

The Right to Information Act, 2005

Improving transparency & accountability in the government through effective
implementation of the Right to Information Act

DoPT

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TABLE OF CONTENTS

1. Introduction..... 1

2. Analysis3

3. Problems Faced During Internship.....9

4. Best Practices10

5. Suggestions10

1. INTRODUCTION

1.1 Ministry of Urban Development

The Ministry of Urban Development has the responsibility of broad policy formulation and monitoring of programmes in the areas of urban development, urban water supply and sanitation. These are essentially State subjects but the Government of India plays a coordinating and monitoring role and also supports these programmes through Central and Centrally Sponsored Schemes. The Ministry addresses various issues of urban sector through policy guidelines, legislative guidance and sectoral programmes.

The Ministry of Urban Development has been entrusted with the task of housing and development in the region of Delhi and other Union Territories and the subjects which state legislatures authorize the union parliament to legislate.

However, the provisions of the Constitution notwithstanding, the Govt. of India plays a much more important role and exercise a larger influence to shape the policies and programmes of the country as a whole. The national policy issues are decided by the Govt. of India which also allocates resources to the State Governments through various Centrally Sponsored schemes, provides finances through national financial institutions and supports various external assistance programmes for housing and urban development in the country as a whole. Policies and programme contents are decided at the time of formulation of Five Year Plans. The indirect effect of the fiscal, economic and industrial location decisions of the Govt. of India exercise a far more dominant influence on the pattern of urbanisation and real estate investment in the country.

The Ministry of Urban Development & the Ministry of Urban Employment and Poverty Alleviation are the apex authority of Government of India at the national level to formulate policies, sponsor and support programme, coordinate the activities of various Central Ministries, State Governments and other nodal authorities and monitor the programmes concerning all the issues of urban development and housing in the country.

1.2 Scope of the project

The scope of work as envisaged in the Terms of Reference (ToR) for the study and further clarified through subsequent Consultative Monitoring Committee meetings included:

1. Analysis of 100 RTI Applications received by the Ministry during the year 2010-11 for improving transparency and accountability in government through effective implementation of RTI Act.
2. To consolidate and document its experience in the implementation of RTI, its successes, constraints in implementation.
3. Identify the areas which need more attention in the implementation of RTI act by increasing suo motu disclosure, etc.
4. Address the gap areas and suggest ways by which the objectives of the act can be achieved.
5. Prepare an action plan for implementation of the recommended changes.

1.3 Limitations of the study

The study conducted on this issue has been restricted due to the following problems:

1. The size of the sample being small, could only give a very broad picture of the wide and varied areas, a ministry deals with.
2. Urban development being state subjects, most of the applications were either transferred or received on transfer. This also has restricted the analysis of applications as very few applications directly deal with the subjects under MoUD .
3. Since, the study was only confined to 5 CPIOs out of 43 CPIOs, therefore the areas in which RTI information is analysed is limited. Thus, they were not able to reflect the wide areas for which the applications are addressed, limiting/narrowing our research.
4. The ministry is more of a coordinating authority that deals with different attached offices established by them. Most of the RTI applications were transferred to these attached offices which are different public authorities under sec. 6 (3)(a) of the RTI act , as a result of which the reply to the information was unavailable in the select few RTIs that were reviewed.
5. Sometimes there were inadequate papers in the file to evaluate/assess an RTI application. Thus, the many RTI applications had to be left out. This adversely affected the sampling.
6. Due to lack of in-depth knowledge of the works, policies and the functions of the ministry, it was difficult to ascertain whether the information tendered to by the authority has been fully given or not.

1.4 Methodology

Four ministries were chosen for the purpose of this research which included the ministry of urban development among others. Within the ministry, 5 CPIOs which get the maximum number of RTI applications were identified.

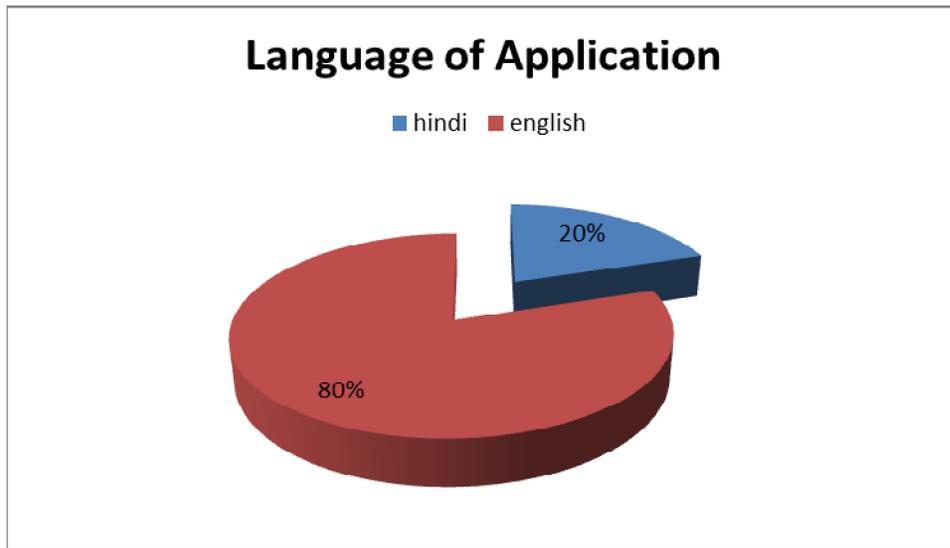
The project methodology involved a three-phased approach to identify key issues and constraints in implementing the RTI Act and further suggest recommendations on the structural, institutional, procedural, infrastructural and technological changes. The three phases are as follows:

1. Project planning - 20 RTIs were selected from each division summing up to a sample of 100 applications. The applications were selected through a process of random sampling method (to preempt any bias) in order to get a comprehensive picture of the applications received by the ministry that adequately represent the entire group. A preliminary analysis of the public authority was conducted to ascertain the number of CPIOs, level in the hierarchy/designation of CPIOs, the first appellate authority, etc. (annexed as template 1)
2. Assessment ó The objective of the assessment phase was to identify and assess the key issues faced by both information seekers and providers in implementation of the RTI Act. For the purpose, the selected applications were then assessed and analyzed according to the terms of reference provided to the researchers (annexed in template 2). These were collected in a tabular form and subsequently delineated with the aid of graphs and charts.
3. Recommendations ó The objective of this phase was to recommend solutions to overcome the identified issues and constraints. The analysis of the applications was interpreted and results of the analysis were recorded. Keeping in view the conclusions arrived at after the research; certain recommendations were suggested after comparing the different models of the act employed by different states.
4. It is to be noted that some aspects relating to the information analysis have not been marked in the excel data sheet. This is because the interns did not encounter certain classifications such as "severability clause" or "inspection sought". Hence the absence of any indication relating to them is meant to be taken as "N/A".

2. ANALYSIS

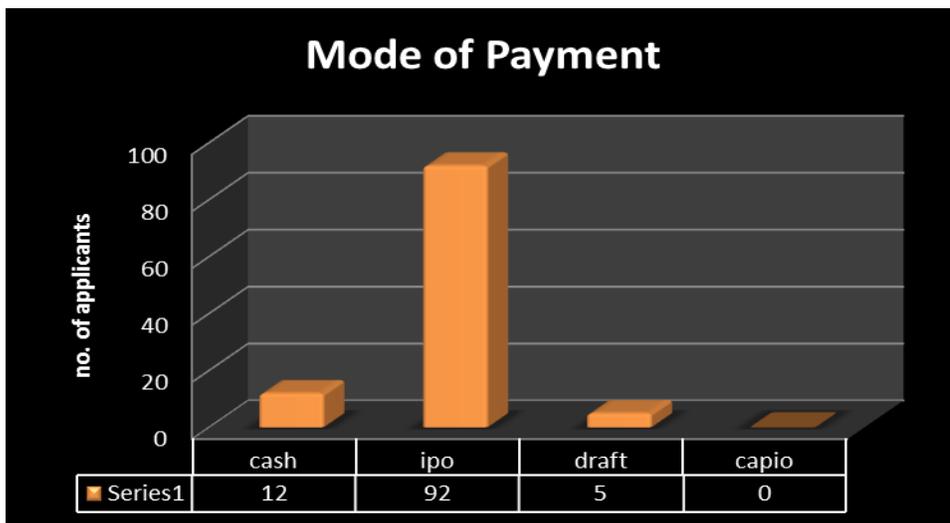
The analysis is with respect to the parameters set for the study of the RTI applications. This, it is hoped, would help in better assimilation of certain patterns that came out of the study. It is to be noted that only those subjects have been represented below that show certain significant variations and which could be understood as having an influence over any considerations with regard to an improvement in the present RTI regime. The analysis is as follows:

(i) Language of Application



It is easy to see that a majority of applications surveyed (80%) communicate their questions in English. As the central government recognises Hindi and English, no applications were seen by the interns in languages other than Hindi or English. All applications were legible and most of them were printed.

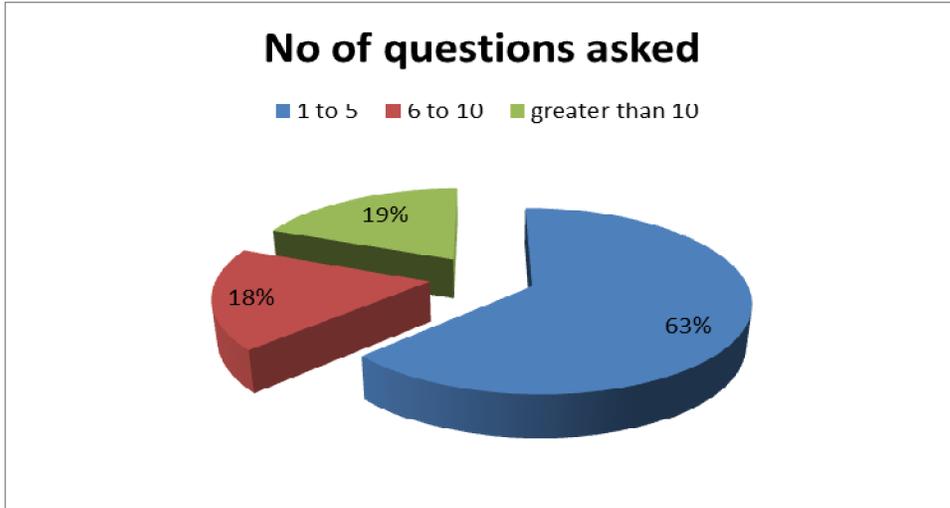
(ii) Mode of Payment



An overwhelming majority use the Indian Postal Order to make payment. Cash was used was mostly by the applicants that were government employees as it was easier to them to

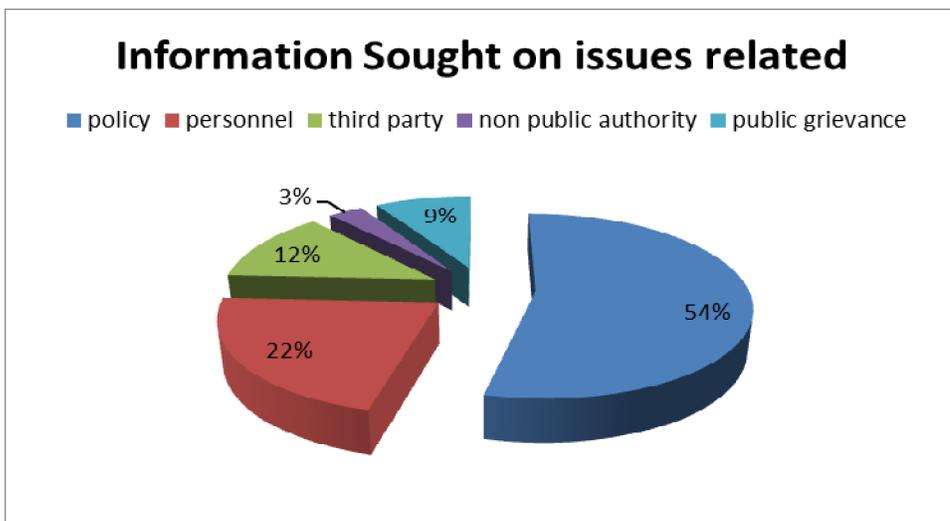
pay in their own RTI cells. The interns could not find any payment made through the Central Assistant Public Information Officer in the 100 applications that they sampled.

(iii) Number of Questions Asked



The interns mostly encountered 2-3 questions in an RTI application. That said, there are many applications that request more questions. The interns encountered a handful of applications that even asked nearly 30 questions in a single application. Curiously, such applications have an essay format rather than a point-wise request.

(iv) Information Matter

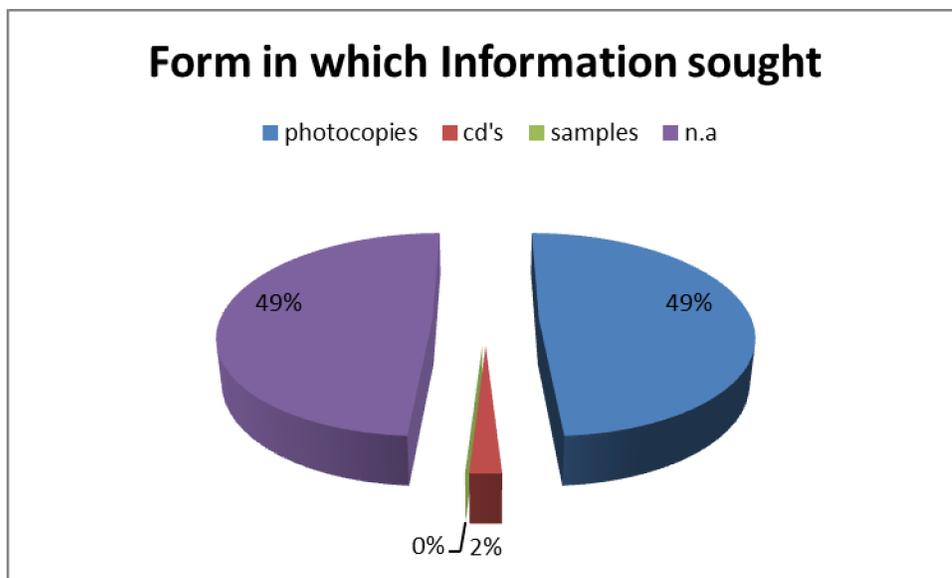


A bare majority sought information with respect to policy matters. That the citizens choose to use the RTI as a means to understand policy structure of the administration is tantamount to attaining the primary objective of the RTI Act.

It is also used to inquire about the personnel matters such as vacant positions available, qualification criteria, leave allowance, vacancies. Further information with regard to personnel pertained to board meetings, attendances of the same, promotions, etc. most such questions, it turned out, came from the within the ministry itself.

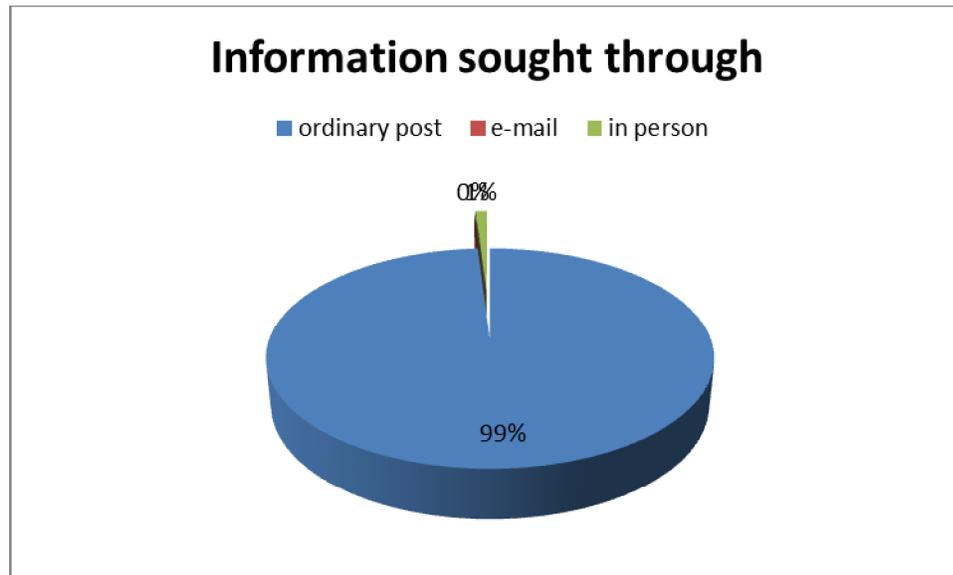
Since the ministry itself was that of Urban Development, certain applications also sought information as to the action taken over alleged transgressions by third parties over private property.

Form in which Information sought

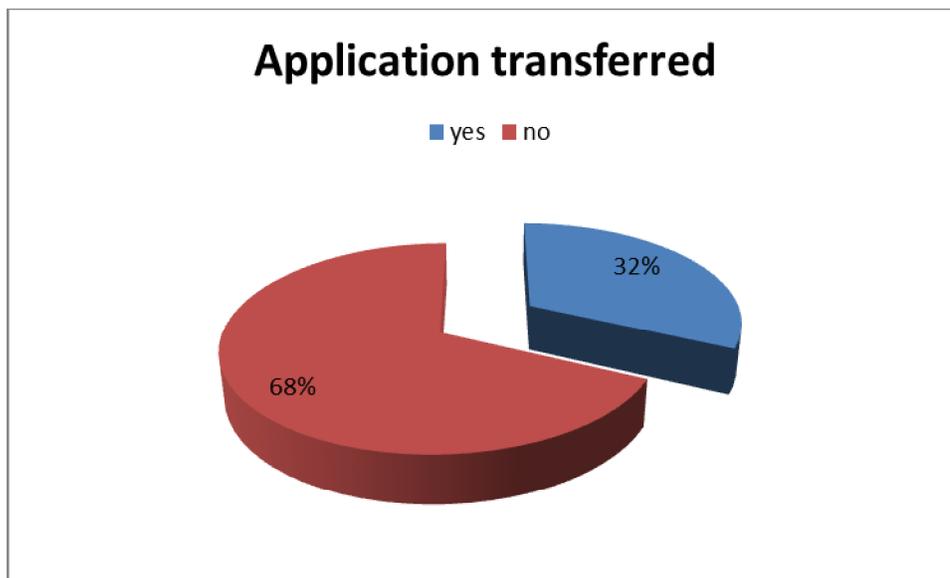


Where the form in which information is sought is delineated, photocopies ruled to be the staple. Few sampling of documents (2%) were sought.

Curiously, an equal number of applicants as those who sought photocopies simply do not mention the form in which information is sought. They simply write in their questions and expect the CPIO to furnish information in writing. This so when even request for minutes of a meeting were made. To add, none of the RTI applications either came by email nor did any solicit response through the electronic medium, as shown below.



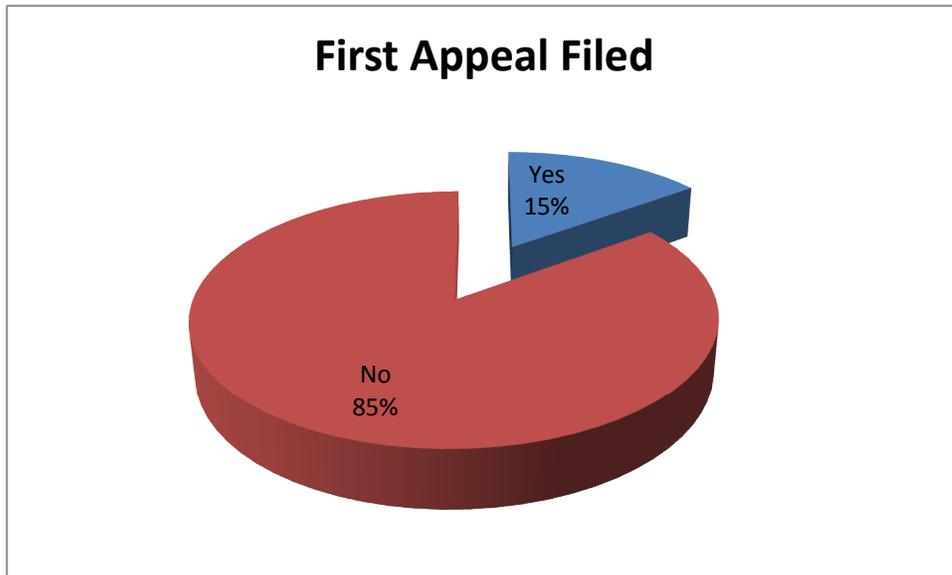
(v) Application Transferred



Most applications were mailed to the public authority responsible for the information. But a chunk of applications were also sent to the PMO. Some of the applications which were meant to be transferred were not transferred in the period of 5 days required under the RTI Act. However, the interns would like to point out that all of the cases wherein transfers were delayed, the responsibility was over public authorities other than the Ministry of UD. The Ministry itself did

not exhibit delayed transfers wherein the RTI applications were meant to be sent to other Public Authorities.

(vi) Filing of First Appeal



Most of appeals lead to directions being issued by the FAA to the concerned CPIO. The appeals are also mostly on the basis of lack of complete information. The interns did not observe first appeals filed on the basis of information being provided after the 30-day period, except in a one-off case.

The fate of second appeals was similar to the fate of the first appeals. Directions to the Public Authority were given sans any penalties imposed.

3. PROBLEMS FACED DURING INTERNSHIP

The interns have, in the interest of the internship and for their personal development tried to be as true in providing and reproducing information as possible. The officials entrusted with the duty of providing the relevant files and materials were helpful but there were many serious handicaps faced by the intern during their month long internship, which were of many types, theoretical, practical, social, etc. The interns has listed the various problems faced, in writing the report, and otherwise in the whole process.

- **OFFICIALS ON DUTY** ó Many officers of various divisions on duty were found to be uninterested and unsupportive of the project, and felt it was tending to be an additional burden on them and added to their workload. Therefore, officers of some divisions across ministries were unsupportive to a large extent, and as such support is essential for students in assessing documents which are unorganised, incomplete, complex or illegible at most times. The interns were told that all the concerned CPIOs were already informed of the internship, but unfortunately it seems that it went unheard in many departments.
- **STATUS OF APPLICATIONS** – The RTI application and redressal system seems quite interesting as one gets the hang of things, but it was noticed in some departments, that RTI applications were relatively disorganised, pages were not in chronological order, some pages were missing, and many applications were illegible. But as the intern was in the RTI nodal ministry, the problem was relatively subdued, and was more pronounced in other ministries.
- **LACK OF RESOURCES** – A major hassle which interns across ministries faced was that the resources available with each ministry or department were either not made available to the interns or were just not there. Minor items(which were of course to be returned) like paper, pen, file covers, folders and pencils were not handed over on many occasions though instructions were issued for the same.
- **PHOTOCOPY** – The point has to be highlighted and discussed separately owing to the sheer severity of the situation. The OM Sheet which appoints the interns for this internship has specifically stated that photocopies of the RTI Applications made have to be handed over along with the report to ensure that there is no discrepancy in tabulation and no fraudulent tactics have been employed. But the problem interns faced was that the concerned CPIO/Official was reluctant to let the intern take the RTI file for

photocopying, and also that the photocopy machine was granted for the purpose of photocopying the files only after heated debate, discussion and argument.

4. BEST PRACTICES

The interns were particularly impressed by the Admin III, where the system of file-keeping was very convenient for study and reference. The system there consisted of filing each individual RTI application, with all its history of appeals, etc in a single file. This meant each application was a separate file. Thus, various RTI applications were not bundled into making one thick cardboard file which could easily damage the applications.

Further, the arrangement of applications in chronological order was ubiquitously followed.

5. SUGGESTIONS

- 1 There is an urgent requirement for awareness to be spread with regard to the Right to Information Act and its procedure. This has been inferred on the basis of the fact that the population type that tends asking for information is limited to a male, urban population and not- BPL. This is not a positive trend since such a population comprises only a minority in India. There was only two BPL applicant. This can be done through awareness programmes that can be conducted by the government, especially in rural areas and amongst woman-folk.
- 2 The application takes time in reaching the CPIO from the PIC cell, and the time frame of 30 days is counted after the application reaches the CPIO so in effect the reply to the informant reaches later than what has been provided for in the Act. Thus, there is a need to clear the position of such confusion.
- 3 Many of the applications were forwarded to all the CPIOs from the PIC cell because the (PIC) was not able to ascertain as to which CPIO the information pertains to. Thus, there is a need for the officials of the PIC cell to be trained and made better conversant of the functions and duties of each division. This will also save time for photo-copying, stationery etc.

- 4 It has been seen that in many cases, the CPIOs provide the photocopies without asking for the additional fees as required by the RTI act.
- 5 Inadequate space, staff and infrastructure to maintain records and manage the files. Thus, it becomes difficult to keep the files in a proper manner, arrange papers and attach full information within the file. The CPIOs have mentioned these constraints to the authorities several times but of no avail.
- 6 A dedicated cabinet should be made for keeping the files of RTI applications making them easier. Moreover, the cabinets should be tagged with labels for easy retrieval of all kinds of files. Further, separately filing each RTI application should become the norm.
- 7 Lastly, the interns found that some government employees filed a number of applications in their own department, either themselves or through their wives. Since anonymity is not an option under the Act, the applicant carried the risk of exposing himself/herself to his/her colleagues. This, the interns found, has resulted into a workplace ostracisation and even ridicule towards the applicant. The concerned authority must take adequate measures to respond to this type of alienation and resolve issues between colleagues. Open discussions are perhaps the only solution.

In all, this internship was a life changing experience on the basis of knowledge, experience and exposure, and the intern hopes to continue this association with the RTI Department.