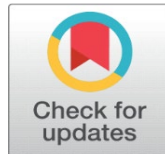
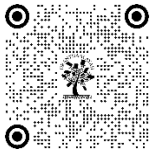


THE RIGHT TO INFORMATION IN ODISHA, INDIA: AN ANALYSIS OF IMPLEMENTATION, IMPACT, AND CHALLENGES

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ABSTRACT

This research paper analyses the implementation and impact of the Right to Information (RTI) Act, 2005, in Odisha, India. The RTI Act, a fundamental right under Article 19(1)(a) of the Indian Constitution, seeks to promote transparency, accountability, and good governance by empowering citizens to access information held by public authorities. The study employs a mixed-methods approach, analysing responses from Public Information Officers (PIOs), First Appellate Authorities, and RTI applicants through surveys and interviews. It explores the historical and constitutional foundations of the RTI Act, highlighting its role in upholding democratic principles. Findings reveal the RTI Act's crucial role in curbing corruption, improving service delivery, and empowering citizens. However, implementation challenges persist, including delays, denials, and lack of awareness. The research provides a comparative analysis of RTI implementation across government departments in Odisha, uncovering variations in compliance, response time, and information quality. Additionally, the study examines the role of appellate authorities in safeguarding the RTI Act's principles and ensuring timely redressal. It analyses the impact of judicial pronouncements on strengthening implementation and protecting the constitutional right to information. Based on the research findings, recommendations are offered to enhance the RTI Act's effectiveness. These include capacity building for PIOs, streamlined processes, proactive disclosure, and widespread awareness campaigns. The study also emphasizes the need for continuous monitoring and evaluation to ensure the Act's effective implementation and uphold the constitutional guarantee of the right to information. This research contributes to the existing body of knowledge by providing a comprehensive assessment of the RTI Act's implementation and impact in Odisha, while emphasizing its constitutional significance. The insights and recommendations presented can inform policymakers, practitioners, and civil society organizations working towards strengthening transparency, accountability, and good governance in India.

Keywords: Right to Information (RTI) Act, Good governance, Judicial pronouncements, Constitutional right, Fundamental rights.

1. INTRODUCTION

The Right to Information (RTI) Act, 2005 is one of the most sought for laws in Indian democracy that lets the citizen to seek information from the public authorities. This research paper therefore evaluates the RTI Act in the context of Odisha, India through its effectiveness in the discharge of its objectives of increasing transparency, accountability and good governance. This study therefore adopted a survey and interview method with the actors involved comprising of PIOs, FAAs and RTI applicants. This paper looks at the establishment of the RTI Act, drawing a historical and constitutional background of the RTI Act, arguing that it is a constitutional right under Article 19 (1) (a) of the Indian Constitution. This study aims to assess the effectiveness of the RTI Act in combating corruption, enhancing delivery of services and enlarge the citizenry's power. It also works on issues arising from implementation including delay, denial or lack of understanding. A cross-sectional study is performed to examine the differences in the level of RTI compliance, response

timeframe, and information quality as perceived by the government department of Odisha across various departments. The following paper seeks to explore ways through which the apex courts can protect the RTI Act principles and facilitate timely remedy. It examines the effectiveness of judicial activism in enhancing implementation and the constitutional guarantee to information. From the conclusion and facts, proposals are given to improve the RTI Act which has involved training, reducing bureaucratic procedures, voluntary disclosure and popularizing. The present study helps to fill this knowledge gap by offering a detailed evaluation of the status and effectiveness of the RTI Act implementation in Odisha and stressing the Act's constitutional relevance. It is vision and actionable wisdom can be useful to the policy makers, development practitioners and the civil groups striving towards building more accountable and transparent India.

1.1. CONCEPT AND ORIGIN OF RIGHT TO INFORMATION

Access to public records is an essential requirement for a modern government, especially in a democracy. The democracy expects openness and openness is a concomitant of free society. The "openness is possible only when the 'right to know' is exercisable by the people. In a democratic set up the people are sovereign, they have right to know what their representatives are doing. Hence, information is indispensable for the transparency and accountable functioning of a true democratic government. It provides an important guard against abuses, mismanagement, corruption and corrupt practices. It is also beneficial to the governments as openness and transparency in the decision-making process assist in developing citizen's trust in governmental actions and maintaining a civil and democratic society." **Goel. (2007)**

More than 177 years ago, James Madison, the fourth President of the US said: "A popular government without popular information or the means of acquiring it is but a prologue to a farce or a tragedy, or perhaps both. Knowledge will forever govern ignorance; And a people who mean to be their own governors, must arm themselves with the power which knowledge gives." **Matthews. (2005)** Martin says that "one must distinguish between four different though related notions: freedom of speech, freedom of the press, freedom of expression and freedom of information. It is essential to keep the four separate, even though they are often used interchangeably. Although they related to similar things, they are not identical." **King Jr. (1963)**

The terms 'right to information' and 'freedom of information' are often used interchangeably and have been regarded as a fundamental human right. In very first session in 1946 the UN General Assembly adopted Resolution 59 (1) stating, "Freedom of information is a fundamental human right and.... the touch-stone of all the freedoms to which the United Nations is consecrated. Therefore, governments around the world are increasingly making available more information about their activities. Over fifty Countries around the World have now adopted comprehensive Freedom of Information Acts or Right to Information Acts to facilitate access to records held by governmental bodies." **Mendel. (2003)** Various factors such as international pressure, modernization, corruption and scandals, recognition of Right to Information as a human right etc. have been responsible for this wave.

1.1.1. MEANING & JURISTIC DIMENSION OF WORD 'RIGHT TO INFORMATION'

Etymologically, the term information is derived from "the Latin words 'Formation' and 'Forma' which means giving shape to something and forming a pattern, respectively. Being a matter related to speech and expression, 'information' is known as something which removes vagueness in ideas with added awareness" **Bauer.(1983)**. Rodney D Ryder defined, "right to information as access to information". According to him, "Access to information may be defined as the ability of the citizen to obtain information in the possession of the state." He Says, "some states provide for access in their Constitution and Laws, many do not. Even where access is recognized, it is invariably subject to limitations. Access to information is often called, and rightly so, as the 'oxygen for a democratic society'".

According to Sarbjit Sharma and Krishan Gopal, "right to information is a tool for social welfare. They point out that this right is a potent tool for countering many of the social evils and for protecting fundamental rights of the people. The right to information is also necessary for protecting civil liberties, for example by making it easier for civil society groups to monitor wrongdoing such as encounter killing or the abuse of preventive detention legislation." The Right to Information Act, 2005 defines "Information" as 'Information' means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports papers, samples, models and data material held in any electronic form. It also includes information relating to any private body which can be accessed by a public authority under any other law for time being in force." **Acharya.(2022)**

1.1.2. ROLE OF RTI IN PROMOTION OF GOOD GOVERNANCE

“Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing.” -Justice P N Bhagwati Right to Information (RTI) is an index to measure the growth and development of a country. In India, till 2005, the citizens had no access to any information which was dealt by a Public Authority. Matters effecting public interest was not easy for a common man to get accessibility. Thus, without getting relevant information it was difficult for a citizen to participate in any social, political or economical debate concerning the issues or interest of the country. Some of the important features that makes the act quite crucial for a democracy are as follows:

1. Features that strengthened democracy: Below features strengthened democracy through active participation of citizens:
 - Every citizen has right to claim information from public authorities under the act.
 - Public authorities have an obligation to provide the sought information to the applicants with certain restrictions related to national security, personal information and third party information.
 - Fee has been prescribed for seeking information to check fraudulent applications. However, persons below poverty line have been exempted from payment of fees.
2. Features leading to transparency:
 - A large amount of information has to be placed in the public domain by ways of manuals prescribed under the Act.
 - All the Government departments along with a number of bodies which receive substantial funding from the Government have been brought under the RTI.
3. Features leading to accountability:
 - RTI Act provide for setting up of Central Information Commission and State Information Commission. These Commissions act as the Second Appellate Authority and also exercise supervision and monitoring over the functioning of Public Information Officers.
 - Public authorities have to provide information as early as possible as but not later than 30 days (not later than 48 hours in the matters pertaining to life and liberty of an individual).
 - In case of delay, the Central Information Commission or the State Information Commission can impose a penalty. The Commission can also recommend disciplinary proceedings against the officials guilty of the not providing information with mala-fide intention.
 - In case of denial or not providing proper information an appellate structure has also been provided. First appeal lies with the First Appellate Authority nominated by the Department while the second appeal lies with the Central Information Commission or State Information Commission.

Democracy requires “accountability, and transparency is a pre-require for such accountability . Good governance requires that “transparency be promoted through devolution of information, having an accountability mechanism for the public functionaries. The process of consultation with the participation of citizens in decision making would gradually become more pronounced in order to ensure more accountability.” [Jain.\(2012\)](#) At the same time good citizenry would also need to be emphasized for all round development of the society. Besides enjoying their rights, the citizens would need to behave responsibly and perform their duties towards the state. Clearly defined ethical standards would also have to be instilled in the contemporary society. In order to achieve all this, innovative use of information technology would be critical. Democracy, liberty and the rule of law together represent the troika that is universally accepted now as the index of a civil society. The protection of individual liberties follows the notion of democracy as a natural corollary. Three important features of democratic governance are:

- (i) “it functions in the interest of the people and not of a class or section of the people”.
- (ii) “it is susceptible to public opinion and respects civil and political liberties”.
- (iii) “it is subordinate to the control of ministers responsible to the legislature”.

Good governance implies, “utmost concern for people's welfare wherein the government and its bureaucracy follow policies and discharge their duties with a deep sense of commitment; respecting the rule of law in a manner which is transparent, ensuring human rights and dignity, probity and public accountability.” [Kulkarni.\(2008\)](#) Governance is not the exclusive preserve of the government. It extends to the other non- political branches such as civil society and the private sector which are performing public functions. Essentially, “it encompasses every institution, organization, from family to the state. It has many forms - visible as well as invisible, formal as well as informal, 'state centric' as well as

'citizen centric' and centralized as well as decentralized. World Bank defines governance as the manner in which power is exercised in the management of a country's economic and social resources." [Sharma.\(2017\)](#) Good governance entails effective participation in public policy-making, the prevalence of the rule of law and an independent judiciary, besides a system of institutional checks and balances through horizontal and vertical separation of powers, and effective oversight agencies.

Good governance is "fundamentally the combination of transparent and accountable institutions, strong and competence, and a fundamental willingness to do the right thing. These are the things that enable a government to deliver services to its people efficiently .Good governance thus depends on interaction between stakeholders – leaders, political parties, bureaucracy, parliament, judiciary, private sector, civil society, media – and their interests; on capacity – human, technical, financial – of stakeholders to perform their role; and on incentives & accountability – rules & norms that provide incentives, rewards & sanctions to act in the public interest. [Chase. \(2013\)](#)

Transparency, accountability, informed citizenry and reduction in corruption being the critical elements of good governance, the Act looks forward to realization of greater good for the larger spectrum of citizens. "Right of access to information encompasses right to participation, accountability and transparency and realization of the right holds the promise of promoting and strengthening citizen led initiative for good governance. Access to information holds centrality in realization of good governance helping mounting of citizen led demand for transparency, accountability, predictability, responsiveness and participation" [Roberts.\(2010\)](#). In other words, it enhances the quality of citizen participation in governance from mere vote-casting to involvement in the decision-making that affects his/her life. The result of good governance is development that "gives priority to the poor, advances the cause of women, sustains the environment, and creates needed opportunities for employment and other livelihoods"

1.2. ANALYSIS OF PERFORMANCE OF ODISHA STATE INFORMATION COMMISSION

Subject to the restrictions that are contained in Section 20(1) of the RTI Act, 2005 (Act for short), a financial penalty is imposed on the Public Information Officers (PIOs for short) who have made an error, as well as the officers of the Public Authority who are treated as PIOs under Section 5(5) of the Act. In accordance with Rule 9 of the Orissa Right to Information Rules, 2005 (Rules for short), public information officers (PIOs) have the ability to deposit the penalty amount within thirty days using Treasury Challan under the heading "0070-Other Administrative Services-60-other Services-118-Receipt Under Right to Information Act, 2005-0014-Collection of Fees and Fines-02178-Fees and Fines under Right to Information Act, 2005." If they fail to do so, the amount will be recoupable from the salary of the officer in question. Under Section 5 of the Act, the Head of the Public Authority is the one who is responsible for recovering the cash penalty that has been imposed. This is because the Public Information Officers have been chosen by the Head of the Public Authority. According to Rule 13 of the Orissa Right to Information Rules, 2005, any penalty or damage or any other sum payable under the Act can be realised from such a person as arrears of land revenue if it is not paid within thirty days of the date of receipt of the order for realisation of the same or if it cannot be recovered. This is the case where the order for realisation of the same is received. Since 2006, the State Information Commission has enforced a total of 1729 penalties. Most penalties, about 30%, are in the range of 5000 to 10000 rupees. Penalties that are less than 500 rupees and between 1000 and 5000 rupees make up a smaller percentage, with 5% and 10% respectively. The percentage of penalties gradually rises for amounts ranging from 10000 to 25000 rupees, peaking at 20% for penalties between 20000 and 25000 rupees. Based on the statistics, it is evident that the commission prioritizes addressing severe violations by imposing higher penalty fines, although penalties are imposed across a range of amounts.

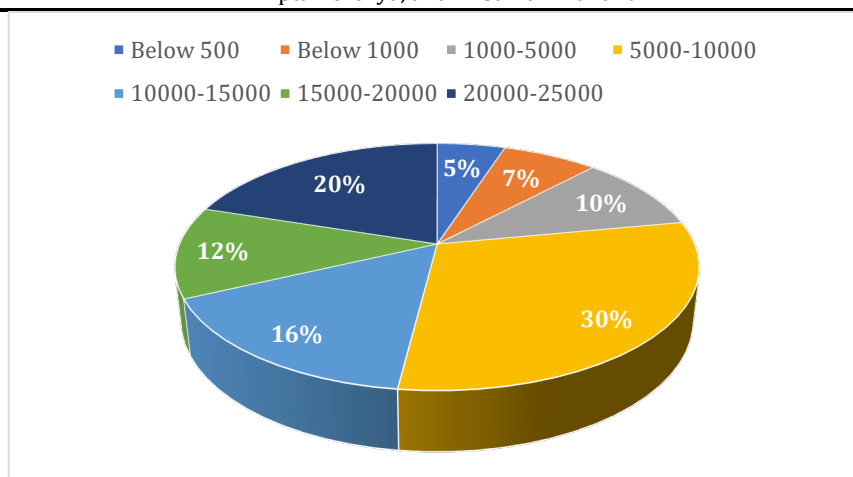


Figure 1. Status of Penalty Imposed by State Information Commission (2006-2023)

1.2.1. STATUS OF COMPENSATION AWARDED BY THE COMMISSION

Based on the information presented, it is evident that a significant portion of the compensations granted are in the range of 1000-5000. It appears that the Odisha State Information Commission generally grants smaller compensation amounts in the majority of cases. It is worth mentioning that there have been instances where the commission has granted considerably larger sums of compensation, reaching up to Rs. 1,00,000. These increased awards indicate that the commission is prepared to adopt a firm position against significant infringements of the right to information. It is worth mentioning that the analysis reveals a consistent rise in the amount of compensation given out over the years. There are several possible reasons for this, including a rise in the number of cases brought to the commission, a more proactive approach by the commission in granting compensation, or an escalation in the severity of the cases being considered.

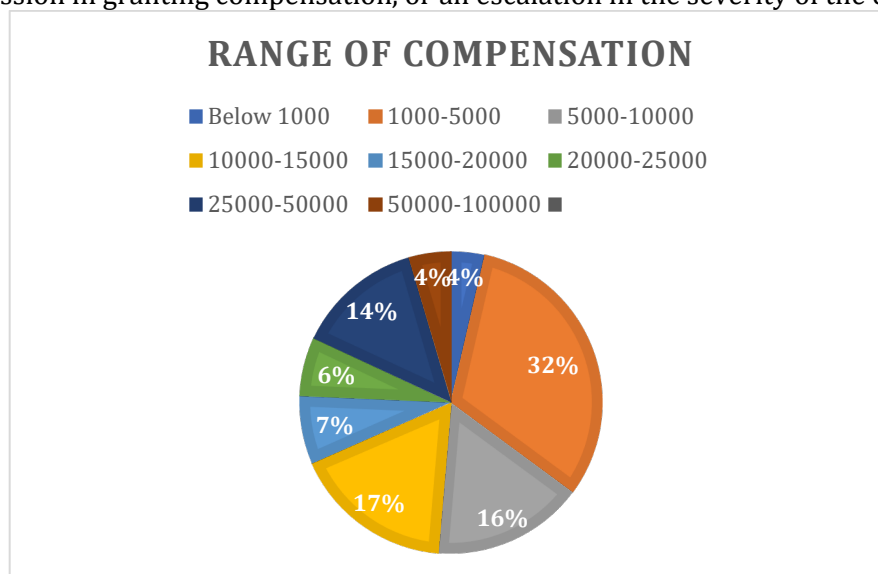


Figure 2. Range of Compensation

1.3. ANALYSIS OF RESPONSES RECEIVED FROM PUBLIC INFORMATION OFFICERS & 1ST APPELLATE AUTHORITIES

This section conducts a comprehensive analysis of responses received from PIOs & 1st Appellate Authorities under the RTI Act within the state of Odisha. The analysis encapsulates a diverse array of dimensions, ranging from the volume of RTI applications received to the challenges encountered in RTI implementation, and the perspectives of PIOs & 1st Appellate Authorities on the efficacy of the RTI framework. Through a blend of quantitative and qualitative methodologies, this study endeavors to unravel the complexities of RTI administration, offering insights into its nuances, challenges, and potential avenues for reform.

1.3.1. RESEARCH METHODOLOGY

The research methodology employed in this study involves the distribution of a structured questionnaire to PIOs & 1st Appellate Authorities from 10 government departments in Odisha. The questionnaire consists of multiple-choice questions covering diverse aspects of RTI implementation, including departmental practices, challenges faced by PIOs & 1st Appellate Authorities training experiences, compliance with RTI provisions, and perspectives on RTI misuse. PIOs & 1st Appellate Authorities were requested to provide tick marks indicating their responses to each question, facilitating standardized data collection for subsequent analysis. Functioning of PIOs within the context of ten key departments of the Government of Odisha:

1. Law Department
2. Information and Public Relations Department
3. Home Department
4. Food Supplies & Consumer Welfare Department
5. Co-operation Department
6. Finance Department
7. Women & Child Development Department
8. Panchayati Raj Department
9. Health & Family Welfare Department
10. Revenue Department

1.3.2. ANALYSIS OF PUBLIC INFORMATION OFFICERS' BACKGROUNDS IN THE GOVERNMENT OF ODISHA

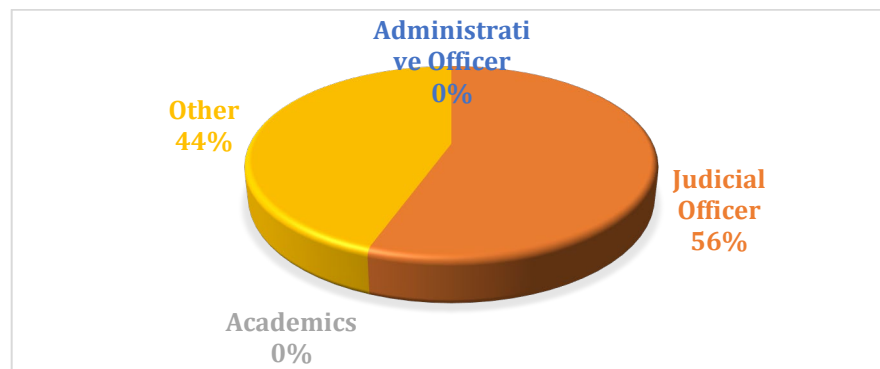


Figure 3. Backgrounds of PIO's

1.3.2.1. OBSERVATIONS

i. DOMINANCE OF ADMINISTRATIVE OFFICERS

Administrative officers constitute the majority of PIOs across all departments under study, comprising 56% of the total. This dominance underscores the government's reliance on administrative expertise for managing public information and relations. Administrative officers bring firsthand experience in navigating bureaucratic processes, understanding government procedures, and coordinating interdepartmental communications, thereby contributing to the efficiency of information dissemination and resolution of public inquiries.

ii. DIVERSITY IN "OTHER" BACKGROUNDS

Despite the prevalence of administrative officers, 44% of PIOs come from "other" backgrounds, reflecting a degree of diversity in expertise within departmental communications. While the specific nature of these backgrounds varies, they likely encompass a range of skills and perspectives that complement administrative functions. This diversity presents opportunities for integrating specialized knowledge and enhancing departmental capacity for strategic communication, policy analysis, and legal compliance.

III. ABSENCE OF ACADEMIC AND JUDICIAL OFFICERS

Notably, no PIOs in the examined departments hail from academic or judicial officer backgrounds. This absence raises questions about the utilization of specialized knowledge in information dissemination and public relations within the government of Odisha. Academic backgrounds could offer insights from research or theoretical perspectives, while judicial officers might bring legal expertise to handle sensitive information or legal queries effectively. The exclusion of these backgrounds suggests a potential gap in leveraging diverse skill sets for enhancing governance and transparency.

IV. IMPLICATIONS FOR GOOD GOVERNANCE

The distribution of PIO backgrounds holds significant implications for good governance practices and RTI implementation in Odisha. While administrative officers are indispensable for day-to-day operations and communications, there exists an opportunity to enrich departmental capabilities by integrating individuals with diverse expertise. Balancing administrative efficiency with skill diversification could foster more robust and responsive public relations practices, thereby strengthening public trust, engagement, and accountability within the government machinery.

1.4. ANALYSIS OF RTI APPLICATIONS FILED

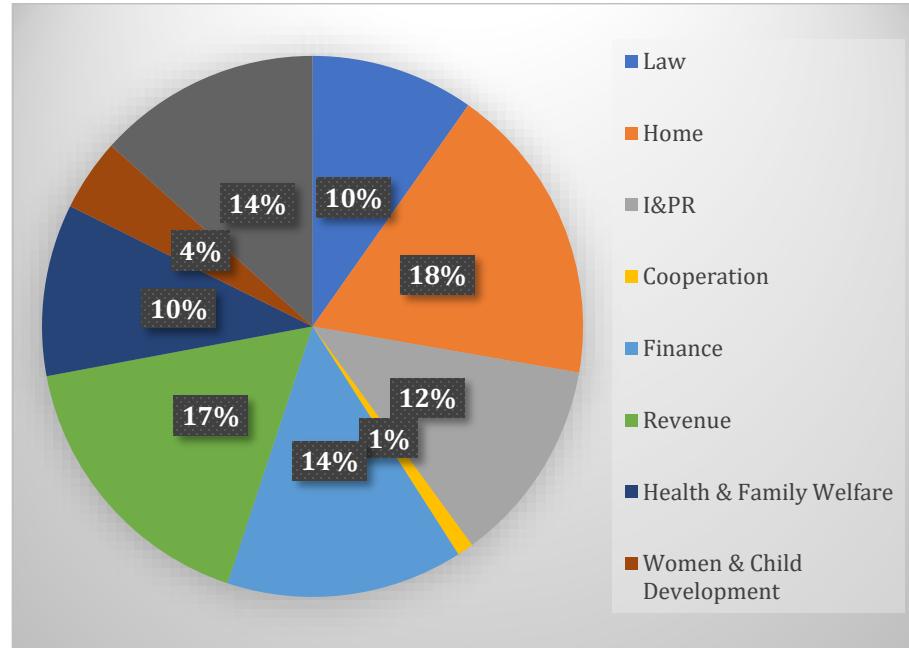


Figure 4. RTI Applications Filed Department Wise

1.4.1. LAW DEPARTMENT

Approx. Number of Applications: 781

Analysis: The Law Department, with 781 applications received, experiences a considerable volume of RTI requests, indicating public interest in legal matters and government policies. The department likely deals with inquiries related to legislative processes, legal opinions, and administrative law, among other topics. Efficient handling of these applications is crucial to ensure transparency and adherence to legal procedures within the government.

1.4.2. INFORMATION AND PUBLIC RELATIONS (I&PR) DEPARTMENT

Approx. Number of Applications: 978

Analysis: The I&PR Department receives 978 RTI applications, reflecting public interest in accessing information related to government communication, media releases, and public relations activities. These inquiries may cover a wide range of topics, including government initiatives, public events, and media interactions. Efficient processing of these applications is essential to uphold transparency in government communication and promote informed citizenry.

1.4.3. HOME DEPARTMENT

Approx. Number of Applications: 1437

Analysis: The Home Department receives the highest number of RTI applications, with 1437 requests indicating significant public interest in matters related to public safety, law enforcement, administration, and governance. These applications may cover diverse topics such as crime statistics, police operations, administrative policies, and disaster management. Efficient handling of these applications is crucial to ensure public trust and accountability in the administration of justice and maintenance of law and order.

1.4.4. FOOD SUPPLIES & CONSUMER WELFARE DEPARTMENT

Approx. Number of Applications: 1294

Analysis: The Food Supplies & Consumer Welfare Department receives 1294 RTI applications, highlighting public interest in issues related to food security, consumer rights, and welfare schemes. These applications may seek information on ration distribution, price controls, food safety regulations, and welfare program implementation.

Effective processing of these applications is vital to ensure transparency in food supply management and address public concerns regarding consumer welfare.

1.4.5. CO-OPERATION DEPARTMENT

Approx. Number of Applications: 78

Analysis: The Co-operation Department receives a comparatively lower number of RTI applications, with 78 requests indicating relatively lower public interest or awareness in cooperative initiatives. However, these applications may still cover important topics such as cooperative societies, agricultural cooperatives, and rural development programs. Efficient handling of these applications is necessary to promote transparency and accountability in cooperative governance and support rural development initiatives.

1.4.6. FINANCE DEPARTMENT

Approx. Number of Applications: 1132

Analysis: The Finance Department receives a substantial volume of RTI applications, with 1132 requests indicating public interest in financial matters, budget allocations, taxation policies, and government expenditure. These applications may seek information on budgetary allocations, financial audits, tax policies, and economic development initiatives. Effective processing of these applications is crucial to ensure transparency in financial management and foster public trust in government fiscal policies.

1.4.7. WOMEN & CHILD DEVELOPMENT (W&CD) DEPARTMENT

Approx. Number of Applications: 345

Analysis: The W&CD Department receives 345 RTI applications, indicating public interest in issues related to women empowerment, child welfare, and social protection programs. These applications may seek information on welfare schemes, child nutrition programs, women's rights initiatives, and childcare facilities. Efficient processing of these applications is essential to ensure transparency and accountability in the implementation of social welfare programs and support the rights of women and children.

1.4.8. PANCHAYATI RAJ DEPARTMENT

Approx. Number of Applications: 1068

Analysis: The Panchayati Raj Department receives a significant volume of RTI applications, with 1068 requests reflecting public interest in local governance, rural development, and decentralized decision-making processes. These applications may cover topics such as Panchayat elections, rural infrastructure development, local budget allocations, and community development programs. Effective handling of these applications is vital to promote transparency and citizen participation in grassroots democracy and strengthen rural governance structures.

1.4.9. HEALTH & FAMILY WELFARE DEPARTMENT

Approx. Number of Applications: 822

Analysis: The Health & Family Welfare Department receives 822 RTI applications, indicating public interest in healthcare services, public health policies, and family welfare programs. These applications may seek information on healthcare infrastructure, disease surveillance, vaccination programs, maternal and child health services, and healthcare expenditure. Efficient processing of these applications is necessary to ensure transparency in healthcare delivery and address public concerns regarding health policies and services.

1.4.10. REVENUE DEPARTMENT

Approx. Number of Applications: 1356

Analysis: The Revenue Department receives a substantial volume of RTI applications, with 1356 requests indicating public interest in matters related to land records, revenue administration, and taxation. These applications may seek information on land ownership, property taxes, land acquisition, land disputes, and revenue collection. Effective handling of these applications is crucial to ensure transparency in land administration and revenue management and address public concerns regarding land-related issues.

1.4.11. OBSERVATION

- The Home Department received the highest number of RTI applications (1437), indicating a significant demand for information related to public safety, administration, and governance.
- The Revenue Department followed closely with 1356 applications, reflecting the public interest in matters concerning land, revenue, and taxation.

- Departments such as Law, I&PR, Finance, and Food Supplies & Consumer Welfare also received a substantial number of applications, suggesting a diverse range of information sought by citizens.

Conversely, the Co-operation Department received the lowest number of applications (78), indicating comparatively lower public interest or awareness in cooperative initiatives.

In conclusion, the department-wise analysis of RTI application volumes provides valuable insights into the areas of public interest and workload distribution across government departments in Odisha. Understanding these trends is essential for resource allocation, capacity building, and improving the efficiency of RTI adjudication processes. Moving forward, departments must prioritize transparency, accountability, and citizen engagement to uphold the principles of good governance and promote informed decision-making.

1.5. ANALYSIS OF CHALLENGES FACED BY PIOs

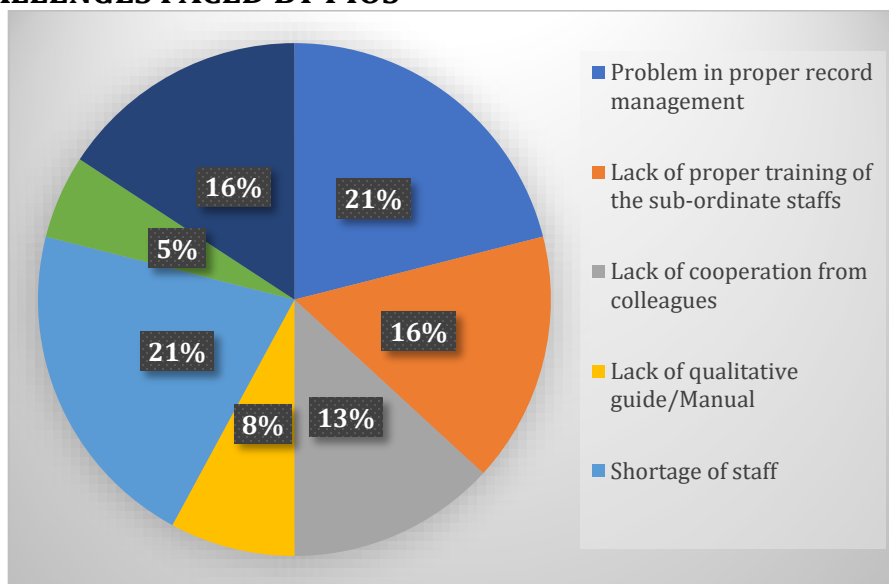


Figure 5. Different Challenges Faced by PIOs

1.5.1. LAW DEPARTMENT

PIOs in the Law Department encounter several administrative constraints, including problems in proper record management, lack of proper training for subordinate staff, lack of cooperation from colleagues, absence of a qualitative guide/manual, shortage of staff, and an overwhelming number of applications.

1.5.2. INFORMATION AND PUBLIC RELATIONS (I&PR) DEPARTMENT

While the I&PR Department faces challenges in proper record management, lack of proper training for subordinate staff, shortage of staff, and too many applications, it fares relatively better in terms of cooperation from colleagues and the availability of a qualitative guide/manual.

1.5.3. HOME DEPARTMENT

Administrative constraints in the Home Department include problems in proper record management, shortage of staff, and too many applications. However, there seems to be no issues regarding the lack of proper training for subordinate staff or cooperation from colleagues.

1.5.4. FOOD SUPPLIES & CONSUMER WELFARE DEPARTMENT

PIOs in the Food Supplies & Consumer Welfare Department struggle with issues related to lack of proper training for subordinate staff and an overwhelming number of applications. However, there are no significant concerns regarding record management, cooperation from colleagues, or shortage of staff.

1.5.5. CO-OPERATION DEPARTMENT

Administrative constraints in the Co-operation Department encompass problems in proper record management, lack of proper training for subordinate staff, lack of cooperation from colleagues, shortage of staff, and too many applications.

1.5.6. FINANCE DEPARTMENT

PIOs in the Finance Department face challenges related to problems in proper record management, lack of proper training for subordinate staff, and shortage of staff. However, there seems to be no significant issues regarding cooperation from colleagues or the availability of a qualitative guide/manual.

1.5.7. WOMEN & CHILD DEVELOPMENT DEPARTMENT

In the Women & Child Development Department, administrative constraints include problems in proper record management, lack of proper training for subordinate staff, lack of cooperation from colleagues, shortage of staff, and too many applications.

1.5.8. PANCHAYATI RAJ DEPARTMENT

PIOs in the Panchayati Raj Department encounter several administrative constraints, including problems in proper record management, lack of proper training for subordinate staff, lack of cooperation from colleagues, absence of a qualitative guide/manual, shortage of staff, and too many applications.

1.5.9. HEALTH & FAMILY WELFARE DEPARTMENT

Administrative challenges in the Health & Family Welfare Department comprise problems in proper record management, lack of proper training for subordinate staff, lack of cooperation from colleagues, shortage of staff, and too many applications.

1.5.10. REVENUE DEPARTMENT

PIOs in the Revenue Department face various administrative constraints, such as problems in proper record management, lack of proper training for subordinate staff, lack of cooperation from colleagues, absence of a qualitative guide/manual, shortage of staff, and too many applications.

1.5.11. OBSERVATION

The analysis reveals several administrative constraints faced by PIOs across different government departments in Odisha. These constraints include problems in proper record management, lack of proper training for subordinate staff, shortage of staff, and too many applications, among others. Addressing these constraints is essential for enhancing the efficiency and effectiveness of PIOs in fulfilling their responsibilities under the RTI Act and ensuring transparency and accountability in governance processes. Measures such as improved training programs, adequate staffing, and better infrastructure can help alleviate these challenges and facilitate smoother functioning of the RTI framework.

1.6. CHALLENGES FACED BY 1ST APPELLATE AUTHORITIES

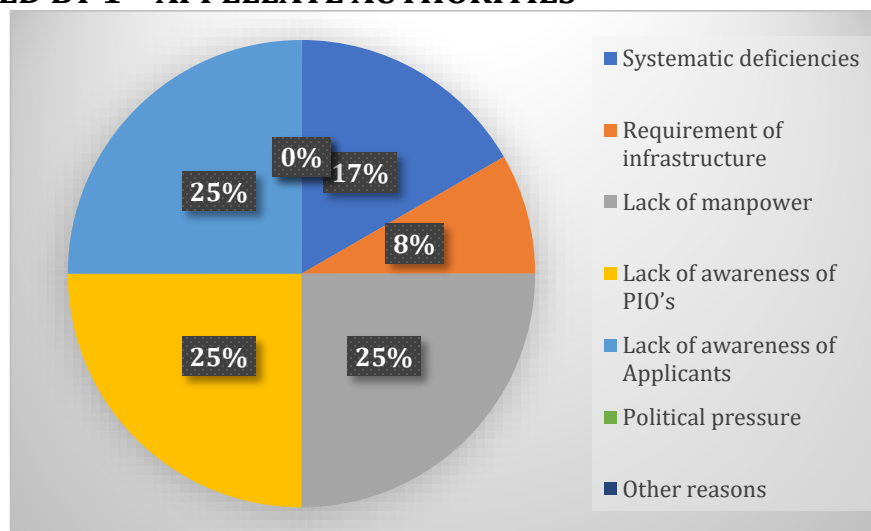


Figure 6. Different Challenges Faced by 1st Appellate Authorities

The data provided indicates majorly six instances of such deficiencies.

I. SYSTEMATIC DEFICIENCIES:

The presence of systematic deficiencies, such as flaws in the appellate process and procedural gaps, can hinder the effective functioning of 1st Appellate Authorities.

II. INFRASTRUCTURE REQUIREMENTS:

Inadequate infrastructure, including office space, technology, and communication tools, poses a significant constraint for 1st Appellate Authorities. The data highlights two instances where infrastructure requirements were lacking.

III. MANPOWER SHORTAGES:

The shortage of trained staff can impede the capacity of 1st Appellate Authorities to handle appeals effectively. The data provided indicates six instances of manpower shortages.

IV. LACK OF AWARENESS AMONG PIOS AND APPLICANTS:

Insufficient awareness among PIOs about their roles and responsibilities under the RTI Act can lead to improper handling of information requests and appeals. Similarly, applicants' lack of awareness about the appeal process and their rights may contribute to confusion and delays in the resolution of grievances. The data provided highlights six instances each of lack of awareness among PIOs and applicants.

V. POLITICAL PRESSURE:

While not explicitly cited in the data provided, political pressure can be a significant constraint for 1st Appellate Authorities in some contexts. External influences may compromise the independence and impartiality of the appellate process, undermining its effectiveness.

1.7. ADDRESSING CHALLENGES IN FILING RTI: AN ANALYSIS OF DIFFICULTIES FACED BY APPLICANTS IN ODISHA

This section explores the challenges encountered by individuals when filing Right to Information (RTI) applications in Odisha, India. By analyzing the difficulties reported by applicants, including issues such as unfriendly environments, non-cooperation by departments, delays in providing information, and misleading or suppressed information, this study aims to identify barriers to accessing government information and suggest measures for improving the RTI filing process. The findings provide insights into the obstacles faced by citizens in exercising their right to information and highlight areas for administrative reform and policy intervention. The Right to Information Act, 2005, empowers citizens to seek information from public authorities, thereby promoting transparency, accountability, and citizen participation in governance. However, individuals may encounter various challenges when filing RTI applications, ranging from administrative barriers to procedural complexities. This section analyzes the difficulties faced by RTI applicants in Odisha, shedding light on the barriers to accessing government information and the implications for transparency and accountability. The analysis presented in this section is based on quantitative data obtained from RTI application records and applicant feedback in Odisha. The difficulties reported by applicants when filing RTI applications were compiled and categorized.

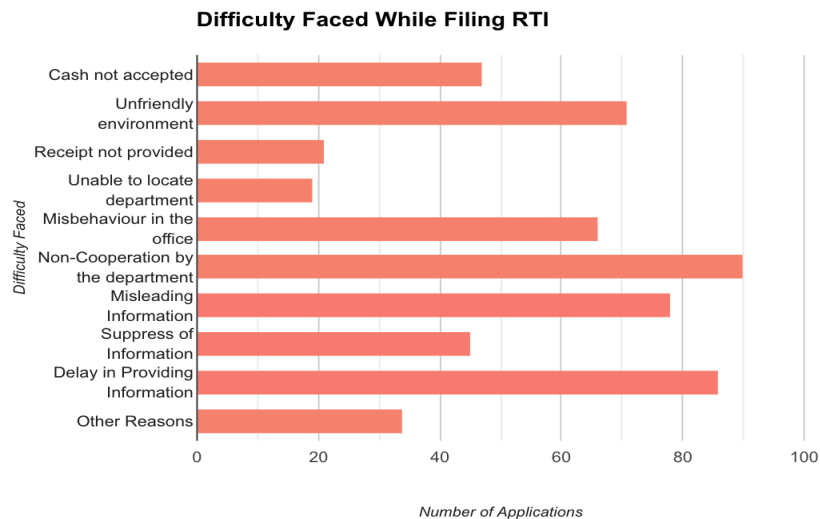


Figure 7. Difficulty Faced by RTI Applicants

1.7.1. OBSERVATIONS

CASH NOT ACCEPTED FOR FEE (47):

1. Forty-seven applicants reported difficulties due to public authorities not accepting cash for RTI application fees. This barrier may hinder access to information, particularly for individuals without access to banking facilities or digital payment methods.
2. Addressing this issue requires ensuring multiple payment options, including cash, online payments, and demand drafts, to accommodate diverse needs and preferences of RTI applicants.

UNFRIENDLY ENVIRONMENT (71):

1. Seventy-one applicants reported encountering unfriendly environments when filing RTI applications. This may include hostile or unwelcoming behavior from government officials, contributing to a negative experience for applicants.
2. Improving the environment at RTI filing centers through training programs, customer service initiatives, and awareness campaigns can enhance the applicant experience and promote a culture of transparency and responsiveness.

RECEIPT NOT PROVIDED (21):

1. Twenty-one applicants reported not receiving receipts for their RTI application fees, which may raise concerns about transparency and accountability in fee collection processes.
2. Ensuring the provision of receipts for all RTI application fees is essential for accountability and audit purposes, thereby enhancing trust and confidence in the RTI filing process.

UNABLE TO LOCATE THE DEPARTMENT (19):

1. Nineteen applicants reported difficulties in locating the relevant department or office for filing RTI applications. This may result from inadequate signage, lack of information, or complex bureaucratic structures.
2. Improving signage, providing clear directions, and offering online guidance on departmental locations can help applicants navigate the RTI filing process more effectively.

MISBEHAVIOR IN THE OFFICE (66):

1. Sixty-six applicants reported experiencing misbehavior or rudeness from office staff when filing RTI applications. This behavior can deter individuals from exercising their right to information and undermine public trust in government institutions.
2. Implementing codes of conduct, complaint mechanisms, and training programs for staff can promote professionalism and civility in interactions with RTI applicants.

NON-COOPERATION BY THE DEPARTMENT (90):

1. Ninety applicants reported facing non-cooperation from government departments when filing RTI applications. This may include refusal to accept applications, delays in processing requests, or inadequate responses to inquiries.
2. Enhancing cooperation and responsiveness among government departments through capacity-building initiatives, performance incentives, and accountability mechanisms can facilitate smoother RTI filing processes and improve access to information.

MISLEADING INFORMATION (78):

1. Seventy-eight applicants reported receiving misleading or inaccurate information from government departments in response to their RTI applications. This can undermine the effectiveness of the RTI mechanism and erode public trust in government institutions.
2. Ensuring accuracy, transparency, and accountability in information disclosure processes is essential for maintaining the integrity of the RTI regime and upholding citizen rights to accurate and reliable information.

SUPPRESS OF INFORMATION (45):

1. Forty-five applicants reported instances of information suppression by government departments, where relevant information was intentionally withheld or concealed. This violates the principles of transparency and accountability enshrined in the RTI Act.
2. Strengthening oversight mechanisms, whistleblower protections, and sanctions for non-compliance can deter information suppression practices and promote a culture of openness and disclosure in government institutions.

DELAY IN PROVIDING INFORMATION (86):

1. Eighty-six applicants reported experiencing delays in receiving information from government departments in response to their RTI applications. Delays can undermine the effectiveness of the RTI mechanism and frustrate applicants seeking timely access to information.
2. Streamlining RTI processing workflows, establishing clear timelines for information disclosure, and enhancing monitoring mechanisms can reduce delays and improve responsiveness in fulfilling RTI requests.

OTHER REASONS (34):

1. Thirty-four applicants cited miscellaneous reasons for facing difficulties when filing RTI applications, indicating a range of challenges not captured in the predefined categories. These may include systemic issues, administrative inefficiencies, or procedural hurdles.

2. Addressing miscellaneous challenges requires a holistic approach, including stakeholder consultations, process reviews, and policy reforms to streamline the RTI filing process and enhance citizen access to information.

1.8. CONSTRAINTS & CHALLENGES IN FUNCTIONING OF INFORMATION COMMISSIONS

In 38.7% of rejections in 2019-20, however, public authorities failed to cite these permissible exemption clauses, and were classified under the 'Others' category in the CIC data. This is an increase from the 33% seen the previous year. The Finance Ministry alone rejected more than 10,000 cases (40% of its total RTI rejections) without providing a valid reason under the Act. More than 90% of rejections by the Prime Minister's Office, the Delhi High Court, the Comptroller and Auditor General, as well as the Ministries of Railways, Road Transport, Food Processing and Panchayati Raj fell into the Others category, Mr. Nayak's analysis found. It was noted that provisions under Section 25(3) are being met by the annual reports of SICs, however more information that can be included under Section 25(3f) of the Act should be made available. There is a need to clearly define the items under Section 25(3f).

There is no centralized data base of RTI (at the State/Centre level) applicants. A centralized database of all RTI applicants with their information requests and responses from information providers would enable the Information Commission to publish more accurate numbers in the annual reports. Given the current situation, neither 293 the State Government nor the State Information Commission is in a position to confirm the number of Public Authorities within a Department and therefore the details on the number of applications filed.

Hence if a Public Authority possesses a centralized & web-based data, it can send the information to the State Information Commission for accurate timely compilation and reporting.

2. CONCLUSION

LACK OF TRANSPARENCY IN APPOINTMENT OF RTI COMMISSION

The cases are still pending because the Information Commission failed to ensure that they were resolved as soon as possible. Inefficient and inexperienced Information Commissioners selected for political rehabilitation or because of their ties to corrupt bureaucracy were unable to hear or resolve matters in a timely or effective manner. Despite receiving a substantial salary and several allowances totaling Rs. 2.80 lakh per month, the Information Commissioners were unable to dispose of cases on time, contributing to the expanding case backlog. These slow and lethargic Information Commissioners typically take 3 to 4 years to resolve cases. Odisha Information Commissioners are the shining example of this malaise, and the truth has been revealed through RTI procedures.

ISSUE IN SELECTION OF RTI COMMISSIONER

The selection of the Right to Information (RTI) Commissioner in Odisha, like in other states of India, often faces scrutiny and challenges. Here are some of the common issues associated with the selection process:

Lack of Transparency: The selection process for the RTI Commissioner is sometimes criticized for being opaque, with limited public knowledge about the criteria used for selection and the candidates considered.

Political Influence: There are concerns that the selection process is heavily influenced by political considerations rather than merit. This can result in the appointment of individuals who may be aligned with the ruling party, thereby compromising the independence and impartiality of the Commission.

Delays in Appointment: Delays in the appointment of RTI Commissioners can hamper the functioning of the Information Commission. This is particularly problematic when there are vacancies, leading to a backlog of cases and a slowdown in the processing of RTI appeals and complaints.

Lack of Qualifications and Experience: There are instances where individuals appointed as RTI Commissioners do not have the requisite qualifications or experience in areas relevant to the role, such as law, public administration, or transparency. This can affect the effectiveness of the Commission in upholding the principles of the RTI Act.

Absence of Consultation with Civil Society: The selection process often lacks meaningful consultation with civil society organizations and experts in the field of transparency and accountability. Including such stakeholders could enhance the credibility and effectiveness of the appointment process.

Non-Compliance with Supreme Court Guidelines: The Supreme Court of India has issued guidelines to ensure a fair and transparent selection process for RTI Commissioners. However, there are instances where these guidelines are not fully adhered to, leading to legal challenges and public discontent.

Gender Imbalance: The selection process has been criticized for not adequately considering gender balance. This is an important issue as it reflects on the inclusivity and representativeness of the Information Commission.

Pressure and Manipulation: There are allegations in some cases that the selection process is manipulated to favor certain candidates, often resulting in the appointment of individuals who may not be the best suited for the role.

Addressing these issues requires reforms in the selection process, ensuring that it is transparent, merit-based, and free from undue political influence. Implementing these changes would strengthen the effectiveness of the RTI Act and reinforce public trust in the Information Commission.

LIMITED OR NO USE OF SECTION 4(1)

Section 4(1) of the Right to Information (RTI) Act, 2005, is a crucial provision that mandates proactive disclosure of information by public authorities. However, its implementation has been limited or ineffective in many cases. Here are some reasons for the limited or no use of Section 4(1) of the RTI Act:

1. LACK OF AWARENESS

Public Authorities: Many public authorities are unaware of their obligations under Section 4(1) to proactively disclose information. This results in a failure to update and publish relevant information as required by the Act.

Citizens: Citizens, who are the intended beneficiaries of this provision, are often unaware of their rights to access proactively disclosed information, leading to underutilization.

2. RESISTANCE TO TRANSPARENCY

Institutional Culture: There is often resistance within public authorities to proactively disclose information, as transparency can expose inefficiencies, corruption, or other malpractices.

Fear of Accountability: Proactive disclosure makes it harder for public authorities to hide information, which can lead to greater scrutiny and accountability. This fear often leads to reluctance in implementing Section 4(1).

3. LACK OF MONITORING AND ENFORCEMENT

Weak Oversight: There is inadequate monitoring and enforcement of compliance with Section 4(1) by the Information Commissions. Without strong oversight mechanisms, many public authorities do not feel compelled to adhere to the proactive disclosure requirements.

No Penalties: The RTI Act does not prescribe specific penalties for non-compliance with Section 4(1), unlike other sections that deal with denial of information. This lack of punitive measures reduces the incentive for public authorities to comply.

4. INADEQUATE RESOURCES

Technical and Financial Constraints: Many public authorities cite a lack of resources—both technical and financial—as a reason for not implementing Section 4(1) effectively. This includes the costs associated with maintaining updated websites and digitizing records.

Lack of Training: Public officials often lack proper training on how to fulfill the proactive disclosure requirements, leading to incomplete or outdated information being shared.

5. ABSENCE OF STANDARDIZED GUIDELINES

Inconsistent Implementation: There is a lack of standardized guidelines across various public authorities for the implementation of Section 4(1). This inconsistency leads to uneven application of the proactive disclosure requirements, with some authorities doing better than others.

Varied Interpretation: Public authorities may interpret the scope and extent of information to be disclosed under Section 4(1) differently, leading to inconsistent disclosure practices.

6. LIMITED PUBLIC DEMAND

Low Demand for Proactive Disclosure: In many cases, there is limited public demand for proactively disclosed information, as most RTI applications are for specific information rather than general disclosures. This lack of demand discourages public authorities from investing time and resources in proactive disclosure.

Dependence on Formal RTI Requests: Citizens often rely more on filing formal RTI requests to obtain information rather than utilizing information that is already available under Section 4(1), further reducing its usage.

7. CHALLENGES IN INFORMATION MAINTENANCE

Poor Record Management: In many public authorities, record-keeping and data management practices are inadequate. This makes it difficult to compile and disclose the required information proactively.

Non-Digitized Records: A significant amount of government information is still maintained in non-digital formats, making it difficult to share online as required by Section 4(1).

8. DIGITAL DIVIDE

Limited Access to Internet: In areas with limited internet access, even if information is proactively disclosed online, it may not reach the intended audience. This digital divide hampers the effectiveness of Section 4(1).

User Unfriendliness of Websites: Many government websites are not user-friendly, making it difficult for citizens to navigate and find the information disclosed under Section 4(1).

The limited or ineffective use of Section 4(1) of the RTI Act is a significant concern, as it undermines the spirit of transparency and accountability that the Act seeks to promote. Addressing these challenges requires concerted efforts, including better awareness programs, stronger enforcement mechanisms, adequate resource allocation, and the development of standardized guidelines for proactive disclosure. By improving the implementation of Section 4(1), public authorities can enhance transparency and reduce the burden of formal RTI requests, thereby strengthening the overall efficacy of the RTI Act.

PERCEPTION OF A SMALLER NUMBER OF PENALTIES BEING IMPOSED

As per Section 20 of the RTI Act, “where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information.....it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however the total amount of such penalty shall not exceed twenty-five thousand rupees|| penalty is imposed is in a very few case”.

In more than half of the RTI applications get processed after 30 days, “there is a very strong perception in the citizens and the Civil Society Organizations that the Information Commission is lenient towards the erring PIO. The activists and Civil Society Organizations have been emphatic in demanding that the Information Commissions should implement section 20 in all cases of default.”

UNDERUTILIZATION OF SECTION 19(8)(B)

The Information Commission has the power to instruct the Public Authority to compensate the complainant for any loss or other detriment suffered. However the Information Commissions in each of the 5 States studied have rarely used this power. **Analysis and Conclusion:** It is a matter of introspection for the Information Commission that in the cases where the citizen has not got the information within the stipulated time, then who should be held responsible. If PIO as a person is not responsible, then it has to be a systemic failure within the Public Authority. However as highlighted in the next subsection, the Information Commission does not possess adequate monitoring and review mechanism to track the failures of the Public Authorities in complying with the RTI Act.

LACK OF MONITORING AND REVIEW MECHANISM

Under Section 19(8a), the Central Information Commission or State Information Commission, as the case may be, has the power to require the Public Authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

- i. By providing access to information, if so requested, in a particular form;
- ii. By appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
- 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 records;
- v. By enhancing the provision of training on the right to information for its officials;
- vi. By providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

However, there are inadequate processes and records available with the Information Commission to take the above-mentioned steps. A few States conduct reviews to understand issues leading to non compliance by Public Authorities. Among the surveyed States, only Andhra Pradesh has taken concrete actions for reviewing the implementation of RTI Act at the PA level. “A committee with CIC Andhra Pradesh, Chief Secretary as members has been formed which reviews the implementation every quarter. In other four states, monitoring is done only through collection of statistics on RTI implementation. To exemplify further, there is no/inadequate mechanism for monitoring the implementation of Section 4(1)(b). Out of the states surveyed under the study, only Andhra Pradesh and Assam SIC annual reports had the status of proactive disclosure conducted by the Public Authorities. In Andhra Pradesh the Chief Secretary and Chief Information Commissioner had quarterly meetings with heads of Public Authorities to monitor the status of proactive disclosure. (However, it is important to note that monitoring the status of proactive disclosure in the annual report is a step in the right direction, but it alone doesn’t guarantee an effective monitoring system for proactive disclosure)”. [Relly.\(2020\)](#) One of the most important roles of the Information Commission is to monitor and review the Public Authority and initiate actions to make them comply with the spirit of the Act. However this has been one of the weakest links in the implementation of the Act. It is acknowledged and appreciated that the Information Commissions have been primarily been spending most of their time in —hearings and disposing off appeals. However monitoring the Public Authority for compliance of the Act is also an important aspect of the role of the Information Commission, which could result in reducing the number of appeals. Given the huge effort involved in the identifying the Public Authority & their non-compliance issues, it is imperative that the Information Commission mobilize the citizens/use third party agencies in identification of noncompliance by the Public Authorities.

HIGH LEVEL OF PENDENCY

The number of RTI Appeals with the Information Commissions is growing at a rapid pace year after year. With current volumes of appeals, there seem to be delays in disposing off cases. For example in Maharashtra SIC, “there is a —wait period of more than 12 months, thus discouraging citizens from filing 297 appeals. In fact, in all the states surveyed except Assam,4 the —wait period|| is usually more than 3 months. This is a grave situation, which requires urgent intervention for the RTI Act to survive the threat of landing in a situation of justice delayed|| The pendency at the Information Commission is a huge challenge. Unless and until the pendency is kept at manageable level, the objective of the Act would not be met. High pendency of appeals is due to non-optimal processes for disposing off appeals and complaints.”

The analysis above provides that while filing and processing of RTI applications in Odisha there are many systemic barriers, administrative challenges, and procedural complexities that hinder access to government information. Addressing these challenges requires a multi-faceted approach, including administrative reforms, capacity-building initiatives, and awareness campaigns to enhance transparency, accountability, and citizen engagement in governance processes. By recognizing and addressing the underlying issues associated with RTI filing challenges, policymakers, public authorities, and civil society organizations can strengthen the effectiveness of the RTI regime, promote citizen empowerment, and foster a culture of transparency and accountability in governance.

CONFLICT OF INTERESTS

None

ACKNOWLEDGMENTS

None

REFERENCE

- Acharya , Nirlipta (2022). Role of Right to Information in Promotion of Good Governance, 5 (1) IJLMH Page 52 - 65, DOI: <https://doi.org/10.10000/IJLMH.112400>
- Bauer, L. (1983). English word-formation. Cambridge University. <https://doi.org/10.1017/CBO9781139165846>
- Chase, R. S., & Anjum, A. (2013). Initiatives Supporting Demand for Good Governance Across World Bank Group Sectors and Regions.
- Goel, S. L. (2007). Right to information and good governance. Deep and Deep Publications.
- JAIN, Anshu (2012), "Good Governance and Right to Information: A Perspective", Journal of the Indian Law. Institute, S.54(4), pp.506-519.
- Kulkarni, A. (2008). Governance and the Right to Information in Maharashtra. Economic and Political Weekly, 15-17.
- Matthews, R. K. (2005). James Madison's Political Theory: Hostage to Democratic Fortune. The Review of Politics, 67(1), 49-68. doi:10.1017/S003467050004331X
- King Jr, M. L. (1963). Letter from Birmingham Jail (1963). Martin Luther King Jr., Malcolm X, and the Civil Rights Struggle of the 1950s and 1960s: A Brief History with Documents.
- Mendel, T. (2003). Freedom of information as an internationally protected human right. Comparative Media Law Journal, 1(1), 39-70.
- Relly, J. E., Rabbi, M. F., Sabharwal, M., Pakanati, R., & Schwalbe, E. H. (2020). More than a decade in the making: A study of the implementation of India's Right to Information Act. World Development, 136, 105088.
- Roberts, A. (2010). A great and revolutionary law? The first four years of India's Right to Information Act. Public Administration Review, 70(6), 925-933.
- Sharma, A. (2017). State Transparency after the Neoliberal Turn: The Politics, Limits, and Paradoxes of India's Right to Information Law. *Verfassung Und Recht in Übersee / Law and Politics in Africa, Asia and Latin America*, 50(4), 390-411. <https://www.jst>