



Chapter – I Introduction

‘Knowledge is power but information is the fuel of power’

- Bacon.

The word ‘Information’ comes from a Latin word ‘forma’ which means giving shape to something and forming a pattern respectively. When information is available it removes the vagueness of our ideas and helps free exchange of ideas which are desirable for the Government of a free country.

The RTI act is passed with a view to promote transparency and accountability in the working of government offices and therefore the need to remove any vagueness or doubts arising in the minds of citizens about the working of government bodies. The present Prime Minister of this country observed that the RTI act brings in the dawn of a new era in our processes of governance, of performance and greater efficiency, an era which will ensure that benefits of growth flow to all sections of our people, an era which will help to eliminate the scourge of corruption, an era which will bring the common mans concerns to the heart of all processes of governance, an era which will truly fulfill the hopes of the founding fathers of our Republic.

The right to know and have access to information is a very important human right. If democracy has to function then the citizens should have the right to know democratic procedures as well as they should enjoy the freedoms and principles underlying the essence of democracy. Successful democracy recognizes informed citizenry and therefore the right to information and to gain access to public authorities’ records assumes great significance. The Constitution of India guarantees the same in article 19, however its vibrant implementation and enforcement has gained momentum in the recent years with the hard efforts of NGOs, media and social activists which led to the successful passing of the RTI legislation in 2005.

The Right to Information is said to be the oxygen of democracy since the foundation of democracy is people, and people have to participate in the process of governance and therefore the right to know is very important, for participation in the government processes. Moreover the very crux of democracy, if we go by the simple definition of democracy 'as government of the people, for the people and by the people' then this demands that government and other public bodies need to throw open their doors to the people even before they knock them, infact this is the premise for a good and accountable democratic government wherein there are very *few secrets* and *more disclosures* of the functions and working of government authorities.

The colonial legacy of keeping information secret has been practiced till date in most of the South Asian countries including India. The colonial masters never allowed the Indians to know how the government was run or rather allowed them to know the manner of their functioning and things somehow did not seem to change even after they left since this very piece of legislation was adopted by the new Indian government that took over in 1947. The gnarls of secrecy were allowed for reasons best known to them.

This legacy in India is evident today as it was several hundreds of years ago, through the network of huge, powerful and centralized bureaucracy in the country as well in the strong state civil services. Perhaps every action could be kept away from the public with the help of the Official Secrets Act of 1923 and the fact remains that till date this act is not repeated (only its overridden by the RTI Act 2005)

The right to information has gained recognition internationally and countries have accepted the fact that this is not just a legal right but a human right very essential to every individual to know what and how things work in which they are involved or rather will be affected. The RTI legislation has a long history and references to several similar efforts & legislations across the world needs a mention.

**Understanding RTI laws in the
International Context.**

Sweden was the 1st country in the world to pass the Freedom of Information law 240 years ago. (One has to also note that this act had its origin in East way back in 1766 in China and not in the West. The others have taken the required lead later on). The United Nations General Assembly in 1946 adopted the resolution 59(1) which stated ‘Freedom of information is a fundamental human right and the touchstone of all the freedoms to which the UN is consecrated. In ensuing international human rights instruments, freedom of information is not separate but very much a part of fundamental right to seek, receive and impart information’. This resolution underlines freedom of information as the fundamental principle due to which other rights become meaningful to human beings.

Many countries in the world have tried to provide access to information to its citizens through their Freedom Of Information Laws¹. Countries, world over have attempted to adopt laws to make information available to its citizens facilitating them to access information from government bodies. The new age of globalization and modernization demands a culture of openness. Countries in Asia, South & Central America, Africa, South Africa, are marching towards this initiative to make information available to the people. Countries like Japan, Iceland, Netherlands, Australia, Canada, France, U.K., etc have taken steps towards ensuing transparency.

The Organization of American states in 1948, had adopted the American declaration of Rights and duties of man, wherein it guarantees freedom of investigation, opinion and expression. The reasons for adoption and acceptance of FOI laws in most countries have been numerous. Besides the very acceptance of a democratic form of government has also been a crucial reason to adopt FOI laws as democracy rests on the pillars of an informed citizenry who have to play a participatory role in the governance of the State. Besides the crisis of a transparent and accountable government and the need to have a clean government has also been a major drive to have FOI laws. International

¹ So far 68 countries have passed FOI laws.

pressures particularly from the international organizations such as Commonwealth World Bank, INF, and Council of Europe have compelled countries to adopt FOI laws.

In 1980, the Commonwealth Law Ministers emphasized that ‘public participation in the democratic and government process was most meaningful when citizens had adequate access to official information’ The Commonwealth association of around 54 countries further in 1999 adopted to accept principles and guidelines on the right to know and freedom of information as human right, including freedom of information to be guaranteed as legal and enforceable right thereby allowing the citizens to access records and information held by the executive, legislature and judiciary of the state as well information held by government owned corporations and any other body carrying out public functions.

Besides quite late in 2000, the governments of 21 countries further approved the Inter-American Declaration of principles of freedom of Expression wherein the right to access information held by the state is guaranteed as a human right. The Council of Europe, a 43 member organization, has guaranteed the freedom of expression and information as a fundamental human right.

Most of the FOI laws have a basic feature i.e. freedom to the individuals to ask for material held by government authorities. A brief glance on FOI Laws in other countries is important here which talk of specific provisions relating to the RTI law.

Sweden: - This was the 1st country to pass FOI legislation in 1766 viz. the Freedom of the Press Act. The act stated official documents should be made available to anyone immediately upon making a request at no charge.

United States of America: the US FOI law is said to be a model one and a very influential one. The act further apply to nearly all government bodies except in cases of security and intelligent services, cabinet decision & records. FOI law enacted in 1966 presently called as the Electronic Freedom of Information Act allows any person or

organization regardless of citizenship or country of origin to ask for records held by federal government agencies club with U.S.

France: - Article 14 of 1789 Declaration of the Rights of Man called for access to information about the budget to be made available freely. The 1978 law on access to documents on administration provides for a right to access by all persons to document held by public bodies. These documents includes files, reports, studies, records, minutes, statistics, orders, instructions, ministerial circulars, memoranda or replies containing an interpretation of positive laws or a description of administration procedures recommendations, forecasts and decisions originating from the state, territorial authorities, public institutions or from public or private law organization managing a public service.

United Kingdom: UK passed FOI law in 2000 after almost 20 years of campaigning. The Act gives any person a general right to access information held by public authorities & state authorities are required to respond within 20 working days. There are three categories of exemptions.

South Africa: Section 32 of South African Constitution of 1996 mentions that everyone has the right to access any information held by the state and any information that is held by another person that is required for the exercise or protection of any rights. The Promotion of Access to Information Act (PAIA) came into effect in 2001. Any person can demand records from government bodies without any reason. It also includes a unique provision that allows individuals & government bodies to access records held by private bodies when it is necessary to enforce people's rights.

Australia: The FOI act came into effect in 1982. It calls upon the commonwealth agencies to publish information about their operations and powers affecting members of the public as well as their manuals and other documents used in decision making and recommendations affecting public. It requires agencies to provide access to documents in

their possession unless the document is within an exception or exemption specified in the legislation.

Canada: The Access to Information law was passed in 1984 to provide a right of access to information and records under the control of a government institution in accordance with principle that government information should be available to the public. The Access to Information Act gives Canadians and other individuals & corporations present in Canada, the right to apply for and obtain copies of federal govt. records. 'Records' include letters, memos, reports, photography, films, microforms, plans diagrams, maps, sound & video recordings machine readable & computer files.

New Zealand: New Zealand has two major instruments viz Official information Act 1982 which makes official information freely available and provide for proper access by each person to official information relating to that person, unless there is good reason for withholding it. The second is the Privacy Act 1993 which covers the collection use and disclosure by public and private sector agencies, of information relating to individuals. Personal information held by all public or private organizations must be collected, stored and released according to strict guidelines.

In the Scandinavian countries, the right to access information is available, including inspection² & appeal.³

The Indian Case:

India is a country which never had a culture of openness as far as information was concerned in public offices. A fundamental question is do we require the RTI law in India? This law is a rare piece of legislation which has come with a ray of hope promising transparency and accountability. The Indian case can be seen as a struggle between the state on one hand and the civil society on the other hand. The most fundamental doctrine of this land the Constitution has guaranteed the right to freedom of

²Citizens in Sweden are free to inspect Government documents except those restricted by law.

³ Citizens can appeal to the Court.

Information under Article 19. The preamble of the Constitution starts by saying ‘we, the people of India have solemnly resolved to constitute India into a Sovereign, Socialist, Secular Democratic Republic----- do hereby adopt, enact and give to ourselves this Constitution’. This is very clear that the people have been the instruments of law making and it is they who give sanctity to laws. These are the pillars of a vibrant and healthy democracy.

The right to freedom which is a valuable and exhaustive fundamental right given to citizens of this country includes freedom of speech and expression, assemble peacefully without arms, form associations and unions, move freely throughout the country, practice any profession, occupation, trade or business as well as to be informed.

The denial of information and also the lack of opportunity to seek information (in spite of the fact that the right to information is guaranteed under the Constitution), information was not made available to citizens. India is a signatory of the International Covenant of Civil and Political Rights (ICCPR) of which Article 19 talks of freedom to seek, receive & impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

The veil of secrecy in India has been a colonial legacy till 1947 but it did not stop there as our Constitution though on one hand talks of giving to its people liberty, justice and other liberties and rights, at the other hand it makes an obligation on every Legislator under article 75(4)⁴, of the Constitution to swear in the name of God not to reveal any matter brought under his/her consideration except as may be required for the due discharge of his/her duties as minister. One needs to also understand the two issues pertaining to furnishing and securing information on two levels, one at the level of government wherein there is a need to keep some information secret from the people as required by law. Article 74 and 163⁵ dealing with privileges of Government. Further the

⁴ Bakshi P.M, The Constitution of India, 2007, Universal Law Publishing, Delhi.

⁵ Dr Kumar Raj, Treatise on Right to Information Act, 2007.

numerous laws⁶ and regulations applicable to the government servants bind them to do the same. This therefore to an extent justifies as well as encourages the government servants to uphold the veil of secrecy.

Many such articles in the Constitution and legislations have tried to uphold secrecy in government. The Privileges clauses, the Protection to various offices in government, Conduct rules, the Indian Evidence Act leaving citizens in no way to question what is being done, which over the years has led to a culture of red tapism, corruption and putting a garb on the acts of the government authorities leaving no scope to understand the working of the government bodies. This has further created an environment of distrust in the legislators and the bureaucracy.

The second level is at the societal or at the public level where the people have a right to be informed about the activities of the government which again is an enshrined principle in the Constitution. However there should be a level and quantum of secrecy but that too in the rare cases otherwise it is a defeat of the enshrined in the Constitution.

The Indian Law on Right to Information 2005 is a culminated effort of some of the provisions written and practiced in various countries which have adopted the Information legislations such as the Scandinavia⁷ and America⁸. It incorporates some of these best provisions. The RTI initiative in India has had a long way, through the hard efforts of the legal Institutions⁹, the concerted efforts of the civil society organizations and the legislations passed through the government efforts.

Judicial Interventions

The Constitutional rights have time and again be given prominence in this country by the Supreme Court and High Courts who have emphasized this right of citizens to accessing information through their various

⁶ The Indian Evidence Act, the Conduct Rules

⁷ Citizens do not provide reasons for accessing documents.

⁸ Provision for initiation of disciplinary action, inspection of documents.

⁹ The Supreme Court & High Courts.

judgements but the universal applicability in the government bodies have been lacking. One can't expect a common man to keep a track of the Supreme Court judgments as well as understand the implications of these judgments; this is possible only for the legal experts.

Some of these landmark interventions of the SC are as follows:-

- a) Bennett Coleman & Co. v. the Union of India (AIR 1973 SC 783). In this case, the Court highlighted that freedom of speech and expression includes within its compass the right of all citizens to read and be informed.
- b) U.P. V/s. Raj Narain (AIR 1975 SC 865): the Supreme Court order states that in a government of responsibility like ours, where all the agents of the public must be responsible for their conduct there can be but few secrets. The public of this country have a right to know every public act, everything that is done in a public way, by their public functionaries.
- c) S.P.Gupta V/s. Union of India (AIR 1982 SC149): In this particular case, the Supreme Court interpreted the guarantee of freedom of speech and expression by including the **right to know** and the **right to information** as important and is implicit in above article. SC further mentioned in a country like India which is a socialist one, the right to know becomes important for the poor, ignorant and illiterate masses.

In India, the demand has been to have a right to information rather than freedom of information. The social activists and the main pioneers of the right to information act wanted to include two components to the RTI viz that Information which should be given upon request and secondly that Information which would be disseminated proactively by public authorities. It was essential and important to proactively disclose information particularly in a country like India where we have illiteracy, poverty, unawareness and ignorance to a greater level. Besides a law of this nature was required primarily because every common man could not afford to run to the Courts for enforcing this right time and again.

Before the passage of the Central Law, several states in the country had adopted their own information laws.¹⁰ In 1996, the Press Council of India had presented a draft model law, wherein Justice P B Sawant stated that ‘people are the masters and those exercising public power are their agents’. He also put forth the following provisions that all public records be duly catalogued and indexed, that RTI be absolute in matters of life and liberty, Public bodies should include State [Art. 12], Company, Corporations, society, trust, firm all public undertaking, non-statutory authorities, or cooperative society, All private individual which affect public life, Restrictions be put in line with Art. 19(2) of the Constitution and Civil Judges should try cases of refusal of information.

In 1997 under the Chairmanship of Mr. H.D. Shourie a working group was formed and it prepared a draft Freedom of Information legislation, however Shourie Committee draft was not introduced. This report included the following features,

- a) It extended to the whole of the country
- b) the definitions on ‘documents’ and ‘freedom of information’ were clearly stated as well as ‘information’
- c) It also defined public authority very broadly to include corporations, company, trust, firm society or a co-operative society substantially funded or controlled by the government, along with other government authorities.
- d) It also laid the obligations of the public authorities also stating the duty of the concerned officers of a public authority to give reasons for decisions whether administrative or adjudicative to those affected or to disclose the relevant facts and analysis when major policies or decisions are announced.
- e) Provision for appointing Public Information officers was made, who was required to deal with requests as well as sender assistance to the applicant wherever the citizen/requester could not make a request in writing
- f) The time limit was fixed for disposal of requests i.e. of 30 days which could be extended to another 30 days for reasons given in writing, as well as information the reasons for denial of information

¹⁰ Goa, Tamil Nadu, Maharashtra, Karnataka, Rajasthan, Delhi.

- g) Deemed refusal provision was also mentioned if no reply was given to the applicant within 30 days – considered as deemed refusal.
- h) Exemption clause there were eleven areas of exemptions stated under this clause, besides grounds for refusal of access to information in certain cases was also stated i.e. when information is too general in nature or is voluminous that it would involve disproportionate diversion of resources of the public authority
- i) Provision for charging application fees and the cost for providing information
- j) Severability clause was also provided for
- k) Third party intervention was also mentioned where opportunity is given to third party to make representation if any against the disclosure of information.
- l) Provision of Internal review: When the request for access to information is denied, the applicant can make an application within 30 days for review of the decision to the Head of department/or such authority having jurisdiction over the office.
- m) Provision for appeal: was made wherein the applicant could go in appeal against the decision of the reviewing authority within 30 days. This was in the nature of a complaint under the Consumer Protection Act of 1986. This appeal had to be disposed off at the District Forum State Commission or National Commission within 30 days.
- n) The bill cast duty on the public authorities to publish information on any project or activity which it proposes to undertake for the information of the general public and persons affected by it.
- o) Provision for action taken in good faith was mentioned wherein the officer would not be penalized for his actions if taken in good faith.
- p) National Council(NC) for freedom of information: Appointment of such as body comprising of members such as the Minister in charge of department of Administrative reforms along such officials and non officials members representing such interests as may be prescribed was provided. The object of NC was to review the operation of the Act and rules, review the administrative arrangements and procedures to secure possible access to information, research and documentation and to advise the government on all matters related to freedom of information.

- q) State Council for freedom of information was also provided with the aim to promote freedom of information.
- r) The appropriate government by notification could make rules to carry the provisions of the Act.
- s) Laying of Rules: - Every rule made under this Act shall be laid before the house of parliament for 30 days. Every rule made under the state government shall be laid as soon as may be before State Legislature.

A major point of note is that this bill was trying to provide freedom of information when the Constitution of India already guarantees the same as a right. It stated that the Central Law should have overriding effect on State Laws pertaining to RTI. There should be fees for seeking information; Refusal of information should be tried by Consumer Courts and all bodies substantially funded by government would come within the purview of the Act.

This act was very much in line with the provisions of the Freedom of Information Bill 1997, unfortunately this bill was never passed and therefore the freedom of information Act of 2000. The provisions of this Act included.

- a) The definition of appropriate government here included Center, States, Union territories, bodies funded by state directly or indirectly.
- b) It defines information in any form relating to administration, operations or decisions of public authority. This definition is vague not specific but has the advantage of interpretation to mean a many things under its purview.
- c) Public authority includes any authority body or institution constituted by Parliament, Constitution, legislature, government including body owned controlled substantially funded.
- d) It guaranteed freedom of information to all citizens

- e) Obligation was cast on the public authorities to maintain, records, disclose within reasonable times structural information about organizations.
- f) Every public authority had to appoint public information officers
- g) The PIO was also expected to provide assistance to the applicant and request could be made in writing or electronic form.
- h) Time limit for disposal was stated to be within 30 days if pertaining to life and liberty within 48 hours. If rejected the applicant to be informed within the time limit.
- i) Exemptions: - Seven exemption clauses and information events which took place 25 years ago can be given.
- j) Rejection of request was valid if request too general, retrieval of which involve measurable diversion of resources or adversely interfere with the functioning of authority.
- k) Severability provision was provided.
- l) Third party information: If information relates to third party within 5 days notice to be given. Third party included public authority.
- m) Provision for appeal was provided: Under section 12 an aggrieved could appeal to authority prescribed within 30 days and to second appeal within 30 days to central government or state government.
- n) Action taken in good faith for officers was provided.
- o) Overriding effect over Official Secret Act: the FOI 2000 had overriding effects over the OSA, 1923.
- p) It also imposed bar on jurisdiction of Courts

- q) Certain organizations such as intelligence and security organizations were exempted from the purview of the Act.
- r) Provision made for Central and State governments to make rules and lay it before the Parliament.

It is observed that both the Freedom of Information bill 1997 and Freedom of Information Act 2000 have no provision for penalty clauses neither for compensation or damage cost in its contents. Besides no mention for request to repeal the Official Secret Act of 1923 was made in both.

The press in India did play a vital role in the passage of the RTI initiatives and eventually the RTI legislation. Even before the law was passed time and again, the Supreme Court intervened through several orders and tried to uphold this fundamental right to know together as a part and parcel of the fundamental right to freedom under article 19.

The Majdoor Kisan Shakti Sangathan (MKSS) was key organization instrumental in making the demand for RTI more clearly and finally compelling the state of Rajasthan to enact its RTI legislation in 2000. This organization was giving impetus to the rural poor in Rajasthan for the right to be informed - the right which was not secured to the citizens for several years to question, ask, audit, examine, assess the working of government, was exactly what MKSS was demanding the right to be informed at the village level, which is but a requirement for a vibrant democracy, infact it's the fulcrum of a participatory democracy. Due to the efforts of MKSS, misappropriation of funds came to light only because information was demanded due to which things became transparent¹¹.

The main motive/reasons for the NGOs to have such a law passed was because the people would be compelled to approach the courts for enforcement of their fundamental right to access information as highlighted by the Supreme Court. It would

¹³Where did our money go? www.humanrightsinitiative.org/publication

just be impossible for citizens to approach the Courts time and again and this itself would act as a deterrent to seek or demand information, and the courts would be left to decide every time there arose a controversy. It's a tool to the larger citizens easily available. It also is an aid and protection to officers particularly those who are upright and want to work for the welfare and development of the people but at times is not allowed to do so due to obstructions caused by superiors or also due to political influence.

The underlying principle is that greater the information available to the citizens, greater would be the responsiveness of the government to its citizens as well as to their needs. Besides whatever functions are performed by the legislators and the executive are in the context of the public and these are the populace who are affected by them either for the good or worse. It is a simple reading therefore that whatever done is ultimately going back to the people who have a legitimate right to question as to the actions and decisions accentuated by the government.

These actions and decisions remain in the form of information/records with the government, this therefore makes the government the custodian of all records and when asked for needs to be given to them the demands by the civil society organizations have been very simple i.e. to throw open this information to the public and provide them access to the same whenever required as well as to the type of information they feel important to know the culture of secrecy has to be done away which had been inherited from the colonial masters. Besides when information is available, public policy making and matters of administration will be more crystal clear to the people. Giving information to the people will rather help in making good decisions and these will also be in tune with public aspirations since people will be able to assess the government performance, as well as help to improve the interface between people and public.

It is said the poor whether in developing or developed countries are the most sufferers of corruption and most of the people think that the government efforts to fight corruption are ineffective. Besides more than half of the citizens polled around the world expect the level of corruption to increase to some degree over the next 3 years. Some of

the pessimistic countries include India as well, where more than 70 percent of the respondents expect the level of corruption to increase in the coming three years¹².

The findings of Global Transparency International highlights very evidently that corruption affects common people everywhere irrespective of the fact where they live or work. They have to pay for what is provided to them in a corrupt environment. Measures therefore need to be worked out by governments to provide a clean environment which is corruption free.

In recent years one can see that several attempts have been made towards decentralization, at the municipal and village levels, we talk of information revolution and empowerment issues but an issue which requires serious attention is the decentralization of information – i.e. information has to move out from the hands of the bureaucracy and the elected representatives to the common man. The common man will be empowered if information is available to him.

This is one major legislation passed by the Government of India is RTI 2005. The RTI law therefore is a realization of the theoretical idea mentioned in our Constitution, making it a practical instrument to achieve or actualize the broad principles mentioned in the Constitution. This creates an arena for smooth flow of information from the governors to the government. The passing of this legislation in India which is applicable to the entire country (except Jammu & Kashmir) indeed shows a high level of development of the world's largest democracy. Goa is a small state of the Indian Union and it is said to be one of the progressive states in the country, moreover Goa was also one of the first states to have its own RTI Act.

This study was undertaken to study the level of awareness among the citizens and officers on the RTI act. The act has come into force since 12th October 2005 but the actual awareness & implementation of the act has been the objective of this study.

¹⁴ [Transparency International: Report on the Transparency International Global Corruption Barometer 6 Dec 2007, Germany].

Objectives of Study:

1. A comparative study of the Goa Right to Information Act and the new Central Right to Information Act.
2. To study the mechanisms undertaken by government bodies to provide information to the public.
3. To study the level of awareness among the people and the officers on RTI.
4. To study the implications of the judgements given by the State Information Commission.
5. To understand the RTI as a tool to achieve meaningful development with peoples participation.
6. To study the effective implementation of the Act.

The study was conducted in two blocks of Goa covering two cities and four villages. The Blocks selected included Bardez and Tiswadi blocks. From the Bardez block two villages were selected viz Moira and Candolim (coastal) and from the Tiswadi Block the villages of St Cruz and Bambolim – Curca were selected. The two cities included Mapusa and Panaji in the respective blocks. This was done to get a feel of the awareness on RTI in the urban and rural areas. A group of 30 citizens each were selected from all the six units of study. The same were interviewed using Interview Schedules (Annexure – I) to seek data on the awareness of the provisions of the Act as well as to understand the benefits if any (they feel) due to this Information law.

An attempt was made to collect data from officers as well, for this purpose officers of 14 departments were interviewed, with the help of interview schedules (Annexure – II) to see the level of awareness among them on the act as well as to understand the efforts made to implement the act. These officers were from state level departments as well as from village level officers at the local bodies were also interviewed to understand the same. These departments consist of Civil Supplies & Consumer Affairs, Panchayats, Local Self institutions, Education, Women & Child, Rural Development Agency, Transport, Agriculture, Police department, etc.

A review of the judgements passed by the CIC and SIC have been undertaken to study the implications of their judgements in implementing the RTI act. Besides several questions of doubts were clarified with discussions held with State Information Commissioner – SIC Goa as well as with faculty members from renowned Institutions like National Law School of University of India, Bangalore and YASHADA – Pune.

A review of literature on RTI has been undertaken, data has been analyzed using SPSS software as well as Excel Microsoft Office and the same has been incorporated in this report in form of tables and figures.

The study report contains six chapters, Chapter I contains introduction followed by Chapter II which is a comparison of the Goa RTI act and the Central RTI act, chapter III contains a review of the judgments passed by the Central Information Commission, Chapter IV includes judgements passed by state Information Commission in Goa, chapter V projects the findings of study and the last chapter VI deals with observations and conclusions.

Chapter - II

The Goa RTI Act 1997 and RTI 2005: Comparison

“It is necessary that every
Governmental action should be
Transparent to the public.
Every citizen should be able to
Get information from the Government”

- ‘The Goa Right to Information Act 1997’

Goa was the second state of the Indian Union to pass its RTI legislation in the year 1997. One has to understand that this law in Goa was an outcome of the political will rather than the civil society pressures. The Congress government in 1997 was more favorable to have this legislation brought in by the state. In that sense we can say this was not a citizen driven law. The act was in a way thrust to the citizens without having to ask for it. The objective of the Act was to make it necessary for every governmental action to be transparent to the public.

Some important features of the act:

1. Competent authority as per RTI was any authority or officer notified by the government for the purpose of this act. It also included statutory authority or a company or corporation, trust, firm, society or a co-operative society or any organization funded or controlled by the government or executing any public work or service on behalf of or as authorized by govt.
2. Information: Information was defined as any material or information relating to the affairs of the state or any local or other authorities constituted under any enactment passed by the Legislative Assembly of Goa.

3. Right to Information: - the right of access to information included the inspection of works, documents, and records, taking notes, extracts, obtaining certified copies of documents and records and taking samples of material.
4. Fees: A citizen had to pay actual cost of processing the information.
5. Procedure: Application had to be made to the competent authority giving particulars of the matter relating to which he seeks information. If oral request then competent authority may either accept an oral request produced in writing.
6. Time frame: the time limit for furnishing information was 30 days, in cases of information pertaining to life and liberty; it had to be furnished in 48 hours.
7. Mode of giving information: Information in English or in the official language was to be provided.
8. Exemptions: There were 6 exemptions in this act which were the minimum as compared to the other state acts then
9. Penalty: A Penalty provision for failing to give information as well as false information was in the form of a fine of Rs 100/- per day of delay from the date of supply of information.
10. Appeal: - Appeals could be preferred to the Administrative Tribunal constituted under the Goa Tribunal Act 1965, whose decision would be final. Appeals had to be disposed off within 30 days.

11. Obligations on Public Authority.:- Every Public Authority had the duty to maintain its records duly catalogued, duly indexed for easy access to citizens.

12. Creation of State Council for RTI: the Council was to promote right to information in the state as well as deal with all matters related to right to information.¹³

13. Protection of action taken in Good faith – Protection to Officers if action taken in good faith

Detailed analysis of the Act:

- a) Lack of promptness or delay in providing information: Every legislation appears to be very good & beneficial but somewhere loopholes do exist (or rather) is deliberately left to somehow ‘kill’ the spirit of these legislations. Similarly here, was the same case where people were put to hardships of getting information because of delays which sometimes was deliberate effort on the part of the bureaucrats and the concerned officers. There was no provision for appointment of PIO. These delays were further aggravated due to lack of effective vigilance mechanisms both at the governmental as well at the societal level.
- b) The RTI act lost its beauty and the spirit due to the manner in which it implemented. Lack of a full hearted support and vigor to implement the act made citizens lose interest in utilizing this Act as well as falling back on it to peruse/seek information. One of the staunch reasons was that appeals were laying pending with the Administrative tribunal which failed to give effect to the smooth implementation of the Act. The Governments that came to power did not initiate any steps to sharpen the teeth of this act as far as its implementation was concerned.

¹³ Clause 11, Goa Right to Information Act, 1997

c) Costly legislation for the citizens:

The law was a costly one to the common man both in terms of cost and time. Each application was priced at 100/- and information fee of Rs.2/- per page which was beyond the paying capacity for a poor (BPL) person¹⁴. Besides even for information of 4 to 5 lines, he/she had to pay 100/- by way of application fees. Moreover there was a tendency to treat every information asked for by citizens under RTI law (including ordinary and simple information) which required the citizen to shell out money and moreover wait for 30 days to get even frivolous information (which he/she could have got even a day or for that matter verbally or even telephonically) therefore I say, the RTI was costly in time and money and also in terms of patience.

d) Lack of suo motu disclosures: There was no provision in the GRTIA for suo motu disclosure of information. Perhaps this was one area that enabled the respective Public authorities to treat every information asked for by citizens as an RTI application. If suo-motu disclosure was provided for, this misinterpretation and harassing of citizens to an extent would not have taken place.

e) The Goa RTI act was not universally applicable to all Public Authorities:-

This law notified government bodies which were covered under this law. Further all govt. funded bodies were not covered but only those mentioned in the Act¹⁵. This again was a grey area which gave some government bodies the scope to be under the Act whereas others were left out.

f) No internal appeal for faulty/misleading/incorrect information: The act did not provide for any internal appeal if the citizen wanted to if he/she felt the information provided was faulty. The direct appeal was to the Administrative Tribunal. This meant either the citizen accept what is given to him or challenge it in the

¹⁴ Below Poverty Line.

¹⁵ DI/INF/Rgt.Inf.Bill(3)/97, The Goa RTI Act 1997.

Administrative Tribunal which was a very long way as far as its decisions in terms of its fairness were concerned.

- g) No provision for publicizing the act and training to citizens and officials:- No provisions for training the officials as well as training the citizens was provided for, besides lack of publicity to the act was also absent in the GRTIA.
- h) Defunct State Council: - The very foundation of the RTI i.e. the State Council whose role was to oversee the implementation of the Act was actually playing no role, hence it's working as far as monitoring and implementing the act was totally redundant.
- i) Misuse by Citizens and officials:-
It was said that some citizens misused this act to dig out personal information from the officers. Besides officials also misused to treating every information application as RTI application which also became a means of revenue and income for that P.A. and the 30 days was accepted as a routine exercise to delay, or even to release simple information.
- j) Record management was absent: Provisions on this point was also absent and therefore there was never any compulsion on P.As though the Act stated for cataloguing of data. This being a major hindrance to providing information timely and systematically.

Positive aspects of GRTIA:-

- 1) The Goa RTI act was one of the best pieces of legislations as compared to the other state laws on RTI were made. (Annexure –III)
- 2) Full of zeal and enthusiasm: Initially when the law was enacted, there was great zeal of having got this legislation for access to inform and it is said that officials also parted with information more liberally than in the later stages.
- 3) The definition of information was quite inclusive.

- 4) Less exemption: There were only 6 exemptions on which information could be refused, and the underlying principle was that information that can be given to the state legislation should also be available to the citizens.
- 5) Penalty provisions: The Officer denying information was penalized at Rs. 100/-.

The Right to Information: A beneficial piece of legislation

This legislation though aimed at giving the citizens an access to information seemed a bit doubtful in the interests of the people because this fine piece of legislation also contained provisions which to an extent appeared to be anti-citizen¹⁶.

Freedom of information or the right to access information held by government makes the citizens an enlightened one the RTI 2005 has been a very progressive piece of legislation brought in for the benefit of the people. This is a short piece of legislation yet very exhaustive in terms of making information accessible to the citizens. This is one law in the history of this country where the citizens take a centre stage over the information providers.

The RTI 2005 has brought about the following:

a) Maximum disclosure: The RTI 2005 provides for maximum disclosure under section 4(1)(2)(3)(4). Under section 41(a)(b) casts an obligation on the public authority to maintain all its records duly catalogued and indexed in a manner and from which facilitates the right to information under the Act and ensure that all records that are appropriate to be computerized and connected through network all over the country on different systems so that access to such records is facilitated. Besides all important about the organization has to be published. This does not stop here as every public authority has to take steps to provide such information suo motu to the public at regular intervals

¹⁶ Clause 9 Fine those who used information malafidely.

through various means of communications, including internet so that the public have minimum resort to the use of RTI Act as well as disseminate the same. This information needs to be updated every year. Besides section 4(c)(d) all relevant facts need to be published while formulating important policies or announcing the decisions which affect public. As well provide reasons for its administrative or quasi-judicial decisions to affected persons.

b) Limited exemptions: The RTI 2005 has provided minimum number of exemptions which is in the interest of the sovereignty and security of the state, which information is forbidden by court, disclosure of information which would cause breach of privilege of Parliament or State legislature. Information on commercial secrets or intellectual property rights, information available in his fiduciary relationship, danger to one's life and physical safety, information which would impede the process of investigation or prosecution of offenders, cabinet papers including records of deliberations of council of ministers, secretaries and other officers. Information relating to personal information which has no relationship to any public activity or interest, or which would cause unwarranted invasion of privacy of the individual.

Besides, information on the above except for sovereignty and integrity interests of the state, information on disclosure causing a breach of privilege of parliament or state legislature and information on cabinet papers including records of deliberations of the Council of ministers, secretaries and other officers, any occurrence/taken the rest of place on the information is to be given after 20 years. No public body is exempted from this Act. Besides severability clause is provided wherein request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure then that part of the record which does not contain any information which is exempt from disclosure under this act and which can be severed from any part that contains exempt information.

c) Facilities for access to information: There are provisions in the RTI Act for the above. This is done through section 5 wherein there is a provision for appointment of

PIOs at the central level and state level officers, who will facilitate/rather provide information to the person who has requested for mandatory.

d) Time limit: There is fixed time limit for providing information which is 30 days in normal situations, 48 hours if the information pertains to life and liberty of a person, 35 days if it goes through APIO, if its third party inform then additional 10 days to 30 days. Besides at the sub-divisional officer of a department/organization, provision is made for appointment of APIO so that the citizens are not put to any hardships in seeking information.

e) Appointment of PIOs: the Act has created for the post of an Public Information officer to provide information and he/she has be entrusted with necessary responsibilities under the Act. Further under section 6, the PIO has to render all reasonable assistance to the person where request can't be made in writing.

f) Provision for implementation of the Act.

Under section 15-18 the RTI 2005 has provided the setting up of Information Commissions at the Central and State levels which are independent authorities and any aggrieved persons against the PIO and FAA can approach the commission. Powers and functions are also mentioned in this regard. The commission can entertain complaints; appeals as well compel public authorities to comply with the mandatory provisions of the RTI. Besides this penalty provisions are provided for under section 20 wherein they are liable for penalty PIOs for not furnishing information, or giving incomplete information, incorrect or misleading information. Information Commissions can also recommend disciplinary against the officers under Service Rules.

g) Provisions for publicity and training: Under section 26, the provision for developing and organizing educational programmes to advance the understanding of the public, training of programmes have been incorporated.

As compared to the Goa RTI law as well as other State RTI laws, this Central act RTI 2005 can be said to be a citizen related law particularly for the following provisions

mentioned therein. Section 4, 5, the citizens need not give reasons for asking information, penalty provision for the PIOs, the appeals provision again only for citizens, the setting up of Information Commissions to deal with appeals as well as complaints against the denial of requests or false information, etc.

The RTI Act 2005 is one of the most citizen friendly laws passed till date in the history of this country. The provisions viz, voluntary disclosures required under Section 4 of RTI, the penalty provisions in Section 20, the appointment of PIOs under Section 5, time frame for disposal of requests and appeals, the setting up of Information Commissioners to take up matters of refusal, the lack of furnishing any reasons for asking information, nominal fees, deemed PIO provision and compulsions on the public authorities to inform the reasons and manner of taking decisions which will affect the larger public. All this important features in the act highlight a key issue that the citizens enjoy a prominent position in the overall democratic set up of India.

Chapter - III

An Overview of the judgements passed by the Central Information Commission.

‘No democratic government can survive without accountability’

- Bhagwati J.

An attempt is made to study the important judgements passed by the Central Information Commission. It's only through an analysis of these judgements that one gets an idea of how strong or powerful is the future of RTI law in India will be. The role played by the Central Information Commission also shows the level of effective implementation of RTI in India. In a span of 2 ½ years since the official passage of the Act, the CIC has done a commendable job in maintaining the spirit of the law and the objectives with which it has been passed. If one goes through the judgements of CIC it shows a consistent trend in the manner of passing orders which have been a guiding force to the information providers as well as the information seekers. Some of these decisions are mentioned below:

Public authority definition.

Appeal No.11/9/2005 – CIC Dated:- 1/03/2006.

Shri Mukul Mittal V/s. IRCON International Ltd

Facts: Shri Mukul Mittal had asked for inspection of files to IRCON, he was informed to await their response on the decision whether IRCON is a public authority under RTIA. Since a period of 3 months had lapsed, he appealed to CIC. The Executive Director who appeared on behalf of IRCON stated that they were not clear about the status of IRCON & it was not a public authority as per the clarification sought from their lawyers and also by a reference given by Ministry of Railways.

Order: The CIC expressed its view that the above attempt was to mislead the communication. The company mentioned that its 99.7% of share capital has been

provided by Central government. Besides the minority shareholders viz. URI & Bank of India were a government entity which shows that the government has financed the birth of this company which is of a public sector nature. The CIC further stated that the Board of Directors are appointed by Central government, and the financial account subject are reviewed by C&AG of India and its annual report is presented in Parliament shows that the government has control over IRCON the share capital is paid by GoI & public sector banks and hence IRCON is a public authority covered under clause (h) of section 2 of RTI.

Similar cases

Appeal Nos. CIC/WB/A/2006/0039&340 Dated:- 20/3/2006 & 03/04/2006.

Facts: Two appeals were filed by Shri R.K.Gupta (Navi Mumbai) against Bhabha Atomic Research Centre Mumbai for not getting information on reasons why his case was not sent to the Medical Board from the point of view of performance of his official duties inspite of his invalid medical certificate to resume duty (He is retired scientific Officer/Engineer of BARC).The second application was regarding the list of members who are paid till 29/11/2005 for under due to permanent incapacitated alongwith details. The PIO had stated that there was no use to send his case for medical examination merely on the production of the so called disability certificate, which is 6 days prior to retirement. The Controller- BARC informed that BARC family relief scheme is not under RTI Act & therefore the appeal of Shri Gupta is not maintainable and dismissed. Membership is voluntary and no membership fee is payable and hence not being a public authority, providing information was not mandatory under this scheme.

Order: The main crux was whether BARC family benefit scheme was a public authority or not. BARC scheme falls within the definition of the public authority under Section 2(4)(1). Further it was stated that though authority is neither owned nor substantially financed by government, it is through the Managing Committee controlled by the BARC which itself is a public authority and its funding comes entirely through government employees.

A body established under a law is covered under RTI Act

Appeal No.69/ICPB/2006 F.No.PBA/114 Dated:- 18/8/2006

Hitendra Jain V/s. Indian Red Cross Society

Facts: The appellant had asked for information to the CPIO, the Indian Red Cross Society, Ludhiana branch regarding the accounting systems of the same. Information was not given within the prescribed time limit; the FAA also did not furnish information within the time frame and therefore the CIC was approached.

Order: CIC upheld that under Sec 2(h) of RTIA, an Institution established under a law made by Parliament is a public authority and the provisions of RTI are applicable. The Ludhiana branch is established by a Central Act it is bound to appoint a CPIO to provide information to citizens. Since appointing a CPIO is pending, it is directed to furnish information sought by the appellant within a month of this decision. The information being exhaustive, the branch is at liberty to collect applicable charges from him.

No.CIC/OK/C/2006/00125 Dated:- 17.01.07

Lt.Col (rtd) Anil Heble v/s Airport Authority of India.

Facts: Information was sought by the applicant from the Airport Authority of India who transferred the application to Delhi International Airport Private Ltd (DIAL); this P.A. did not provide the information stating they were not a public authority.

Order: CIC stated that a holding of 26% stake by the government is substantial to bring it within the purview of Public authority under RTI and hence DIAL was directed to furnish information to the Citizen.

Railways in Jammu & Kashmir under the purview of RTI

No.CIC/DK/A/2006/00143 dated 19/9/2006

Shri Arun Kumar V/s. Northern Railway, New Delhi

Facts: Shri Kumar (contractor) had filed 2 RTI applications to the CPIO – Delhi asking for information on tender documents of the Road over bridge (RDB), New Delhi and works contract relating to the Jammu Udampur Rail link project.

The information is denied under Section 8 (1) (a) of RTI Act, pre-judicially harm the economic interests of the state in the first case, whereas the reply to second request was and stated under section 2 of RTI the act does not extend to the state of Jammu & Kashmir. Dissatisfied with the replies of CPIO & FAA, if he appealed before the commission.

Order: In the 1st case, the CIC directed that the tender committee minutes asked for by Shri Kumar be made available but agreed with the Railways that disclosure of file nothings & correspondence would not only adversely affect the economic interests of railways but may also affect the commercial information relating to third party.

With regard to the 2nd request, the CIC stated that though section 2 states RTI does not apply to state of Jammu and Kashmir, it does apply to Railway as a public authority and information can not be denied on this account the jurisdiction of the Delhi High Court was invoked by appointing an arbitrator in this case. Necessary files and notes were referred and the CIC directed the authority to allow inspection of file and supply copies on prescribed payment.

Action to be taken in future is not information

Appeal No. ICPB/A – 15/CIC 2006 dated 13/04/2006

Shri Ravi Kumar V/s. Coffee, Bangalore

Facts: The applicant through an RTI application asked for information regarding a file on repairs carried out to a Boards van in 1997 as well as on the appointment of one Shri T.V. Neelakantan, Hindi translator who was officiating as PRO in 2005. His contention was that this person had created the Coffee Board on the pretext of repairing a Board's van without following required formalities and that a vigilance enquiry was conducted as well. He also asked how the same person has again been appointed to officiate as PRO in 2005. He also wished to know whether any disciplinary action was proposed against Shri Neelakantan and the probable time required for any action.

Order: CIC stated that the grievance of the appellant was that no disciplinary action was taken against Shri Neelakantan even though enquiry was conducted against him. With regard to the decision of the FAA it is stated that case relating to repairs to the van have been closed as early as 1997, the copies of which are already given to appellant.

With regard to proposed disciplinary action, within the interpretation of the appellate authority that information relating to future course of action which is not in any material form is not 'information' within the definition of 'information' in Sec. 2 (f)

Information not to be created in an electronic format for the applicant.

Appeal No.14/1C (A) 2006

B.H.Veeresha V/s. Canara Bank

Facts: The appellant had asked for information regarding expenditure incurred by the Bank for execution of interior work on their head office in Bangalore in the formats for a period from 1/04/1991 to 31/09/2006

- a) Particulars of work undertaken
- b) Total amount paid to the Contractor with bill No. and date
- c) Name & address of contractor with PAN No.
- d) Particulars of tax deducted at source both income & service tax.

The same was sought in a CD in electronic form. The contention of the appellant was that information given was incomplete, misleading and incorrect to which he went in first appeal wherein the FAA upheld the decision taken by CPIO in which case, information was given in accordance with the RTI Act and records maintained by them as well as per guidelines of RBI and that information is to be provided in the form in which it exists. Information regarding the name and address of the contractors along with PAN was denied as this was not in relation to public interest and the same would be invasion of the privacy of the third party.

It was also mentioned that as per RBI guidelines records are kept only for 8 years and hence information can't be provided, as it does not exist.

Order: Information is to be provided in the form which it exists with the public authority and without disproportionately diverting the resources of the information provider.

Samples of material under RTI to be provided.

Appeal CIC/WB/A/00262/263

B.P. Srivastava V/s. MCD

Facts: The appellant asked for information on details of work orders given against i) NIT Nos EE – XXXI/TC/2004-05/21 dated 4/02/2005 and EEXXI/TC/2005-06/01 dated 9/05/2005

ii) D/EE/XXVI/TC/04-05/15 dated 6/12/2004 & D/EEXXVI/TC/04/05/21 dated 21/2/2005 with the copies of work schedules, measurement books, site maps etc. related to works, particular of payments/part payments/bills passed for the aforesaid works.

In both the cases, the appellant wanted to inspect relevant documents and obtain samples of work carried out. The Engineering department wrote to him to inspect the related documents. In both cases samples were denied to him on the grounds that there can't be provided as there are no such provisions in the RTI 2005. Therefore the appeal was heard.

Order: CIC stated under Sec 2(j) of RTI Act states that information held by or under the control of any public authority includes the right to taking certified samples of material. Samples of work should be given to the citizens.

Similar Case

CIC/WB/A/00259, 260, 261 Dated:- 22/05/2006 wherein the samples of the materials of all works which have been completed or under completion as sought by the appellant will be provided to appellant.

Hunger strike is treated as threat to life.

Appeal No.CIC/WB/C/2006/00066 Dated:- 19/04/2006

Shri Shetkar Singh & Smt. Aruna Roy V/s. Prime Ministers office

Facts: The complainants applied to the office of PM for information relating to recommendations of a group of Ministers that had visited Narmada Valley in connection with resettlement and rehabilitation projects under Sardar Sarovar Project in Madhya Pradesh. Sec 7(1) of the RTI was invoked by them stating this information sought concerned the lives and liberty of many NBA activists who are on hunger strike and

thousands of families who are verge of losing their homes and land and their means of survival. This application was transferred to the Minister of Water Resources.

Order: The PMO has rightly transferred the application wherein the information is lying with the Minister of water resources. The application should be accompanied by evidence that threat to life exists. Agitation with the use of ahimsa must be recognized as bonafide means of expressing protest, and if the claim of concern for life and liberty is not accepted in a particular case by the public authority, the reasons for not doing so must be given in writing in disposing of the application.

RTI not to answer queries prefixed with why, what, when, whether.

File No.CIC/AT/A/2006/00045 Dated:- 21/4/2006

Dr. D. V. Rao V/s. Department of Legal Affairs

Facts: Dr. D.V.Rao had asked for information to the Department of law and justice, the information regarding

- a) Why the department of legal affairs did not amend/review the ILS Rules so far
- b) What is the reason(s) for non-amendment of ILS rules even after more than 7 years of the issuance of the DoPT O.M. dated 25/5/ 1998.
- c) Why the delay was happened, when it happened under whom the delay was happened and what is the vested interest of the officers in delaying the amendment of the ILS Recruitment Rules since the issuance of the DoPT O.M. dated 25/5/98.
- d) If ILS Recruitment Rules are amended, whether it would have the retrospective effect or not
- e) When the department is going to amend ILS recruitment Rules
- f) Whether the department is going to take action against the erring officials?

Order: CIC stated that a public authority is not under obligation to answer queries in which the petitioner seeks answers to questions prefixed with why, what, when and whether. The right to seek information is defined in Sec 2(f) which is either pinpointing to some file, document, paper or record, etc or mentioning the type of information as may be available with the public authority.

Answer in Yes or No not be given

Appeal No.20/IC/(A)/2006 F.No.11/97/2006-CIC dated 29/03/2006

A.X.S.Jivan V/s. Central Excise & Customs, Gujarat.

Facts: The appellant had asked for information which related to sanction of leave and payment of salaries of one of his colleagues. The Appellant authority has refused to give information on the ground that this information is exempted under section 8(1)(j). The appellant has stated that his colleague is facing financial hardship and therefore it concern life and liberty.

Order: The requester had asked several questions wherein the CPIO was expected to reply in yes or no which the PIO need not do.

File notings are to be disclosed.

F.No.CIC/AT/A/2006/00363 Dated:- 3/11/2006

Facts: The appellant an IPS Officer had asked for information on file notings from the Minister of Home Affairs regarding the comments given by CBI vis-à-vis representation of the appellant submitted against the adverse remarks recorded in the ACR for the period 1/07/2002 to 17/02/2003 and why these remarks has been rejected and the noting of the ministry's file whereby the representation of the applicant has been dealt with and rejected.

Order: CIC stated that file notings are part of the file in which an officer records his observations and impressions meant for his immediate superior officers. The decision to disclose information has to be complied in terms of the provision of section 11(1) of the RTI Act. File notings written by an officer are in the nature of fiduciary relationship. Section 11(10) and section 8(1)(j) have to be read together which point that notings of a 'confidential' file should be disclosed only after giving opportunity to the third party viz the officer/officers notes be heard. The Appellate authority needs to examine the petition in this provision. The matter is remitted back to AA for de-novo examination.

Similar case

CIC/OK/A/2006/00154

Dated 13/7/06

Order: The CIC directed the Ministry of Personnel & Public Grievances to remove the instruction relating to non disclosure of file notings from their websites as this was misleading.

Note sheets of the files dealing with disciplinary proceedings and imposition of penalty of officers are fiduciary in nature therefore exempted.

Decision No.318/IC/(A)/2006. F.No.CIC/MA/A/2006/00711 Dated 3/10.2006

Shri Ravinder Kumar V/s. UPSC.

Facts: The appellant sought information on the advice the UPSC on “the opinion/advice tendered by the various officials of the UPSC in his case and the procedure adopted by the UPSC while examining his case relating to major disciplinary proceedings that were initiated against him by the Government of Himachal Pradesh.

The CPIO furnished the detailed findings of the Commission to the appellant which was quite detailed however he stated further that notings on the disciplinary cases are basically part of the decision making process & may contain information/opinion/views/facts not only about the appellant but also of other officers other cases, depts./offices and opinions etc given in fiduciary capacity or in confidence. This may be exempted under section 8(1) of RTI and its disclosure may not be in public information.

Order: CIC stated that information sought relates to note sheets of the files dealing with disciplinary proceedings and imposition of penalty. The relevant details form the basis for formulating advice given to UPSC to the concerned administrative ministry. Revealing of note sheets containing the names might endanger the lives and therefore barred under section 8(1)(e)&(h) of the act. The decision is upheld of the CPIO and AA.

Service Matters.

Appeal No. 128/ICPB/2006 F.No.P6A/06/102 Dated: - 17/10/2006

Shri Satish K. Chaudhry V/s. Ministry of Communications & IT

Facts: Information was sought by the appellant from the Department regarding his Annual Confidential Reports 2000-01 to 2004-05 and whether he was eligible for promotion to the next grade, to which the CPIO replied that information cant be given under section 8(i)(j).

Order: CIC stated that ACRs contain personal information about the employee. The ACR contain information based on trust and confidence between the officers involved in initiating, reviewing or accepting of ACRs and this could be embarrassing and therefore decision of the CPIO not to furnish information is upheld.

Similar Case.

Decision No.446/IC(A)/2006 F.No.CIC/MA/A/2006/00634

The CIC has held that the remarks made by the superior offices are confidential in nature and therefore barred under section 18(i)(j)

'Agreed list' would defeat the purpose of surveillance

F. No CIC/MA/A/2006/116

Smt. S R Sawant v/s D G Vigilance, Customs and Central Excise, Delhi

Facts: Applicant sought a copy of the 'Agreed list' prepared by the Vigilance Department Agreed list is prepared in consultation with Ministry of Home and CBI on the basis of complaints, suspicion of corruption, so as to keep discreet watch on corrupt practices of Government officials. She also wanted the copy of name of officers promoted and under surveillance

Order: CPIO stated disclosure of 'Agreed list' would defeat the purpose of surveillance, and hence this is exempted u/sec. 8 (1)(h). CIC held that name of Officer promoted and under surveillance should be disclosed. Larger public interest will be served when corrupt officials get promoted due to political clout.

Appeal No.18/IC(A)/2006 – F.No.11/107/2006-CIC Dated:- 28/03/2006

Tapas Datta V/s. Indian Oil Corporation

Facts: Information was sought from the Corporation regarding copies of the original DPC minutes for the period of 1992 to 2004 from grade F to G Pipelines division. Copies of review of DPC minutes conducted for employee no.93622 from 1992 under direction of Delhi High Court judgement I CWP-5201 of 1997 and copies of complete Annual Performance Appraisal (APA) reports of employee NO.93622 from 1989 to 2003 was also sought.

The CPIO stated this being confidential in nature is exempted, and the same was upheld by appellate authority.

Order: The CIC upheld the decision of the FAA that reports are personal and confidential information therefore should not be disclosed.

ACRs barred from exemption

Decision No. 382/IC(A)/2006. F.No.CIC/MA/C/2006/00237 Dated:- 23/11/2006

Shri H. V. Vekatesh V/s. UCO Bank.

Facts: Information was sought on ACRs and DPCs, the CPIO denied information on ACRs whereas was silent on DPC information. Besides no information was provided about FAA therefore he was not able to file his first appeal.

Order: CIC directed to give information regarding the DPC matter, CIC stated that DPCs should be put in public domain after due application of section 10 (1) and ACRs are barred U/s. 8(1)d & e.

DPC minutes to be given

Decision No.175/IC (A)/2006 F.No.CIC/ MA/A/2006/00031 Dated 17/08/06.

Order :The CIC stated that the process of selection and promotion is confidential and the files put up before DPCs contain inputs about the staff including ACRs which can't be shown to unauthorized persons and this is not in public interest. However DPC minutes may be furnished to the appellant.

Similar Case

Appeal No.107/ICPB/2006 F.No.PBA/06/178 Dated:- 18/9/2006

Order: the CIC held that rating sheets is a copy of the proceedings of DPC; the same is exempted under section 8(i) j.

Annual immovable property returns are exempt from disclosure.

Appeal No.02/IC(A)/CIC/2006 Dated:- 22/02/2006

Mukesh Kumar V/s. Department of Revenue, Ministry of Finance

Facts: Information was sought regarding the details of annual immovable property returns of commissioner of Income Tax for the past 5 years. This was rejected by the CPIO under section 8(i)(j) of RTI.

Order: The CIC upheld the decision as exempted under section 8(i)(j) as its of personal nature and the disclosure of which would cause unwarranted invasion of privacy of the officer.

Similar case

Appeal No.60/IC (A)/2006 F.No.CIC/MA/A/2006/00187 Dated: - 12/06/2006.

Order: The CIC upheld that information about moveable/immovable property details about retired employees not to be provided, as its barred under Section 8(i)j.

Speaking orders to be passed while disposing RTI applications

Appeal No.CIC/A/3/2006 dated 12/12/2005

Subhash Chandra Agrawal V/s. Supreme Court of India

Facts: The applicant had asked for information to the Supreme Court wherein he was not very happy with the decision of the PIO neither the appellate authority and his contention was that the responses given to him with regard to the action taken on the petition filed by him was meaningless and evasive and his appeal was also dismissed as information was given and hence he went to the commission.

Order: CIC after examining the papers stated that the information given to the appellant which stated that the aforesaid complaint has been kept on record in the relevant High Court file. The CIC therefore stated that this was not a speaking order and

provides little information on the disposal of the application however it also does not mention when and under what reference the application was transferred to the High Court making it difficult for the appellant to seek further information.

The PIO was asked to now inform the appellant the date and reference of the order transferring the application. Besides transfer of application has to be done within 5 days from the date of receipt.

Filing of applications under RTI by citizens only

F.No.CIC/AT/A/2006/0043 Dated:- 13/12/2006

Facts: Information was sought by the President of the Federation of Indian Placer Mineral Industries to the Indian Bureau of Mines on details of mining plans. The information was rejected under section 8(1) d after consulting third party.

Order: The CIC after hearing the parties stated that the right to seek information under RTI belongs to citizens and not to corporate entities and hence the appeal can be rejected.

Similar cases

Decision No.307/IC/(A)/2006, F.No.CIC/MA/A/2006/00621 Dated:- 27/09/2006

Order: The CIC in this case decide that the appellant in the capacity of General Secretary of the Employees Association, which is an organization can't seek information under section 3 of RTIA only citizens shall have this right.

Case no. CIC/WB/A/2006/00336

Order: The CIC has clearly stated that an Association or a company is not and cannot be treated as a citizen even though it may have been registered in the country. Under section 3 of the act, only Citizens are given this right.

No. CIC/DK/A/2006/00149 Dated:- 20/12/2006.

The CIC stated that information be denied to the respondent as he had applied in the capacity of office bearer of a political party.

Minutes of Board Meeting allowed.

No.CIC/DK/A/2006/00391 Dated:- 07/12/2006

S.N. Singh V/s. Hotel Corporation of India (Ministry of Civil Aviation)

Facts: Shri Singh had applied to PIO (Ministry of Civil Aviation) for information about some employees of **Centerior** Hotel & Minutes of meeting of the Board of Hotel Corporation of India where the charges regarding the other members of the Tender Committees were dropped.

Order: When the case was heard at the CIC level, it came to the fore that the issue was about a 6 members committees assessment about a tender been floated by Hotel Corporation and Shri Singh was one of the members, his claim was he was penalized and victimized while no action was taken against the others and therefore wanted to examine the documents relating to this case including those concerning other members.

The direction was given to the corporation to show all documents, records, files and charge sheets served. It also directed them to show Shri Singh the minutes of the Board Meeting in which charges regarding the other members of the tender committee was dropped (earlier it was denied to him as he had not mentioned the correct date)

Designate APOs in post offices

**Complaint No.CIC/WB/C/2006/00176; CIC/WB/C/2006/00175; C/80/C/2006/00105
CIC/80/C/2006/00104**

Shri Prashant Bhushan V/s. Ministry of Environment & Forest

Facts: Application was made to the Ministry of Environment & Forest which was refused as not made in the proper format prescribed by the Ministry. An effort was made to submit RTI application through the post office which is designated APIO for all central ministries and departments. It refused to accept the application on the ground that the specific departments were not in the list provided to them by the government.

Order: SIC directed the Ministry of Environment & Forest and Food Processing, Central pollution control board and Central ground water board to adhere to section 5(3),4(1)(b) (xvi) so that applications under RTI are duly accepted without any inconvenience to the applicant. They were also directed to provide to the post departments the addresses of Nodal Officers/Central points in each ministry to enable

them to include this in their website and authorized designated CAPOs in post offices to accept applications under section 5(2).

First appeal to be preferred before approaching the CIC.

Appeal No.ICPB/A-16/CIC/2006 Dated: - 13/04/2006.

(Under Section 19)

Shri Bhagawan Chand Saxena V/s. Export Inspection Council of India.

Facts: Information was sought relating to corporate credit card held by the Director. Since no reply was given he appealed to the FAA, as the appeal was pending the CPIO furnished the information to the appellant and the appeal was disposed. Thereafter the appellant stated before the CIC that the information furnished is not correct.

Order: The CIC stated that appeal should be preferred with first appellate authority before approaching the commission.

Fees to be charged as per RTI Act.

Appeal No.79/IC(A)/2006 F.No.CIC/MA/A/2006/00107/ Dated:- 30/6/2006

Shri A P S Khurana & Other V/s. Registrar of Companies Panjab, Himachal Pradesh & Chandigarh.

Facts: The appellant sought information relating to the company under RTI act. Information was provided but only on payment of prescribed fees under section 610 of Companies' act 1956. The appellants however demanded that fees be charged as per RTI act.

Order: SIC directed the CPIO to allow inspection of records and provide certified copies to the appellant as well as collect fees as per RTI.

Award of penalty.

No.CIC/OK/A/2006/00013 Dated: 5/2/2007

Prof. Pramila Sharma V/s. Daulatram College

Facts: Information was sought through 5 separate applications to the PIO University of Delhi regarding monthly medical allowance since her retirement, copy of a

service record with full leave record, deposit of health centre contribution, PF statement and certified copies of the meeting of the governing board and finance committee (May 2000 -July 2001) since no reply was received within the time framed 5 separate appeals were filed before the CIC. Before the commission it was proved that information was not provided to the appellant. Besides sufficient time was given to the respondents to provide the information it was still not adhered, amounting to more than 100 days of delay in supplying information. The Commission thereby imposed the penalty of Rs.25, 000/- for each of this applications amounting to Rs. 1, 25,000/-

Information on departmental enquiry proceedings is exempt from disclosure.

Decision No.81/IC(A)/2006 F.No. CIC/MA/AA/2006/00232

Ravi Kumar Potdar V/s. Oriental Insurance Company

Facts: The appellant had asked for documents relating to promotion of the Senior Officer. The appellant had filed a FIR in which the senior officer was a party and it was proved by investigation by the police that the FIR filed was frivolous. Information was denied to him under section 8(1)(h).

Order: The CIC upheld the view of the PIO that departmental enquiry proceedings has been initiated against him and he has been charged with serious and high level offences and disclosure of information sought would impede the process of investigation and prosecution of offender under this section.

Damages paid to the citizens.

Appeal No.CIC/WB/C/2006/00182

(Under section 19)

Smt. Gita Dewan Verma V/s. Urban Development

Facts: information was sought by an application through email as well as in writing from Urban Development Department asking for “Pushta Clearance Plan” announced by Delhi’s Minister for Urban Development in response the Dy. Secretary UD stated that the relocation and up gradation policy is under consideration of the Government of India and information would be provided as soon as proposal was approved. However appeal was filed with the first appellate authority and to this a

second appeal was filed before the CIC wherein she prayed that the information was not received within the time frame and therefore she be awarded for damages of Rs. 50/- as reimbursement to processing fees.

Order: After the examination the CIC stated that information provided is evasive and incomplete as stated by the appellant. Besides that the department had no record on any such plan and if this was case, the same should have been informed to the appellant. CIC directed that the information be given free of charge under section 7(6) as well as reimbursement of Rs. 50 be done as damages suffered by the appellant under section 19(8)(b).

Compensation paid to citizens for mental harassment.

Appeal No.30/CIPB/2006 Dated: 13/06/2006

Ms M.L.Trivel V/s. Central Government Health Scheme, Pune.

Facts: information was sought regarding the following points:

- a) Details of hospitalization of her father from 1/12/1995 till date giving details like hospital name, duration of hospitalization, admitted for which element, claim admitted by hospital or amount reimbursement to pensioner.
- b) Copies of memo issued by dispensary III on 27/12/1995 and 28/12/1995
- c) Copy of local purchase, indent for medicine prescription provided by Shri Narayan on 6/12/2003 and received by pensioner son 9/12/2003
- d) Whether Ushakiran Hospital had admitted the claim or not of her fathers admission in the hospital from 26/12/2003 to 28/12/2003 and if admitted the amount of claim paid towards the bill and details thereof.

Order: - Before the CIC, it was clear that the application and the appeal has been badly handled by the respective office. Besides the non-application of mind by the both the CPIO and FAA had resulted in her interaction with CPIO and the office repeatedly, causing mental harassment to her (contradictory replies was given) the CIC therefore directed the public authority to compensate the appellant under section 19(8)(b) of the act, sum of Rs.5000/- as well as refund to her Rs. 60/- (paid by her as fee and copies of information)

Failure to implement CICs decision.

Review petition in complaint no. CIC/WB/C/2006/00040

Shri Ajaykumar Goel V/s. MCD

Facts: The CIC in its detailed decision dated 23/05/2006 directed the public authority to furnish the information to the appellant. This was however not provided and hence the appellant sought the present complaint against the public authority contempt proceedings for not adhering to the decision of the CIC.

Order: Contempt's proceedings have been initiated against the public authority for failure to act of the CIC's decision under section 21.

Cost of providing information to be paid by BPL citizens.

Appeal No. 56/IC(A)/2006 F.No.CIC/MA/A/2006/00069 Dated:- 8.06.06

Shri Brijendra Prasad V/s. Bharat Petroleum Corporation Ltd.

Facts: The applicant, who was from BPL section, had sought voluminous information from three different offices of BPCL located in Bhopal, Pitampur and Bhitoni.

Order: CIC stated that information seeker is expected to specify the documents and information which is required by him, the applicant will have to pay for photo copies of huge documents for which he would have to pay as per prescribed fee rules.

Unsigned documents can be furnished.

CIC/WB/A/2006/00270-9.10.2006

Copies of unsigned documents can be provided certifying that they are in fact unsigned documents u/s 2(i)(a) of RTI

Videography is allowed

CIC/WB/A/2006/OO144 Dated:- 6/08/06

Videography is allowed under RTI.

Information not available need not be given.

CIC/AT/A/2006/20 Dated:- 23/03/06

If information is not available, it may not be physically impossible to provide it. There is no liability under RTIA of a public authority of supply non-existent information.

Record Management

CIC/OK/A/2006/00016 Dated:- 15/06/ 2006

Record Management system ought to be improved such that information which are to be disclosed to public could be easily provided, after delineating the information that is exempted under the Act.

Voluntary Disclosure

CIC/WB/C/2006/00081 Dated: - 13/07/2006.

Order: The public authorities are to voluntarily disclose information under Section 4. A citizen can complain against the same because the Department has not updated their information, thus causing damage and inconvenience to the citizens.

The role of APIO under RTI is highlighted.

CIC/AT/A/2006/00059 Dated:- 5/05/06

Order: When a request is received by an APIO he is required only to forward the same to the PIO of the public authority. We, however, like to caution that any order issued by a APIO on behalf of PIO must clearly state that the former was only transmitting the orders of latter and should also state the name and the designation of the PIO on whose behalf the APIO might be acting. This will enable the information seeker to bring against the PIO any charge of delay etc. if that happens to be the case.

Authority conducting the examination and the examiners evaluating answer papers stand in a fiduciary relationship between each other and therefore exempt from disclosure.

ICPB/A-2/CIC/2006 Dated:- 6/02/06

Ms. Treesa Irish v/s Ernakulam North Post office

Facts: Ms. Treesa Irish, employed as a postman (Post woman) in Ernakulam North Post office, Kerala, appeared for a departmental examination on 24.4.2005 for promotion. On declaration of the results of the examination, she noted that none from Ernakulam Division was successful.

When she requested for her marksheet, the same was denied and, therefore, she filed a case before the Central Administrative Tribunal (CAT). During the pendency of the said proceedings, she was supplied with a copy of the marksheet from which she found that she had failed to secure minimum of 40 marks (she secured 37 marks) in Paper III of the examination. Therefore, she applied to the CPIO for a photocopy of her evaluated answer sheet of that paper.

CPIO rejected her request on the ground that no public interest was involved in her case and in terms of the Postal rules, she could apply for re-totalling and verification of the fact that all answers written were duly assessed.

Order: CIC stated that it is true that there is no provision in Section 8 of the Act specifically exempting disclosure of information relating to examination papers. When answer papers are evaluated, the authority conducting the examination and the examiners evaluating answer papers stand in a fiduciary relationship between each other. Such relationship warrants maintenance of confidentiality by both of the manners and method of evaluation.

Orders appointing the examiners

CIC/OK/A/2006/00051 Dated:- 4/07/06

Order: The Commission directed the PIO, University of Delhi, to provide the applicant the certified copies of the order appointing the examiners and of the file dealing with his application for re-totalling of the answer sheets as requested for by him in his application.

Process of investigation is going on as the case is pending before the Hon'ble Court therefore information can't be disclosed.

IC/(A)/ 157/2006 Dated:-1/08/2006.

Facts: Shri Arun Jaitley, M.P. (RajyaSabha) sought from CBI all documents manuscripts and files pertaining to the freezing of Bank Account Nos. 5A5151516M and 5A5151516L maintained at London (UK) by Mr. Ottavio Quattrocchi (wanted by an Interpol vide Notice control No.A-44/2-1997) and his wife Mrs.Maria Quattrocchi, vide order dated 25.7.2003 passed by the Queen's High Court at London. All documents, manuscripts and files pertaining to the de-freezing of the said Bank Accounts of Mr. Quattrocchi and his wife, vide order dated 11.1.2006 passed by the said court.

The CPIO stated that "As the criminal case No.RC. 1(A)/90-ACU.IV/SIG against Mr. Ottavio Quattrocchi is pending in the Hon'ble Court of Chief Metropolitan Magistrate, Delhi and further, that some ongoing investigation is currently afoot, the documents and information asked for, can neither be provided nor allowed to be inspected at present."

Order: The CBI is conducting further investigations under section 173(8) of the Cr.P.C. and therefore the issue of freezing and de-freezing of the accounts of Mr. Quattrocchi is not a closed matter, as contended by the appellant. In view of this, the exemptions claimed u/s 8(1)(h) by the CBI is justified.

Unless Courts have expressly barred disclosure of information the same to be given

CIC/AT/A/2006/00005

Ravinder Kumar V/s A K Sinha

Facts: Information sought by the applicant was with the High Court in a matter. CPIO refused to give the information stating the matter is pending before the court, hence exempted sec. 8(1) (h)

Order: CIC held that unless courts have expressly barred disclosure of certain documents, or unless the disclosure impedes the process of investigation, public authorities must give information under RTI.

Similar case of investigation.

Decision No.252/IC(A)/2006 Dated:- 07/9/2006

The appellant had asked for “a list of all the employees of ONGC Ltd. against whom CBI cases are pending investigation or trial since the year 1993, till date in the form and order as enclosed”.

Order: The disclosure of information relating to the investigation of the case or prosecution of offenders is barred u/s 8(1)(h) and (j) of the Act, as it does not serve the public interest.

Case dairies of police officers are exempt from disclosure.

F.No.CIC/AT/A/2006/00071

Kuldip Kumar v Police Headquarters, New Delhi

Facts: information was asked regarding the dates on which the Investigating officer actually investigated the case;

Dates on which actions, such as, searches etc., connected with the investigation, were taken. A gist of the depositions of those examined by the police without disclosing names or details which could compromise witness/source confidentiality and safety

Order: CIC held they are investigate tools and opinions which are excluded under RTI

Names of the witness will not be revealed as this will invade the privacy of the witness

Appeal No ICPB/A-7/CIC/2006

Madan Lal v National Sample Survey Organization

Facts: When the appellant was working in Jammu, three lady co-workers had complained sexual harassment against him. The public authority conducted two enquiries. The appellant sought a copy of the enquiry reports along with recorded statements of the witness. CPIO declined to give information

Appellant Authority observed that evidence has been given in confidence with an implicit understanding that their names will not be revealed and disclosure of such information will invade the privacy of the witness

Order: CIC held, only a copy of finding and recommendations of the report shall be given and the order of the FAA was upheld.

Bio-data forms be accessed.

ICPB/A-9/CIC/2006 Dated:-3/04/2006.

Facts: Bhagwan Chand Saxena asked for copies of the bio-data submitted by four candidates at the time of their appointment as Assistant Directors and also copies of their medical reports submitted by the medical authorities declaring these candidates as fit/unfit.

Order: CIC held that when a candidate submits his application for appointment to a post under a P.A., the same becomes a public document and he cannot object to the disclosure on the ground of invasion of privacy and directed the PIO to provide copies of the bio-data. As far as medical reports are concerned, they are purely personal to the individuals and furnishing of the copies of medical reports would amount to invasion of privacy of the individuals and need not be furnished. However PIO will disclose to the requester the information whether all the four candidates had been declared medically fit or not.

PIO can't file an appeal

IC(A)/CIC/2006- Dated:-3/03/2006.

Order: CIC held PIO is the information provider not the seeker of information. There is no question of denial of information. There is no provision in the RTIA to consider such appeals or complaints by the PIO against the order of an appellate officer.

CIC can review its own decision

Review Application No.1/2006 Dated:- 16/05/2006.

Yes. A review is permissible only:

If there is a technical error in the decision, If there was an omission to consider certain material facts relevant for the decision. It can also do so if appellant was not given opportunity of being heard and if PIO has not enclosed relevant supporting documents in his comments furnished to CIC.

CIC directs LIC to have training programmes for its staff on RTI

204/IC (A)/2006 Dated:- 25.8.2006.

The CMD, LIC (Headquarters) is directed to plan and organize education and training programmes for the staff of LIC, as mandated u/s 25 of the Act, so that the CPIOs and appellate authorities of LIC do not repeat such mistakes as committed by the officials in the instant case.

Advocates not necessary under RTI

Dr. Ganga Agnihotri v/s. Maulana Azad National Institute of Technology, Bhopal

Order: CIC stated that Advocates are not entertained during hearing at CIC. CIC does not function as a proper court-quasi judicial body only. Hence interpretation of law not required.

Cabinet papers to be disclosed.

132/ICPB/2006 Dated:- 19/07/06

Shri Arvind Kejriwal v/s Ministry of Commerce & Industry.

Facts: information was asked on the cabinet note dealing with FDI in single brand retailing along with a copy of the file noting on the basis of which the same was included and the related decision.

Order: CIC stated that under Section 8(1)(i), cabinet decisions, the reasons and the material on which the decision were taken shall be made public after the decision is taken and the matter is complete. In this case decision on FDI has been taken and also notified and no exemption is sought under Section 8, the same could be furnished by applying the principle of severability under Section 10(1)

Consultations submitted to the President of India are exempt from disclosures.

CIC/AT/A/2006/00113 Dated:- 10/07/06

Facts: Information was asked regarding the 'copy of the recommendation/consultation submitted to the President of India on appointment of judges of various ranks in Supreme and High Courts'.

Order: CIC held that the consultative process is in the nature of personal information provided by third party coming under Section 11(1) as well as exempted under Section 8(1)(e). This information given in also in the nature of trust and confidence and therefore fiduciary in nature. The entire process of consultation between the President and the Supreme Court is exempted from disclosure.

Interventions by the High Court.

The Delhi High Court on 22 August 2006 stayed the CIC order directing the government to make available to it copies of late president K.R.Narayan's letters to then prime minister Atal Bihari Vajpayee about the 2002 communal violence of Gujarat.

Justice Anil Kumar stayed the August 8 order till January 11, 2007 on an application moved by the Union Government saying that the letters could not be made available to CIC as it would impinge on the national security and integrity.

The Delhi High Court further extended till March 20 the stay on the Central Information Commission's (CIC) order to disclose the individual scores of the candidates who appeared in the civil services examinations, 2006.

The Delhi High Court on November 27, 2006 stayed the execution of the order of the Central Information Commission (CIC) to disclose the marks of the candidates, who appeared in the preliminary test of the Civil Services Examination conducted by the UPSC this year.

Implications of the judgements:

The Central Information Commission has been entrusted with a huge responsibility under the RTI act. The judgements passed by the CIC are in the nature of a guiding force to the Information providers, viz the PIOs, FAAs and the public authorities. These judgements are useful in deciding requests and accordingly disposing them.

It is important to note that due to the varied judgements passed by the CIC that pertinent issues of furnishing information have come to light which perhaps would have not come under the umbrella of disclosure. It has been noticed that most public authorities who come within the purview of RTI did not consider themselves to be within the definition of public authority, it was only due to the intervention of the CIC that information became subject to disclosure of these public authorities.

There has also been vagueness with regard to what amounts to disclosure and what does warrant disclosure, again the CIC's role has been a major one to highlight to the concerned authorities the nature of information for disclosure.

Several areas which were blurred came to be surfaced due to the efforts of CIC which public authorities need to adhere to in furnishing information to citizens for e.g. The procedures to be followed under Section 7 (1), Section 8, Section 10, Section 11 relating to third party information so that information is provided in the interest of the citizens at the same time avoiding any damage to the interests of any person.

The CIC's role can thus be seen to be very crucial in the implementation of this innovative yet very powerful piece of legislation in this country.

Chapter – IV
An Overview of the judgements passed by the
State Information Commission in Goa.

In pursuance of the provisions of Section 15 of the Act, the Government of Goa constituted Goa Information Commission consisting of State Chief information Commissioner and one State Information Commissioner vide notification dated 2nd March, 2006 Goa. An attempt is made to analyze some of the important judgements passed by the State Information Commission in Goa. They are as follows:

No prescribed formats required for RTI applications.

Ref:- Complaint No.59/2006/TCP Dated:- 10/04/2007

Shri C.S.Baretto V/s. Town & Country Planning Dept. Mapusa – Goa.

Facts: The applicant asked for information which was rejected on the grounds that request was not in proper format, no fees were paid, and no reference of the case was given. Appeal was filed to First Appellate Authority, in which PIO was directed to give the information, however the required information was not given and complaint was filed before the SIC.

Order: SIC stated that refusal to provide information is not justified because it is not in a proper format since there is no prescribed format for the same and the officers were warned to be careful in dealing with such matters.

Alternate arrangements to be made in the absence of PIO.

Ref: - Complaint No.53/2006 Dated:- 23/03/2007

Shri Govind D. Phadte V/s. P.W.D, Panaji – Goa.

Facts: Information was sought by the complainant from the above department but his application was refused since the concerned clerk was on election duty and he was asked to come again to submit the same. Objection was raised towards payment of application fees, which the appellant had done by affixing Court fee of Rs.10/-

Order: SIC held that the mode of payment could have been through Demand Draft or cash (since affixing court fees was not passed by government then) it's a recent order. The Public authority should compensate for the harassment to the complainant (due to lack of alternate arrangement since the complainant has to waste half day in submitting his application to the public authority). Monetary loss to the applicant to the extent of Rs.300/- should be paid to him.

Section 2: *Public authority means any authority or body or institution of self government established or constituted by or under the Constitution; by any other law made by Parliament; by any other law made by state legislature; by notification issued or order made but the appropriate government and includes any body owned, controlled or substantially financed directly or indirectly by funds provided by appropriate government.*

NIE is a public authority within the definition under RTI

Ref: - Appeal No.5/2006/NIE Dated: -22/06/2007

Dr. G.C. Pradhan, S.K.Pradhan V/s. Nirmala Institute of Education (NIE), Altinho, Panaji
(Under section 18)

Facts: The appellant had asked for information to this Educational Institute. Since no information was provided, appeal was made to the first appellate authority (FAA) however no information was provided neither any order was given by the FAA, the applicant complained to SIC.

The contention of the Public authority was that the Institute was not a public authority under the RTI act and therefore it need not provide information to the appellant. Moreover under section 2(d) it was not notified by any government order as a public authority.

Order: The clarification of public authority was brought out by the SIC, stating that under section 2(h) the definition of public authority is very clear and according to the same this Institution falls within purview of section 2(h)(d) since it is not only substantially financed but financed completely. The Institute was asked to give information within 7 days. Since there was been considerable delay the public authority is asked to provide information free of cost under Sec 7(6) to the appellants. The public authority was asked to designate PIO and FAA not latter than 7 days.

In this case, the core issue was whether the Institution was a public authority or not under RTI. Under the GRTIA 1997, departments were notified as public authority under RTI, perhaps in this case the concerned Public authority expected that only after separate notification it would be eligible to be called a public authority.

Similar Case:

Ref:- Complaint No.62/2006/GMC Dated:-04/05/2007

Shri Jude L. Vaz V/s. Goa Medical Council, Faculty Block, G.M.C. Complex, Bambolim

Facts: The GMC stated it is not a public authority under RTI and therefore information cannot be given.

Order:- SIC turned down the argument of the GMC and stated that it very much comes under the definition of public authority under section 2(h)(c) of RTI since the GMC is regulated and controlled by the Government of Goa as per the Goa Medical Council act 1991. Appointment of PIO should be done as per requirements under Section 5 of RTI Act

Similar case.

Devasthans are public authorities under RTI

Complaint No: 17-A/2006/MAM-PONDA Dated: 19/02/2007.

Shri Guiri S. Pai Raikar V/s. Mamlatdar of Ponda Taluka

Facts: Information was sought by complainant from the Mamlatdar of Ponda regarding audited reports of the individual Devasthans¹⁷ and reports of physical verification of Devasthan funds carried out by the authorities. When information was denied the SIC was approached who directed the PIO to give information except on the 2 points.

Decision on this case was somewhat difficult as they were confusion in deciding whether Devasthans could be included under RTI. There was a public hearing held to arrive at a conclusion. Arguments for and against were placed forth by learned advocates as below. One set of arguments stated that Devasthans are not public authorities as contemplated under RTI. They are not local authorities and they are not constituted nor

¹⁷ Temple committees to manage funds.

established by or under Constitution of India or by any other law made by Parliament or State legislation. They are not bodies, controlled or substantially financed directly or indirectly by funds of state government and cited cases to justify the same as well defined local authority as per the General clauses Act.

The other set of arguments stated that Devasthan Regulation is a law under Article 13 of the Constitution of India. The Mahajans are constituted, managed and regulated under the Devasthan Regulation therefore the body of Mahajans falls under Section 2(4)(c) of RTI and also stated that under article 428 of the Devasthan Regulation the bodies of Mahajans which do not have their bye laws approved should get the same within 90 days under Devasthan Regulation and Devasthans are therefore public authorities under Section 2(4)(c), the supervision exercised by the government authorities is 'control' as under section 2(4)(d)(i) of RTI. The Mamlatdar is the administrator of all the Devasthans in his jurisdiction and has powers of appointment and dismissal of employees of Devasthans, the government has powers of approving budget and accounts as well as to supersede the management in case of any contravention of the Devasthan Regulations.

Based on the discussions, SIC arrived at a conclusion stating that according to Section 2(h) of RTI, definition of 'Public Authority' comprises of two parts

i) Meaning and ii) other institutions mentioned in the inclusive definition.

In the meaning *four types* of institutions are covered as public authorities

a) They are institution which are established or constituted

i) By or under the constitution

ii) By any other law made by parliament.

iii) By any other law made by state legislation

iv) By notification or order issued by appropriate government.

These are 4 different categories of institutions on their own legislations.

The SIC further stated that in addition to the category there are *3 more* categories of information covered under the definition viz i) Institutions which are established, constituted by government notification

- ii) Bodies which are owned or controlled or substantially financed by the government
- iii) The non-government organizations which are substantially financed by funds provided by government directly or indirectly.

Title 1 of the Devasthan Regulation relates to the constitution and management of the body of members (mazanias) of hindu temple (Devasthans). This shows that the that the bodies of mazanias which are in existence but do not have their approved by laws should get their Bye-laws approved within 90 days under Devasthan Regulation. Article 428 casts a duty on the Mamlatdar to ensure that the said compliance of this article. Those associations of manias which fail to comply with the provision of article 428, those associations which fail to comply shall be declared dissolved and their properties shall be applied in benefit of public welfare as it is decided by the Governor-General.

This therefore makes it clear that mazanias is not a private body, and once they are dissolved their properties are utilized for public welfare and not distributed among the mazanias, which is clear that this is not a private body. Besides the Devasthan's which were existing prior to the enforcement of Devasthan Regulation were governed by the said government order, SIC stated that the body of mazanias is constituted and governed under the Devasthan Regulation and therefore comes within the purview of section 2(h)(c) of RTI and within section 2(h)(i)(c) having being constituted and established under the Devasthan Regulation a law made by state legislature.

Further SIC stated that under section 2(h)(d)(i) needs to be looked at which speaks of any body controlled by government and includes in it the definition of public authority. Here the definition includes ownership by the government, control by the government and substantially financed by the government. The very fact that they are controlled by the government is enough to cover them under public authority under RTI, and as stated under Article 428 of Devasthan Regulation the government has got absolute control over the body of mazanias, and they therefore fall within the meaning of section 2(h)(d)(i).

Order: SIC held that Devasthanans are public authorities within the meaning of section 2(4) of RTI Act.

2. Information to be given to the applicant by Mamlatdar on the points asked
3. The Revenue Department of Goa which administers Devasthan Regulations is asked to declare PIOs, APIOs and FAAs within 1 month.

Personal presence of the Citizen is not required for collecting information or hearing the appeal and the FAA to follow the Goa State Information Commission (appeal) rules 2006 in following the procedures in appeals.

Ref:- Complaint No.50/2006/PWD Dated: -21/03/2007

Shri Nelson S. Fernandes V/s. Public Works Department, Altinho, Panaji – Goa.

Facts: The complainant approached the concerned department to submit his application under RTI. However the application was not accepted by the office staff, no challan was given to pay fees. PIO was absent and the complainant was directed to go to the bank, ask for challan and make payment. The FAA passed an order stating information asked should be given to the complainant if he collects personally as well as the complainant had to be present in person while deciding the appeal, if not the appeal would be due for dismissal.

Order: The SIC stated that the request for application should be addressed to the PIO but can be given to the PIO or in his office or to the APIO or in his office. This does not require to hand the application personally to the PIO. It is for the applicant to decide the mode of payment. No compulsion from the PIO in this regard is allowed to a particular mode of payment. There is no provision in the Act & Rules to enter into dialogue regarding mode of payment of application fees which the PIO did in this case, which shows it's a case of harassment to citizens, asking for compulsory presence of the applicant in person for hearing and collection of data, is not required under the Act.

- 1) As per the Goa State Information Commission (appeal) rules 2006, the personal presence of appellant or complainant is not necessary and the appeal has to be disposed off based on records under Rule 7(3). The appellant can take help of any person to present his case before appellate authority 7(4). Though these Rules apply to the appeals before the commission, the FAA are also required to perform quasi-

- judicial functions under 19(1) & hence the appeal procedure rules of the Commission should be followed as far as possible by the FAA.
- 2) The orders of the first appellate authority regarding the presence of the appellant to collect information and well as to remain present while deciding appeal was set aside by the SIC.
 - 3) The PIO was asked to provide information suo-motu to the complainant by informing the cost of giving that information.
 - 4) Showcause notice was issued to the PIO as to why penalty should not be imposed.

Section 7(1): Disposal of request under Section 6 to be done as expeditiously as possible and within 30 days of receipt of request, either provide information on payment of fees or reject the request. Section 7(3) when decision is taken to provide information, the PIO shall send an intimation of the cost to the person making the request.

Ref:- Complaint No.66/2006/GAPL Dated:-09/05/2007

Shri P.V. Desai V/s. Goa Antibiotics and Pharmaceuticals Ltd., Tuem, Pernem-Goa.
(Complaint under section 18 of RTI)

Facts: The complainant wanted to know the details of salary and allowances paid from time to time during his service to GAPL since 1991 to 2005. Details of salary and allowances paid to the Assistant General Manager (AGM) during this tenure of services. Their date of resignation and accepting their resignation and relieving from services of the 2 AGMs and 1 GM (finance). Their educational qualifications and work experience at the time of joining GAPL. The letter was acknowledged by PIO and informed that he may have to collect the same on payment of fees/other expenses, to which the complainant asked for the exact money that he need to pay, so that the same could be paid at the city office. He was also asked to pay postal charges at their registered office in Tuem again to which the complainant asked for the exact amount

Order: SIC after hearing the parties stated that as per RTI no formats are prescribed and this move by the PIO shows it's a purposeful case of delay and to frustrate the complainant. The SIC also remarked that the procedure for disposal of application under Section 7(1) (information to be provided as expeditiously as possible within 30

days) was not fulfilled and under section 7(3)(a), the PIO failed to inform the details of the fees payable by the citizens.

Information has to be supplied at the office of the PIO the action of the PIO is not in good faith but rather tried to harass the complainant. It further stated that information prior to 1996 be given within 15 days besides show cause notice for penalty was issued to the PIO.

No personal hearing of citizens before the PIOs for providing information.

Ref:- Complaint No.04/2007-08/MAM Dated:-04/05/2007

Mrs. Nirmala Sawant V/s. Office of the Mamlatdar Tiswadi Taluka, Panaji – Goa.

Fact: Information of the report of Booth Level Officers with the list of names of voters submitted by them for the inclusion and deletion of names from 14 Cumbharjua constituencies was sought by the complainant from the above office. The PIO directed the complainant via notice to appear before him for hearing in the above matter, failing which the application will be determined in her absence. The hearing was attended and information was collected.

Order: SIC remarked that the procedure for disposal of application filed under section 6 of RTI is laid down in section 7 of the act which does not provide that the PIO should hear the applicant. There is no provision for calling the applicant for personal hearing therefore the PIO was wrong in this case. If the application of the complainant was vague then he could have sought the clarification in writing or rejected the request but no personal hearing is required under section 7.

Section 7: Procedures to be followed by PIO in dealing and furnishing requests.

Section 19(8) (b): require the public authority to compensate the complainant for any loss or other detriment suffered.

Ref:- Complaint No.68/2006 Dated:-13/06/2007

Shri Allvin B. Facho V/s. Officer of the State Registrar & Head of Notary Service,
(Complaint under section 20 of RTI)

Facts: The applicant sought certified copies of sales statistics form XIII of the village Salvador do Mundo for January 2004 to July 2006 from the Registrar & Head of

Notary Services. The Civil Registrar of Bicholim was directed by the PIO to furnish information after collecting fees for the information as per the Indian Registration Act 1908. However information was not given.

Order :The SIC stated the PIO ought to have followed the procedure while giving information i.e. he should have collected the information from the Civil Registrar and given it within a time frame to the complainant rather than directing the other officer to give information. The complainant was also at fault since he wrote letters to Civil Registrar when he knew he was not the PIO and Civil Registrar also replied without going through procedure under section 7 of the Act.

This also shows the order of the FAA was also not complied with; neither justification was given for the same. Due to lack of procedures followed by the concerned officers, lot of hardships and inconvenience as well as mental torture has been caused to the complainant and therefore compensation of Rs.2000/- should be paid to him.

Information as old as 20 yrs to be given.

Section 8 (3):Subject to provisions of clauses (a), (c) and (i) of Sec. 8(1) any information relating to the occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which ant request is made under Section 6 shall be provided to any person making a request under that section.

Ref:- Complaint No.41/2006/Co-op. Dated: 29/03/2007

Shri Bismark Facho V/s. Office of the Co-operative Societies

Facts: Information was sought on 3 documents viz a plan, sanad, approved plan of society from the Secretary of Sainik Cooperative House Building Society who denied the information and asked him to procure the same from the State Information Commission. Some part of the information was given whereas the other was denied as not traceable and it being 20 yrs old need not be given. Besides excess fees were charged from the citizen.

Order: SIC stated that the documents are of important nature and the society need to keep these records. Besides information as old as 20 years can't be given is misunderstood, as in the context of RTI it is the opposite, and this has been clarified in

earlier case (appeal 92/2006). The PA was directed to furnish information and a compensation of Rs.1000/- was awarded to the complainant.

Similar case.

Ref:- Appeal No.93/2006/MAM Dated:-22/03/2007

Shri Suresh D. Naik V/s. Office of the Mamlatdar, Pernem – Goa.

(Appeal under section 19)

Order:-No documents can be rejected because they are 20 years old, only documents mentioned under section 8(1)(a)(c)(i) are exempted from disclosure forever, other documents are open to public after 20 years. The appellant be given the information within 15 days.

Non execution of FAA order by PIO.

Complaint No.21/2007-08/VP Dated: 23/10/2007

Shri Umesh Chopdekar V/s. Village Panchayat, Chora, Tiswadi-Goa.

Facts: This complaint is against non-execution of the order by the PIO passed by the FAA. In his request dated 8/3/2007, he had asked information to the Village Panchayat regarding 'Whether any houses are existing in the property 'Çantor of level' bearing survey No.11/1 and 12/3 of the Village Panchayat of Chora near Gavans if so, inform him the house nos. and since when they are assessed for house tax'. Since no information was received, he went in appeal and the FAA ordered that information be given.

Order: SIC observed stating that information was available which could have been given much earlier and the complainant could have been avoided from making the complaint if this information was made available to him early.

Complaint No.20/2007-08/Mun Dated:- 30/08/2007

Ms. Authilia R. Carvalho V/s. Margao Municipal Council, Margao-Goa.

Facts: The complainant has sought information from the Margao Municipal Council on the following points

Complainant is owner of property of Chalta No.84, 104, 105 of PT sheet No.254 of Margao town. She stated there is a motorable road and a drinking water well which is not incorporated in the survey plans no 'form B' of the survey records of the property. A property developer applied and got a construction licence to build a multi storey complex in Chalta 104. The complainant stated that while giving licence, her easementary rights in the said property of drinking water and motarable road was not considered by the authority. When she came to know of the same, she approached the authority not to issue the licence, which was not abided and licence was issued and the construction was complete and occupancy certificate was furnished as well.

With the help of RTI, the complainant wanted to know what action had been taken on her original complaint, to which she was given a reply to approach the court of law for obtaining relief. To this an appeal was filed before FAA which ordered that information be given within 7 days however this was not complied with and therefore the appeal before SIC was filed. During Arguments the opponents stated that licence was given only after the authority being satisfied of this on the basis of a court order given in this matter.

Order: SIC stated, though the licence was issued as per available records, the same could have been informed to the complainant as well as the same facts which are now brought before the court should have been informed to her, the reply given to complainant to approach the court of law and obtain relief was not a proper reply. The easementary rights if can't be restored by the opponents, it should have been informed through words, and the same to be done in the next 7 days.

Observation: This shows that whenever and wherever information can be given easily the authorities unnecessarily cause inconvenience to the citizens. Citizens are making use of RTI to redress their grievances.

Videography is allowed.

Section 2(j): Definition of right to information act.

Ref: - Appeal No.84/2006 Dated:-23/03/2007

Dr. M. N. Pal V/s. Department of Personnel, Secretariat, Porvorim – Goa.

Facts: Information was sought by the appellant from the above authority in the form of photo copies through the use of digital camera. The public authorities stated it would allow if it is permitted under the RTI Act, under section 2(j) of RTI. The appellant approached the SIC in this matter who pronounced the order.

Order: SIC stated saying Right to information in Section 2(j) includes obtaining information in the form of diskettes, floppies, tapes video cassettes or electronic mode or through print out where such information is stored in computer or any other device. The public authority was directed to allow the appellant to inspect the relevant records and take copies by his digital camera within 2 weeks.

Similar case.

Appeal No.85/2006/W&CD Dated:- 22/03/2007

Shri Om Prakash Yadav V/s. Women & Child Development, Panaji.

(Under section 19(3))

Facts: Information was sought by the appellant on request for permission to visit Apna Ghar (Children's Home) and Protective home (for women) maintained by the Directorate of Women & Child Development to see the 'condition' physical, educational and recreational etc' under RTI.

The request was denied stating that this being a Protective Home, a sensitive institution and that the Dy. Collector of Vasco had already prepared a panel of visitors. Appeal was made before 1st Appellate authority who stated that the sensitivity of such institutions shall be in danger if the request is sanctioned, besides he also stated that maintenance of sensitivity of these institutions is utmost important; if the visits by the citizens are encouraged there is possibility of pressuring the inmates of these institutions. To this, appeal was preferred before the SIC.

Order: SIC stated that the plea taken by the opponents that sensitive institutions can't be kept open for citizens to visit is not correct as even the prisons & jails do allow relatives of the determined to visit them however fulfilling certain laid procedures. Outright rejection is not accepted and by doing so it puts to doubt the intentions of the department trying to hide some information.

The citizens should be known and should have access to information 'documents and records kept, conditions prevailing in these homes regarding watch and ward duties, health and sanitation, general treatment of the unfortunate words in the custody of the govt. This is the essence of the accountability of public authority; this is exactly the aim of RTI Act. The visit of the appellant to the institution for purpose of access documents/records and gathering information about the working of the institution is within the purview of section 2(j).

Observations: The citizen was provided access to information of Institutes such as the ones mentioned above.

Section 4(1) b: Every public authority shall public within 120 days all particulars of the organization.

Ref: Appeal No.99/2006 Dated:-18/04/2007

Shri Amar B. Naik V/s. Office of the Collector & District Magistrate, Collectorate Bldg., South, Margao – Goa.

Facts: Information was sought from the Collectorate office Margao and South Goa, on 17 point manuals prepared under Section 4(1)b containing particulars of organization, functions and duties, powers and duties of officers and employees, procedures, names set from discharge of its function and rules and such other information published every year. This was requested in CD formats to which the reply given was that the manual was to be prepared by the government and therefore rejected.

Order: SIC upheld that every authority has to publish the 17 manuals and this provision came into force from 21 June 2005 and before 19/10/2005 every public authority was required to furnish the same. These are mandatory provision and every public authority is bound to publish it. Since the public authority failed to publish in statutory period of time causing much inconvenience and harassment, a compensation of Rs.1000/- be awarded to the appellant.

Observation: This shows laxed attitude on part of the Public Authority not to have published the required information as per RTI act.

Section 5(3): Every PIO shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking information.

Section 7: Disposal of request under Section 6 to be done as expeditiously as possible and within 30 days of receipt of request, either provide information on payment of fees or reject the request.

Section 20: The PIO if without any reasonable cause, refused to receive an application or has not furnished information within the time frame u/sec.7(1) or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information or obstructed in any manner in furnishing information, the Commission shall impose penalty of 250/- rupees each day till application is received or information is furnished, the total amount not exceeding Rs 25,000/-.

Ref:- Appeal No.76/2006/PWD Dated:-08/03/2007

Shri Sushant Naik V/s. PWD, Altinho, Panaji – Goa.

Facts: Information was sought by the appellant on the following points from Public Works Department (Roads),

- t) Total expenditure incurred for roads from Sanguem to Kalay from January 01 to 31.08.2006.
- u) Estimates year wise: Contractor involved in each tendered work and actual cost incurred year wise with name and work. As no information was received he appealed to first appellate authority who called him for personal hearing.

The PIO who stated that no application was received in his office, he seemed to state that if original request is submitted to anybody other than the PIO as to happened in this case, the PIO is not responsible for giving the information, which the SIC feels he is mistaken. (Under section 6(1) which also mentions that PIO has to provide assistance to the applicant in reducing his oral request to writing, thereby showing that PIO has to take extra pains to collect the information and furnish the reply.)

Order: SIC stated the request should be made to PIO but it is not necessary to hand it over personally to him or in his office. If the request is made to any other authority or if information is available with any other authority within the same department or if the information is available with any other authority, the request has to be forwarded within 5 days as per section 5(3) The view held by PIO is rejected, and if this is taken then the mere purpose of the act is defeated.

SIC further stated that the appellant can approach the PIO several times or a number of citizens can approach the PIO on same subject different times. This is the

benefit given to citizens and not an excuse to public authority to deny information. Besides under section 7 of RTI, it is the exclusive responsibility to PIO to furnish information, if the information is not with him, he has to take assistance of any officer to get the same.

It is delay caused in giving information to the appellant by matter of 67 days and therefore the PIO is liable for penalty amounting to Rs. 16,750/- however in view of the particular circumstances a penalty of Rs.5000/- imposed on the PIO

The role of PIOs and APIOs in matters of RTI to be spelt out clearly. The FAA to pass speaking orders.

Ref:- Appeal No.13/2006/POLICE Dated:-05/09/2006

Joao C. Pereira V/s. Police Headquarters, Panaji

(Under section 19(3) of RTI)

Facts: Information dated 29/10/2005 was sought on an enquiry report forwarded to the government by the DGP office and the name of the officer, who prepared the report, dated 3/3/2006. He was directed to approach the APIO. When a request was made to APIO, it was rejected under section 8(j).

Order: Due to the confusion over information given or received, it was stated by SIC that the police is either unaware of the RTI procedures or deliberately misleading citizens. The APIO can't reject or give information as he /she is not an authority to do so however, APIO did reject the request in this case.

SIC further observed that the police department is building a hierarchy of APIO/PIO/FAA in matters of disposal of requests under RTI which is not correct and they do need to set this right and instructions should be passed to all APIOs and PIOs on the role and responsibilities of officers under RTI. If there are two reports or one the same must be given within 1 week and also inform the appellant as to who prepared the same. FAA should pass speaking orders after hearing Appeals and also state the reasons for rejection of appeals as well as give reasons when they allow and also state manner in which the order of PIO is defective.

ACRs are not exempted from disclosure.

Section 8(1)(j) exempts personal information and not confidential information.

Ref:- Appeal No.83/2006/WRD Dated:-29/03/2007

V.U.P.Gaitonde V/s. Water Resources Department, Panaji.

Facts: Information was sought by the appellant from Water Resources dept on 'copies of the complete set of the Annual Confidential Reports (ACR) from the year 1979-80 and onwards in the grade of Asst. Engineer, Ex. Engineer, or superintending Engineer as the case may be in PWD/Irrigation dept/Water Resources dept. till date (14/7/2006) the PIO replied that the ACRs in 'respect of Superintending Engineer are not in the custody of this department'. Information about ACR to exempted under Sec.8 (d) of RTI. Such information is personal information and its disclosure has no relation to public activity or interest. Disclosure of ACRs will defeat the very purpose of the confidential report.

Order:- Section 8(1)d as quoted by the FAA includes exemptions of for withholding of commercial information or trade secrets or intellectual property. The ACRs are pertaining to performance of its employees and are neither of the above of the government or employees and therefore this is irrelevant justification.

Secondly Section 8(1)(j) deals with the disclosure of Personal information by a public authority. The exemption deals with the personal information relating to any of the citizens including the employees of a public authority.

As per the 2002 edition of Swamy's compilation on Confidential reports of Central Government servants incorporating the orders of government of India, Part I contains 'Personal data' of the official, Part II contains self appraisal, Part III – Assessment by reporting officer of these, part III is crucial for the career of the official apart from personal data contained in Part I, the rest of the document is about his working in the department his working and relation with other members, colleagues, superiors, personality traits, etc and hence it does not make the entire ACR –Personal , and hence it is rejected that ACR is a personal document. Part III is an assessment of the performances done by the superior offices and there are precautions taken to communicate the adverse remarks, recorded and enough opportunity is given to the employee to defend himself however the document still remains a confidential document in the administration.

SIC stated that Section 8(1)(j) exempts personal information and not confidential information and when there are no criteria for classification as information or confidential/secret, this section can't be invoked to reject information. Section 8(2) allows information to be accessed even if prohibited under the official secrets Act of 1923 if the disclosure of information in public interest outweighs the harm to the protected interest.

ACR which is an important document which determines the fate of government officials in his career should be made known to the officials in advance and from time to time and their participation in the actual assessment of performance would be essential for good governance. Such important decision should be known to employees. The ACRs available with the department should be given to the appellant for examination and taking notes. This will apply only in respect of his own ACR; all citizens do not have such a right to access the ACRs as it becomes third party. One's own ACR can be given for taking notes, including digital photography which could be done through proper application and paying necessary fees.

The objective of RTI is to fix responsibility and accountability of public authorities towards the larger citizens.

Appeal No. 73/2006/Comm. Dated: 10/04/2007

Alexinho F. Monserrate V/s. Office of the Administrator of Comunidades, Panaji –Goa.
(Under section 19(3))

Facts: Information was sought from the Administrator of Comunidade on 4 questions to which the PIO gave information. Dissatisfied with the reply, the appellant went in appeal before the FAA to which the FAA dismissed the appeal saying information given is neither incomplete nor misleading.

Order: SIC however stated that the 2nd appeal is made under Section 19 (3) of the RTI. It clarified that all decisions of the FAA under section 19(1) are appealable to this Commission whose orders would be binding under sub section 7.

The nature of information asked by the appellant has been to know the stage of his application and time likely to be taken for the clearance and the persons responsible for inaction. Sending the files to managing committee is not an action complete in itself,

details as to when the file was sent and what is the time limit for processing was not given to the citizen.

The aim of RTI is to fix the responsibility and accountability of public functionaries. If they can get away by giving incomplete information, this objection will be defeated. Besides the opponents stated that grievances regarding non grant of plots within the statutory period of 6 months, etc are not to be decided under RTI but under remedies available is Commuidade Code for remiss by officials and appellant can resort to them. The SIC however stated that granting a plot may not be queried under RTI, but the *reasons for not granting or not adhering the time limit, is certainly covered under RTI* since these are questions of transparency and accountability.

In order to have transparency and accountability the reasons for delay in disposal and the persons responsible for delay are necessary to be informed to the citizens. Information should be given within 10 days.

Section 3: All citizens have the right to information.

Appeal No.90/2006/TCP. Dated: 21/03/2007

Goa environment Action Group V/s. Department: Town & Country Planning, Panaji

Facts: Application for request of information was filed by General Secretary of Goa Environment Action Group to the PIO, Town & Country Planning department which was not given and the FAA had directed to give information, which the PIO did not do so.

Order: - The SIC however decided that all the stated provision in which the word 'person' is mentioned is referred to a natural citizen. No legal person like a company, Society or association of persons can ask information under RTI. This had also been held in similar cases in complaint 26/2006. The applicant here had applied in the capacity of a General Secretary of Goa Environment Action Group and therefore not eligible to get information.

Information of generic nature does not impede investigation process.

Case No.1/2006/FDA

Dated: 29/05/2006

Shri Vijaykumar Ghale V/s. Food & Drugs Administration, Panaji.

Facts:- The appellant had asked information to the Food & Drugs Administration department whether the laboratory in relation to the chemical analysis of narcotic substance of the directorate possess control/standard sample of charas? In the event the substance attached in the aforesaid crime is sent through proper channel to your said laboratory especially for quantitative analysis of presence of charas if any, in the said substance, would the lab be able to do the quantitative analysis of charas in the said substance.

The appellant sought this information through his advocate as he was arrested under the NDPS act and the case was under investigation. The PIO however denied information under Section 8(4) as he felt this would impede the process of investigation. The decision of the PIO was upheld by the Appellate authority.

Order: SIC decided that information asked from FDA was of general nature asking the department regarding the analysis done of charas samples and secondly the information was also pertaining to the question of the laboratory's competency to do the required analysis and hence there is no reason/ground for denial as long as these do not reveal information causing impediment in the investigation. It made very clear that the accused do not lose their rights as citizens even before & after conviction and hence their rights can be enforced, information need to be given

The information which is submitted to Government while acquiring disposing of immovable property is in accordance with the conduct Rules which is neither confidential nor personal information and therefore not exempted from disclosure.

Penalty Case No.16/2007-08/Mun

Appeal No.51/2007-08/US (Per) Dated: - 29/02/2008.

Shri Gajanan D. Phadte V/s. Dept. of Personnel, Secretariat, Porvorim – Goa.

Facts: Information was sought from the PIO, Under Secretary Personnel II, on
a) Permissions sought/Intimations given by the government to IAS officer, Collector of Daman under conduct rules for purchase/sale of immovable properties for construction for land/estate development business/activities

b) Permissions/intimation – acknowledgements given to him by the government by purchase/sale of immovable property for construction land/sale development business/activities while in government service, to this the PIO stated that the officer is under control of Ministry of Home Affairs, New Delhi and therefore the information may be sought from that Ministry.

Accordingly the information was sought by the appellant from the Ministry of Home Affairs, who in turn transferred the application to the Administrator of Daman & Diu where he was working at the time when the application was made and also to Government of Goa (since before promotion, he was working in Goa Civil Service). Information on Goa was not given until the appellant reminded the PIO then he wrote to the officer treating him as third party. Before the SIC the PIO stated that the 3rd party had objected to giving information as its disclosure would cause unwarranted invasion of the privacy of the 3rd party, along with a citation of the CIC decision.

Order: SIC stated that no CIC decisions are binding on SIC neither is the CIC as court of record. The information in this case relates to property returns which is stated as personal information by the respondents is not acceptable, since information relating a private body which can be accessed by a public authority under any law for the time being in force is ‘information’ under RTI. Once its forms part of the ‘record’ of a public authority unless its disclosure is exempted under Section 8 or 9 it has to be given. In this case the citizen wanted to know the permissions granted to him to acquire/dispose off property and not furnishing property returns therefore the objection is overruled.

It further stated that the respondents did not discharge their duties and also treated information requested as 3rd party information which is not applicable in this case. The information which is submitted to Government while acquiring disposing of immovable property is in accordance with the conduct Rules which is neither confidential nor personal information therefore this is neither personal information, nor 3rd party information and should be provided to a citizen under section 7 of RTI.

The PIO has not followed procedures under section 11 even if this is treated as 3rd party information and his moves are malafide and therefore asked to show cause why penalty should not be imposed and therefore information to be given within 10 days.

To this later complaint was filed for not supplying information, this seemed strange since the directions were given by the SIC to PIO to furnish information, but the PIO did not do as and penalty of his Rs.1000/- imposed and he is warned to be careful in future. In a democratic country citizens have right to make representation/complaints and it is duty of public authority to enquire into these and inform the outcome to the citizens.

Right of every citizen to bring to the notice of concerned authorities of any illegal activities and it is for the public authorities to inquire into the allegations.

Appeal No.97/2006/DM Dated:- 19/04/2007.

Shri Sushant S. Naik V/s. Directorate of Mines, Panaji.

(Under section 19(3))

Facts: - The appellant had brought to the notice of Directorate of Mines and Geology that M/s Chowgule Company Private Ltd., and Shri V.D. Chowgule are excavating the iron ore beyond the area leased to them without necessary permission and said company is washing iron ore imported from other sources causing water and environment pollution and through his RTI application he wanted to know the action taken on his complaint.

Order: SIC stated that in a democratic country citizens have right to make representation/complaints and it is duty of public authority to enquire into these and inform the outcome to the citizens. The fact that this department receives several complaints shows there is some fault in the Directorate and not the public.

The 1st appeal was heard with representatives of the Companies which is not understood why the third party was heard, which is not as per RTI. This applies when the citizen seeks information belonging to third party. The order of the FAA stated that no where under RTI it directs the information providing/authorities/agencies to create/generate information for third parties.'

SIC highlighted that it is the right of every citizen to bring to the notice of concerned authorities of any illegal activities and it is for the public authorities to inquire into the allegations, besides it is also the right of citizens to know the outcome of such complaints. The appellant have not asked for information which was to be generated by public authority, its only that he wanted to know the action taken on his complaint if

action was not taken or if no need was felt to do so, the same should have been informed to the appellant in writing.

Director of Panchayats is directed to hold proper enquiry and find out as well as fix the accountability on persons who were responsible for misplacing and or destroying documents.

Section 7(1), Section 19(8), Section 20.

Complaint No.7/2006/VP Dated: - 30/03/2007.

Smt. Agnes D'Silva V/s. Village Panchayat Calangute, Bardez-Goa

(Under section 18)

Facts: Information was sought from the PIO of the village panchayat on the following points

- i) Licence No.VP/CAL/F-33/04-05/2098 dated 4/11/2004.
- ii) Letter No.VP/CAL/F-11/98-99/3420 dated 27/10/1998
- iii) Letter No.VP/CAL/F-11/97-98/2792 dated 28/1/1998
- iv) Letter No.VP/CAL/F-11/99-2000/2290 dated 3/11/1999
- v) Copy of all temporary shack licence granted in Maddo Vaddo for the tourist season 2005 to 2006.
- vi) Licence No.VP/CAL/F-13/93-94/L-39/1958 with approved plan.

To which the PIO replied after the 30 days time period stating that names are not mentioned in the application and also requires same time to search the records. The complainant therefore approached the SIC stating information is not given on time and that the application fees were refused by the PIO saying these could be paid later.

The PIO in the cause of the pendency of the complaint furnished some information with regards to points 2, 3 & 4, he stated that copies of these documents were not available in the Panchayat's records and a reply was accordingly filed to the notice of the SIC. The complainant also reacted stated information on point 5 which was furnished was also incomplete since all the copies of the temporary shack licences were not given to him. To this the PIO stated that he was very busy and the records of last year were submitted to Block Development Officer for audit purpose.

In order to verify the same, the Town & Country Planning Officers were summoned by the SIC and asked to produce the relevant documents as mentioned above along with all plans, in person. The PIO was also asked to remain present with all documents. The PIO however remained present but did not bring the original document i.e. resolution book on the basis of which the licence was granted and was once again directed by the SIC to bring the same on the next date given.

Issues to note: Information or any reply should have been given within 30 days as per Section 7(1). In this case incomplete information has been furnished which calls for penalty under section 20. The behavior of the PIO clearly shows he had deliberately and malafidely not given information within time limit, causing harassment to the Complainant.

Order: - The Resolution book being an important document needs to be preserved by the Secretary and SIC directed the Director of Panchayats is directed to hold proper enquiry and find out as well as fix the accountability on persons who were responsible for misplacing and or destroying the said document and the outcome of this may be reported to the SIC within 3 months.

The SIC also stated that the careless attitude of the PIO who had been giving excuses during the hearing, shows his conduct is not bonafide, besides he stated that the records asked by the SIC had to be placed before the Village Panchayat body which was not proved with any provisions of the Goa Panchayat Raj Act. Again this is a deliberate and willful attempt not to furnish the original records.

The penalty of Rs.1000/- was imposed on the PIO wherein leniently on the plea of the advocate that the PIO is new and was ignorant of the law. The compensation was not awarded as a writ petition was filed by the opponent and the Hon'ble High Court has stayed the action of the Commission in this matter.

Similar case

Directorate of Panchayats to hold enquiry and fix responsibility for missing records

Appeal No.94/2007-08/VP Dated: 22/02/2008

Shri Harihar V. Chodankar V/s. V.P.Calangute & BDO Bardez

Facts: Information was sought from the village panchayat of Calangute through 3 applications to provide him details of the constructions in different properties within the Village Panchayat. The PIO rejected the request under section 8(j) of the RTI stating the information relates to private persons and properties and the disclosure has no relationship to any public activity and it would cause unwarranted invasion of the private persons. The FAA ordered that information be given.

Order: SIC directed the Directorate of Panchayats to hold enquiry and fix responsibility for missing records in this case and initiate disciplinary proceedings against the persons found responsible, and compliance report to be filed before SIC within 6 months. The appellant has been put to hardships and deserves to be awarded compensation under section 19(8) but the Hon'ble High Court has sized the powers of the SIC to award compensation under section 19(8).

Section 4(1)d casts an obligation on the public authority to provide reasons for its administrative and quasi-judicial decisions to the affected persons.

SIC has a role to seek compliance under Section 19(8) of RTI

Complaint No.34/2007-08 Dated:- 13/12/2007

Smt. Elvira Fernandes V/s Mormugao Municipal Council, Vasco –Goa.

Facts: The complainant stated that she has made several complaints to Mormugao Municipal Council but the Chief Officer of MMC failed to take any action on the complaints and therefore she approached the SIC.

During the hearings opponent stated that this complaint is beyond the scope, ambit, power and function of SIC under RTI 2005. The opponent also stated that information whatever asked for was submitted to the complainant. If aggrieved, she should have approached FAA before going to the SIC ant that SIC can't grant the prayers of the complainant as this is not a case of denial for information.

Order: SIC highlighted that the objective of RTI is not only restricted to the transparency of information but also to hold the government and their instrumentalities

accountable to the governed. Section 4(1)d casts an obligation on the public authority to provide reasons for its administrative and quasi-judicial decisions to the affected persons. This is the right of the affected person. Non action of a public authority comes under the purview of section 4(1) d which is mandatory in nature.

Further it is stated a duty is cast on the Commission to secure compliance under section 19(8) being so, inaction on part of the opponent falls under section 4(1)d. The SIC directed the authority to take decisions on merit on the various complaints made by the complainant and communicate the decisions along with reasons within 30 days and file a compliance report before the Commission.

Orders of the First Appellate authority to be complied.

Complaint No.14/2007-08/Police Dated:- 10/09/2007

Shri Joao C. Pereira V/s. Police Headquarters, Panaji.

Facts: Information was sought from the Superintendent of Police, Margao regarding inspection of files of the Verna Police Station including an 'enquiry file on the complaint of Mr. Borkar'. Since information was not given, appeal was made to FAA who allowed the request and ordered that information be given the PIO directed the Verna Police Station to give the information but did not do so. Complaint was filed against this to the SIC who directed that information be given as per the order of The FAA. Even the order of SIC was not executed therefore the 2nd complaint for not implementing its order before the SIC.

SIC stated that there is no further decision to this, as the matter is already decided and that the enquiry of one Mr. Borkar has to be shown to the Complainant as also ordered by the FAA. Besides it is the duty of the FAA to see that its order is implemented which was not at all set aside by any authority. By not doing so, it shows a violation of RTI as well as disobedience to lawful orders of the superiors by the subordinate officers. SIC stated that a copy of this order be sent to the Chief Secretary who is administrative secretary for home department for necessary action.

Station diary of police officers to be given.

Complaint No. 29//2007-08/Police Dated: 04/12/2007

Adv. S. S. Saudagar V/s. Town Police Station & Police Station, Vasco

Facts: Information was sought on extract of the station diary of Vasco Police Station for period from 17/1/2005 to 28/2/2005 pertaining to the criminal case No.9/2005, since the information was not given by the authorities, the SIC had ordered the PIO to do so. However the information was not given therefore the complaint.

The parties were called for by the SIC. The PIO who was supposed to give information did not give neither stated his inability to do so within the time allowed. Besides not even replied to the notice, which are a bad attitude and that government should take note of the same.

Order: SIC stated that documents should be given to the complainant, PIO was asked to show cause why penalty should not be imposed on him under section 20 for not complying with the order of SIC, as well as for not even filing a reply for non-execution of the order before us. Besides no order has been produced of the Session Court prohibiting the opponents from disclosing the document in question. SIC had given orders for providing information within time limits, in the absence of furnishing any orders of the High Court staying the orders of SIC there is no justification for withholding information.

Section 4(1)d has been enacted so that every public authority should provide reasons for its administrative or quasi-judicial decisions to the affected persons. This right is available to affected persons only not all citizens.

Complaint No. 28//2007-08/MMC Dated: 06/12/2007

Manikbai N. Tendulkar V/s. Mapusa Municipal Council

Facts: Information was sought from the Mapusa Municipal Council by the complainant on 3 points regarding an establishment in the Municipal Property in the name of her late husband, and she had applied for the transfer of the same in her name.(the MMC calculated the fees for transfer and also outstanding rental ground rent for the establishment and informed her much earlier to RTI application) Dissatisfied by the replies of the PIO, she went in appeal to the FAA, who ordered that information be given in 10 days.

Order: SIC stated that under section 5(2) of RTI, APIO is appointed at sub-divisional level. As the MMC does not have any such office, there is no necessity to appoint. Even if there is one, his/her role is to only receive applications or appeals under RTI for forwarding it to the PIO or FAA or the information commission, and no other role. The PIO can't delegate his responsibility to APIO to give information to citizens. The PIO is directed to desist from doing so and deal with requests himself. The replies given by the APIO/PIO does create doubts regarding the requirement or otherwise of the establishment licence for running by her after her late husband.

The issue of transparency and accountability is the aim of RTI to bring about in every public authority and to achieve the same, section 4(1)d has been enacted so that every public authority should provide reasons for its administrative or quasi-judicial decisions to the affected persons. This right is available to affected persons only not all citizens and the SIC is empowered to give directions to public authority (and it has done on few occasions) to fulfill section 4(1) d.

Similar case

Appeal No. 26/2007-08/FDA Dated: 17/08/2007.

Shri Orlando Sales V/s. Directorate of Food and Drugs Administration, Panaji.

Facts: Information was sought by the appellant from the Food & Drugs Administration department on 7 points including some documents. Information was furnished on 5 points along with documents and the other 2 points were refused as there is no record available the FAA was approached who dismissed the appeal. The rejected information was pertaining to reasons asked for non-compliance of the judgement in the case of R.K.Sabarwal V/s. St. of Punjab issued by the Supreme Court, circulated by the Social Welfare Department for compliance vide circular No.13/12/2000-SWD/1502, and reasons to be given for willfully disobeying the opinion/advice furnished by Social Welfare Department. The PIO had started that since reasons are not available in the office files, the same cant be given.

Order :The same was upheld by SIC that what is not on record cant be given and the PIO was correct in his decision, however the SIC also highlighted that every public authority need to inform of its decision/reasons for its administrative and quasi-judicial

actions to the affected persons. In this case the public authority need to abide by section 4(1)d of the RTI and therefore right need to follow this. The aim of RTI is to ensure transparency and accountability and if this is not done the purpose is defeated and if reasons are not given the grievances of the citizens are not addressed. Section 4 casts an obligation on the public authority to do so and therefore the PIO can't be penalized under section 20. Any affected person (not every citizen) has a right to approach public authority (not PIO) and get the required actions.

In case the public authority does not respond in a reasonable time, he is free to approach the Commission which is entrusted with the powers of monitoring and reporting under section 25 of the Act.

Disciplinary action recommended against the erring officials within 1 month. The Collector North Goa is directed to comply with the provisions of sub-section (1) of section 4 of the Act.

Appeal No. 14/2007-08/ Dated: 17/07/2007.

Shri Pandu Shetgaonkar V/s. Dy. Collector of SDO Mapusa

Facts: the appellant had asked for information on the following to Dy. Collector, Mapusa

1. Copy of memo of appeal in case No/ADC/LRC/MUT/APL/2/2000
2. Copy of judgement and order passed in the above
3. Copy of Roznama
4. Copy of memorandum dated 20/102006 issued to one Mr. Redkar attached to this office of Mamlatdar Pernem
5. If Mr. Redkar appeared before the authority and what submissions he made.

The reply was given stating the particular file was not traceable and hence it could not be given at this point.

Order:- SIC directed that the PIO should conduct detailed search, disciplinary action was recommended against the erring officials within 1 month The Collector North Goa was directed to comply with the provisions of sub-section (1) of section 4 of the Act. Penalty proceedings against PIO were dropped as he justified the delay through valid reasons. The Collector was directed to comply with section 4(1) and steps taken in this direction to be informed to SIC within 3 months. Section 4(1) is of mandatory nature, the

Dy. Collector of Pednem directed to search the relevant file and informed to the appellant with 15 days on the status.

Opinion to be furnished as information

Section 2(f)g defines information as any material in any form including among others 'opinion' & 'advice'.

Complaint No. 07//2007-08/police Dated: 29/06/2007

Joao C. Pereira V/s. Directorate of Prosecution &

Appeal No.08/2007-08/Police Dated: 29/06/2007

Joao C. Pereira V/s. Police Headquarters, Panaji

Facts: Information was asked regarding 14 questions including an opinion given by Directorate of Prosecution in a criminal case. PIO rejected the information under section 8(1) h as this relates to an opinion. The FAA upheld the decision of PIO.

Order: SIC ordered that information to be given within 1 week. And also clarified that opinion is part of information. In this case the Directorate of Prosecution herself had no objection giving the information, her contention was that the original copy given by her was not with her and as it was forwarded to Dy.IGP.

Similar case

Appeal No. 34/2007-08/Police Dated: 14/11/2007.

Shri Joao C. Pereira V/s. Town Police Station, Margao & Police Headquarters, Panaji.

Facts: information was sought by the appellant on 4 points from the Superintendent of Police, this information was denied stating that information relates to criminal case No.74/05 of Verna Police Station against the appellant and therefore under Section 8(1)(4) of RTI cant be given, the case is filed and pending before the Junior Magistrate First Class. The FAA also rejected the appeal and therefore the appeal before SIC.

Order: The information sought was a legal opinion of the Police department obtained before filing the charge sheet. None of the orders mention that this information is not available on record and therefore SIC presumes that there is a legal opinion and exists on record since the PIO was refusing under section 8(1)h besides no reason is given how the information will impede the persecution of offenders. The legal opinion is

not put before the court but the alleged criminal conduct of the appellant. Section 2(f)g defines information as any material in any form including among others 'opinion' & 'advice'. In this case legal opinion given comes under the purview of RTI and under section 2(f) and the appellant be given within 15 days.

Section 7; Section 20 (1)(2).

Appeal No.76/2006/PWD/P **Dated: 27/03/2007**

Shri Sushant S. Naik V/s. PWD, Altinho, Panaji.

(Under section 20)

Facts: Information was sought by the appellant earlier from the PWD Department on repairs and construction of roads in his Taluka (the application was given at the sub-divisional office) the information was not given to which the FAA was approached which was forwarded to the APIO and from him to the PIO. The information was not given, when the SIC in its order had stated to give so besides the show cause notice was issued to the PIO who put forth his replies as given below:-

- He is now designated as FAA, and that he is no longer PIO from 22/12/06
- That he was misunderstood by the SIC as refusing information
- Request for application was not received by him and was aware of it only when the SIC sent a notice along with the copy of the application.
- Imposing fine will cause great injustice to him
- The officer i.e Asst. Engineer should not have received the application and that he is 'unscrupulous'

Order: SIC stated that it the exclusive responsibility of PIO to furnish information under section 7 of the RTI, if not available with him he has to take the assistance of any officer. Here the PIO was aware that request for information was made through the actual application was not with him. He could have contacted the APIO or the appellant, but by not doing so it is confirmed that he did not wish to give information. The PIO has also not proved that he acted diligently & reasonably under Section 20(1)(2). There has been considerable delay and therefore a penalty of Rs.5000/- is imposed.

Information on Service matters.

Complaint No.23/2007 Dated: 10/09/2007

Shanta S. Ambhi V/s. Curchorem-Cacora, Municipal Council

(Under section 18)

Facts: Information was sought by the complainant from the PIO of Curchorem Municipal Council on the following:

- 1) How much amount was deducted from his salary towards GPF (July 97 to Feb.98) if contribution is credited into GPF account? If so against which account number?
- 2) Are the rules pertaining review of DPC amended or relaxed to Curchorem-Cacora Municipal Council? If so, under which rule such procedures are implemented? A copy of the rule followed in this regards may please be issued.
- 3) Whether head of office has observed Supplementary Rule 202 for maintaining my service records? What is the balance leave available at my credit as on December 2006? Reasons for not issuing leave sanction order for availing leave during past 2 years may also be furnished.
- 4) What is total amount of arrears of Salary payable to me with reference to our order No.CCMC/Admn/Order/96-97/2026 dated 8/8/2006? How much time is required to pay the arrears of Salary? A copy of the due and drawn statement in this regards may please be issued.
- 5) Whether Seniority list of LDC's working in Curchorem Cacora Municipal Council is revised with reference to your order No.CCMC/Admn/order/96-97/2026 dated 8/8/2006? If yes, what is my position in the list? A copy of the said list may please be furnished.
- 6) A copy of the instructions issued to your employees in respect of my applications dated 12/9/2006 regarding review of DPC, dated 21/9/2006 regarding leave account and dated 21/9/2006 regarding release of arrears of my salary may please be furnished to me.

Order: - The complainant was not happy with the replies and went in appeal before FAA who directed the PIO to furnish the same within 10 days. Still dissatisfied with the information given the 2nd appeal was made before the SIC who ordered after

going in detail over the case, that incomplete information/no information which was not given on points 1, 2, & 4 be given within 15 days of this order.

Rules under which the basic pay was reduced and or fixed in excess at the time of appointment be given.

RTI is to promote transparency in accountability in working of the every public authority and the indirect objectives is to 'content corruption'

Appeal No: 97/2007-08/NIE

Dated: 10/01/2008

Dr. G.C. Pradhan V/s. Nirmala Institute of Education, Altinho Panaji.

Facts:- The information sought by the FAA on about the appointment and pay fixation of 3 temporarily lecturers. He wanted to know the rules under which the basic pay was reduced and or fixed in excess at the time of appointment of one of the lecturers and non payment of salary to one of the lecturers. The PIO turned on the request stating that 'the request is investigated and probing in nature such spying enquiry is not information under RTI.' FAA also upheld the decision of the PIO.

Order: The SIC stated that the information about the salary paid to the employees by the public authority is information under section 2(f) of RTI and if there is any discrepancy in paying the amounts either less or more, the appellant is entitled to know the basis on which such payments are made as well as he is entitled to get the copies of the rules/instructions under which such variations have been made.

SIC also made it clear that the objectives of the RTI is to promote transparency in accountability in working of the every public authority and the indirect objectives is to 'content corruption' and in the light of this every citizen is rested with the rights to obtain information from the public authorities without have to mention the purpose for which information is served. The reasons given by the respondents to deny information on the grounds that is probing, spying, defamatory and malafide enquiry is not acceptable and are not covered under RTI. The information in this case is relating to rules and instructions on which the public authority is acted in particular way and therefore this has to be given to the appellant within one month.

There is no provision in the Act to review ones order by any of the authorities viz PIO/FAA/The Commission.

Appeal No.95/2006/POL Dated: 16/04/2007

Joao C. Pereira V/s. Town Police Station, Margao & Police Headquarters, Panaji

(Under 19(3))

Facts: Information regarding Inspection of station diary records of Verna Police Station for certain dates mentioned was sought by the appellant. The PIO rejected the information under section 8(1)(g) to which the appeal was preferred before the FAA. The FAA directed the PIO to give information but however later changed his decision by another order exempting the same under section 8(1)(h) to which an appeal was sought before SIC.

Order:- SIC stated that there is no provision in the Act to review ones order by any of the authorities viz PIO/FAA/The Commission. There is no such powers because all these authorizes are qausi-judicial authorities and also are only Tribunals The law is well settled that no tribunal can review its own decision unless there is a specific provision in the statue to that effect. The law as well settles that no tribunal can review its own decision unless there is specific provision in the static to that effect. The authorities were directed to provide information.

Compensation to be paid from V.P funds.

Appeal No.69/2006/V.P.Assolna Dated: 29/03/2007

Nazaziano Paes V/s. V.P.Assolna & Dir. of Panchayats, Panaji

Facts: Information on drains constructed in survey Nos.(118/15 & 107/3) and the documents of the permissions given by competent authority and Village Panchayat given to the same. The PIO did not furnish information within time frame therefore the FAA was approached who directed that complete information be given to him. Not satisfied with the reply the SIC was approached by the Appellant.

Order: SIC, on perusal replies stated that no justification was given for delay caused by the PIO. Further the appellant was made to go from pillar to post for information thereby causing inconvenience to him therefore compensation of Rs.2000/- to be given from V.P. funds to the appellant.

Copy of the letter/complaint of ones departmental enquiry is not exempted under Section 8 (1) 4 as this is not a criminal case.

Appeal No. 69/2007-08/JS Dated: 29/11/2007

Dr. U. A. Vinay Kumar V/s. Governor's Secretariat, Cabo Raj Bhawan, Dona Paula-Goa

Facts: The appellant had sought information from the Chancellor of Goa University i.e. this Excellency the Governor of Goa the following

The copy of letter/complaint dated 9/5/2006 addressed to Vice Chancellor and copy to Chancellor, to allow personal inspection of this documents. He also requested compliance on the same date of his application i.e.14/8/2007 in view of threat to his life and liberty.

The PIO rejected it under section 8(1)(4) of RTI as an inquiry in progress and it might impede the process of investigation/inquiry and his appeal to the FAA was dismissed by impugned order.

Order: SIC stated the exception taken in this case is under section 8(1)h which is regarding only in the investigation or apprehension or prosecution of 'offenders'. Since the appellant has asked for a copy of the letter/complaint and there is no criminal case under investigation, besides the appellant is also not offender, this provision does not apply.

The clause of 'life and liberty' has been invoked to get information urgently due to the reverse discrimination against him as proceedings being taken on xerox copies without any originals' the exception whether it relates to the investigation and prosecution of only offenders of criminal cases or disciplinary enquiries. This clause is only for criminal investigations only. Enquiries conducted by administrative authority is generally not considered investigation but departmental inquiry either under disciplinary rules or a preliminary inquiry and a government servant who has committed violation of conduct rules is not called an offender therefore this request is not exempted under section 8(1),(j)(h).The appellant wanted that copy of letter is not a part of the records of the Governors office as original is not with him. However the copy of the inward registers entry be given as well as inspect the documents.

Section 5(5) provision of deemed PIO.

Appeal No. 63/2007-08/Mam Dated: 26/12/2007

Shri Sandesh N. S. Kossambe V/s. Sanguem Municipal Council, Sanguem-Goa.

Facts: Information regarding quotations was asked to the Sanguem Municipal Council. The information was provided after 30 days since the file was with the chairman of the SMC, however PIO informed the appellant of the cause of delay. He goes in 2nd appeal asking the commission to consider the chairman as deemed PIO, impose penalty and award compensation to appellant.

Order: Chairman treated as deemed PIO. Since it was proved through records that the file was with her, a show cause notice was issued as to why penalty should not be imposed.

Information to be given free of cost.

Appeal No. 48/2007-08/GMC Dated: 20/12/2007.

Deepak B. Naik V/s. Goa Medical College, Bambolim-Goa

Facts: Information was sought from the Goa Medical College by the appellant on 23 points. Receiving no reply from the PIO, went to FAA in appeal who in turn also did not reply therefore the 2nd appeal to SIC.

Notices were issued and hearing fixed, the FAA did not remain present neither did he reply to the notice of the Commission which is not a good trend. A copy of this to be sent to the Government in health department directing him to instruct the Dean of GMC to take the matters under RTI seriously and to discharge his statutory duties. The PIO stated the information was available with the Director and therefore he was deemed PIO under section (5) of RTI but he did not remain present.

Order : SIC stated the Director does not want to part with information which shows his action are not diligent and bonafide information to be given free of charge and penalty of 1000/- was imposed on Director in the next hearing that took place.

Information to be shown to SIC, no CIC decisions are binding on the SIC

Appeal No. 55/2007-08/GU Dated: 13/12/2007

Shri Gajanan Haldankar V/s. Goa University, Taleigao

Facts: Information was sought from Goa University by appellant on the following:

1. Names of examiners who had valued the answer papers and revalued for April 2000 LLB Examination.
2. Why examination papers of October 2000 not examined in time.
3. What is the reason for delay in declaring October 2000 result
4. How was the marksheet of the subject 'law of Torts' identical for April and October 2000 examinations?
5. Why his son was not given 5 grace marks in the subject ' law of Torts'

Order: SIC pointed that FAA has to pass a reasoned order and even if it is conveyed by another officer, it has to be mentioned clearly as an appellate order and passed within time allotted. Besides information was given when the first appeal was filed. In the hearing the advocate for the opponents stated several reasons why request regarding revaluation of papers could not be given and not within the scope & jurisdiction of the SIC, besides this information is exempted under 8(1) c 9(1) & (j) various CIC judgements were stated.

SIC stated CIC has no binding on SIC and also highlighted the powers granted to SIC under section 18(3)a and asked for the marks of the appellants son to be shown to SIC of all the 3 examinations.

The answer papers are in fiduciary relationship and therefore can't be given under section 8(e) (i) but 1st 50 ranks cab be shown.

Appeal No.17/2007-08/FDA Dated: 09/08/2007.

Shri Sudan R. Desai V/s. GIDC, EDC Complex, Patto, Panaji.

Facts: Information was sought from the Goa Industrial Development Corporation (GIDC) on the following points

- 1) How many applications were received under physically handicapped category of field manager post & other details?

- 2) Written information on priority and reservation to physically handicapped as per rosters
- 3) Names of candidates applied for the post and their qualifications
- 4) Certified copies of answer paper and 1st 50 rank with marks obtained in written test of field manager and correct answer paper
- 5) Information regarding increase in recruitment of post in near future
- 6) Names of selection committee members and post held.

Order: The answer papers are in fiduciary relationship and therefore cant be given under section 8(e)(i) whereas the information on the 1st 50 ranks can be given and this part is not confidential and the same to be given on prescribed fees.

Information based on new item cant be taken as true and the legislature department has not made available the copies of the proceedings to the department hence not available.

Complaint No: 86/2006/DAHVS Dated: 16/04/2007.

Dr. Rozario Menezes V/s. Directorate of Animal Husbandry & Veterinary Services,
Panaji.

Facts: Information was sought by the appellant from the PIO of the Chief Ministers office on the following points

- a) Whether a committee has been constituted to prepare an alternative solution to control the stray dog population in Goa as stated in the Goa Legislative Assembly on 13/08/2002.
- b) Whether such a amended scheme has been placed before the Goa High Court for guidelines
- c) If not when such follow up action to the statement made on the floor of the house will be taken up

Order: SIC stated that information sought is based on new item appeared in a daily newspaper, the respondents too stated they are not aware of such statements, since this is based on news item and the complaint is based on news item and as per principles of law news item is only a hearsay evidence, and as such the existence of such statement is in dispute. As the legislature department has not made available the copies of the proceedings to the department, they are not in a position to initiate any action and hence

they can't be hold responsible for non-implementation of such statements complaint rejected.

*Section 11 to be followed in third party information.
Information had to denied under section 8(1)(e) of RTI.*

Appeal No: 19/2007-08/IPHB

Dated: 30/08/2007.

Shri Jude L. Vaz V/s. Institute of Psychiatry & Human Behavior, Bambolim-Goa.

Facts: The appellant has asked for information to the PIO of Institute of Psychiatry and Human Behaviour (IPHB) (12/12/2006) requesting for information on the case history of his sister and the 'report of diagnosis' in her case (who is under treatment since 1976) at IPHB. The appellant was asked to collect the information after payment of fees, and was collected. The appellant filed an appeal to FAA stating that some of the papers are not clear and that the diagnoses report is not given to him as and therefore they be directed to give the same.

As this case goes, the information sought is in capacity of fiduciary relationship of the patient with the Dean and this falls under section 8(1)(e) of RTI which is exempted from disclosure this can be given if the PIO is satisfied that its disclosure is in the interest of the larger public.

Order: The PIO did not put on record the third party neither the reasons which satisfied him to disclose this exempted information. Even if he was satisfied that the larger public interest was satisfied, he had to inform the third party of his decision under section 11(1) and should have waited for her reply (1) days are therefore given to the PIO to reply to the appellant for this reason) this procedure was not followed by him. Besides he should have informed the third party of decision under section 1(4) and that an appeal can be preferred by her under section 19 his decision to part with her information.

Implementation of RTI.

Complaint No: 1/2/2006/Inf/A Dated: 23/08/2006.

Sec. 18(1)(a) (2) of RTIA

Amar B. Naik V/s. Director, Information & Publicity, Panaji.

Facts: The complaint stated that only

- 1) Few public authorities have designated information officers and published manuals containing suo moto information under section 491(b) of the Act.
- 2) That public authorities have not appointed PIOs although more than 270 days have passed after the passage of the act and some have yet to prepare the list of PIOs including Courts, High Courts, Consumer forums, Municipal Councils, State Pollution Control Board.
- 3) Those public authorities who have prepared the manuals have kept them in the file and not yet displayed on the notice boards for the citizens.
- 4) The complaint that list of PIOs of govt officers, NGOs etc should be put outside the boards along with the just appellate authorities, fee structure, procedure of appeal, address of state information commissioners and also manuals of public authority including the particular such as organizations, functions, powers, duties of officers, employees, directory of information & employees statement on Board councils, Committees and other bodies, the location of subsidy programmes and beneficiaries.

This is to be done by way of painted boards.

The Jt. Secretary and Director of Information & Publicity was asked to remain present, and was asked to file an affidavit point wise on the complaint and compliance of the provisions of the Act and steps taken to make commission functional.

- 1) a) the list of all public authorities under Govt of Goa and separate lists of the authorities who have designated the PIOs and APIOs and 1st Appellate authorities within the statutory time limit of 100 days i.e. on or before 23/09/2005
- b) List of authorities who have done so after that date
- c) List of authorities not done so far.
- 2) The list of public authorities who have published within 120 days of the comment of the act i.e. on or before 13/10/2005 on all the 17 points mentioned in section 4(1)(b) and those who have done so after the due date and those who have not done so till now.

3) Steps taken by the departments under section 4(3)&(4) to disseminate the above information

4) Datewise steps taken to make SIC functional and reasons for not providing the staff, premises, budget so far and dates when this will be done. To this one weeks time was sought by the respondent to file affidavit. The matter was kept for hearing on 19th June 2006, wherein the respondent was absent and the affidavit was filed after the hearing was over and this could not give opportunity to the complainant to file his statement with the documents given by the respondent.

Order: The Public Authority is directed to prepare the list of PIOs and APIOs and FAA of public authorities in alphabetical order stating from government departments, government, undertakings, autonomous bodies, semi government department, city corporation of Panaji, Municipal councils, Panchayats, Educational Institutions, etc and notify the same in official gazette, in the proforma given by Commission. Sr. No., Name of AA, Name & Designation of APIOs, Name & Designation of PIO, Name of FAA.

It was further stated by SIC that as per sub section of (1) of section 4 and 2 of section 5 came into force and every public authority is required to publish within 120 days from the date of the enactment of the act. This time limit has already expired. Besides it is observed that most public authorities have not yet appointed the PIOs & APIOs and that the Director of Information & Publicity has not taken any interest in ensuing implementation of the mandatory and also cannot exercise effective control over public authorities and that mandatory provisions of the Act are not complied with. The higher authorities should take the initiative and ensure the implementation of mandatory provisions of the act by initiative and ensure the information of mandatory provisions of the Act.

SIC also stated that the Chief Secretary should monitor and ensure the compliance of the mandatory statutory provisions within the time limit specified in this order. It was observed by SIC that the commission is not taking the matter very lightly and casually and published the information in the official Gazette without proper verification and corrections. The public authorities which have not yet designated APIO, PIO and not yet

appointed first Appellate Authority shall do so within 2 weeks from the date of receipt of this order.

First Appeal to be approached before coming to SIC

Appeal No: 112/2007-08/DHS Dated: 25/01/2008

Shri Dhruvanjay V. Harmalkar V/s. Dir. of Health Services, Panaji

Order: First appeal under section 19(1) has to go before the first appellate authority before approaching the SIC

Appeal No: 106/2007-08/GIDC Dated: 18/01/2008

Dr. J.C. Almeida, V/s. GIDC, Panaji

Facts: information was sought by the appellant from GIDC on allotment of land by GIDC to various Special Economic Zones (SEZ) in Goa. Information was not provided and hence went in appeal to FAA. The order of the FAA was that information was provided and secondly the FAA was satisfied with it and the case is disposed off. It has to be noted that PIO had called the applicant to his office and this is not giving information. In the replies, the respondent stated that the information asked is not available at one place and it has to be collected from various files and compile question wise as asked by appellant. This is not provided in the definition of information. He also referred to a case 48/2007 decided by the SIC wherein it had stated that information requested has to be given as long as it is available in the records of the public authority even in the form of questions.

Order: SIC stated that the appellant wanted to know the statistical information regarding allotment of lands. No doubt this requires some efforts on the PIO to compile besides all information is available with the corporation and forms part of the record of public authority therefore information to be given.

Recommendatory letters to be given.

Appeal No: 80/2007-08/Police Dated: 18/01/2008

Shri M.K.Desai V/s. Police Headquarters, Panaji

Facts:- The appellant has asked for information to the Police Department on 14 points most of which was replied by PIO and 2 points were referred to the Under Secretary Personnel-II which were regarding the vacant post in respect of Junior scale and Senior scale of Goa Police Service. The reply to this was stated that cadre controlling authority for Goa Police Service is the Government in the Personnel department.

During the hearing at SIC, it was stated that the power of posting promotion and transfer of all police officers and below the rank of Dy. Superintendent have been transferred to the home department, whereas the PIO of Police Department maintains that the Cadre Controlling Officer is the personnel department. This is a confused state and this matter has to be sorted out by the Dire. General of Police and the Government and the same should be informed to the appellant.

The other queries of the appellant has been regarding non issuing of his own ACRs from 1987-2005 as well he wanted the minutes of the DPC to the post of Police Inspector held from feeder grades on various occasions. This information was rejected under section 8(1)(j) of the RTI act which was confirmed by the FAA this third query was on the citations sent to the government regarding the press and Chief Ministers Police Medal which was considered as 3rd parties and information was given who did not have any objections and who had objections was not given.

Order: SIC stated the ACRs have to be given to the appellant since it's his own, these can't be given to citizens but to the officer yes after ensuring that the ACR is complete in all respects including the endorsement of the accepting authority. There is no ground for withholding information on this ground after they are accepted by the competent authority.

Regarding the issue of medals SIC stated that there is no issue of third party here as the documents are public once the recommendations are accepted and medals conferred on the recipients and hence recommendatory letters to be given.

Appeal No: 86, 87 and 90/2007-08/Police Dated: 17/01/2008

Shri Jowett D'Souza V/s. Town Police Station, Margao & Police Headquarters, Panaji

Facts: - Information was sought on 3 different requests for information arising out of investigation by Police in the same criminal case registered as FIR 52 of Maina Curtorim police Station. All the 3 requests were denied under section 8(1)h of RTI stating that the criminal case is under investigation & furnishing inform/documents at this stage would impede the process of investigation, to which he approached FAA who in turn dismissed the appeals therefore the 2nd appeal.

The main contention of the appellant was that he purchased a car with financial assistance from ICICI Bank and while in the process of repayment the bank took possession of the car and sold it to an outside person. His contention is that all documents were prepared forging his signatures and that his car was sold at a higher price and appropriating the surplus money. Several complaints were lodged and he feels that no action is being taken by the Police. The PIO stated that investigations are going on and certain information is collected in this matter and that revealing this information should impede the investigation process.

Order: SIC stated that if information is given to the complainant, it would help to complete the investigation since the complainant is interested in the complaint and the plea of the PIO that revealing information would impede the investigation process is not acceptable. The very fact that the investigation is dragging on for almost 2 years has cast a doubt in the minds of the complainant and the complainant is affected here and therefore the plea that complainant will collude with the accused to hush up matters to his disadvantage is not acceptable. Information should be given.

Appeal No:92/2007-08/DSLRL Dated: 10/01/2008

Shri Manuel D'Costa V/s. Directorate of Settlement & Land Records, Panaji.

Facts: Information was sought regarding copy of the survey plan in which sub-division of survey was done by the DSLR without the knowledge of the appellant. The appellant sought the plans from the respective sub-divisions and wanted to know the reasons for the sub-divisions without informing him. The reply given by an officer of DSLR was that enquiry is going on in this matter and he will be informed as soon as it is

over. He approached the FAA who did not pass any order and therefore the 2nd appeal was filed before the SIC. In the replies before the SIC the FAA stated that the hearing before him is not complete and requested the commission to direct the appellant before FAA for hearing and resolving the problem.

Order:-

1. SIC stated that PIO can't delegate his responsibilities to other officers in dealing with RTI applications.
2. FAA can't keep appeals pending with him indefinitely but has to decide within 1 month or 45 days.
3. Information should be given to the appellant on the correct position and the action proposed by the department to rectify the situation (plot was sub-divided without the knowledge of the appellant)
4. The SIC directed the department under section 4(1) of RTI to take appropriate action within 1 month of this order under the intimation to the affected person.

Appeal No:38/2007-08/VP Dated: 27/12/2007

Lt. Col. Paul B. Fernandes V/s. Directorate of Panchayats, Panaji.

Facts: Information was sought on the action taken regarding an authorized construction of chapel in his property and documents relating correspondence made by him. The matter was disposed off by SIC in which the Director of Panchayat was directed under section 4(1)(d) of RTI to inform the action taken on the grievances of the appellant. Before the SIC the Director of panchayats stated that complaint has to be lodged with the Dy. Director of Panchayats on illegal construction under the Goa Panchayat Raj Act. The Dy. Director of Panchayats stated that no complaint has been made before her but she has called for the report of the BDO. The BDO officer stated that the site inspection was fixed and had invited the appellant to remain present, but he did not remain present. The village panchayat claimed that records are destroyed by white ants which was confirmed by the BDO. This shows that there is no way to reproducing the said documents as they are destroyed.

Order: The SIC stated that section 4(1)(a) of RTI is not implemented by the Dept. of Panchayats (All public authorities have to maintain their records duly catalogued

and indexed in a manner which facilitates the Right to information under this act and ensure that all records are computerized in a reasonable time (Director of Panchayats is directed to issue instructions to all panchayats in the state to start cataloging and indexing all their records and computerizing the same within the next 3 months so that incidence of missing records will not rise).

Role of SIC

Complaint No: 12/2006-07/VP Dated: 10/01/2008

Shri Ranjit Satardekar V/s. North Goa Planning & Devpt. Authority.

(Under section 18)

Facts: the complainant sought inspection of files of NOCs/Clearances issued by the NGPDA for development of property in Taleigao village.

Order: The SIC clarified several points in this matter

1. The Commission is empowered to entertain complaints under section 8 of RTI, similarly it has also been empowered to impose penalty on the PIO under section 20(1) and recommend disciplinary action under section 20(2).
2. The Commission can monitor and to ensure compliance of the provision of RTI under section 25 of RTI act.
3. The PIO has to provide information to the applicant as expeditiously as possible as but not later than 30 days from the request under section 7(1).
4. The SIC also highlighted that section 4(1)(a) of RTI casts and obligations on the public authority to index and catalogue the records.
5. The penalty imposed by the Commission is to be deposited under the appropriate receipt heads of the concerned public authority; the appellant is not entitled to get the penalty amount.
6. Compensation is awarded to the complainant as the Hon'ble High Court as states the decision of the commission (order.04/09/2007 in the writ petition No.327/2007 as this was challenged on the ground that the provisions of section 19(8) cannot be made applicable to complaints filed under section 18.)

Appeal No: 71/2007-08/Elect. Dated: 27/12/2007

Shri Rabindra A. L. Dias V/s. Electricity Department, Panaji.

Facts: Information was sought in respect of electrical connection which was released by the Electricity Department to house situated in Survey No.19/4 under low income group category.

Order: The SIC stated that under section 7 of RTI the PIO has to give a reply. Under section 5(5) any officer whose assistance has been sought by the PIO can be treated as PIO for contravention of any of the provisions of the RTI act. If the PIO's replies if not given by him personally, it should indicate that it is approved by him and duly signed by some other officer on behalf of the PIO. If it is attested by any other officer it does not take away the liabilities casts on the PIO under section 7. The copy of the order of the appellate authority should be send to the appellant without he asking for it. The department should maintain records as per the section 4(1)(a) of RTI. The department was directed that proper rules be framed within the 2 months from date of this order prescribing the time destruction of records of the department and in a manner in which they have to be stored.

Penalty Case No.3 in Appeal No: 79/2006 Dated: 15/11/2007

Shri M.K.Madhu V/s. Town & Country Department, Panaji.

Facts: Information was sought by the appellant from the PIO which was not provided and after the required appeals, the SIC had order that information be given; besides SCN was issued to PIO. In the reply to the SCN, the PIO furnished information. The justification for not giving information earlier was stated by the PIO that no appropriate rules were framed under section 27(2)(f), section 28(iv) and 29(2) of RTI laying down the duties, powers in tenure of the PIO to this the SIC clarified the said provisions and how these provisions comes in the way of the functioning of the PIO. The powers and functions of the PIO are laid down in section 7 of the act. He further stated that he relied on information furnished to him by another officer who was also summoned by the SIC.

Order: SIC directed the Respondent No.2 to undertake the work of indexing and cataloguing of the records as per the provisions of section 4(1)(a) of the Act on war footing and complete the work within a period of 4 months.

1. The respondent No.2 shall issue the directions to all the Public Information Officers under his control to monitor the applications received under the Act every month so that the same are disposed off within the specified time limit laid down in the Act.
2. Shri Manoraj Khandeparkar, Planning Draughtsman – It is retreated as Public Information Officer and nominal penalty of Rs.1000/- is imposed on him for the reasons explained hereinabove.
3. Shri Prakash Bhandodkar, Dy. Town planner who is also an Assistant Public Information Officer is treated as Public Information Officer and a penalty of Rs.2500/- is imposed on him for the reasons mentioned herein above.
4. A nominal penalty of Rs.1000/- is imposed on the Respondent No.1
5. The Penalties imposed on these officers shall be recovered from the salary of these officers for the month of December, 2007 and credited to the government treasury at appropriate receipt head.
6. The steps taken by the Respondent No.2 for indexing and cataloguing of the records as well as the recovery of the penalty be reported to the commission by 1st January, 2008.
7. The Respondent No.2 is also directed to organize training programme as per the provisions of section 26(2) of the Act within a period of 3 months.

No transfer of application within the department

Appeal No. 72/2006 **Dated:- 30/03/2007**

Joao J. Caldeira V/s. PWD., Altinho.

Facts: Information was sought from the department on filling up of 33 vacancies of Junior Engineers. The PIO transferred the request to Dy. Director of Administration. Since no reply was sought, appeal was preferred before the FAA. No reply was given by FAA and therefore 2nd appeal before SIC.

Order: SIC clarified certain points here

- a) Section 6(3) was clarified stating that when application is made to a public authority requesting for information which is held by another public authority or such matter of which is more closely connected with the function of an other public authority, the application in this case has to be transferred and the applicant should be informed immediately. In this case the APIO transferred the same within the same public authority. This is not permissible under section 6(3)
- b) It was the responsibility of the PIO to dispose off the application within 30 days under section 7
- c) Under section 7(8) the PIO has to comply with the mandatory provision wherein he/she has to specify the period within which the first appeal is to be preferred as well as the particulars of the FAA.
- d) Under section 19(6) the appeal has to be disposed off by the FAA within 30 days maximum 45 days.
- e) The APIO exceeded his jurisdiction and powers which are not vested in him. i.e. disposed off the appeal sent to him
- f) Proper procedures of disposal were not fulfilled
- g) FAA did not dispose the appeal within time frame as per section 7(1) compensation of Rs. 5000/- and SCN for delay.

Interventions by the Hon'ble High Court.

- The single judge of the Bombay High Court, Mr Justice S A Bobde has set aside the order passed by the Goa State Information Commission whereby Dr Celsa Pinto, PIO, was directed to pay penalty of Rs 5,000. The Commission had held her guilty of furnishing incomplete, misleading and false information under the Right to Information Act, 2005 and imposed the penalty which was liable to be deducted from her salary. The order of the Commission appears to suffer from a serious error of law apparent on record and results in the miscarriage of justice, the court observed.
- The High Court held that definition of information under Section 2(f) can not include within its fold answers to the question **why, which, would** mean asking

the reason or justification for a particular thing. Justifications are within the domain of adjudicating authorities and cannot properly be classified as information.

The court further observed that the Public Information Authorities cannot be expected to communicate to the citizen the reason why a certain thing was done or not done just because the citizen makes a requisition about information.

- Under section 19(8) the Hon'ble High Court has sized the powers of the SIC to award compensation under section 19(8).

A thorough perusal of the judgements passed by the SIC shows that many core areas on which information would be difficult to come in the hands of the citizens if not for the SIC which has put before the citizens the required information.

SIC has also played a major role in interpreting some of the vital provisions of the RTI such as public authority, definition of information, right to information as well role of PIO, deemed PIO, exemption clauses, etc.

SIC has also been playing a role of seeking compliance from the departments under Section 19(8) which would otherwise not be so easy and quick. The Commission has also taken care to see that no unwarranted harm is caused to the citizens due to the actions of officers under RTI (Appeal No 19/2007-08/IPHB where the PIO was furnishing exempted information.)

These judgements have brought to light several aspects such cases where there is lack of procedures followed by the PIOs as well as the FAA, in furnishing information as well as in deciding appeal matters.

The citizens have made a beginning to make extensive use of RTI at three levels viz, the Individual level where citizens have begun to bank on RTI as a grievance redressal tool (Appeal no. 73/2006/Comm & complaint no.20/2007-08/Mun) to find out the outcome of their files or complaints, etc.

They are using RTI at the societal level wherein they are making an efforts to enable public authorities to function in the interest of the people for eg (Appeal no. 97/2006/DM) where the dept was asked to look into the matter of companies dumping iron ore which in turn was causing environmental pollution.

The RTI law is also being used at the systems level, where the citizens are trying making the public authorities put their set up in place which will be beneficial to the larger public, such as the organizational details, nature and manner of decisions made, record management, etc which will enable to facilitate the systems to function efficiently. (Appeal no. 14/2007-08 missing records to be enquired by the Director).

It has come to note that the PIOs, FAA and officials do not respect the orders passed by the SIC as well they have been found not to attend as well as reply to the notices issued by the Commission as seen from the cases. (Appeal No. 48/2007-08/GMC, Complaint no. 7/2006/VP). These trends are not welcomed since this will kill the spirit of the act. Infact the Commission needs to be stricter in these matters.

The respective Commissions have been playing a Herculean role in implementing the RTI act both at the Central and the State level, it's a commendable role they are playing however the SIC has no compulsion to follow the decisions of CIC and therefore there are some provisions wherein both the ICs have passed contradictory judgements. These type of judgements put a question of doubt as to whether information can be given or not, besides the SIC in Goa has incorporated in its decision that the decisions of the CIC are not binding on them. Some of these are mentioned below.

Table 4.1 Judgments passed by CIC and SIC.

Sr. No.	Similar judgements	Contradictory judgements by SIC - Goa
1.	Voluntary disclosure of information under Section 4	Annual Confidential Reports to be disclosed
2.	Only citizens have a right	Queries with prefixes what, why, etc to be answered
3.	Fees to be charged only under RTI	No review of ones decision
4.	FAA to pass speaking orders.	
5.	FAA should be approached before coming to 2 nd appeal	
6.	Videography allowed	
7.	Role of APIO highlighted	
8.	Public authorities to conduct training programmes	
9.	No provision to penalize FAA	

However all the same, it is due to the arduous efforts of the ICs that pertinent issues on which clarity was lacking was made clear to the information providers and information seekers.

At this point it is also important to note the physical achievements of SIC in the implementation of RTI act in Goa.

As per the RTI act, the Commission is empowered to receive and inquire into a complaint from any person under Section 18, while enquiring into the complaints, the Commission has been vested with same powers as are vested in Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- a) Summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

- b) Requiring the discovery and inspection of documents;
- c) Receiving evidence on affidavit,
- d) Requisitioning any public record or copies thereof from any court or office;
- e) Issuing summons for examination of witnesses or documents; and
- f) Any other matter which may be prescribed.

(ii) The Commission may also during an inquiry of any complaint, examine any record to which the Act applies which is under the control of the Public Authority, and no such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature.

The Information Commission has the power to----

- a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act,
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing a Public Information Officer;
 - (iii) by publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of record;
 - (v) by enhancing the provision of training on the right to information for the officials;
 - (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
- b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- c) impose any of the penalties provided under the Act;
- d) Reject the application.

Sub-section (1) of Section 20 of the RTI Act empowers the Commission, to impose a penalty of Rs. 250/- per day delay subject to the maximum of Rs.25,000/- if the Information Commission is of the opinion that the Public Information officer has, without

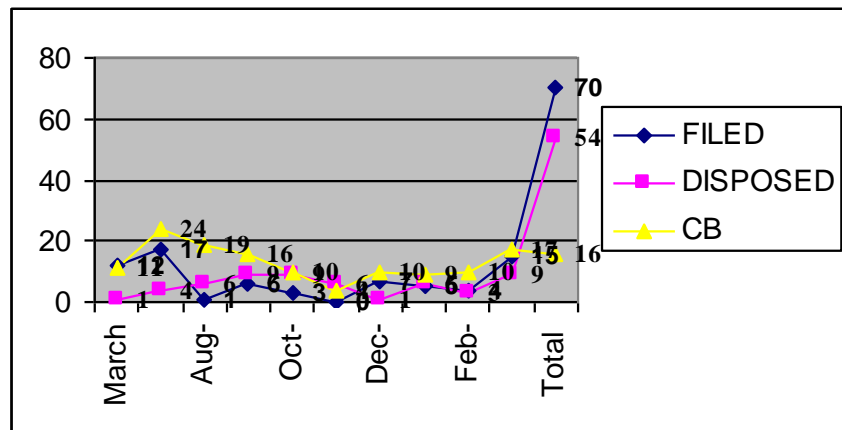
any reasonable cause, refused to receive an application for information or has not furnished the information within the time specifies or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject matter of the request or obstructed in any manner in furnishing the information. However, before imposing the penalty the Commission has to afford a reasonable opportunity of being heard to the erring Public Information Officer.

The Commission is also empowered under clause (b) of sub-section 9(8) of Section 19 of the Act to require the Public Authority to compensate the Complainant for any loss or other detriment suffered by the Complainant

While deciding any complaint or appeal, if the information Commission is of the opinion that the Public Information Officer has without any reasonable case and persistently failed to receive any application for information or has not furnished information within the specified time or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject matter of the request or obstructed in any manner in furnishing the information, the Commission can recommend disciplinary action against the PIO.

As per the information provided by the SIC, the following figures portray the role of SIC in Goa.

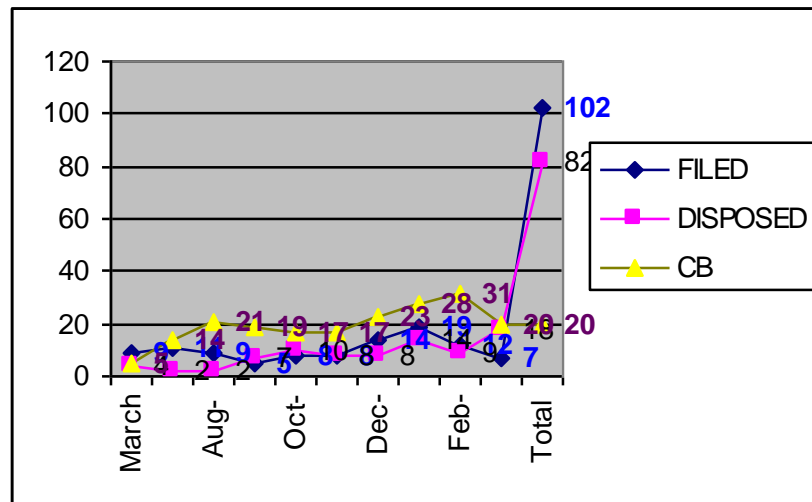
Figure 4.1 Complaints received and disposed by the Commission for the year 2006-2007



Source: SIC Annual Report 2006-07

In the year 2006-07, there were around 70 cases filed of which 54 were disposed by SIC. On an average around 11 cases were filed a month and an average of about 5 cases are disposed in a month.

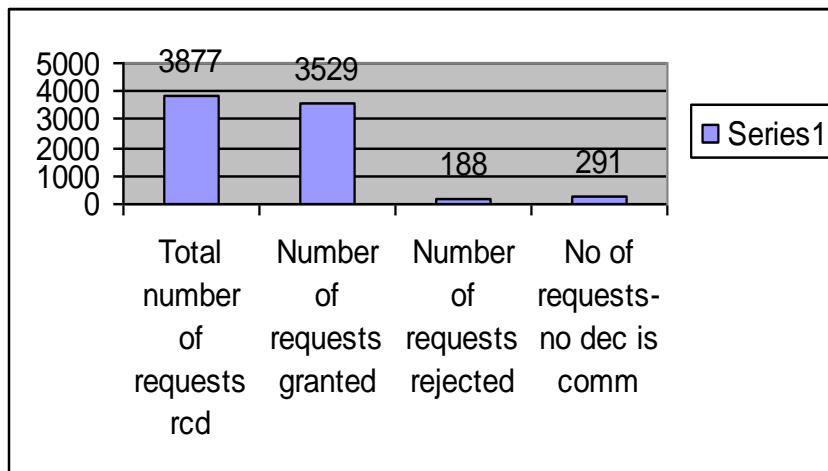
Figure 4.2 Appeals filed and disposed off by the Commission for the year 2006-2007



Source: SIC Annual Report 2006-07

The SIC receives around 10 cases by way of appeals and around 8 cases are disposed off by the Commission.

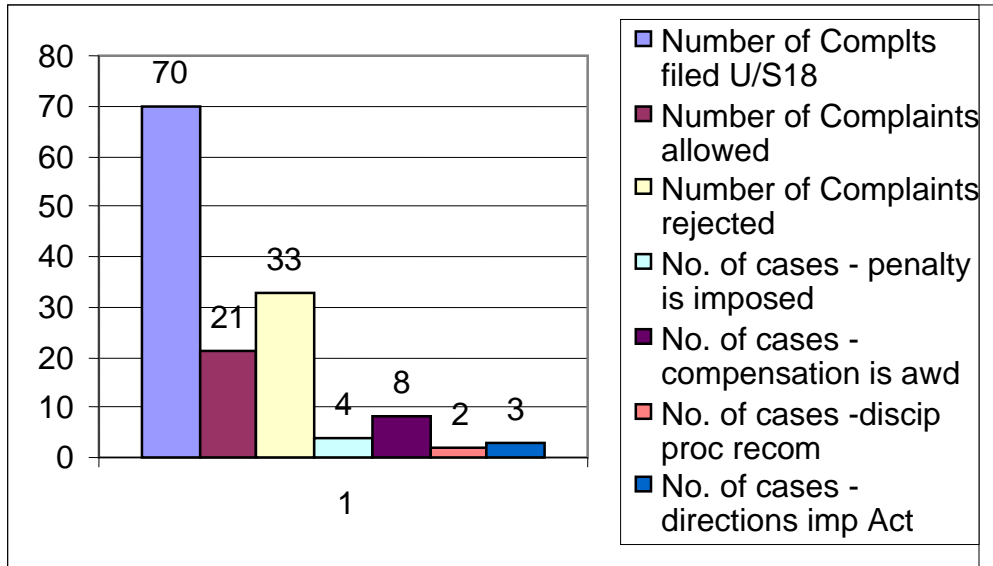
Figure 4.3 No of the requests under section 6 for the year 2006-07 by all public authorities.



Source: SIC Annual Report 2006-07

The above figure shows the total number of requests made to public authorities were 3877 in number, of which of which 3529 were granted, this shows that requests are being processed by PIOs. Detailed information on requests can be seen (Annexure

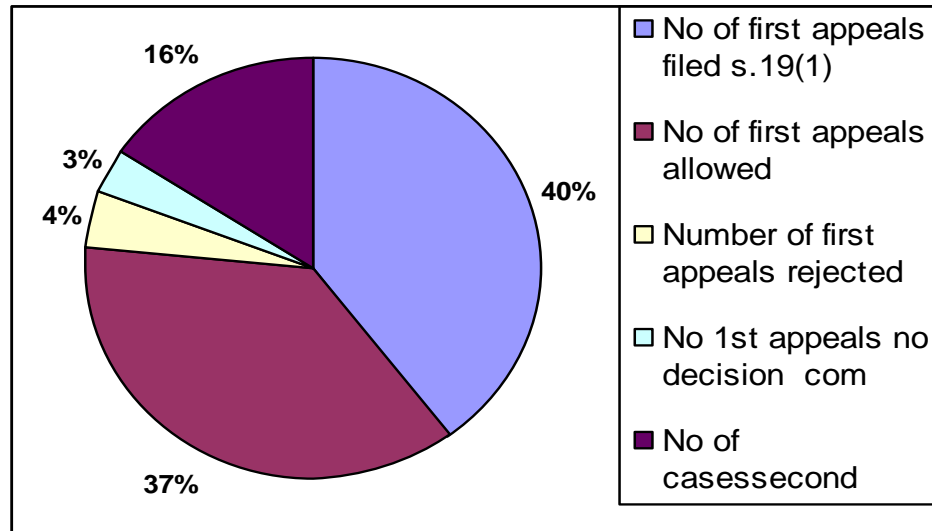
Figure 4.4 Complaints filed under Section 18.



Source: SIC Annual Report 2006-07

Around 70 complaints were filed under Section 18 i.e due to reasons such non appointment of PIOs, refused access to information, incomplete information, etc. disciplinary action has been recommended in two cases, around 33 cases were rejected as not maintainable.

Figure 4.5 Complaints filed under Section 19(3)



Source: SIC Annual Report 2006-07

Around 40% cases have been filed before the SIC by way of appeal before the First Appellate authorities.

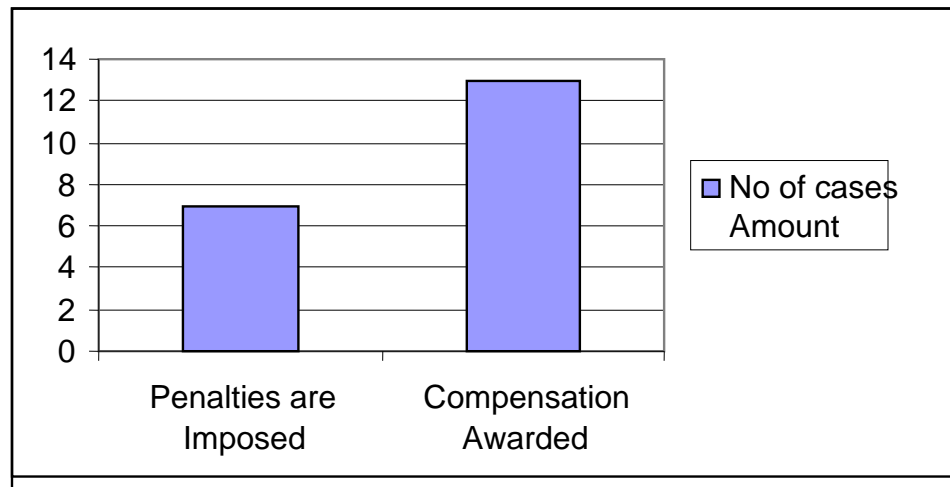
Table 4.1 No of 2nd appeals filed and action taken.

Number of second appeals filed	Number of second appeals allowed	Number of second appeals rejected
1	2	3
102	50	23

Source: SIC Annual Report 2006-07

Around 102 cases have been filed before the commission after approaching the First Appellate authorities and appeals were allowed in 50 cases and 23 rejected.

Figure 4.6 Penalties under Section 20(1) & 19(8)(b)



Source: SIC Annual Report 2006-07

SIC in Goa has awarded penalties to the tune of Rs 26,750/- in 7 cases and compensation of Rs 19,300/ in 13 cases has been imposed in matters relating to RTI.

Chapter – V
**Analysis of findings of the awareness of RTI act
among citizens and officers.**

This study can best be said as exploratory in nature, overall it has shown that the awareness levels on RTI act in Goa is fairly better and therefore people are using RTI in Goa to a great extent.

Table 5.1 Citizens interviewed blockwise.

		block			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Bambolim	30	16.7	16.7	16.7
	Candolim	30	16.7	16.7	33.3
	Mapusa	30	16.7	16.7	50.0
	Moira	30	16.7	16.7	66.7
	StCruz	30	16.7	16.7	83.3
	Tiswadi	30	16.7	16.7	100.0
	Total	180	100.0	100.0	

Table 5.2 Number of citizens interviewed sex wise

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	89	49.4	49.4	49.4
	Female	91	50.6	50.6	100.0
	Total	180	100.0	100.0	

Figure 5.1 Educational Status of respondents.

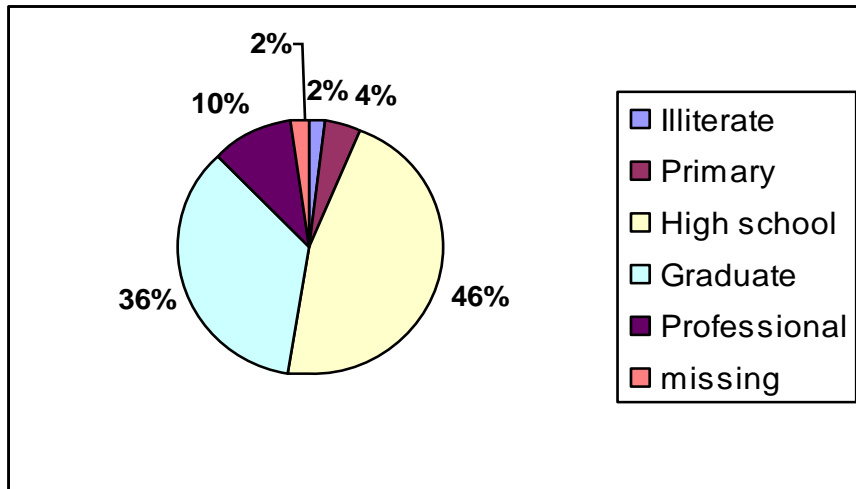


Figure 5.2 Community Status

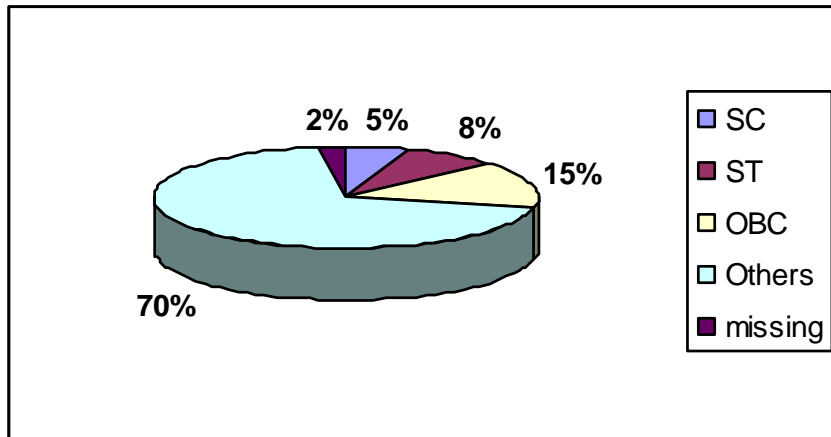


Figure 5.3 Income Status

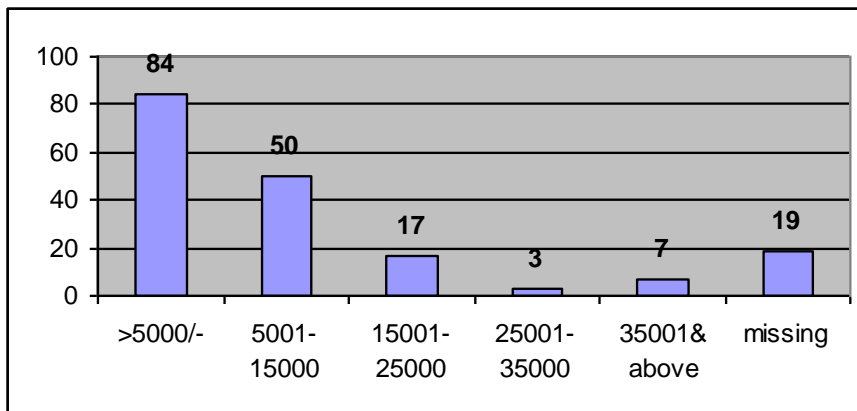
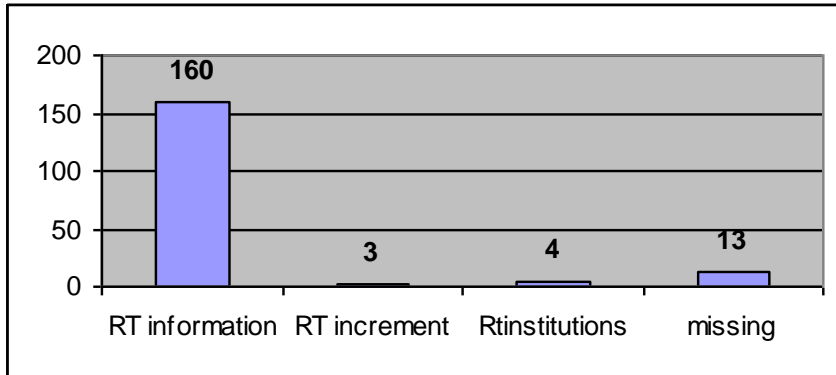
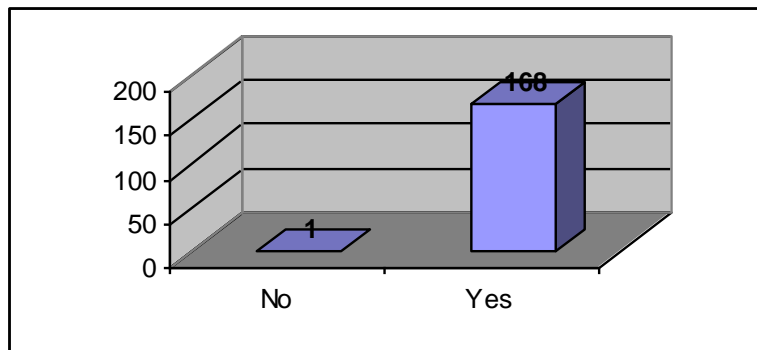


Figure 5.4 Awareness about the full form of RTI



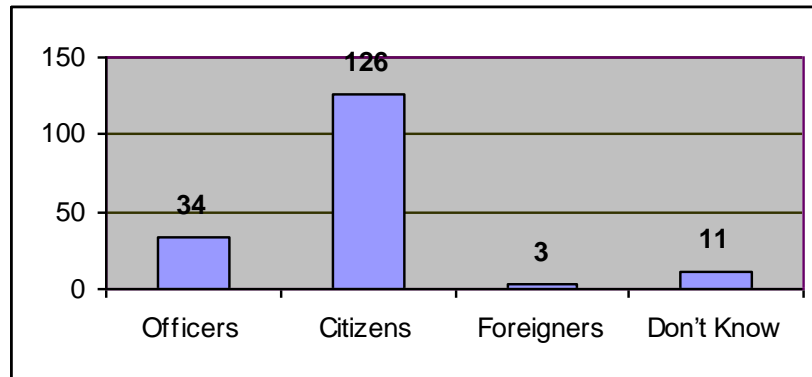
Most of the respondents stated that the full form of RTI was right to information.

Figure 5.5 Citizens Importance of RTI



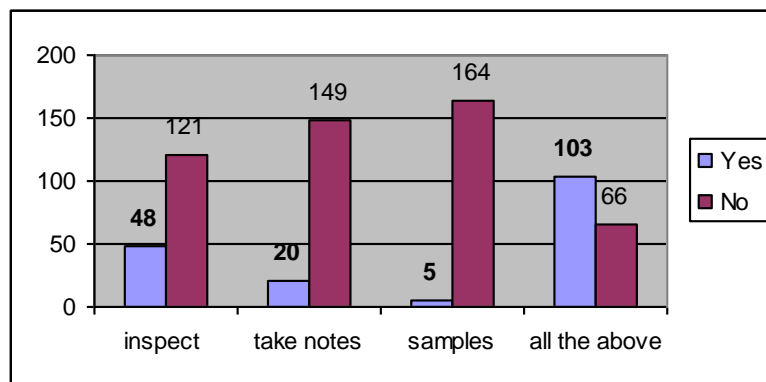
The citizens consider the RTI to be an important right for them because they feel it for the betterment of the people at large. This piece of legislation will help to safeguard legal rights, and it will help to throw light on correct information. It will also help to access information thereby making easier for one to proceed with any work or redress ones grievances. RTI will also help one to be aware of government transactions.

Figure 5.6 To whom is the RTI available



The response given by the respondents is positive as this right is available only to natural citizens.

Figure 5.7 Awareness of rights of citizens under RTI



The responses given by the respondents are in the negative to a great extent, since the awareness on the nature of rights a citizen has under RTI is little poor, but surprisingly they do say all the above are covered under RTI.

Table 5.3 if information to be furnished in Xerox.

Information in Xerox

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	93	51.7	55.7	55.7
	Yes	74	41.1	44.3	100.0
	Total	167	92.8	100.0	
Missing	System	13	7.2		
Total		180	100.0		

The responses were almost divided whether information can be obtained in Xerox form.

Table 5.4 Information on floppies, etc

Information on floppies, etc

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	161	89.4	96.4	96.4
	Yes	6	3.3	3.6	100.0
	Total	167	92.8	100.0	
Missing	System	13	7.2		
Total		180	100.0		

Most of the respondents, infact 96 % of them stated that information on floppies cant be furnished, the reason for saying so could be the mind set, which is to seek information only on paper and getting it in electronic form is quite unexpected.

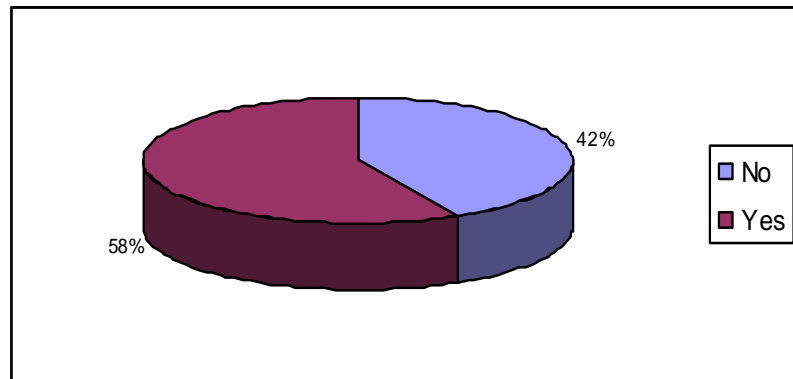
Table 5.5 information through Videography

Videography

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	164	91.1	98.2	98.2
	Yes	3	1.7	1.8	100.0
	Total	167	92.8	100.0	
Missing	System	13	7.2		
Total		180	100.0		

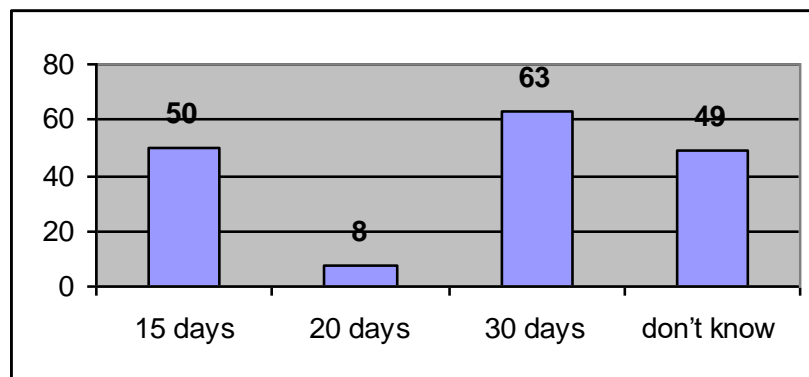
Here again is the case where nearly 98% of the respondents don't know that videography is allowed to access information of public authorities. The responses are in the negative since citizens are in a doubting state whether information can be sought by citizens in floppies or CDs as well as the response is almost the same on seeking information through videography.

Figure 5.8 If fees are to be paid under RTI



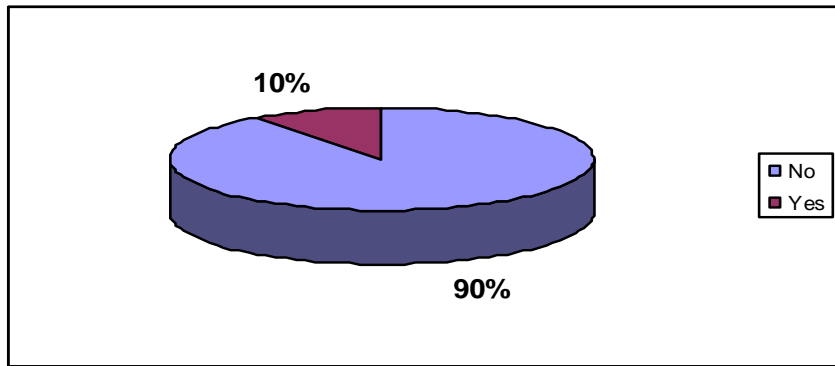
Most of the respondents are aware they have to pay fees for seeking information.

Figure 5.9 Time limits for furnishing information



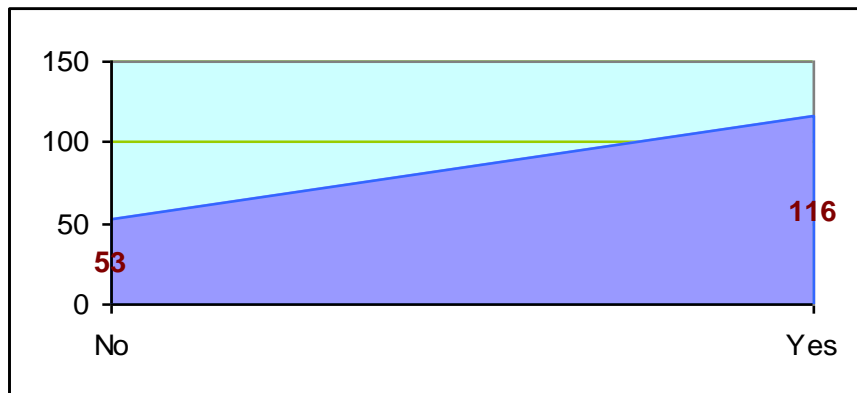
Quite a few respondents stated that the actual time limit to seek information from a Public authority was 30 days. But if one looks at the other responses totaled together shows negative response.

Figure 5.10 If information was asked under RTI.



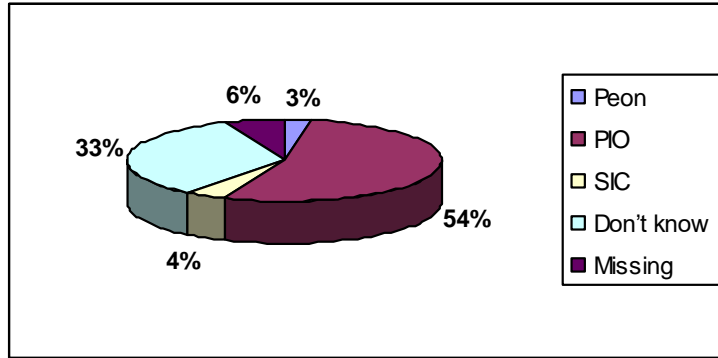
It is seen that most of the respondents did not ask information under RTI, but those who did i.e 10 % of them had asked information from Public Authorities such Village Panchayats, the Municipal Councils, Zilla Panchayat, Block Development office, Depts such as Health, Civil Supplies & Consumer Affairs and Legal Metrology.

Figure 5.11 If reasons required for asking information.



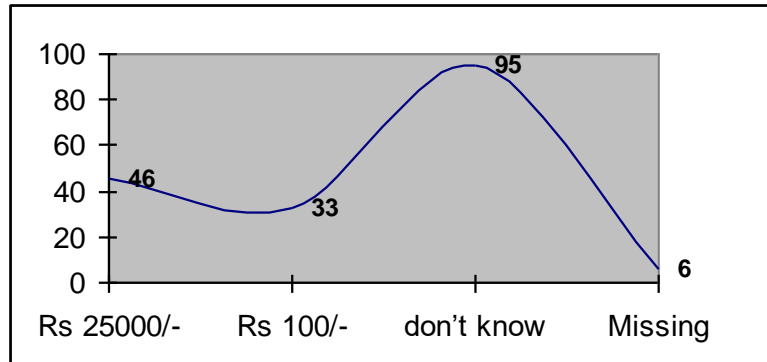
Here one can see that most of the respondents said it is necessary to furnish reasons for seeking information under RTI, when the legislation does not provide for the same. To some extent there are some areas where the level of awareness seems to be pretty better but on some provisions the awareness levels are quite poor, as seen in the above question. The RTI Act is beneficial piece of legislation in the welfare of the citizens and not in the interesting the public authorities.

Figure 5.12 Officers who can be penalized under RTI



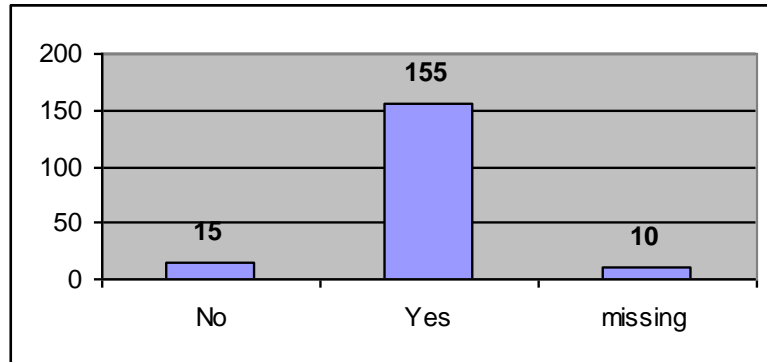
Here most of the respondents stated that PIO was the officer who can be penalized under RTI.

Figure 5.13 Maximum amount of penalty



Most of the respondents are not aware of the penalty provision. It is seen in India and for that matter in Goa, that there are several laws made for the good of the citizens, etc but the implementation of the laws is poor and this is one of the reasons why people do not have faith in the government of the country. They feel the laws are always twisted and moulded to suit the needs of those who can do so. But the RTI is one law where the implementation is more intricately provided for through the various mechanisms incorporated in the Act itself and one of them being the financial penalty which the officer has to pay for from his pocket. This is one area which can make a difference in the thinking/attitude of people.

Figure 5.14 Reasons to be furnished if information is rejected



Most of the respondents stated that the reasons for not furnishing information by the PIO should be mentioned. This could be also from the simple thought that it is a right to know why information could not be furnished to the citizen. In a country like India where the culture has not been to ask why, its pertinent that now on things will change and before they can ask why the information is not furnished they need to be told the same. Infact the RTI Act provides that the PIO should state not only the reasons for denial but he should also state the address of the next officer to whom the citizen can appeal.

A view of the block wise responses on awareness of RTI Law Comparative analysis

Figure 5.15 Time duration within which information to be furnished.- cities.

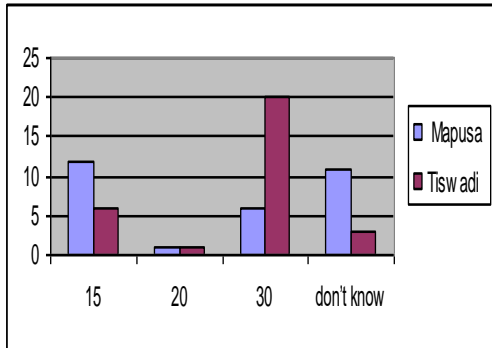
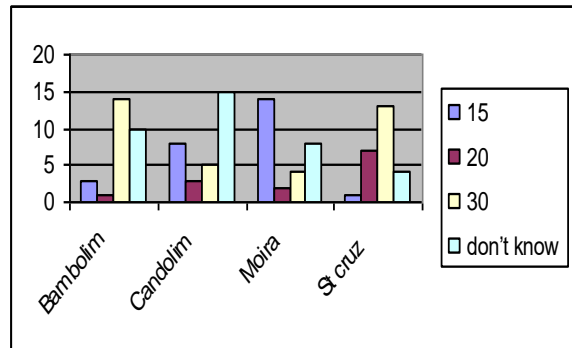


Figure 5.16 Time duration within which information to be furnished.- villages



The responses show that in the city of Panaji there was more awareness compared to Mapusa whereas in the villages, Bambolim and St Cruz showed better awareness on this question as compared to the Bardez block.

Figure 5.17 whether information was asked under RTI by citizens - Cities.

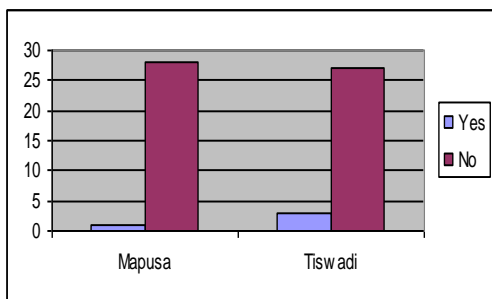
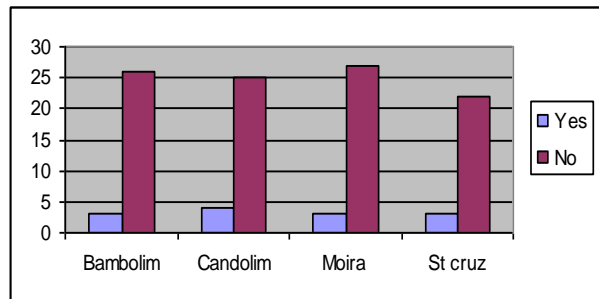


Figure 5.18 whether information was asked under RTI by citizens -Villages



The responses with regard to the above question shows that citizens from the Mapusa city have been very few as compared to the others, infact overall picture shows that very few respondents had asked for information under RTI.

Figure 5.19 Awareness on amount of penalty -Cities.

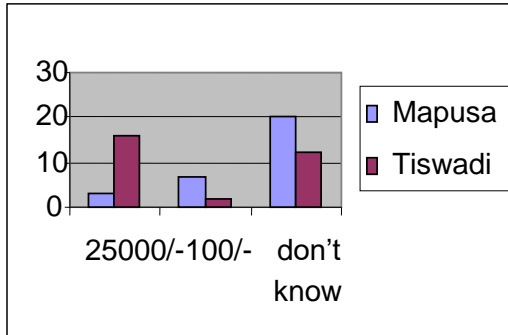
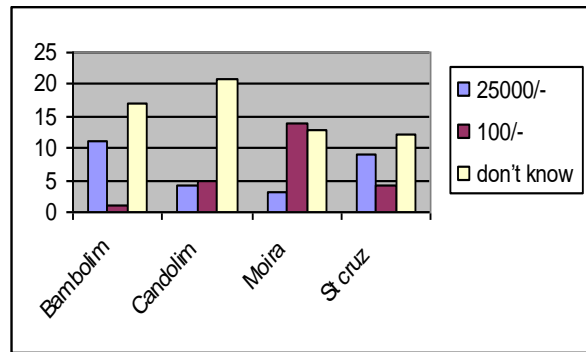


Figure 5.20 Awareness on amount of penalty -Villages



In this question the responses given by Panaji City was higher over Mapusa city, when one looks at the villages, the villages in Tiswadi show a higher response over the Bardez. One can also see that the overall awareness on the penalty amount is poor. This is one area people aren't yet fully aware.

Figure 5. 21 Information will be beneficial to citizens -Cities.

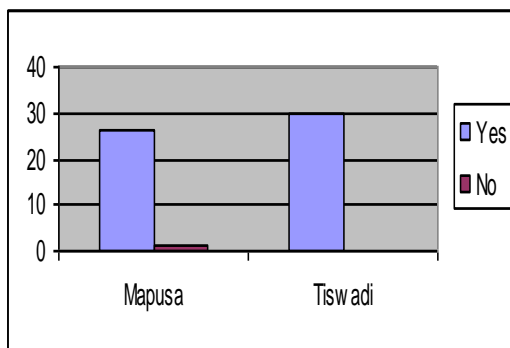
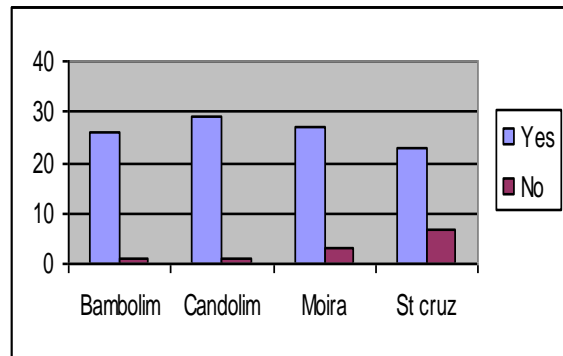


Figure 5.22 Information will be beneficial to citizens -Villages



Here the respondents in all the areas stated that the information will be beneficial to them. However some respondents in the villages had reservations on the same.

Figure 5. 23 Should Public authorities furnish information voluntarily -Cities.

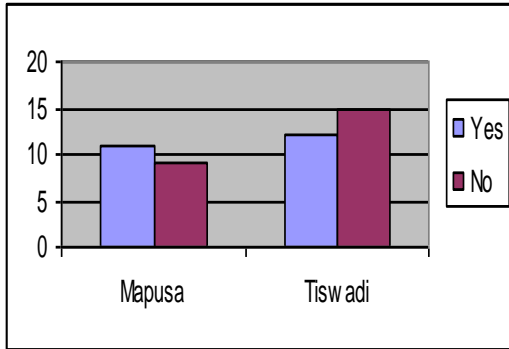
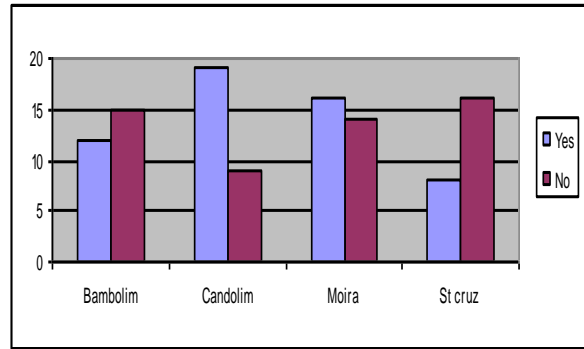


Figure 5.24 Should Public authorities furnish information voluntarily -Villages



Here we find that most of the responses are on the positive side for furnishing information voluntarily by the Public authorities, and the villages of Candolim & Moira are slightly more in favor than the villages of Tiswadi block.

Figure 5. 25 If official websites are visited by citizens. -Cities.

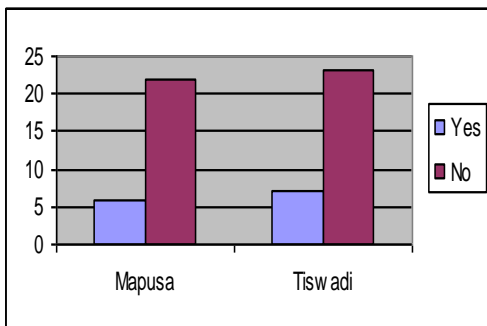
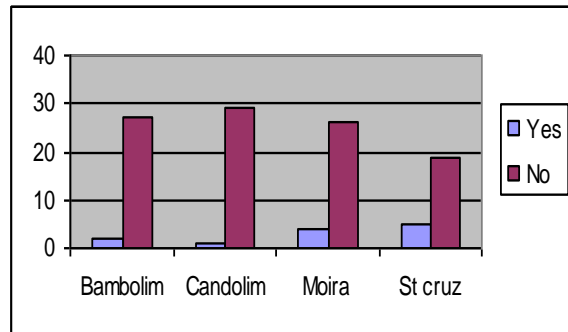


Figure 5.26 If official websites are visited by citizens -Villages



The responses are on the lower side as far as visiting the websites are concerned, it is slightly better in the cities over the villages; this is quite obvious due to the accessibility of internet facilities lower in villages.

Figure 5. 27. If development will be people oriented-Cities.

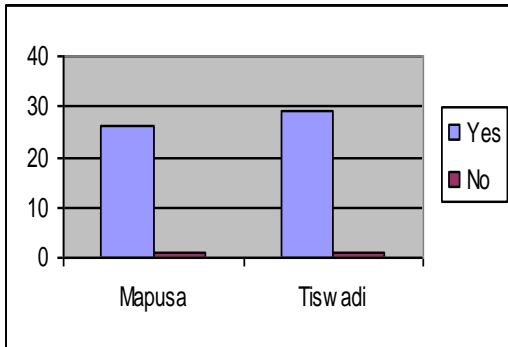
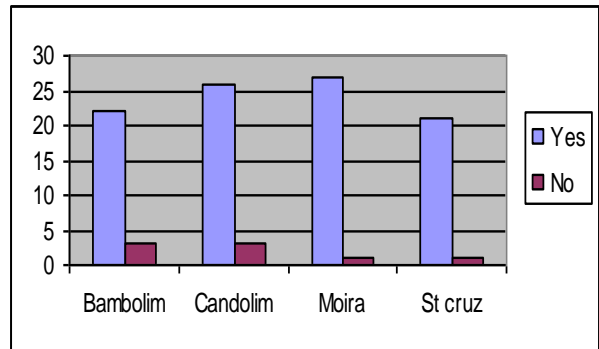


Figure 5.28 If development will be people oriented -Villages



Here too the citizens' state development will be people oriented.

Figure 5. 29. If people are happy with the functioning of public authorities - Cities.

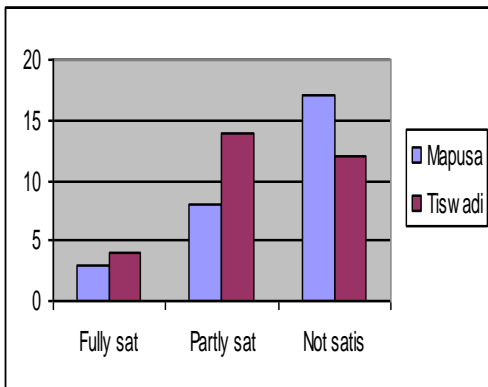
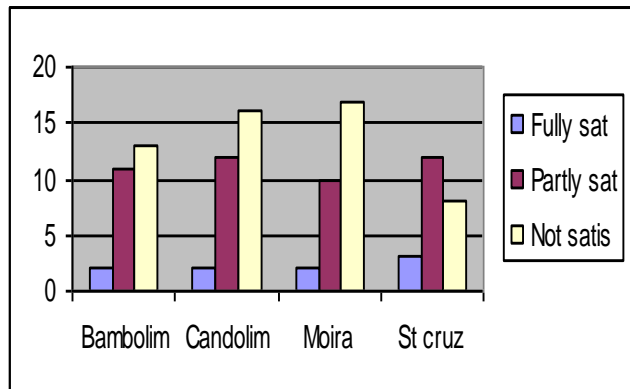


Figure 5.30 If people are happy with the functioning of public authorities -Villages



Here the responses are mostly in the negative for the cities as well as the villages. The responses show that the citizens are not fully satisfied with the public offices in Goa. Both the cities are not very happy, similarly the villages of Candolim and Moira are high on the negative responses. There are several problems which are coming up particularly in the cities as well in the coastal areas such as Candolim. The problems include related to garbage, water supply, illegal constructions, traffic congestions, etc. There are areas which require serious attention which the concerned authorities need to pay.

Figure 5.31. If people are happy with the penalty provisions -Cities.

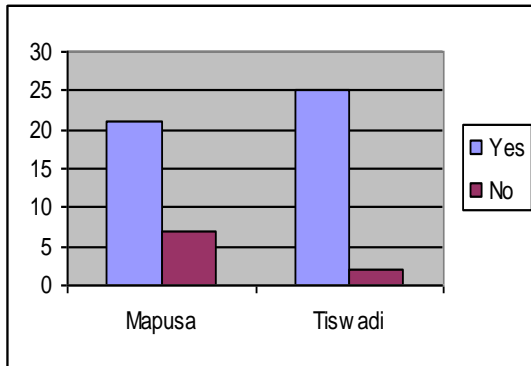
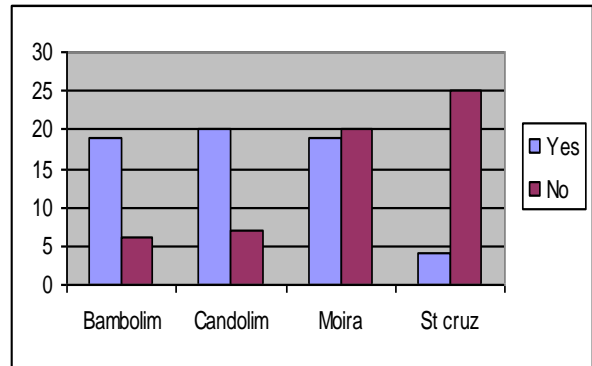


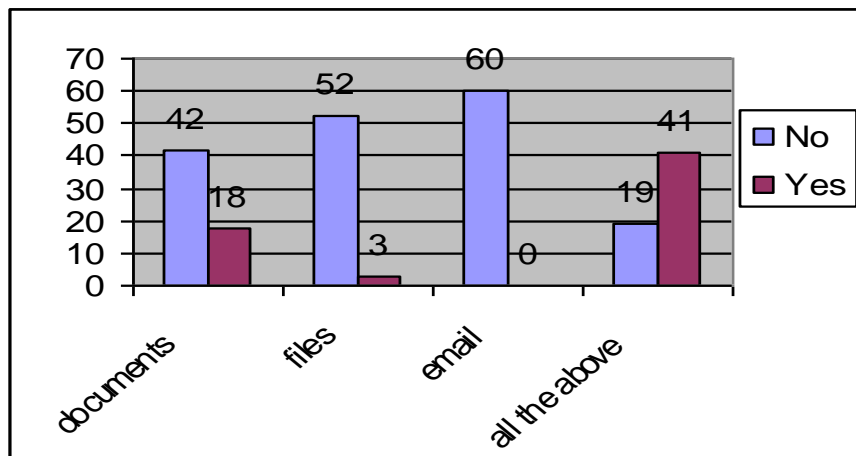
Figure 5.32 If people are happy with with the penalty provisions -Villages



The respondents in both the cities are happy over the penalty provisions as well the villages of Bambolim and Candolim, however the villages of St Cruz and Moira feel that awarding penalty will not make a big difference to the system.

Analysis of Awareness of PIOs on RTI Act.

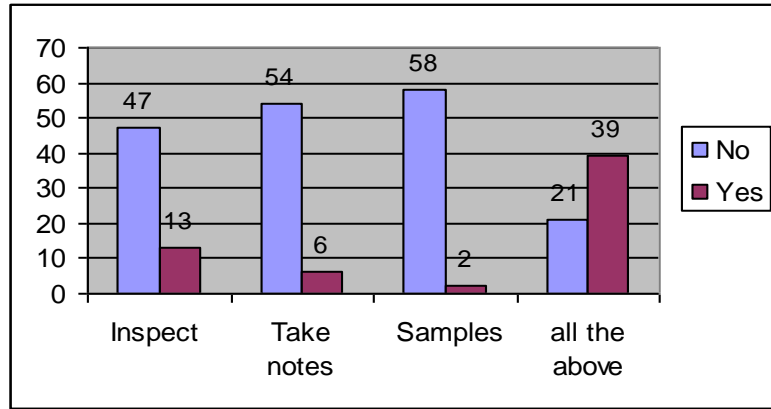
Figure 5.33 Definition of record.



It seems quite interesting that PIOs state that only documents and files (by some) can be furnished they say that all the three can be given. It is interesting to note that PIOs state that emails can't be furnished. Overall the awareness on this question is poor which

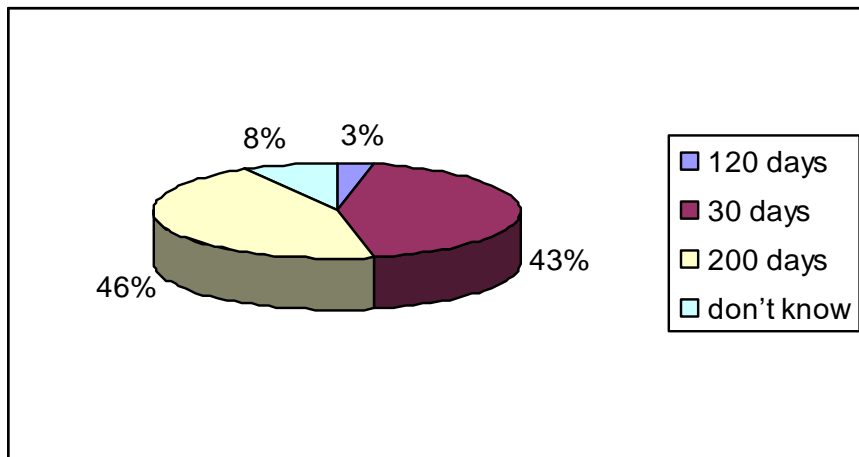
shows that there are doubts in the minds of the PIOs whether information should be furnished or not on these aspects if queries on the above come to the PIO.

Figure 5. 34 Awareness on Right to information



Here too the PIOs are negative on their awareness about the rights of citizens to inspection of documents, taking notes, giving samples. As I have mentioned earlier the colonial legacy of keeping information secret, the attitude doesn't seem to have changed or rather it is difficult for them to accept that information in the manner above can be furnished.

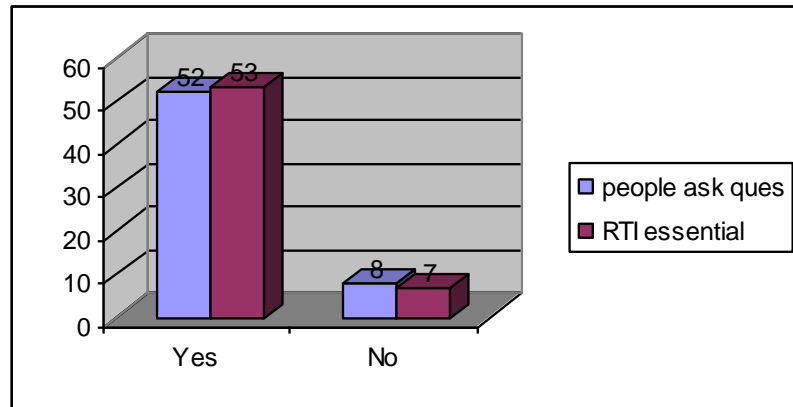
Figure 5. 34 Time limit to catalogue information.



The responses show that the PIOs are not aware that information had to be compiled within 120 days since the RTI act was brought into force (rather they know but do not want to do). It's almost more than two years that the RTI law is implemented but

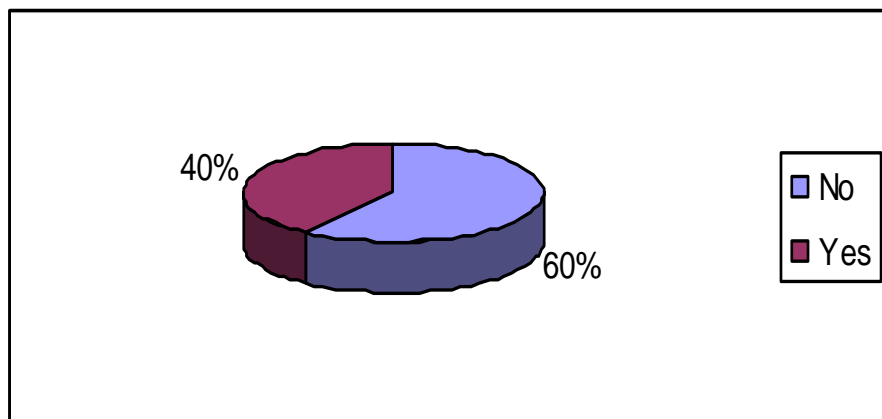
the crucial part of the act that is the compilation of data has not yet done in letter and spirit and this is a major problem faced by the PIOs and the public authorities in furnishing information to citizens. Infact most of the public authorities have not compiled information on the vital points under Section 4, due to which more number of applications are put using RTI.

Figure 5. 35 Should people ask information.



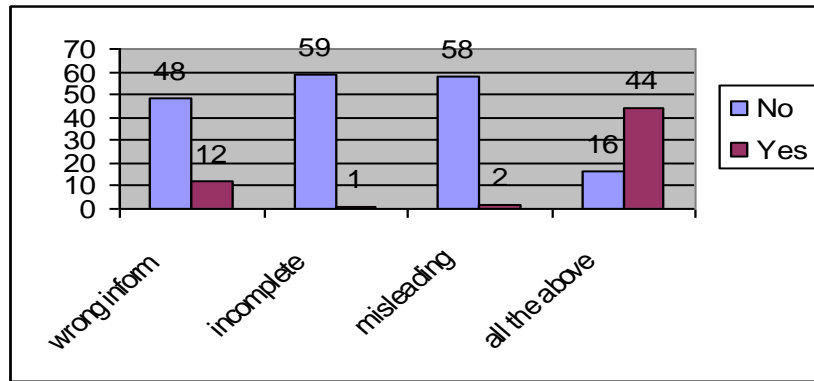
Most of the respondents want the people to ask information. They also say that RTI act was very essential to be passed in India.

Figure 5. 36 Should citizens state reasons for asking information.



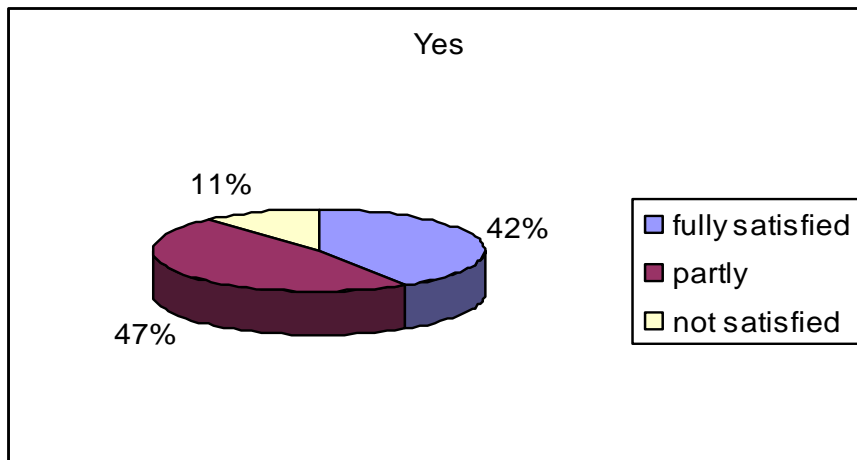
Most of the respondents state that there is no reason to furnish reasons while asking information but there are 40% of the respondents who say the citizen should mention reasons when making a request.

Figure 5. 37 Reasons for penalizing PIOs.



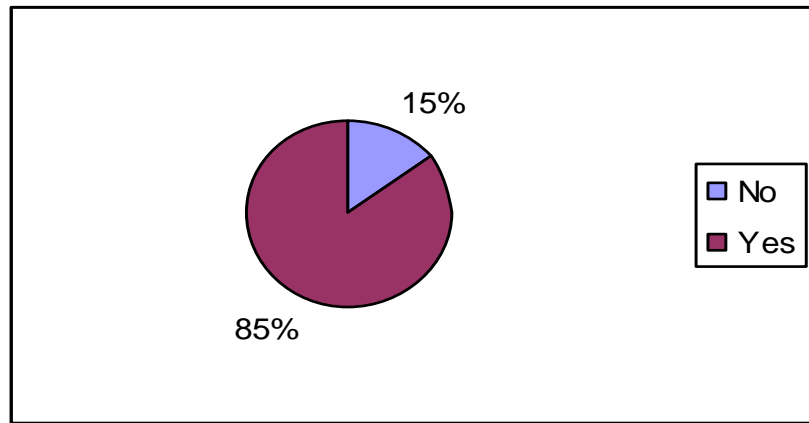
Most of the respondents state that they cant be penalized for incomplete or misleading information. This shows that the PIOs need to thoroughly acquaint themselves with the penalty provisions so as to know what calls for punishment under RTI.

Figure 5. 38 Role of SIC



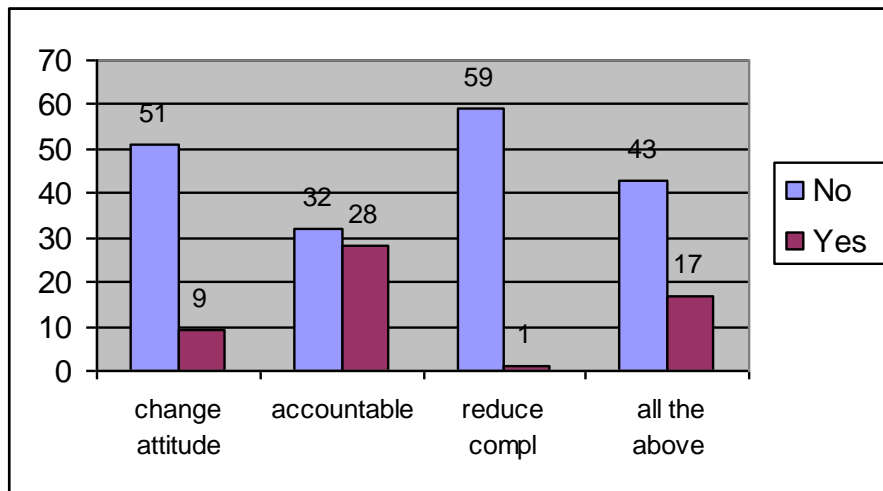
Most of the respondents are satisfied with the performance of the SIC, very few are not satisfied with the role of SIC in implementing the Act.

Figure 5. 39 Will voluntary disclosure benefit citizens?



Most of the respondents state that voluntary disclosure will be beneficial to the citizens.

Figure 5. 40 In what way will SIC judgements help?



Some of the respondents feel that the judgements passed by SIC will bring accountability, however most of them state that complaints will not be reduced, and similarly there will not change attitude of officers.

Table 5.6 Steps taken by public authorities information friendly – notice boards.

		Notice boards			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	30	50.0	50.0	50.0
	Yes	30	50.0	50.0	100.0
	Total	60	100.0	100.0	

Nearly 50% of the respondents said they have notice boards to display information whereas the others do not make much use of notice boards.

Table 5.7 Steps taken by public authorities' information friendly- websites

		Websites			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	45	75.0	75.0	75.0
	Yes	15	25.0	25.0	100.0
	Total	60	100.0	100.0	

Around 75% of the respondents said information was not furnished through websites, but there are few departments which put information on the websites.

Table 5.8 Steps taken by public authorities information friendly- citizens charter

		Citizen's charter			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	47	78.3	78.3	78.3
	Yes	13	21.7	21.7	100.0
	Total	60	100.0	100.0	

It's very disappointing to note that most of the respondents say citizen charters are not most important source of dissemination of information.

Table 5.9 Steps taken by public authorities information friendly- pamphlets

Pamphlets					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	52	86.7	86.7	86.7
	Yes	8	13.3	13.3	100.0
	Total	60	100.0	100.0	

It was stated by very few respondents that pamphlets and handouts are being used for dissemination of information.

Table 5.10 Steps taken by public authorities information friendly- all the above

All the above					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	44	73.3	73.3	73.3
	Yes	16	26.7	26.7	100.0
	Total	60	100.0	100.0	

Very few respondents informed that all the means of dissemination of information was followed to make known the information they have in their departments.

Analysis of Citizens

The entire findings can be seen to highlight certain pertinent issues which need a mention. The citizens say it is essential for them to have this right due to the following: They say that RTI Act will help to create awareness among them on the functioning of the public bodies. The citizens also feel, due to this law lot of information will be available to their benefit.

The citizens consider it their right to get information and demand information, besides public funds are involved therefore there is every reason to know how money is spent.

The RTI law provide an opportunity to the citizens to understand better if the work done by government authorities is in accordance with the existing rules and procedures established which government departments need to abide to. Availability of information will facilitate inquiry into the works done if the citizens so desire as well as bring transparency in administration.

Some of the citizens had asked for information from certain departments such as Municipalities, Village Panchayats, Department of Civil Supplies, Zilla Panchayats, Block Development Offices, Mamlatdar (revenue) office, Directorate of Health Services. These are departments where there is interface between the public and the officers, they are the ones which the citizens have maximum interaction.

The citizens are of the view that information is a tool which will help them solve problems; it will also help them to proceed with their work effectively. They feel that availability of information will help them in simple ways too such as to do further correspondence. There will also be some reliability on officers due to RTI. It will also give direction to citizens to get his work done as per rules and regulations and thereby make his work easier. Citizens say due to RTI they will understand how government decisions are made and how the citizens are affected. (Lack of this information creates doubts)

The citizens feel that voluntarily disclosure of information will help them by saving their time as well as there will be less chances of being mislead, misunderstood and things will move faster, besides illegal ways of getting work done will be discouraged.

The citizens want the public authorities to display the following information viz, information relating to services such as water supply, electricity, etc. Organizational details such as timings, staff members, designations, duties of the staff, HoD, salaries, functions of the public authority so that its easier to access people, and administration.

They also want Information on schemes implemented, besides and new schemes if any are implemented and if any changes are made to the present ones. The citizens feel that notices of important meetings and their decisions should be in the public domain even before they ask for the same. Citizens also want revenue department and legal departments to furnish information on cases received, disposed, no. of pending ones etc. (as the judicial matters are pending for years and therefore the hopes on RTI)

Citizens also stated that information on statistics, expenditure, income, tenders and use of government funds be made available to them.

The citizens think that development will be people oriented through this legislation because unnecessary pendency of projects will not take place which is otherwise done. Accountability will be ensured and corruption will reduce eventually since people will keep a check on officers through RTI. Secrecy will reduce at all levels and information will be available to people thereby fostering a culture of openness.

The citizens stated that they are happy over the penalty provisions imposed on officers because they believe penalty provision is one of the instrument to enforce accountability and transparency in government otherwise officers will not take requests seriously. This will not allow officers to neglect their duties and responsibilities under the RTI act as well as in the capacity public servants. Application of penalty will also enhance performance as this will also act as a deterrent to committing fallacies by officers. Due to this provision the requests for information will be handled on time and correct information will be furnished.

The responses given by PIOs also show that many of the departments have made arrangements for citizens to submit their requests in the absence of the PIOs, most of the officers were aware of certain provisions such as the duties of PIOs, penalty provision, but what is lacking is the detailed knowledge on Act.

The PIOs want people to ask information because they feel by doing so the people will help in improving the working of organizations, and this will also help to

upgrade information timely. When people put questions, this will encourage public participation, and bring in transparency.

Regarding the issue of whether the RTI act was essential in India, the PIOs stated that this was required because people should have the right to know about the public offices, they should also be aware if there is misuse of powers by officers. They also said RTI was a requisite for accountability in Government.

The PIOs stated that this Act at present disturbs the routine functions of officers due to the several queries put by citizens which PIOs and officers have to answer. Some said this is a one sided act since it is not binding on the citizens but only officers. They also said that due to transparency brought in by RTI, allegations on officers or public authorities will reduce.

Some of the PIOs stated that there should be enhanced fees prescribed for making requests. They also said there should be penalty provisions for citizens too for not collecting information or misusing the Act. There should be restrictions put on the number of questions asked in a single application, besides citizens should furnish reasons as to why information is sought. There should be training programmes for PIOs.

Chapter - VI

Observations and Conclusion.

Though the Right to Information Act 2005 is passed with great hopes and optimism, there are pertinent questions which require serious thinking. The implementation of the Act is a huge challenge to the government since it covers all the three organs of government as well as all levels of offices in the country.

The role played by the Central Information Commission and the State Information Commissions have kept the hopes alive of the citizens that this legislation is come to stay and above all it's a citizen friendly law. This was further engraved with the implementation of penalty provisions were laid down by the respective Information Commissions (KD Bansar was the first officer to be penalized an amount of Rs 12, 500/- by the CIC, PIO of Bicholim Municipal Council was fined for the first time by SIC Goa of Rs 2,500/-)

From the above study several observations are made in the context of the functioning of RTI in Goa.

1. The soul of RTI act is section 4 and its subsections, which the public authorities have to adhere to, this is unfortunately one area which is neglected till date even after 2 yrs of the passage of RTI. This important section is extremely important which has to be complied with by all public authorities. This is one aspect which is lacking due to which several queries are being put across to all public authorities. Section 4 contains 17 points of important which has to be voluntarily disclosed by all public authority to make known things to the public about the working of public bodies. In Goa the public authorities need to pay heed to this. (Annexure IV). SIC has played a major role in making the dept of information &

publicity come out with all the details of Public authorities, their PIOs, APIOs & FAAs.

2. All the officials of public authorities need to be thoroughly trained on provisions relating to RTI.
3. Another major problem is the public authorities need to be trained in indexing and cataloguing of records. This is no doubt this is an enormous exercise but its essential for furnishing information to citizens without any hassles.
4. Regular updating of information is also a requisite under Section 4 of RTI, which the public authorities should be compelled to undertake. In Goa some of the websites have information which is not updated.
5. The SIC is under-staffed as well lack of proper infrastructure is a handicap to effective functioning of such important body. There is no proper facility for the appellants to attend to cases comfortably.
6. It is observed that the decisions passed by the FAA and also the SIC are not complied to by public authorities, this trend if allowed then it will defeat the purpose of setting up these arrangements under RTI.
7. The Official Secrets Act 1923 is a draconian piece of legislation which needs to be repealed if RTI is considered to be citizen's legislation.
8. The CICs and SICs are viewed by citizens as grievance redressal forums which is not a welcome move. This trend has to change.
9. The RTI act has to be translated in local languages in Goa, to enable the act to go the rural masses in Goa.
10. There are number of penalty cases stayed by the High Court. There are some cases which are stayed by High Courts, this should not be a practice.
11. There are some grey areas in the RTI act 2005 which require attention, these are the question of exemption of fees for BPL citizens. The provision is not very clear as to whether application fees are exempt or cost of furnishing fees are exempt. Due to lack of clear provision it has to be presumed as exemption of fees in both cases. This also creates a problem of providing at times voluminous information at the cost of the department.

12. The First Appeal which is within the department is rather a unwelcome provision, there are tendencies of the FAA to side or take up for the PIO, when deciding appeals. Mostly the decisions of the PIO are held by the FAA and when the matter has gone in appeal the reverse decision is given.
13. Some of the PIOs are not co operative; rather they have an adverse attitude to wards furnishing information.
14. PIOs at times go beyond the RTI act to call for personal hearing before furnishing information; sometimes adequate procedures are not followed in disposing requests due to negligence and lack of proper understanding the provisions of RTI law.
15. The role of the government in making RTI awareness and publicity to the larger masses in Goa requires attention.
16. Attitude change is one of the prerequisite to making the implementation of RTI more effective than what it is now. The traditional feature of keeping information secret is something officers don't want to depart; moreover they fail to understand the benefits of providing information both for the citizens as well as to the officers. The main fear they have towards implementing RTI is that the people are going to harass them through RTI legislation.
17. Intensive training to all ranks of officials is a must for smoothening the implementation of the Act.
18. The twenty yrs old information provision may not be always helpful as most public authorities weed out documents after a certain period of time.
19. Extensive use of information technology should be incorporated to enhance the compiling of data and systematizing of information for the easy flow of information as followed by several states in India.
20. The operational jurisdiction of the CIC and SIC needs a rethinking under the Act. No State Information Commissions are obliged to follow CIC decisions; the CIC orders have no binding on any of the SICs. The ICs are independent of each other in their functioning.
21. There should be provision to bring the First Appellate authority under the penalty clause.

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