules, which have not provided for fees payment by multiple means, should be suitably amended.

Table 2.2: Distribution of Mode of Payments Used by Applicants in Requests for Information (%)

States	Banker's Cheque	Bank Draft	Postal Order	Cash	Non-Judicial Stamp	Treasury Challans	BPL
Bihar	0.00	0.00	0.00	0.00	67.38	0.00	32.69
Gujarat	0.00	10.33	0.00	54.87	24.67	0.00	10.67
Haryana	0.00	0.00	45.92	32.00	0.00	8.00	12.00
Jharkhand	0.00	0.00	0.00	75.00	5.00	0.00	20.00
Kerala	0.00	0.00	0.00	10.00	78.00	12.00	0.00
M P	0.00	0.00	0.00	86.27	0.00	0.00	13.73
Orissa	0.00	0.00	0.00	73.33	0.00	3.33	23.33
Rajasthan	0.00	0.00	66.00	30.00	2.00	0.00	2.00
U P	1.92	0.00	22.00	38.00	0.00	2.00	36.00
Uttarakhand	0.00	0.00	22.22	61.11	5.56	0.00	11.11
All States	3.85	3.85	17.34	42.52	21.14	2.14	15.91

Source: Primary Survey by PRIA

Figure 1.5: Distribution of Mode of Payments Used By Applicants in Requests for Information (%)



Cash and postal orders were the preferred mode of payment of fees. The respondents in Madhya Pradesh, Haryana and Orissa found the mode of payment inconvenient as they had limited option of payment of fees.

Table 2.3: Did You Find Mode of Payment of Fees Convenient ? (%)

States	Yes
Bihar	76.60
Gujarat	74.29
Haryana	56.00
Jharkhand	95.00
Kerala	78.00
MP	47.06
Orissa	69.57
Rajasthan	93.88
UP	97.92
Uttarakhand	100.00
All States	77.56

Source: Primary Survey by PRIA

2.5 Restrictive RTI Rules

Some state governments and Competent Authorities, under Section 27 of the RTI Act have tried to frame rules, which make accessing information difficult for the common man. The Karnataka Government has framed RTI rules, which require that the request for information be related to only one subject and not exceeding 150 words.

Some of the provisions of the RTI Rules in Punjab are even worse, where the requests for information can also be rejected on grounds such as “unsatisfactory identity” of the

information seeker, information already available in published material, information available on the website and a vague premise called “any other reason”. This gives unlimited powers to the PIOs to reject requests for information. Even in Orissa, the PIOs have been authorised by Section 4 (2) RTI Rules to furnish the acknowledgement only after being satisfied about the identity of the applicant. It means that the PIO can reject an application, if she / he is not satisfied with the identity of applicant, which can result in the rejection of a large number of applications at the grass roots.

RTI Rules in Himachal Pradesh prescribe that separate applications should be made with respect to each subject and each year. Similarly, Noida Authority had insisted on documents of identification for seeking information [Box No.4]. These actions of the state governments and Competent Authorities give the message that Competent Authorities want to discourage citizens from using RTI.

Box No. 4

RTI Commissioner pulls up Noida, Greater Noida Authorities

The State Chief Commissioner for Right to Information (RTI) is understood to have reprimanded the Noida and Greater Noida authorities for having introduced a wrong format for the application and for issuing wrong guidelines under the RTI Act.

The insistence on documents like ration card, PAN card, passport and voter identity card numbers as proof of identity from those seeking information under the Act was decried by Mr Justice M. A. Khan, RTI Chief Commissioner, U.P. Both the authorities were told to cancel the wrong form by November 15.

(Source: www.indiartiblogspot.org, April, 2008)

Though Section 27 of the RTI Act says that the Appropriate Government (the state governments) may by Notification in the Official Gazette make Rules to carry out the provisions of the Act, these Rules must not be against the provisions of the RTI Act or its letter and spirit. It is also another principle of law that there can be no excessive delegation of powers and the executive cannot frame Rules, which are against (*ultra vires*) the principal law or the Act under which these Rules are made. The Rules framed are also not to be against the letter and the spirit of the Indian Constitution.

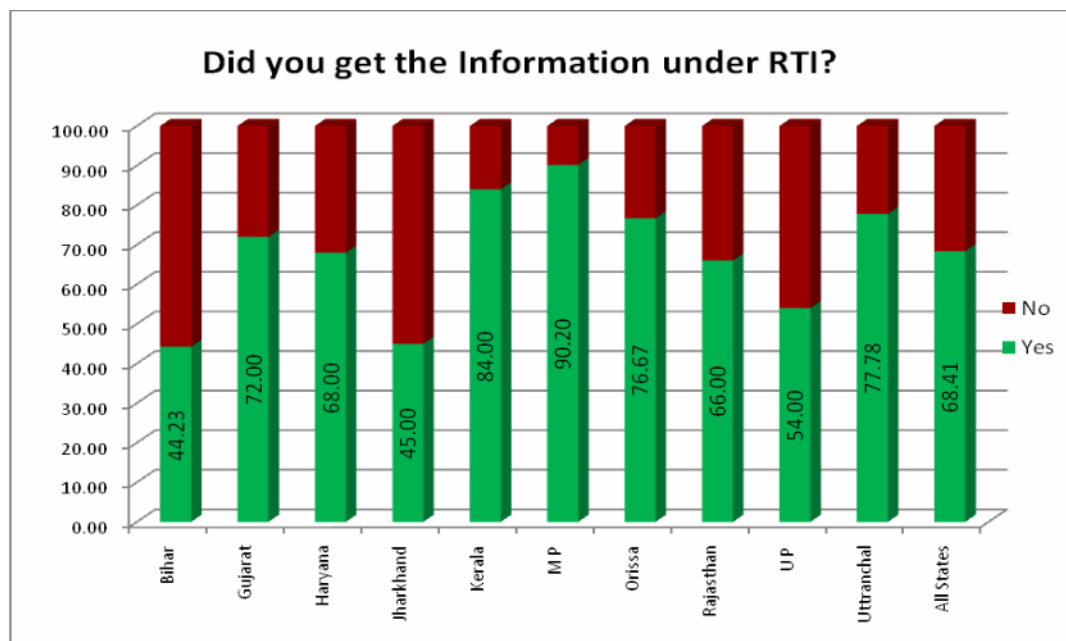
The RTI rules of Karnataka, Orissa and Himachal Pradesh make the application and appeal processes complex and difficult.

2.6 Success in getting Information

Despite the high fees and restrictive mode of payment of fees, many citizens filed RTI applications and a significant percentage was successful in getting information. Nearly 68 percent of the respondents across ten states were able to get the information under the RTI. Gujarat, Kerala, Madhya Pradesh, Orissa and

Uttarakhand lead in the availability of information with around 70 percent or more respondents getting the information applied for. However, the availability of information is not very good in the states of Bihar, Uttar Pradesh and Jharkhand (only approximately 50 percent of the respondents were successful in obtaining information). [Figure 1.6]

Figure 1.6: Did you get the Information under RTI? (%)



Source: Primary Survey by PRIA

Sixty eight percent of the respondents in ten states were able to get the information. However, in Bihar, Jharkhand and Uttar Pradesh, success rate in obtaining information was around fifty percent.

One critical question with regard to the access to information is whether the information was provided on time. The RTI Act mandates that the PIO must provide the requested information within 30 days. Table 2.4 shows that 40 percent of the respondents were not provided the information within 30 days. Around 55 percent of the respondents in Uttar Pradesh, Bihar and Rajasthan did not get the information within 30 days and in Madhya Pradesh 68 percent of the respondents did not get the information within 30 days. Table 2.4 clearly demonstrates that the stipulated time of thirty days is not taken seriously by the PIOs.

Box No. 5

PIO of Uttar Pradesh State Information Commission provides delayed and incomplete information

Author of this study has applied to the PIO, Uttar Pradesh State Information Commission, asking for details of appeals, complaints, penalties etc. of the SIC on May 12, 2008. Shri Mata Prasad, PIO, sent half the information on July 15, 2008 (nearly two months after the application had been sent) saying 'your application does not appear to have been received by the commission'. He expressed regret that he was able to provide only half the information, as SIC had an acute shortage of staff. One critical information not provided was related to the number of penalties imposed by the SIC on PIOs in the last two and a half years. While he had provided information that 34,781 appeals and complaints were filed in the Commission (2005-08) and 26968 have been disposed off. It is hard to believe that the SIC is not able to maintain data on the few penalties which have been imposed by it; in contrast, it has been able to maintain large data on a number of appeals and complaints. It quite clearly shows that the PIO was trying to hide information on penalties under the pretext of a shortage of staff.

There have been widespread complaints PIOs acknowledge receipt of application after four to five weeks of actually receiving application. PIOs in a number of government departments do not provide information within stipulated time on the pretext of shortage of staff, non receipt of application, information / data is not available with office etc. [Box No. 5]. It seems that PIOs have still not come out of 'information

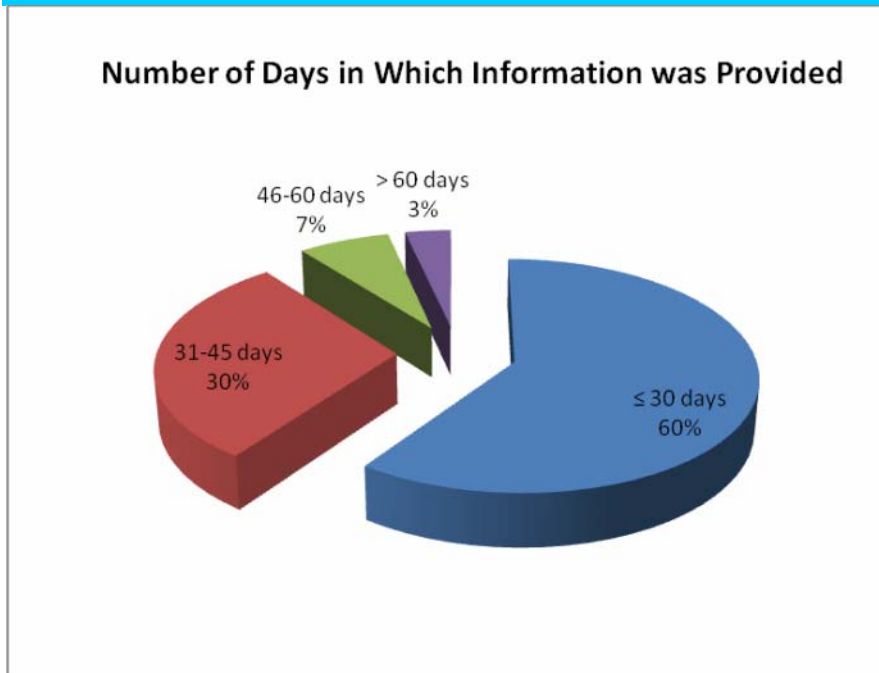
hiding' mentality as they make every attempt to delay and deny information to citizens. What harm would have been caused if PIO of Uttar Pradesh Commission had provided the information on penalties. The attitude of bureaucracy appears to be one of the key areas which requires urgent attention of government.

Table 2.4: Number of Days in which Information was Provided (%)

State	≤ 30 days	31-45 days	46-60 days	> 60 days
Bihar	43.48	39.13	8.70	8.70
Gujarat	83.33	9.26	3.70	3.70
Haryana	76.47	17.65	5.88	0.00
Jharkhand	66.67	22.22	0.00	11.11
Kerala	57.14	30.95	7.14	4.76
M P	32.61	54.35	13.04	0.00
Orissa	94.74	5.26	0.00	0.00
Rajasthan	42.42	45.45	9.09	3.03
U P	44.44	40.74	7.41	7.41
Uttarakhand	92.86	0.00	7.14	0.00
All States	59.86	29.58	7.04	3.52

Source: Primary Survey by PRIA

Figure 1.7: Number of Days in which Information was Provided (%)



Another issue, which is related to the delay in providing the requested information, is the number of visits made by the applicant for accessing information. The number of visits made by an applicant to a department for accessing information seems to be directly proportional to the delay in providing information. An applicant has to visit the concerned department several times if the information is not provided within 30 days and this is amply demonstrated by Table 2.5. The Table 2.5 shows that the 43 percent of the respondents had to visit the

concerned department two to five times for getting the information. The travails of RTI applicants was more serious in Bihar, Gujarat, Uttar Pradesh and Jharkhand where seven to 20 percent of the respondents had to visit the concerned department more than ten times for getting the information. In contrast, a significant percentage of respondents, 72 percent (Gujarat) and 85 percent (Uttarakhand) visited the concerned department only once for accessing information [Table 2.5]. It is quite obvious that the number of visits by the applicant increases if

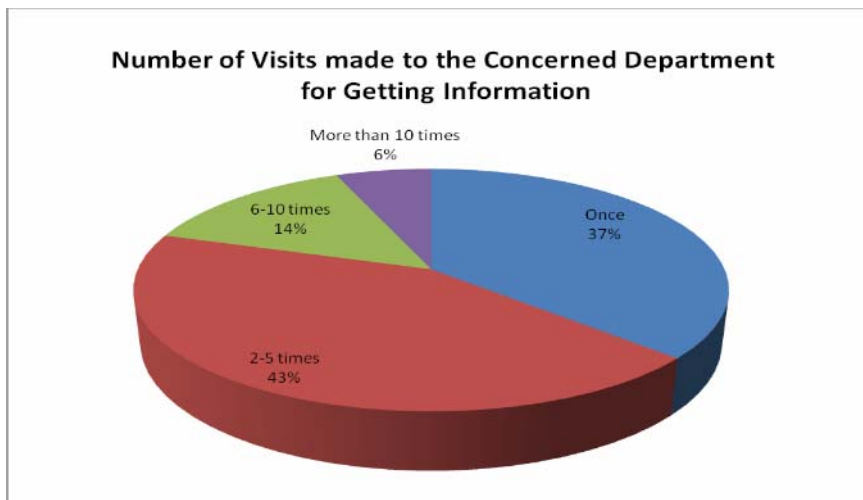
information is not provided in time or applicant, who also feels harassed and the PIOs make them run around. Such humiliated by this treatment. visits add to the expenses borne by the

Table 2.5: Number of Visits made to the Concerned Department for Getting Information (%)

State	Once	2-5 times	6-10 times	More than 10 times
Bihar	45.00	30.00	5.00	20.00
Gujarat	71.70	9.43	5.66	13.21
Haryana	41.18	52.94	5.88	0.00
Jharkhand	55.56	33.33	0.00	11.11
Kerala	4.88	73.17	19.51	2.44
M P	23.91	41.30	34.78	0.00
Orissa	0.00	100.00	0.00	0.00
Rajasthan	15.15	54.55	24.24	6.06
U P	51.85	37.04	3.70	7.41
Uttarakhand	84.62	7.69	7.69	0.00
All States	36.69	43.17	14.03	6.12

Source: Primary Survey by PRIA

Figure 1.8: Number of Visits made to the Concerned Department for Getting Information (%)



40 percent of the respondents did not get the information within the stipulated time of thirty days. Nearly 43 percent the respondents had to make two-five visits to the offices to get information.

2.7 Non-cooperative PIOs

Very often applicants have to face one pretext or another. The case harassment in the form of threats and studies of Manoranjan Joshi from abuse by the officials of the Orissa and some individuals from departments. PIOs often deliberately Bihar and Haryana show that the cost ask for high fees for providing of asking for information can be very information and they also cause a high and even brutal in some cases delay in providing the information on [Box No. 6, 7, 8 & 9].

Box No. 6

Information pains in Orissa

Manoranjan Joshi, a reporter with a local TV channel, had sought certain information from the Balangir District Rural Development Department under the RTI Act. Joshi was asked by the department to deposit over Rs 1.21 lakh before he could be supplied with the required information. The journalist had wanted to know the name, status and allotment of funds of several projects including those under the Pradhan Mantri Gram Sadak Yojana [PMGSY] for the years 2004/05 and 2005/06 in the district.

But officials of the department did not find anything surprising in the matter. "Joshi applied for information concerning over 2,100 projects under four packages and 20 packages under PMGSY, which amounted to 60,560 pages," Tripathy said. "As we charge Rs two per page of information, it amounted to over Rs 1.21 lakh," he said.

Joshi, however, said that he had only wanted to access information about the names of the projects, their present status and funds allocated during the two years. "They could have given this bare information as I never wanted to have thousands of pages of details," he said. He added, "it amounted to harassment".

(Source: www.indiartiblogspot.org, April, 2008)

Box No. 7

File RTI in Bihar: Get ready to be beaten up

If you happen to file a RTI application in some blocks of Madhubani District of Bihar, there are chances that you might be beaten up or a FIR can be filed against you. This is what happened to Ram Parikshan Ram in Andratadi Block. Ram Parikshan Ram's wife, Munni Devi, a panchayat teacher, one day received verbal intimation from the Block office that she had been removed from service as the programme under which she had got the job of panchayat teacher had been discontinued. She asked for a written copy of the order, which was denied to her. She wanted to file a RTI application to get a copy of the Government Order. Her husband went to the Block office to submit the application, which was accepted by the Block Development Officer (BDO), but when he asked for a receipt for the application, Shri Rakesh Jha, BDO became angry and along with his staff and supporters started beating Ram. The BDO also got a case of obstructing the work of a government officer filed against Ram in the local police station and put him in jail. At present Ram has, a case filed against him.

Kamal Kishore Singh of Rajnagar sub Division faced a similar case of harassment and arrest. He was put in jail on false charges for filing a RTI application and he was released on bail by the Patna High Court after two months. Chandrashekhar Yadav of Phoolparas sub Division, Mahinderwar Panchayat was attacked by goons on the behest of the local administration for exposing the corruption and malpractices in his panchayat. Ram Narayan Mandal of Rudrapur Village was arrested in Andratadi Block and kept for hours in the lock up without any FIR as he had the courage to file a RTI application.

Source: PRIA State Report – Bihar

Box No. 8

Expect no help from PIOs

Mr. Vinod Mahato is a 50 year old citizen of Shrirampur Ward no.11 of Jamtara Town. He wanted to know the criteria and procedure for availing a Lal card under the "Aantyo daya Yojna" from the Food and Supply Department, Jamtara. He came to know about the RTI Act and its promises, and decided to use it to get the requisite information from the Public Authority. He went to the concerned department to submit his RTI application on Jan 16, 2008. Mr. Ganesh Das, Public Information Officer of the Food and Supply Department, Jamtara refused to accept his application. He alleged that Vinod had no work and wanted to create problems for government officials by filing a RTI application. Vinod also did not know how to file an application and asked Mr. Das to

help him out. The latter refused to help him on the grounds that he was too busy to waste his time in helping others to file correct applications under RTI. The PIO's demeanour was violative of the RTI Act and also reflected poorly on the attitude and behaviour of PIOs vis - a- vis citizens.

(Source: PRIA State Report - Jharkhand)

Box No. 9

Ved Prakash bearing the brunt for filing 51 applications

Mr. Ved Prakash is the President, *Suparbhat Sewa Samiti*, a civil society organisation working for the socio economic development of the rural poor, particularly poor women in Sonipat District of Haryana. He has filed 51 applications in different departments [Department of Panchayat & Development, Department of Food & Supply, District Revenue Department, District Rural Development Agency, Rural Development Authority and the Department of Social Welfare Board] of the Haryana Government and also helped the community in filing hundreds of applications. The applications were mainly related to service delivery problems faced by the citizens. There has been a tangible improvement of services in some gram panchayats and blocks of the district, e.g. food grains in Public Distribution System are being provided on time and at the specified price, the budgets and names of beneficiaries of the development programmes in some gram panchayats are now in the public domain etc.

Yet, Ved Prakash has not been provided information in 17 applications. In addition, he has to face the brunt of filing RTI applications. The PIOs of these departments have threatened Mr. Ved Parkash several times and his house was destroyed by government officials without any notice at the behest of the PIOs. Recounting the experiences, he says that the PIOs do not accept RTI applications saying that all the information shall be provided verbally and there is no need to give a written application. He adds that a majority of the PIOs were not providing dated receipts and they were not accepting fees in cash. Last of all, citizens are provided incomplete information or not provided the information within thirty days.

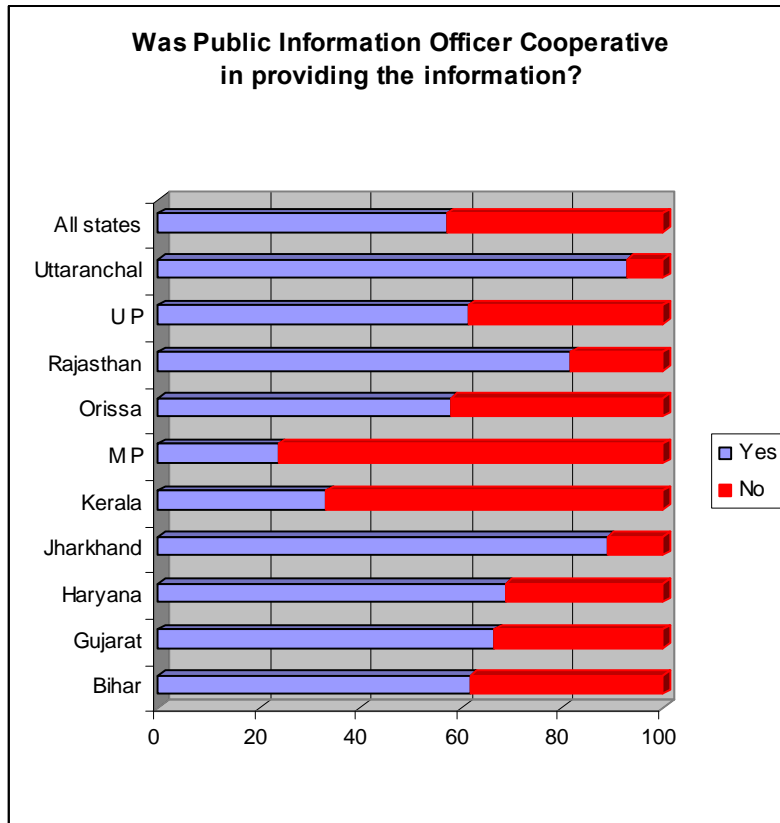
Describing the behaviour of the PIOs, one citizen from Sonipat has aptly said "for filing a RTI application, a citizen needs to have two heads; as one is bound to be smashed by the PIOs, in such eventuality the person can work with the other head".

Source: PRIA State Report - Haryana

These are some examples of the kind of harassment faced by citizens in different parts of the country. While arrests and physical abuse of the citizen for filing RTI applications are rare, citizens frequently have to face threats and pressure tactics. Figure 1.9 shows that 30 to 42 percent of PIOs in Bihar, Gujarat, Haryana, Orissa and Uttar Pradesh and 66 to 76 percent of PIOs in Kerala and Madhya Pradesh were not cooperative about providing information to the citizens. Though the data does not capture the treatment meted out to the RTI applicants by the PIOs, case studies from across India show that PIOs adopt various methods like threats and misguidance to deny information to the citizens. The PIOs' uncooperative attitude can be attributed to poor training imparted to the PIOs about RTI, an attitude problem of not sharing the information with the public and poor infrastructure in the Public Authorities. The cases of harassment, arrests and intimidation can only be traced to the malafide intentions of the officials of government departments who do not

want to share any information with the citizens lest it exposes the malpractices in their departments. Such behaviour of key officials of the department who are at the cutting edge level of administration contravenes Section 5(3) of the RTI Act, which mandates that the PIOs render all possible cooperation, to the persons seeking information, from any Public Authority.

Figure 1.9: Was Public Information Officer Cooperative in providing the information? (%)



Source: Primary Survey by PRIA

30 to 42 percent of the respondents in Bihar, Gujarat, Haryana, Orissa and Uttar Pradesh and 66 to 76 percent of the respondents in Kerala and Madhya Pradesh said that PIOs were not cooperative in providing information to citizens. Several cases of intimidation, harassment and reprisal by PIOs have been reported by citizens in the ten states.

2.8 Citizens' priority of departments in seeking information

It is crucial to know, the names of the departments / local bodies, which are approached most for accessing information. Figure 1.10 shows that the Block Development Office and Gram

Panchayat were approached by 25 percent and 9.4 percent of the respondents respectively in all the states. Urban Local Bodies, District (Zila) Panchayat, District (Deputy Commissioner's) Office, Social Welfare Department and Education

Department were approached by nearly six to seven percent of the respondents, while the Agriculture Department and Finance Department were approached by three to four percent of the respondents.

The state wise analysis also throws up some interesting facts about the departments approached by the citizens under the RTI Act. The Departments most approached for information in the different states are as follows - in Bihar, the Block Development Office and Social Welfare Department ; in Gujarat, the Finance and Education Departments; in Haryana, the Block Development Office, gram panchayat and zila panchayat ; in Jharkhand, the Block Development Office and Agriculture and Rural Development Departments; in Kerala, the District Office, Block

Development Office and gram panchayat; in Madhya Pradesh, the zila panchayat and Urban Local Body; in Orissa, the Block Development Office; in Rajasthan, the gram panchayat and zila panchayat; in Uttar Pradesh, the Block Development Office and in Uttarakhand, the Environment Department, Urban Local Body, gram panchayat and Block Development Office [Table 2.6]. Though, there is a slight variance in the departments approached for information under the RTI Act across all the states, the predominance of the Block Development Office, District Office, gram panchayat and zila panchayat can be discerned in all the states. It also shows that citizens in day to day life largely deal with these departments and some other service delivery departments; hence, they only try to get information about the functioning of these departments.

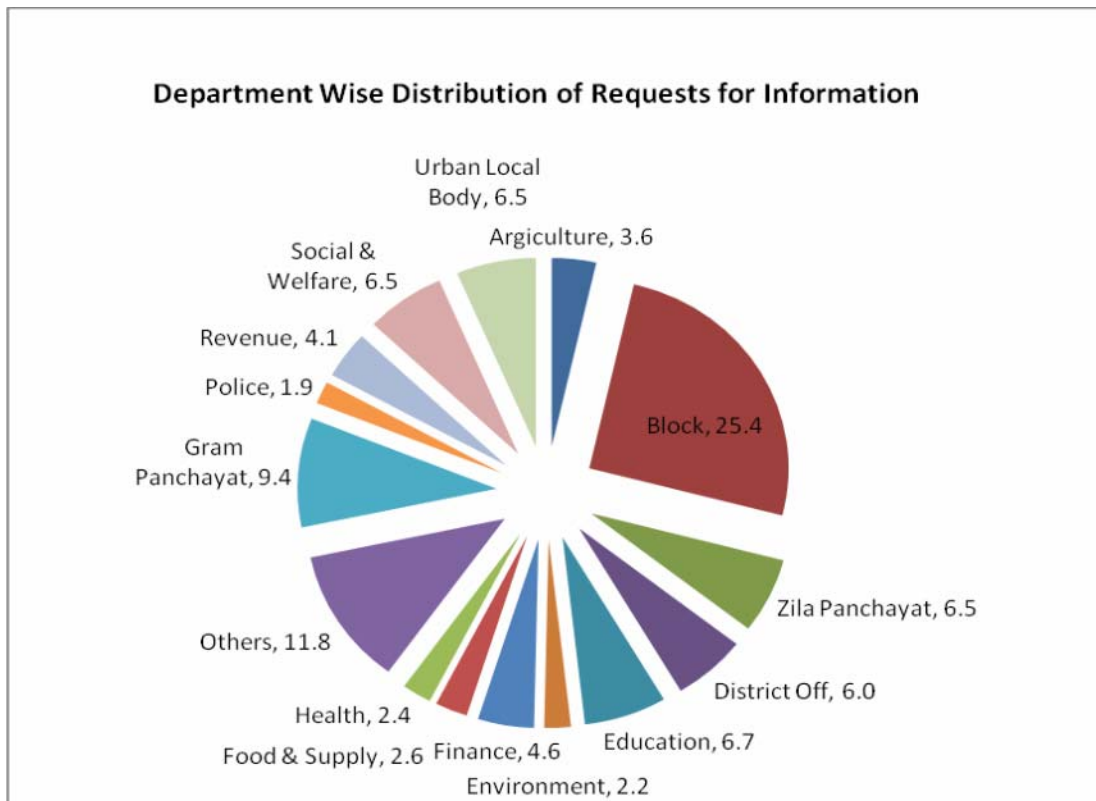
Citizens mostly approached Block Development Office, Deputy Commissioner's office, gram panchayat and zila panchayat for obtaining information which suggests that citizens face service delivery problems in these departments.

Table 2.6: Department Wise Distribution of Requests for Information (%)

Department	BH	GUJ	HR	JH	KL	MP	OR	RJ	UP	UTT	Total
Agl & Rural	7.69	2.74	0.00	15.00	4.00	3.92	0.00	0.00	2.00	5.56	3.60
Education	7.69	9.59	4.00	15.00	2.00	9.80	0.00	6.00	6.00	5.56	6.71
Environment	0.00	2.74	4.00	0.00	2.00	1.96	3.57	2.00	0.00	11.11	2.16
Finance	1.92	13.70	0.00	0.00	2.00	3.92	0.00	2.00	6.00	5.56	4.56
Food Supply	3.85	4.11	0.00	5.00	0.00	3.92	0.00	2.00	4.00	0.00	2.64
District Office (DC)	1.92	1.37	8.00	0.00	32.00	3.92	7.14	2.00	0.00	0.00	6.00
Health	3.85	0.00	0.00	5.00	0.00	7.84	0.00	0.00	0.00	16.67	2.40
Police	5.77	2.74	0.00	0.00	0.00	1.96	0.00	2.00	2.00	0.00	1.92
Zila- Panchayat	0.00	9.59	16.00	0.00	0.00	11.76	0.00	16.00	4.00	0.00	6.47
Social Welfare	13.46	4.11	8.00	15.00	2.00	9.80	0.00	2.00	6.00	11.11	6.47
Urban Local Body	1.92	1.37	16.00	0.00	0.00	15.69	0.00	20.00	4.00	5.56	6.47
Revenue	9.62	5.48	0.00	5.00	4.00	0.00	0.00	2.00	8.00	0.00	4.08
G. Panchayat	0.00	2.74	20.00	0.00	16.00	7.84	3.57	32.00	2.00	11.11	9.35
Block Office	40.38	6.85	20.00	25.00	28.00	5.88	78.57	8.00	50.00	11.11	25.42
Others	1.92	32.88	4.00	15.00	8.00	11.76	7.14	4.00	6.00	16.67	11.75
Total	100	100	100	100	100	100	100	100	100	100	100

Source: Primary Survey by PRIA

Figure 1.10: Department Wise Distribution of Requests for Information (%)



Section 3
Response of the Appellate Authorities
(First Appellate Authorities and State
Information Commissions)

In the event of non-compliance, the RTI Act sets in place the process of First and Second Appeal. Section 19 of the RTI Act provides two steps of Appeals against the decision of a PIOs on the request for information by an applicant. An applicant who does not receive the information within the stipulated time or is aggrieved by the decision of the PIOs, can then file an Appeal to the First Appellate Authority who is usually a designated senior officer of a government department (Public Authority where the request for application had been submitted. The First Appeal has to be filed within 30 days from the date of receipt of the decision, regarding refusal of information by the PIO of the Public Authority.

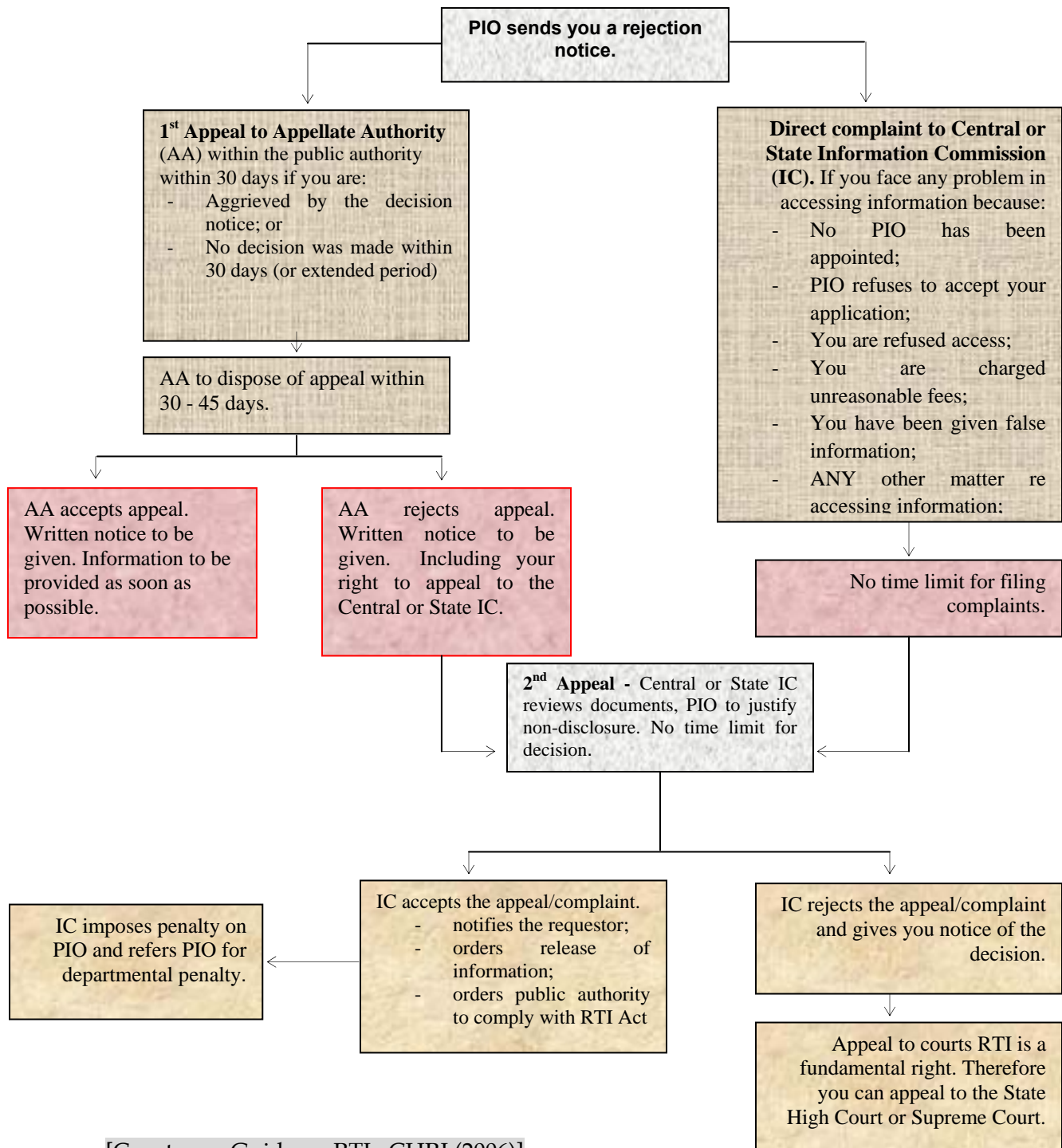
If the applicant is not satisfied with the decision of First Appellate Authority,

then he can file Second Appeal to the Central Information Commission (CIC) or the State Information Commission (SIC) as the case may be. This appeal must be filed within 90 days from the date of decision of the Appellate Authority (in the First Appeal). There is no time limit which is prescribed under the Act, for disposing the Second Appeal for CIC / SIC.

Besides, the provision of Appeal, there is a provision of *Complaints* for the applicant as well. If an applicant has not been able to submit application to the PIO; he has been denied information; his /her information request has not been responded within the time limits fixed under the Act; he has been charged unreasonable fees by PIO; he has been given false or incorrect information or he/ she faces any other problems relating to obtaining information, then the applicant can *Complaint to CIC / SIC*.

It would be pertinent to find out the response of First Appellate Authorities and State Information Commissions to the Appeals filed by citizens.

Flow Chart 2: Appeal Process



[Courtesy - Guide on RTI, CHRI (2006)]

3.1 Response of First Appellate Authorities

The RTI Act, thus, puts in place two processes of Appeal in cases where information is not provided to the citizens. Yet, when the question regarding cases of denial of information by the PIOs of the Public Authorities (PAs), “did they go for the First Appeal?”, was posed to respondents, a majority of the citizens (64 %) said that they did not go in for First Appeal [Table 3.1]. The percentage of citizens not going in for First Appeal in Bihar, Kerala and Jharkhand is significantly high. In contrast, Table 3.1 also shows that the percentage of respondents going in for First Appeal in Haryana and Uttarakhand is 76 percent. Yet non utilisation of the First Appeal procedure by a significant percentage of RTI applicants in case of denial of information in the ten states is a cause of concern as it reflects the pessimism of respondents who feel that nothing is going to change in India, so why should they waste their time and resources in running after a lost cause i.e., getting information through the First Appeal. As a significant percentage of respondents did not go in

for First Appeal, hence, there was no question of going in for a Second Appeal i.e., to the SIC. So the respondents left the relevant column blank, when the question, “did you appeal to the State Information Commission?” was posed to them.

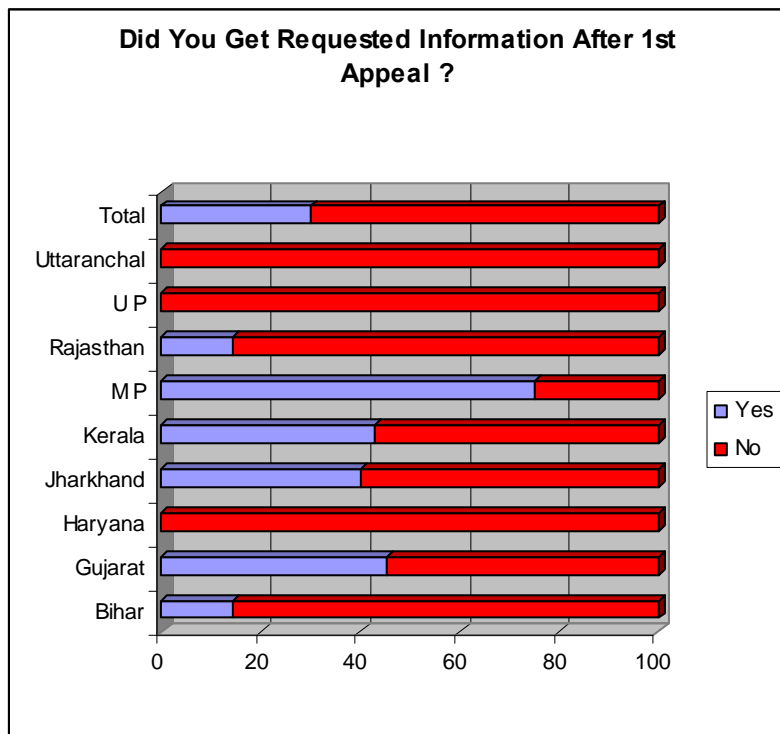
In response to the disposal of their First Appeals and whether citizens could get information as a result of their Appeals to the first Appellate Authority (AA), about 70 percent of the respondents said that they were unable to get the information [Figure 1.11]. Moreover, in Bihar, Haryana, Rajasthan, Uttar Pradesh and Uttarakhand, the number of respondents who were unable to get information is abysmally high. It was felt by the respondents that First Appellate Authorities being the senior officers of the department to which the PIOs belong, are largely sympathetic to the PIOs. They have tendency to go with the decision of the PIOs, as a result citizens do not hope to get information at the level of First AA.

Table 3.1: Did You Appeal to the 1st Appellate Authority in Cases of Denial of Information by PIOs? (%)

States	Yes
Bihar	19.44
Gujarat	50.00
Haryana	66.67
Jharkhand	29.41
Kerala	20.00
M P	100.00
Rajasthan	50.00
U P	100.00
Uttarakhand	66.67
All States	35.22

Source: Primary Survey by PRIA

Figure 1.11: Did You Get the Requested Information After 1st Appeal? (%)



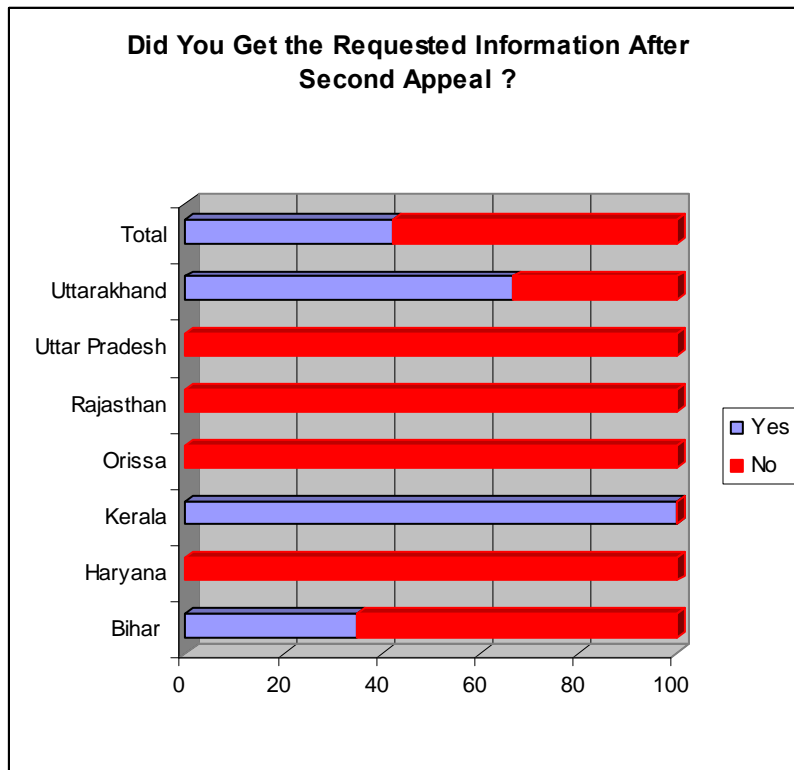
Source: Primary Survey by PRIA

3.2 Response of State Information Commissions

In response to whether the citizens got the requested information after the Second Appeal to the SIC, a significant percentage of citizens in Bihar, Haryana, Orissa, Rajasthan and Uttar Pradesh said that they did not get the information. However, this figure

improves in Kerala and Uttarakhand, where respondents were able to get the information [Figure 1.12]. It is to be noted here that few respondents had gone for the Second Appeal hence, the sample size of respondents who answered this question was quite small.

Figure 1.12: Did You Get the Requested Information After the Second Appeal? (%)



Source: Primary Survey by PRIA

A majority of the respondents (64 percent) did not go in for the First Appeal as they felt that it would be a waste of time and resources. Similarly number of respondents going in for Second Appeal was significantly less. Citizens feel that First Appellate Authorities have the tendency to go with the decisions of the PIOs, hence filing First Appeals do not make much sense.

Section 4
Evaluation of Performance
of
State Information Commissions

The power of enforcement and compliance of Right to Information Act has been given to Central Information Commission or State Information Commission. The Central Information Commission/State Information Commission have the powers of a civil court of law, in the discharge of their functions such as summoning and enforcing attendance of persons or documents, discovery and inspection of documents etc. In addition, Besides, CIC / SIC can ensure the compliance of the RTI Act in the correct manner by directing the public authority to take necessary action for implementing the Act.

While hearing the appeal if CIC / SIC finds that PIO has deliberately denied information or provided incorrect information, then it can impose a penalty of Rs.250 per day till information is furnished, subject to a total of Rs.25, 000 [Section 20]. It can also recommend disciplinary action against the PIO, under the service rules of the department. The Commission, in

its order can also award compensation to the applicant.

The applicant has one more avenue of appeal after CIC / SIC. He / she can challenge the decisions of CIC/SIC under the writ jurisdiction of the High Courts (Article 226) or the Supreme Court.

State Information Commission (SIC) is the apex Appellate Authority at the State level for hearing the appeals or complaints from the citizens who have not been able to access information due to some reasons. State Information Commission is a pivot institution which ensures implementation of RTI (Right to Information) Act in the State. Effective functioning of State Information Commission in a way determines effective implementation of RTI Act in the State. Hence it is quite pertinent to evaluate the functioning of SICs which is critically linked to functioning of RTI regime in the State.

4.1 Disposal of Appeals and Complaints by State Information Commissions

One of the ways of evaluating the performance of SICs is analysing the disposal rates of Appeals and Complaints. Table 4.1 gives the number of Appeals and Complaints received and disposed off since October - November, 2005. It shows that the disposal rate of Appeals of SICs in Haryana, Rajasthan, Uttar Pradesh and Uttarakhand is between 77 to 93 percent, which can be considered good. It is worth noting that the disposal rate of Complaints by the Haryana and Uttarakhand SICs is above 90 percent.

There is no doubt that the disposal rate of Appeals and Complaints is good in Uttar Pradesh, but there have been several cases of poor decisions by this SIC. For example, in a case related to information related to the National Rural Employment Guarantee Scheme (NREGS), the Uttar Pradesh SIC provided the information after one and half years [Box No.10]. Citizens also complain that the officers who come for hearings in the Uttar Pradesh SIC sit with the Information Commissioners in their chamber, while the citizens have to wait outside without any facilities. At times, the decisions are given by the SIC without even hearing the appellant (common man) [*Outlook Hindi, July 28, 2008, pp 44-45*]

Table 4.1: Disposal of Appeals and Complaints by the SICs (2005-2008)

S. No	State	Appeals Received	Appeals Disposed off	Disposal rate % (Appl)	Complaints Received	Complaints Disposed off	Disposal rate % (Comp)
1	Bihar	8000	4000	50	-	-	-
2	Gujarat	2176	880	40	4283	1879	43
3	Haryana	1429	1213	84	434	410	94
4	Jharkhand	1508	1002	66	202	147	72
5	Kerala	1405	960	68	1820	1280	70
6	Madhya Pradesh	4102	850	20	3825	1853	48
7	Orissa	757	358	47	3721	909	24
8	Rajasthan	2137	1744	82	410	204	20
9	Uttar Pradesh *	34871*	26968	77	-	-	-
10	Uttarakhand	596	560	93	1420	1416	99

Source: Data from State Information Commissions has been collected by investigator from PRIA and RTI Activists & Networks on RTI in the states. (* Appeals and Complaints have been combined together in Bihar and Uttar Pradesh)

Poor disposal rates of Appeals and Complaints in the State Information Commissions of Bihar, Gujarat, Jharkhand, Kerala, Madhya Pradesh and Orissa is a cause of concern.

Box No. 10

After 1.5 years, RTI provides NREGS documents to Unnao

After ten hearings at the Uttar Pradesh (UP) State Information Commission and one and a half years from first filing the Right to Information (RTI) application to seek documents related to the National Rural Employment Guarantee Scheme (NREGS) in Miyaganj Block of Unnao District in UP, the people of Miyaganj are finally relieved to get those documents pertinent to the NREGS work done in their block.

The RTI application asking for information (like muster rolls and measurement books) under the RTI Act, 2005, was filed on 4 December 2006 by Miyaganj Block resident Yeshwant Rao at the local Block Office. He received a reply after more than six months (June 2007) asking him to submit Rs. 1,58,400 (at an arbitrarily fixed rate of Rs. 2,400 per village panchayat for 66 panchayats of the Miyaganj Block).

This followed a long battle in the State Information Commission of UP where after more than ten hearings ultimately an order was passed directing the Block officials to provide information free of cost. The people of Miyaganj finally started getting the documents on 6 April 2008.

(Source: www.indiartiblogspot.org, April, 2008)

SICs in Uttar Pradesh and Bihar have given decisions, which are just one line orders, which do not explain the facts of the case. In some decisions of the Bihar and Orissa SIC, the date of registration of the case with the SIC, name of the PIO and the first Appellate Authority are not given. Hence, one cannot find out how much time the SIC has taken for giving the decision and which PIOs and Appellate Authorities were concerned with the case [Box No.11].. In one of the cases, the Haryana SIC asked the appellant who had filed the complaint with the Commission, to file the First Appeal with the First Appellate Authority [Box No.12]. SICs in some states, are leaving out some crucial details in their decisions, which are normally included in conventional judicial orders.

Box No. 11

Name of PIO and First Appellate Officer missing, date of registration of a case missing, nature of information not revealed in the decisions of Orissa SIC

The Right to Food Campaign, Orissa and AID selected 20 cases to assess the quality of the Orissa SIC's decisions, they had some startling details to share.

The Commission has not mentioned the name of the PIO and First Appellate Officer in 5 (25 %) cases. As per common judicial practice, the name of the opposite parties needs to be mentioned in the proceedings of the case.

In 10 cases it was found (SA No-168/2006, 145 to 153/2006, 05/2007, CC-291/2006) that the Commission's decisions did not mention the nature of information, around which the grievance of the appellant/complainant arose.

The Commission's decisions have not mentioned the date when the case (Second Appeal and Complaint) was registered in their office.

(Source: Report of Study Findings on the Decisions of Orissa State Information Commission jointly conducted by Right to Food Campaign, Orissa and AID, India)

Box No. 12

SIC direction for 1st Appeal

The Forest Department in Haryana State came under the scanner of RTI when Mr. Vikram, resident of Gehali Gram Panchayat under Mahendragarh filed an application on Sep 19, 2007 requesting the following information.

- How many meetings of the Village Forest Committee (VFC) have been conducted since its inception up to November 2006?
- How many SHGs have been formed under the Forest Department in the Mahendragarh district?
- The amount of money released to the VFC of Gehali Gram Panchayat since the inception of the VFC and for which type of work undertaken in the gram panchayat?
- How many plants planted in the village Gehali from August-September 2007?

He went through a long waiting period, more than what the RTI Act mandates, and still did not obtain any information from the PIO of the concerned department. Deciding not to waste any more time, he filed a complaint with the State Information Commissioner (SIC) on Jan 14, 2007. However the SIC ordered a First Appeal through letter no. 5639 dated Jan 29, 2007 (This is a clear violation of Section 18 (1) of the RTI Act as the State Information Commission cannot ask the applicant to file First Appeal in cases where the applicant had approached the Commission for filing a Complaint). Vikram filed an appeal with the First Appellate Authority, but has not received a response as yet.

(Source: PRIA – State Report , Haryana)

Poor quality of decisions of SICs in Bihar, Uttar Pradesh and Orissa reflects poorly on the functioning of Information Commissions in these states.

Experiences of the type mentioned above were shared at the National Conference of RTI Activists at Gandhi Peace Foundation, New Delhi on July 28-29, 2008. The conference was attended by one hundred and twenty RTI activists from 21 states, prominent amongst them being Arvind Kejriwal, Shailesh Gandhi and Manish Sisodia. The participants said that the Appeals in their states were not resolved in one hearing, but in four to seven hearings, which means that the applicant had to come several times to the state capital to attend the hearings at his own cost, while the cost of the PIOs' travel was borne by their respective governments. Even after so many hearings, the

Information Commissioners give decisions of a very general nature e.g., "PIOs should provide the information". They were anguished at the fact that the Information Commissioners closed the cases without ensuring that the information had been provided. SICs have often said in their orders that PIOs were inexperienced or under trained, hence a penalty can not be levied on them, and such verdicts are unheard of in the decisions of quasi-judicial bodies in the country. The PIOs, in a majority of the cases and even after the SIC's orders do not provide information or provide incomplete information. The citizen again applies to the Information Commissioner for the non compliance by PIOs, which means waiting for another four to six months before their Appeal is heard. The highly sympathetic attitude to PIOs can be seen even in the Central Information Commission, where two Information Commissioners have levied very few penalties even after hearing more than two thousand Appeals and Complaints. [Based on experiences of

participants in National Conference of RTI Activists at Gandhi Peace Foundation, New Delhi on July 28-29, 2008]

It is important to mention here that SICs in Uttar Pradesh, Madhya Pradesh and Rajasthan even after dealing with several thousands Appeals and Complaints has penalised few PIOs, as they have not found cases of malafide denial of information by the PIOs. This is despite experiences at the grass roots, which suggest numerous cases of harassment of RTI applicants by the PIOs.

Table 4.2 shows that the Uttar Pradesh SIC even after hearing thirty five thousands Appeals and Complaints has imposed few penalties on PIOs ; the Madhya Pradesh SIC after hearing 7384 Appeals and Complaints has levied just four penalties ; the Rajasthan SIC has not levied any penalty even after hearing 2547 Appeals and Complaints. The Bihar SIC has levied a number of penalties after there was wide spread criticism

of the Commission as being lenient towards the PIOs. The Jharkhand SIC has tried to be active in the last six months by summoning 21 IAS officers for denial of information. Gujarat, Orissa, Haryana and Kerala in the last year have levied a number of penalties and recommended disciplinary action against the PIOs for malafide denial of information to the citizens [Box No.13]

Table 4.2: Penalties imposed and disciplinary action recommended by SICs (2005-08)

S.No.	State	Penalties imposed	Disciplinary Action Recommended	Appeals in High Courts
1	Bihar	32	3	8
2	Gujarat	48	-	134
3	Haryana	27	67	3
4	Jharkhand	18	15	37
5	Kerala	49	52	19
6	Madhya Pradesh	4	0	3
7	Orissa	89	-	-
8	Rajasthan	-	4	-
9	Uttar Pradesh	-	-	-
10	Uttarakhand	12	12	14

Source: Data from State Information Commissions has been collected by investigator from PRIA and RTI Activists & Networks on RTI in the states

Box No. 13

21 IAS Officers summoned by Jharkhand SIC

For the first time in the country, a State Information Commission has summoned 21 IAS officers together. These IAS officers had to appear in person before the Jharkhand State Information Commission on January 4th 2007. The State Information Commission summoned these officials, as they did not provide information related to NREGS in the blocks of the state, as sought by Vishnu Rajgadua under the RTI Act.

During the second hearing on 9th December 2006, the Commission felt that the Rural Development Department (Jharkhand) did not have the information at the Block level regarding NREGS. Therefore, the Commission summoned the 20 Deputy Commissioners on 4th January 2007 to ask whether they had the Block level information sought by the applicant or not. The Commission also wanted to know from the Principal Secretary of the Rural Development Department (Jharkhand) whether he gets the reports on the implementation of NREGS in the Blocks or not.

(Prabhat Khabar, www.indiartiblogspot.org, April, 2008)

Few penalties on PIOs by the SICs in Uttar Pradesh, Madhya Pradesh, Bihar, Jharkhand, and Rajasthan in face of widespread denial of information at the grassroots by PIOs indicates that the SICs are taking lenient view of denial of information to citizens.

The activists felt that Information Commissions are proving to be the main stumbling blocks in the implementation of the RTI Act. Most of the Information Commissions have large numbers of pending cases, which means that citizens have to wait for several months before their Appeal is heard by the Commission. In Madhya Pradesh, Uttar Pradesh, Maharashtra and at the Centre, citizens have to wait from eight months to two years before their appeal is taken up by the Commission. (Experience sharing at National Conference, N.Delhi). It is important to note that 18,000 Appeals are pending with the Maharashtra Information Commission, 9000 Appeals are pending in Uttar Pradesh and 7800 Appeals are pending at the Central Information Commission. Similarly, citizens have to wait for four to six months in Bihar, Chhattisgarh, Jharkhand, Gujarat, Orissa, Kerala, Karnataka and Rajasthan. The delay in

disposal of Appeals by the Information Commissions unnerves the citizens who feel that Information Commissions are no different from other government bodies where citizens are always at the receiving end.

4.2 Composition of State Information Commissions

It has often been said that the dominance of retired IAS officers and state civil servants in Central and State Information Commissions creates a mental block, which prevents these Information Commissions from taking stringent action against the PIOs. Any close observer of RTI in India tends to feel that such things can be seen in Maharashtra, Madhya Pradesh and Rajasthan. The analysis of the decisions of these commissions gives a clear indication that they still think of penalising the PIOs as the 'rarest of rare cases' and seem to hold a sympathetic attitude to PIOs who try

to withhold information under some excuse or the other. However, some of the SICs like Uttar Pradesh and Jharkhand, have not been good performers in ensuring compliance of the RTI Act, despite all the Information Commissioners being from a non IAS background. Their disposal rates of Appeal and Complaints, self disclosure of their activities and quality of their decisions is a cause for concern, which is clearly derailing RTI in the state.

At the same time, Haryana, Andhra Pradesh, Gujarat and Uttarakhand SICs where retired IAS officers are the Chief Information Commissioners, have put up a good performance in terms of disposal rates of Appeal and Complaints and the quality of their decisions. While Information Commissions like Madhya Pradesh, Chhattisgarh and Orissa despite having retired IAS officers as CICs have performed poorly. So, it can be observed that some Information Commissions having retired IAS officers as CICs have not performed well; while other ex- IAS officer led

Information Commissions have done their work well. Simultaneously, the pro-citizen approach of Dileep Reddy [Information Commissioner, Andhra Pradesh] and Vijay Kublekar [Information Commissioner, Maharashtra] has earned plaudits from the public. It is important to note that both have been eminent journalists.

This brings us to the question of the composition of Information Commissions. Section 15 (5) of the RTI Act quite clearly mentions "The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance". It shows that the drafters of the RTI Act 2005 had underlined the need for people from diversified backgrounds in the SICs. So, persons of eminence from diverse backgrounds should find representation in the Information Commissions and these persons

should have shown commitment to transparency, accountability and social cause.

At the outset, the state governments had shown preference to retired IAS officers in appointment to Information Commissions as a result these officers constituted nearly 54 percent of Information Commissioners in the states in the year 2007. But this trend has witnessed a change in last one year

and eminent persons from other fields have been appointed in the Information Commissions. As a result the percentage of retired IAS officers in the SICs has come down to nearly 37 percent. [Table 4.3] Still there remains to be lot of scope for appointment of Information Commissioners from diverse background besides retired government officers in the Information Commissions.

Table 4.3: Background of members in State Information Commission (2007-2008)

S. No.	State	A & G	Law	Ac	SS	Jrn	S& T	Mgt	Not Known	Total
1	Andhra P	1 (IAS Rtd.)	1			1	1			4
2	Assam									
3	Bihar	2 (IAS Rtd.)	1							3
4	Chhattisgarh	1 (IAS Rtd.)								1
5	Goa	1 (IAS Rtd.) + 1 SS								2
6	Gujarat	1 (IAS Rtd.)								1
7	Haryana	3 (IAS Rtd.) + 1 Military	2						1	7
8	Himachal P	2 (IAS Rtd.)								2
9	Jharkhand		3	1	1	1		1		7
10	Karnataka	1 (IAS Rtd.) + 1 SS							1	3
11	Kerala	2 (IAS Rtd.)	1			1			1	5
12	Madhya P	1 (IAS Rtd.)							3	4
13	Maharashtra	3 (IAS Rtd.)				1			2	6
14	Orissa	1 (IAS Rtd.)			1					2
15	Punjab	3 (IAS) + 1 Military + 1 IPS Rtd.					1		3	9
16	Rajasthan	1 (IAS Rtd.)								1
17	Sikkim	1 (IAS Rtd.)								1
18	Tamil Nadu	4 (IAS Rtd.) + 2 SS		1						7
19	Uttarakhand	1 (IAS Rtd.)								1
20	Uttar Pradesh	1 Military Rtd.	5			2	1			9
	Total	37	13	2	2	6	3	1	11	75

Abbreviations used:

1. Administration & Governance : A & G (mostly IAS Retired)
2. Academia : Ac
3. Social Service : SS
4. Journalism: Jrn
5. Science and Technology: S & T
6. Management: Mgt
7. State Civil Services : SS
8. Indian Administrative Services: IAS

Members from Administration and Governance background constitute nearly 50 percent of Information Commissioners in the 20 SICs in 2008.

4.3 Non-transparent and Expensive Information Commissions

Another area of concern is the non-transparent functioning of the majority of SICs. SICs instead of setting examples of pro-active disclosure of their activities for other Public Authorities, seem to be reluctant about disclosing their activities. Their self-disclosure manual in Uttar Pradesh, Bihar, Karnataka, Tamil Nadu, Orissa, Uttarakhand, Himachal Pradesh, West Bengal, Assam, Gujarat, Madhya Pradesh and Chhattisgarh is poorly

maintained or not frequently updated. The Uttar Pradesh Information Commission even refuses to provide data about pending Appeals and the penalties levied saying that they do not have the necessary infrastructure to maintain the data. [Box No.14] Moreover, most of the SICs have not published the annual report in three years saying that Public Authorities have not sent the annual RTI data. Poor self-disclosure by the SICs, the apex bodies of RTI sets a wrong precedent for Public Authorities in India.

Box No. 14

No staff, can't give info, says UP panel

Totally disregarding the provisions of the Right to Information Act 2005, the UP State Information Commission is denying information to applicants on the plea that it does not have enough staff to keep record. Further, the UP SIC seemed to be totally unaware of the stipulations of the RTI Act. The public information officer of the UP SIC refused to give information about the budget, saying that it was not possible to give information. This is actually a requirement under the RTI Act pointed out Commodore Lokesh Batra (Retd) who filed the application to ask for information from the UPSIC. Mr Batra, an RTI activist, said he had filed two applications asking for information of disposal of cases by the SIC and also by the various departments. He also asked for the number of denials of information and the number of cases where violation of the Act was found. Mr Batra informed that under the RTI Act Section 25, sub-section (3), various ministries have to prepare an annual report on this and submit it to the SIC. Based on this, the SIC prepared its annual report.

(Source: www.indiartiblogspot.org, July 2008)

However, some SICs like Andhra Pradesh and the Punjab Information Commission and Central Information Commission have done good self disclosure of their activities through their web sites, which are updated regularly. The good initiatives taken by the above mentioned Information Commissions are worth emulating by other SICs. The Maharashtra, Kerala and Andhra Pradesh SICs' efforts to have regional / district level benches for hearing Second Appeals is a good initiative, which helps the common man save time and resources.

These are some isolated examples of good initiatives taken by the SICs. Shailesh Gandhi, a RTI activist from Mumbai pointed out that SICs are largely inefficient and expensive in their functioning. He pointed out that a judge in the Mumbai High Court on an average disposes off 2,530 cases annually, the Information Commissioners in Maharashtra on an average disposed of 899 Appeals last year. The cost incurred in deciding a case in Mumbai High Court is Rs.2300/- per case, while the cost incurred per case in the Central

Information Commission is Rs.7000/- [Experiences of National Conference, New Delhi] Such costs incurred by the Information Commissions can be said to be exorbitant in view of the fact that a large number of SICs are facing budgetary and infrastructure constraints. The annual budget of Gujarat, Rajasthan and Uttar Pradesh SICs is very small in view of the expectations from the Information Commissions to ensure compliance of RTI in the states [Table 4.4]. The budget provided to the other seven SICs is not adequate either [Table 4.4].

Table 4.4: Budget of State Information Commissions (2007-08)

S.No.	State	Budget (Rs.)
1	Bihar	1,19,16,000.00
2	Gujarat	87,20,000.00
3	Haryana	1,35,00,000.00
4	Jharkhand	1,67,70,000.00
5	Kerala	1,59,46,000.00
6	Madhya Pradesh	
7	Orissa	
8	Rajasthan	35,00,000.00
9	Uttar Pradesh	33,06,000.00
10	Uttarakhand	1,56,81,000.00

Source: Data from State Information Commissions has been collected by investigator from PRIA and RTI Activists & Networks on RTI in the states

Self disclosure Manual of the SICs in Uttar Pradesh, Bihar, Karnataka, Tamil Nadu, Orissa, Uttarakhand, Himachal Pradesh, West Bengal, Assam, Gujarat, Madhya Pradesh and Chhattisgarh is poorly maintained or not frequently updated.

Central Information Commission and SICs in Andhra Pradesh and Punjab have done good self disclosure of its activities through their web sites which is updated regularly.

SICs face budgetary and infrastructure constraints which hinders their functioning.

4.4 No Support from the State governments

SICs face difficulties in ensuring compliance of their orders by the Public Authorities and PIOs. Non-compliance of the Information Commissions' orders by the PIOs and PAs is of serious concern. The penalty imposed by the Information Commissions is not collected by the PAs, in such cases, the Information Commissions do not have any powers. E.g., the orders of Central Information Commission for removal of file notings as an exempted item from the web site has not been complied with by the DOPT [Department of Personnel and Training], Government of India and the CIC cannot do anything about it. Similarly, several cases of non compliance exist for the implementation of Section 4 of the RTI Act (self disclosure) in several Public Authorities across the country. The document on self disclosure (Section 4 (1)(b) is either not there or it is in very poor shape. Citizens cannot make use of it as crucial information related to activities of the department is missing

from the self-disclosure manual. An overview of the web sites of the Governments of Uttar Pradesh, Jharkhand, Chhattisgarh, Madhya Pradesh, Haryana clearly shows that self-disclosure has not been taken seriously by the state governments. It demonstrates a lack of seriousness on the part of the central and state government to implement the Act. In addition, the ICs feel that they lack adequate powers to ensure compliance by the Public Authorities. As a result, ICs have not been able to provide any kind of relief to the citizens who have been threatened, harassed and arrested in false cases by the PIOs and Appellate Authorities; absence of any protection for RTI applicants leaves them prone to attacks from vested interests.

Information Commissions (Central / State) are the apex bodies for dealing with Appeals and Complaints with regard to denial of information and have to take steps to ensure compliance of the provisions of the RTI Act by the Public Authorities. The

analysis of the functioning of SICs in information. There exists a fear in his /
ten states creates a doubt in the mind her mind that another radical law
of the common man whether there is might become non-functional in the
any body, which can ensure access to country.

No response in view of poor self disclosure by government departments and non-compliance of the SICs' orders by Public Authorities suggests non-seriousness of the state government towards implementing the RTI Act.

Section 5

Conclusions and Recommendations

On the basis of the findings of the study, we would like to make some recommendations for improving the citizen's accessibility to information on Public Authorities, Central and State Governments and SICs.

5.1 For Public Authorities, Central and State Governments

1. The Study shows that non-availability of directories of PIOs in the selected districts of Bihar, Jharkhand, Kerala, Madhya Pradesh, Orissa and Uttar Pradesh, is nearly 90 percent or more. As a result, citizens in these States are facing difficulties in locating appropriate PIOs, where applications can be filed.

It is recommended that district level directories of PIOs should be published and widely disseminated. The central government is taking the initiative of establishing a Right to Information Call Centre at the national level, state

governments should also join this initiative.

2. The study shows that 40 percent of the respondents do not get information within the stipulated time of thirty days. Nearly 43 percent of the respondents had to visit the government offices at least two-five times for getting information. Around 30 to 42 percent of the respondents in Bihar, Gujarat, Haryana, Orissa and UP and 66 to 76 percent of the respondents in Kerala and MP said that PIOs were not cooperating in providing information to the citizens. Several cases of intimidation, harassment and reprisal by PIOs have been reported by citizens in the ten states.

It is recommended that Public Authorities should organise regular interface of PIOs with citizens, Resident Welfare Associations and civil society

organisations, so that PIOs can understand the demands of citizens and their experiences on RTI.

3. Nearly ninety percent and more respondents in Bihar, Haryana, Jharkhand, Madhya Pradesh, Kerala and Uttar Pradesh said that the self-disclosure manual was not available in government departments, which demonstrates that these bodies have not taken steps to implement Section 4 (Self disclosure) of the RTI Act. The self disclosure manual in various Public Authorities at the district level, state level and national level is in very poor shape (important information is neither available, nor updated regularly, it is poorly formatted).

It is recommended that the regular auditing of self disclosure of PAs should be undertaken by civil society organisations and the report should be shared with public.

4. Non compliance of the orders of SICs by the Public Authorities is a cause of serious concern.

The central government and state governments should take notice of such incidences and punish the PAs which are not complying with the orders of SICs.

5.2 For State Information Commissions

1. Poor disposal rates of Appeals and Complaints in the State Information Commissions of Bihar, Gujarat, Jharkhand, Kerala, Madhya Pradesh and Orissa is a cause of concern.

It is recommended that state governments should appoint more staff in the SICs and provide more budget to them. SICs should also increase their efficiency in dealing with appeals and complaints. They should maintain a disposal rate of 90 per cent and above, so that the appellants do not have to wait for a long time in Second Appeal.

2. Poor quality of decisions of SICs in Bihar, Uttar Pradesh and Orissa reflects poorly on the functioning of Information Commissions in the

states. (State Information Commissions in their decisions are not writing the date of registration, the names of PIOs and Appellate Authorities and clause under which information has been denied.) Few penalties on PIOs by the SICs in Uttar Pradesh, Madhya Pradesh, Bihar, Jharkhand, and Rajasthan in face of widespread denial of information at the grassroots by PIOs indicates that SICs are taking a lenient view of denial of information to citizens.

It is recommended that SICs show have regular interface with senior lawyers and judges of High Courts, so that rigour of judgments of the Judiciary can be seen in the decisions of SICs.

3. Self-disclosure of SICs in Uttar Pradesh, Bihar, Karnataka, Tamil Nadu, Orissa, Uttarakhand, Himachal Pradesh, West Bengal, Assam, Gujarat, Madhya Pradesh and Chhatisgarh is poorly maintained or not frequently updated.

It is recommended that SICs should learn from the experiences of Central Information Commission and SICs in Andhra Pradesh and Punjab in self-disclosure of their activities. These Commissions have done well in disclosing their activities through web sites, annual reports and the self-disclosure manual.

List of Acronyms

AA: Appellate Authority

PA: Public Authority

PIO: Public Information Officer

APIO: Assistant Public Information Officer

SIC: State Information Commission

IC: Information Commissioner

IAS: Indian Administrative Services

CIC: Central Information Commissioner

RTI: Right to Information

BPL: Below Poverty Line

List of Tables

		Pg. No
Table 1.1	District Distribution of Rural Urban Population of the States	14
Table 1.2	Sample size	15
Table 1.3	Rural- Urban Ratio in the sample	15
Table 2.1	How Do You Rate the Application, Appeal & Additional Fees Charged for Getting Information? (%)	29
Table 2.2	Distribution of Mode of Payments Used By Applicants in Requests for Information (%)	32
Table 2.3	Did You Find Mode of Payment of Fees Convenient? (%)	33
Table 2.4	Number of Days in Which Information was Provided (%)	37
Table 2.5	Number of Visits made to the Concerned Department for Getting Information (%)	39
Table 2.6	Department Wise Distribution of Requests for Information (%)	45
Table 3.1	Did You Appeal to the 1 st Appellate Authority in Cases of Denial of Information by PIOs? (%)	51
Table 4.1	Disposal of Appeals and Complaints by the S.I.C.s (2005-2008)	56
Table 4.2	Penalties imposed and Disciplinary action recommended by SICs (2005-08)	60
Table 4.3	Background of members in State Information Commission (2007-2008)	63
Table 4.4	Budget of State Information Commissions (2007-08)	66

List of Figures

		Pg. No
Figure 1.1	Distribution of Sample	16
Figure 1.2	Rural - Urban Ratio (sample)	16
Figure 1.3	Non-availability of the List of Public Information Officers or directory of PIOs at District Level (%)	23
Figure 1.4	Non-availability of Self-Disclosure Manual [Section 4 (1)] of the Public Authorities Where You Applied for Information (%)	26
Figure 1.5	Distribution of Mode of Payments Used By Applicants in Requests for Information (%)	32
Figure 1.6	Did you get the Information under RTI? (%)	35
Figure 1.7	Number of Days in Which Information was Provided (%)	37
Figure 1.8	Number of Visits made to the Concerned Department for Getting Information (%)	39
Figure 1.9	Was Public Information Officer Cooperative in providing the information? (%)	43
Figure 1.10	Department Wise Distribution of Requests for Information (%)	46
Figure 1.11	Did You Get the Requested Information After 1st Appeal? (%)	51
Figure 1.12	Did You Get the Requested Information After the Second Appeal? (%)	52

List of Boxes

		Pg. No
Box No. 1	RTI Effect: Shining example of proactive disclosure in Vadodara	26-27
Box No. 2	Habibullah asks govt to play more pro-active role in implementing RTI Act	27
Box No. 3	Pay Rs. 400/- for Appeal	29
Box No. 4	RTI Commissioner pulls up Noida, Gr Noida authorities	34
Box No. 5	PIO of Uttar Pradesh State Information Commission provides delayed and incomplete information	36
Box No. 6	Information pains in Orissa	40
Box No. 7	File RTI in Bihar: Get ready to be beaten up	41
Box No. 8	Expect no help from PIOs	41
Box No. 9	Ved Prakash bearing the brunt for filing 51 applications	42
Box No. 10	After 1.5 years, RTI provides NREGS documents to Unnao	56
Box No. 11	Name of PIO and 1 st appellate Officer missing, date of Registration of a case missing, nature of Information not revealed in the decisions of Orissa SIC	57
Box No. 12	SIC directing for first appeal	58
Box No. 13	21 IAS Officers summoned by Jharkhand S.I.C	60
Box No. 14	No staff, can't give info, says UP panel	65

References

- A Manual for Public Authorities, Information Officers & Appellate Authorities [Hyderabad: Centre for Good Governance, 2006]
- Decisions of Orissa State Information Commission, Right to Food Campaign, Orissa and AID, India, 2007.
- Report of the National Convention on the Right to Information Act, 13th October-15th October 2006.
- The Right to Information Act 2005(The Gazette of India, dated 21 June 2005)
- The Right to Information Act, 2005-A guide for Civil Society Organizations [Hyderabad: Centre for Good Governance, 2006]
- Wadia, Angela: Global Sourcebook on Right to Information (Delhi: Kanishka Publishers, 2006)
- Websites of the Central Information Commission www.cic.gov.in
- Website on RTI, www.indiartiblogspot.org
- Your Guide to using the Right to Information Act 2005(Delhi: Commonwealth Human Rights Initiative, 2006.