

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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CHAPTER I

INTRODUCTION

1.1 Overview:

The commencement of the RTI regime 7 years ago marked the dawn of a new era. Different stakeholders have played a crucial role in carrying forward the regime and have helped the government in inculcating a culture of transparency and accountability in the working of public authorities. It has been observed that information seekers face problems in making use of the act and the officers of the public authorities face problems in implementing the provisions of the act. Therefore, this study has been undertaken to identify the problems plaguing the system and suggest remedial measures so as to enable better access of information and uphold the spirit of the act.

Under this program initiated by the Department of Personnel and Training, the researchers were attached to the ministry of Human Resource Development wherein they were required to interact with the officers involved in the implementation of the RTI regime and consolidate and document their experience in the implementation of RTI, its successes, its constraints in implementation, identify areas which need more attention, address the gap areas and suggest what more had to be done to help achieve the objectives of the act. Then finally for the researchers this was an exercise which familiarised them with the process of seeking information and enabling access to information under RTI regime.

1.2 Ministry of Human Resource Development:

India is a nation of young people out of a population of about 1.2 billion, 0.672 billion are in the age group of 15 to 64 which is usually treated as the working age population. This large population is an invaluable human resource and should be provided the necessary skills so as to empower them to lead to a purposeful life and contribute to our national economy. This responsibility rests on the shoulders of the Ministry of Human Resource Development whose aim is to realize India's human resource to its fullest in the education sector with equity and excellence. Since the constitutional amendment of 1976 which brought education in the concurrent list the Union Government accepted a larger responsibility of improving the national and integrated character of education, accentuating quality and standards at all levels in addition of its mandate of coordination and determination of scientific, professional, vocational and technical education in the country.

The Ministry's endeavour has been education for all; Providing universal access, retention and quality in elementary education, special emphasis on education of children belonging to disadvantaged groups, making adult education programmes the mass movement and simultaneously providing greater opportunities of access to quality higher education.

1.3 The Department of Higher Education in the Ministry of Human Resource Development:

The aim of the department is to improve the access to higher quality education by investing in infrastructure and faculty, promoting academic reforms, improving governance and institutional restructuring with aims of improving quality and inclusion of the hitherto deprived communities. Bodies such as the University Grants Commission, The Indian Council for Research etc. come under this department.

The authority received 3593 RTI applications during the year 2010-11 which were to be dealt with by 37 CPIOs, out of which none were trained. The department does not have an official RTI cell but has a RTI facilitation centre and one section for overseeing the RTI related work of the department. The Suo-Moto disclosure is updated yearly (on their website education.nic.in) and provides information regarding all 17 points as required by RTI Act. This responsibility is vested in one nodal officer. There is an electronic record regarding the statistics relating to the RTI of each CPIO which are put on the Central Information Commission's website. For the purpose of answering or replying to RTIs adequate infrastructure is available in terms of availability of a photocopy machine, scanner, CD writer etc. with the CPIO. There were no penalties enclosed or no disciplinary proceedings initiated against the CPIOs.

(All information regarding the RTI framework of the department is contained in Annexure D)

1.4 Divisions:

For the purpose of the study the researchers studied five divisions of the Higher Education Department namely Technical Services I, Distance Learning, Languages, Indian Council For Research and University.

1.4.1 Technical Services I

It is the nodal agency for IITs and makes policy decisions for the same. It releases grants for the IIT and also overlooks their administration in terms of appointment of directors, constitutions of the court of directors etc.

1.4.2 Distance Learning

Makes policy, financial and administrative decisions regarding institutions which offer distance learning courses, such as Indira Gandhi National Open University.

1.4.3 Languages

This division is concerned with the promotion and development of Hindi and 21 Indian Languages listed in Schedule VIII of The Constitution of India. Bodies such as the Central Hindi Directorate, the National Commission for Promotion of Urdu Language are administered under this division.

1.4.4 Indian Council for Research

The Indian Council for Research formulates policies, overlooks grants and administers bodies such as the Indian Council for Historical Research, Delhi, National Council of Rural Institutes, Hyderabad etc.

1.4.5 Universities

This division deals with all matters related to State Universities and pay scales of teacher in Central Universities. It has been instrumental in formulating bills such as the Foreign Education Provider Bill, Unfair Practices Bill etc.

1.5 Scope of Study:

The study has been limited to the RTI Applications received in the year 2010-11. In the Ministry of Human Resource Development only the RTI applications received by the Higher Education Department were studied. Out of 37 CPIOs in the Higher Education Department only the RTIs received by 5 CPIOs were analyzed.

1.6 Limitations:

The study has been restricted by the following factors:

- i. The research has been limited to the Ministry of Human Resource Development. Under this ministry, the study has been limited to the Department of Higher Education.
- ii. Out of 37 Chief Public Information Officers (CPIOs), RTI applications received by only 5 CPIOs have been studied. Thus the pool from which the sample has been chosen is restricted and thus may not be representative of the situation in the entire department/ministry.
- iii. From each CPIO only 20 RTI applications were picked up. Thus a sample of only 100 RTIs was chosen from the 3593 applications received by the Department of Higher Education, and therefore may not indicate the correct situation of the RTI system.
- iv. An inadvertent bias crept into the selection process, as RTI records which were incomplete were purposely left out, so as to achieve a more meaningful analysis and result.

- v. The parameters adopted for analysis of the RTI mechanism and RTI records (Annexure I, II & III), may not cover all aspects related to the system and applications.
- vi. 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 analysis of the RTI with regard to certain parameters such as *Information is available in Public Domain, Information sought under the purview of Suo Moto disclosure* became impossible.
- vii. Due to lack of in-depth knowledge of the work, policies and the functions of the ministry, it was difficult to assess the quality of the responses given by the CPIOs.

CHAPTER II

Methodology

The researchers were sent by the Department of Personnel and Training to the Ministry of Human Resource Development for the purpose of the study of the RTI system and records. At the Ministry the researchers worked under five CPIOs of the Department of Higher Education. These CPIOs were those who had received the maximum number of RTI applications during the year 2010-11. The researchers randomly selected twenty applications from each CPIO for the purpose of the study (however some records which were incomplete were purposefully left out). There were hundred applications in total which were analyzed for the purpose of the research. Each researcher worked on 50 RTI applications.

The study was an empirical study. The researchers filled two templates provided to them by the Department of Personnel and Training; one giving a general overview of the RTI mechanism in the Department of Higher Education such as no. Applications received, no. Of CPIOs etc. (Annexure I), the other one was for the purpose of scrutinizing the RTI applications (Annexure II & III). Template I was filled with the help of the section officer in charge of overseeing the RTI work of the department. For the purpose of filling Template II the researchers got the hundred records photocopied and then read them thoroughly. From time to time assistance was sought from the concerned CPIOs. For filling in certain parameters such as *Information sought under the purview of Suo Moto disclosure* the ministry's website was referred to.

On the basis of the observations recorded in the templates by the researchers an analysis was done. The observations have then been analysed with the help of graphs which attempt to give a scientific explanation of the given data. The analysis, besides interpretation of diagrams, includes identification of certain patterns. After the results were discussed certain conclusions were drawn out. The areas which need more attention in the implementation of RTI act were identified and measures were suggested to address the gap and achieve the objectives of the Act.

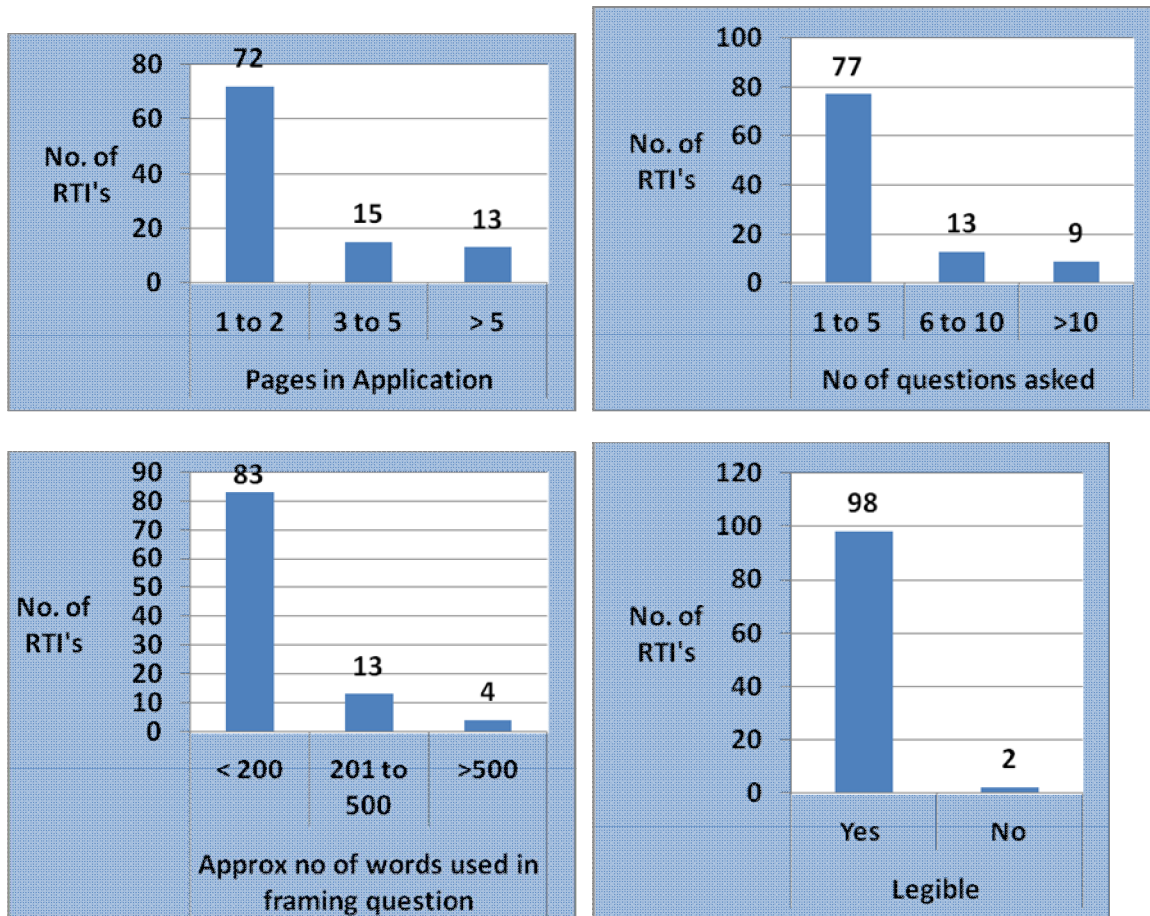
These conclusions were summed in the last chapter of the project and the project was concluded.

CHAPTER III

TEMPLATE ANALYSIS

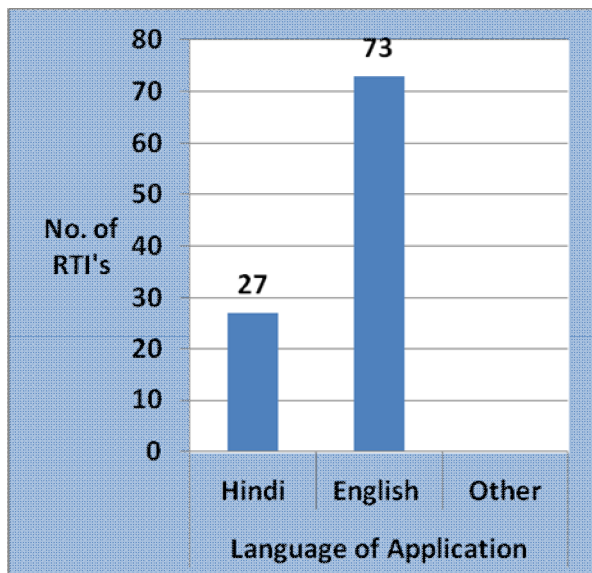
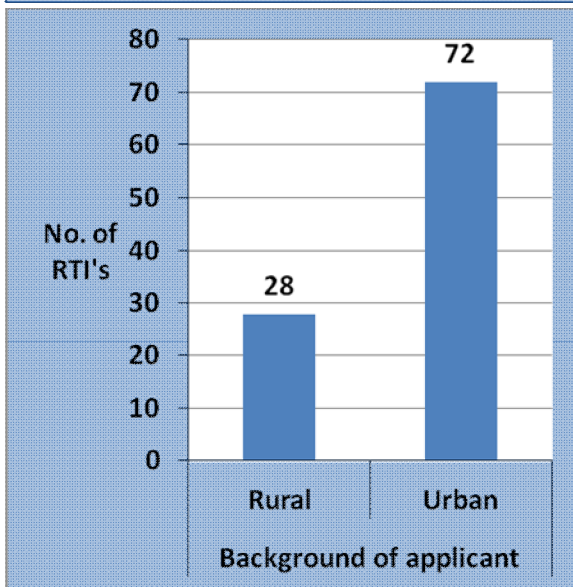
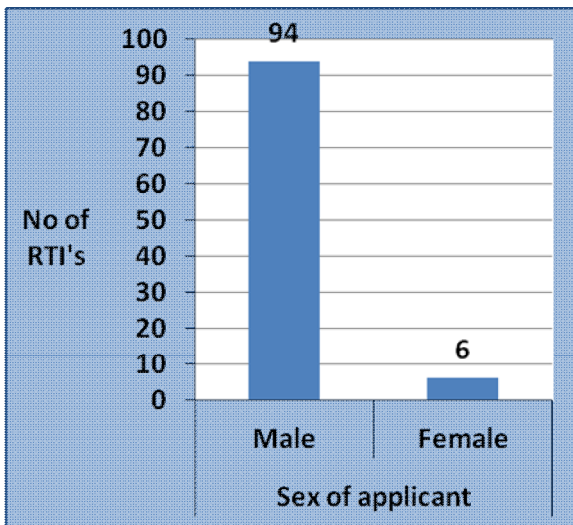
For the purpose of the study certain parameters have been chosen out of the 52 in the template ó II (Annexure II & III) which show a certain trend or a pattern.

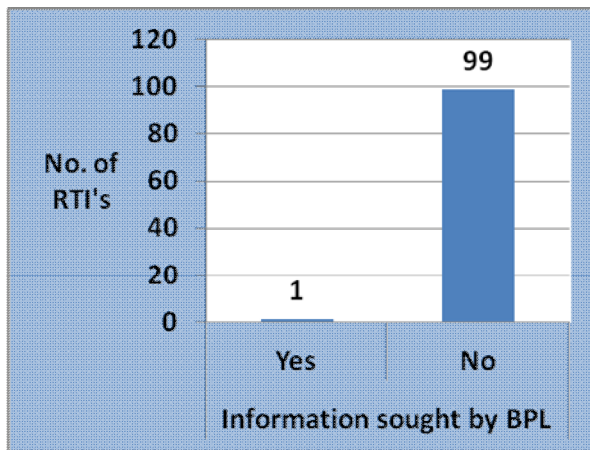
3.1 Framing of the RTI



As you can see from the graphs the RTI applications are legible (80 applications are in a printed form), brief and to the point. This implies that people are aware of what information they exactly want. This is a positive trend as it reduces the burden on the CPIO and thus makes the process much more responsive. In cases where the pages in application exceeds 2, or the number of words used is more than 200 hundred people usually give background information with regards to the questions they are asking. The upshot of this is that it enables the CPIOs to provide specific information which the applicant wants, thus reducing the amount of information that the CPIOs has to sift through and provide. But the flipside is this that the CPIO has to read lengthy RTI's.

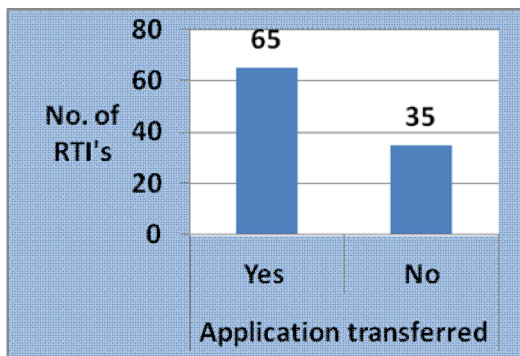
3.2 Demographic Analysis





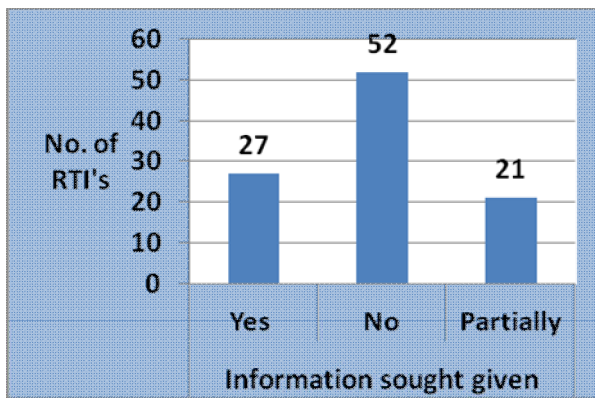
From the graphs it is clear that majority of the applications come from urban, English speaking males. A negligible number of applications were from people below the poverty line. This implies that the RTI applications are being sent by a limited type of population. The reason for such a trend could be lack of awareness amongst the rural and female population in terms of knowledge of the act or the formalities of the act, thus making it seem as a very complicated procedur (this is plausible to assume given the lower rates of literacy amongst the rural folk and women). Thus there is a need for more awareness programmes.

3.3 Application Transferred



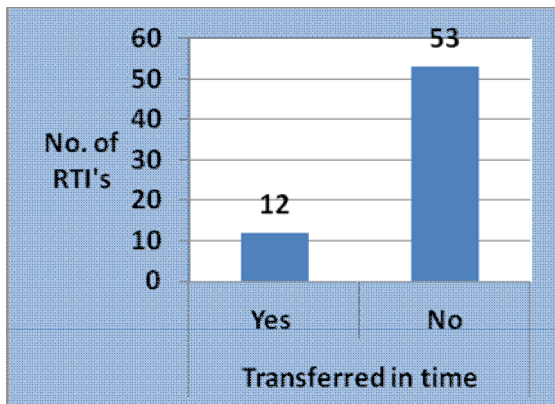
From the graph it is quite apparent that a most of the applications are transferred from one division to another (Note: the transfers are inter divisional and not from one ministry to another or one department to another). E.g. Many RTI's received by the Universities division, which is responsible for policy making for state universities, actually pertain to the University Grants Commission which deals with the execution of these policies, and are thus transferred.

Thus only in 27% of the RTI applications has the information being sought been provided:



Information in 52% cases is not given. In 21% of the cases information is only partially given as in majority of such cases information sought relates to more than 1 public authority (public authority includes even the different divisions of the Department of Higher Education and the different statutory bodies such as UGC coming under them).

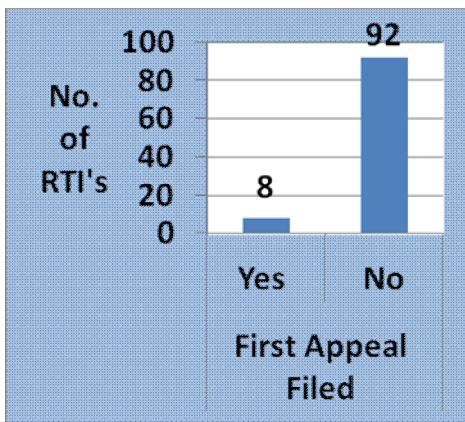
This high occurrence of transfers could be due to lack of clarity regarding the exact functions of each division on part of the appellant, even when information regarding the functions of each division and the bodies which come under it is published on the Ministry's site. Another contributing factor could also be that the RTI facilitation centre of the Ministry, which receives all the RTI applications and then transfers them to the concerned departments/divisions fails to identify correctly as to which application must be forwarded to which division.



From the graphs it can be seen that nearly 88% of the applications (out of the 65 transferred) were not transferred in time (i.e. 5 days).

All applications were replied to in time (i.e. within 30 days from receipt of application). But at 65% of these replies were not in the form of an answer to the queries; rather they were intimation to the applicant that his/her application is being transferred to the requisite division. Thus applications were being transferred when reply to them was given - assuming a 30 day deadline rather than a 5 day deadline. Therefore it can be concluded that the CPIO's are not aware of the 5 day deadline for transfer of applications, and this is because none of the CPIO's of the Department of Higher Education have been trained.

3.4 Appeal



The percentage of appeals was found to be very low (2%). This is primarily because most of the applications received by each division were transferred to other divisions. No second appeals.

3.5 Miscellaneous

There is no set format of filing replies. While some give details such as the name of the division, date of application, date of receipt, particulars of appellate authority, many do not mention some of these. It is imperative that such essential details are mentioned on each reply so as to promote better management and aid any scrutiny and further survey.

CHAPTER IV

MANAGEMENT OF RECORDS

This chapter throws light on the system of file management of the 5 CPIOs and highlights the best and the not so good practices.

4.1 Best Practices:

- i. Most CPIOs maintain separate files for each RTI application. Thus all information associated with the RTI such as appeals, resubmission etc are found in one place and is not scattered.
- ii. The RTI applications are arranged in chronological order, thus increasing the ease of retrieval in case a certain application needs to be sourced.
- iii. There is a summary note for every RTI record.
- iv. The CPIOs maintain an electronic record of every RTI received by the CPIO, which contains details regarding the name of the applicant, date of application, date of receipt, status of the RTI (whether pending or not), file number etc.

4.2. Practices that need improvement:

- i. The documents pertaining to a RTI application are arranged haphazardly, leading to confusion. All documents of an RTI should be arranged in a proper order.
- ii. Some CPIOs tend to put all RTI applications in one file. This makes it difficult to locate any particular RTI application, which might be needed.
- iii. Also when all RTI records are filed in folder, sometimes all the documents pertaining to a given RTI record are not stapled together, and are filed as separate sheets. This creates a lot of confusion as the documents of one RTI often get mixed with the documents of another RTI.

CHAPTER V

CONCLUSION & SUGGESTIONS

As a result of the research certain conclusions can be drawn. One important conclusion drawn is that 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. This is not a positive trend since such a population comprises only a minority in India. There is an urgent requirement to spread awareness in society. This can be done through awareness programmes that can be conducted by the government, especially in rural areas.

Another area that requires awareness is with regard to the functions of the various divisions under each public authority. Though the Department of Higher Education and its constituent bodies have done a commendable job by putting up all the information regarding their functions on the web, in a brief and concise manner, people are still not aware of the functions of each division, and end up sending their applications to the wrong division. Such ignorance has been the main cause for the large number of applications that have been transferred from one division to another. This trend of transferring applications has slowed down the process of providing the information to the applicants and has also unnecessarily increased the burden of work with the CPIOs. So it is recommended that the ministry, on its main website, under its suo moto disclosure, give a chart showing the basic functions of each division, so that the prospective applicants can find all information in one place.

On the other hand it has been observed that most of the RTI's are legible - majority are in printed and (even the ones written in Hindi). Also, most people put forth their queries in a pointed form this indicates that people are becoming more and more aware regarding how to write an RTI properly. Majority of the RTIS are framed using less than 200 words and in 1-2 pages. So, from this we can infer that slowly and steadily the government is achieving its aim of limiting the length of RTI's which it aimed to do via legislation. One can thus infer that the Government of India should carry on with awareness programmes instead of introducing a legislation to this effect.

Some other suggestions that may help the Government with regard to the process of Right to Information include increasing the Income of the CPIOs keeping in mind that they are given extra work which is not pertinent to their official work. Besides, this will act as an added incentive. Another essential area of improvement is the training of CPIOs with regard to provisions of The Right to Information Act. The officers under the CPIO (e.g. section officers) should also be trained as most work concerning the RTI process is delegated to these officials. This would make the process of providing information much more efficient.

Also certain changes are needed in the management practices. It has also been observed that there is no set pattern of arranging the documents of an RTI when they are filed. A strict format should be followed, which could be The RTI application first, after which the IPO, then the reply, and finally the appeal and its order if there is one. The summary note should

be on the top. Filing all RTIs in one folder should be avoided. Instead separate files for each record should be maintained. Finally, a pattern should be set for giving replies - reply should contain at least the following things the name of the department, name of the division, date of application, date of receipt, name and designation of the CPIO and particulars of the appellate authority.