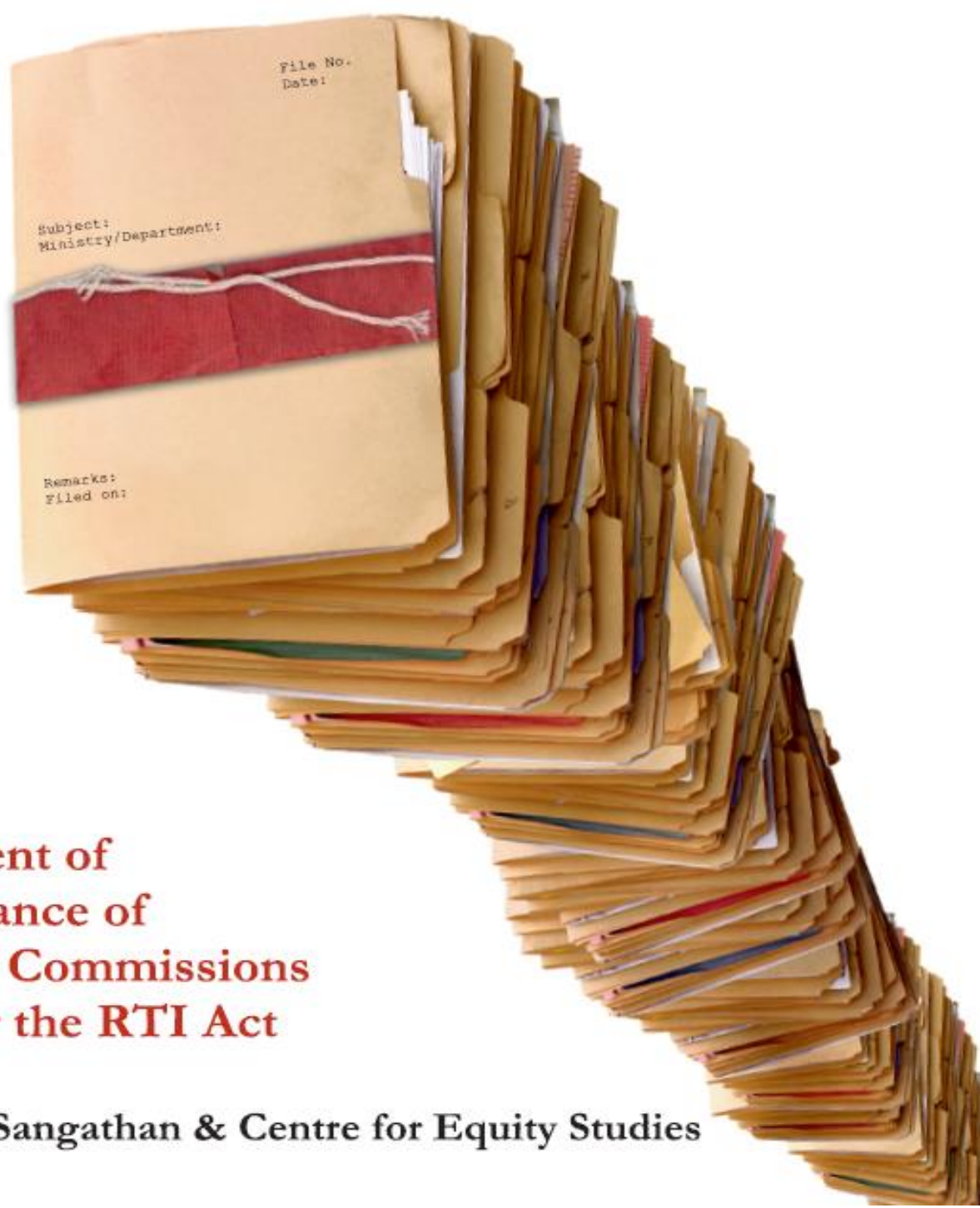


REPORT CARD **of** **INFORMATION COMMISSIONS** **in INDIA**



**An assessment of
the performance of
Information Commissions
set up under the RTI Act**

Satark Nagrik Sangathan & Centre for Equity Studies

Report Card on the Performance of Information Commissions in India

Satark Nagrik Sangathan (SNS)

&

Centre for Equity Studies (CES)

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Previous assessments of the Right to Information Act, 2005:

Tilting the Balance of Power - Adjudicating the RTI Act, RaaG & SNS, 2017

(<http://snsindia.org/Adjudicators.pdf>)

Peoples' Monitoring of the RTI Regime in India, 2011-2013, RaaG & CES, 2014

(<http://x.co/raagces>)

Safeguarding The Right To Information, RaaG & NCPRI, 2009

(Executive summary at <http://rti-assessment.com/>)

Satark Nagrik Sangathan (SNS) is a citizens' group working to promote transparency and accountability in government functioning and to encourage active participation of citizens in governance. It is registered under the Societies Registration Act, 1860 as Society for Citizens' Vigilance Initiative.

Centre for Equity Studies (CES) was founded in August 2000 as an independent organization engaged in research and advocacy on a range of social and economic justice issues in India.

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PREFACE AND ACKNOWLEDGEMENTS

This report is part of an ongoing series of assessments on various aspects of the implementation of the RTI Act in India. The first assessment studied the evolution and functioning of the transparency regime from 2005 till 2009 and was followed by a study published in 2014 titled, *“Peoples’ Monitoring of the RTI Regime in India: 2011-13”*.

“Tilting the Balance of Power: Adjudicating the RTI Act” (2017) focused on the independent adjudicators of the RTI Act- the information commissions, the high courts, and the Supreme Court of India. The report provided a detailed analysis of the orders of these adjudicators pertaining to the RTI Act.

The current report focusses on the performance of information commissions across the country during the period January 2016 to October 2017. The purpose of this report is to improve the functioning of commissions and strengthen the implementation of the RTI law, which is being used extensively by the vulnerable and marginalized to access their basic rights and entitlements. In the coming months, we also expect to complete and publish the ongoing analysis of the orders of information commissions.

We have been supported in this endeavour by many people and institutions. Our first thanks goes to Shekhar Singh, who played a pivotal role in conceptualizing and undertaking previous RTI assessments and was associated with this report in an advisory capacity. We are also grateful to many activists, lawyers and, former and serving information commissioners, who interacted with us at various stages of this study and gave us their insightful comments. In particular, we are grateful to members of the National Campaign for Peoples’ Right to Information (NCPRI) for their inputs, especially, Aruna Roy, Harsh Mander, Shailesh Gandhi, Nikhil Dey, Venkatesh Nayak, Rakesh Dubbudu, Abey George, Dr Shaikh, Balvinder Singh, Ashish Ranjan, Karuna, Joykumar, Pradip Pradhan, Pankti Jog, Rolly Shivhare, Kathyayani Chamraj, Ramakrishnan Raju, Karamveer Shastri, Kamal Tak, Paras, Rakshita Swamy, Inayat Sabhiki, Nachiket, Praveer, Bhaskar and Vipul Mudgal.

This report could not have been possible without the direct and indirect support of the various movements, NGOs, and activists, who form a part of the RTI community, within which our efforts are located. Finally, we owe a debt of gratitude to Dinesh S. Thakur and friends at the Association for India’s Development for their support.

Anjali Bhardwaj and Amrita Johri
Co-ordinators of the report

March 2018

GLOSSARY

Of terms and abbreviations

AP	Andhra Pradesh
APIO	Assistant Public Information Officer
ARU/ Arunachal	Arunachal Pradesh
ASS	Assam
BDO	Block Development Officer
BIH	Bihar
BPL	Below Poverty Line
CES	Centre For Equity Studies
CHH	Chhattisgarh
CIC	Central Information Commission
CJI	Chief Justice of India
CMO	Chief Minister's Office
CPIO	Central Public Information Officer
Crone	Ten million
CVC	Central Vigilance Commission
CWP	Civil Writ Petition
DEL	Delhi
DoPT	Department of Personnel & Training, Government of India
DPC	Departmental promotion committee
DRDA	District Rural Development Agency
DRDO	Defence Research and Development Organization
dt.	Dated
FAA	First Appellate Authority
G.O.	Government Orders
GATE	Graduate Aptitude Test in Engineering
GNCTD	Government of National Capital Territory of Delhi
GUJ	Gujarat
HAR	Haryana
HC	High Court
HP	Himachal Pradesh
HPC	High powered committee
HQ	Head-quarters
IC	Information commission
IPC	Indian Penal Code
JHA	Jharkhand
Judgment	The comprehensive and final pronouncement on a case by the SC and the HCs.
KAR	Karnataka
KER	Kerala

Lakh	A hundred thousand
MAH	Maharashtra
MAN	Manipur
MCD	Municipal Corporation of Delhi
MEG	Meghalaya
MIS	Management information system
MIZ	Mizoram
MP	Madhya Pradesh
NAG	Nagaland
NCPRI	National Campaign for Peoples' Right to Information
NGOs	Non Government organisations
ODI	Odisha
OM	Office Memorandum
Order	Specific directions of courts; Directions of information commissioners
OSA	Official Secrets Act
PA	Public Authority
PIL	Public interest litigation
PIO	Public Information Officer
PMO	Prime Minister's Officer
PUN	Punjab
RaaG	Research, assessment, & analysis Group
RAJ	Rajasthan
Rs./ ₹	Rupees
RBI	Reserve Bank of India
RTI	Right to Information
SC	Supreme Court
SIC	State Information Commission
SIK/SIKK	Sikkim
SLP	Special Leave Petition
SNS	Satark Nagrik Sangathan
SPIO	State Public Information Officer
TN	Tamil Nadu
TRI	Tripura
UOI	Union of India
Uoi	Union of India
UP	Uttar Pradesh
UTT	Uttarakhand
WB	West Bengal
W.P	Writ Petition

INTRODUCTION

The Right to Information (RTI) Act, 2005 has been one of the most empowering legislations for the citizens of India. It has been used extensively by people on a range of issues – from holding the government accountable for delivery of basic rights and entitlements to questioning the highest offices of the country. The law has initiated the vital task of redistributing power in a democratic framework. Estimates suggest that every year 40 to 60 lakh¹ RTI applications are filed across the country.

The Supreme Court of India has, in several judgments, held that the right to information is a fundamental right flowing from Article 19 and Article 21 of the Constitution of India². Under the RTI law, information commissions are the final appellate authority and are mandated to safeguard and facilitate people's fundamental right to information.

Information commissions (ICs) have been set up at the central level (Central Information Commission) and in the states (state information commissions). These commissions are entrusted with the crucial task of deciding appeals and complaints of persons who have been unable to secure information in accordance with the RTI Act or are aggrieved by violations of the law. Consequently, ICs are widely seen as being critical to the RTI regime. Enormous public attention has therefore been focused on information commissions and their performance.

Commissions have wide-ranging powers, including the power to require public authorities to provide access to information, appoint Public Information Officers (PIOs), publish various categories of information and make changes to practices of information maintenance. The commissions are empowered to order an inquiry if there are reasonable grounds for one, and also have the powers of a civil court for enforcing attendance of persons, discovery of documents, receiving evidence or affidavits and issuing summons for examination of witnesses or documents. Section 19(8) and section 20 of the RTI Act, empower information commissions to impose penalties on erring officials, and as per Section 20(2), commissions can recommend disciplinary action against a PIO for "persistent" violation of one or more provisions of the Act. Further, under Section 19(8)(b) of the law, commissions can, *"require the public authority to compensate the complainant for any loss or other detriment suffered"*.

More than twelve years after the implementation of the law, experience in India, also captured in various national assessments on the implementation of the RTI Act³, suggests that the functioning of information commissions is a major bottleneck in the effective implementation of the RTI law.

This initiative is part of an effort to undertake ongoing monitoring of the performance of information commissions across the country with the objective of improving the functioning of commissions and strengthening the RTI regime.

¹ Peoples' Monitoring of the RTI Regime in India, 2011-2013 by RaaG & CES, 2014

² State of UP v. Raj Narain, AIR 1975 SC 865, S.P. Gupta v. President of India and Ors, AIR 1982 SC 149, Reliance Petrochemicals Ltd vs Proprietors Of Indian Express 1989 AIR 190, Union of India v. Association for Democratic Reforms, AIR 2002 SC 2002, Reserve Bank of India Versus Jayantilal N. Mistry Transferred Case (Civil) No. 91 Of 2015

³ 'Safeguarding the Right To Information', RaaG & NCPRI, 2009 (Executive summary at <http://rti-assessment.com/>); 'Peoples' Monitoring of the RTI Regime in India: 2011-13', RaaG & CES 2014 (<http://x.co/raagces>); & 'Tilting the Balance of Power - Adjudicating the RTI Act', RaaG & SNS, 2017, (<http://snsindia.org/Adjudicators.pdf>)

METHODOLOGY AND STRUCTURE

Methodology

The report is primarily based on an analysis of information accessed under the RTI Act from information commissions (ICs) across India. For the purpose of the study 29 ICs were covered, including the Central Information Commission. Jammu and Kashmir was excluded as the national RTI law is not applicable in the state.

A total of 169 RTI applications were filed with state information commissions (SICs) and the Central Information Commission (CIC). The information sought included:

- Number of appeals and complaints registered, disposed, returned by each IC, for the period January 2016 till October 2017;
- Number of appeals and complaints pending before each IC on 31st December 2016 and 31st October 2017;
- Number of appeals and complaints filed before ICs stating that the information sought relates to the life or liberty of a person, during the period January 2016 till October 2017;
- Details of process adopted by each IC to deal with appeals and complaints relating to the life or liberty of a person;
- Number of appeals or complaints in which ICs imposed penalties, quantum of penalties imposed and the amount recovered, for the period January 2016 till October 2017;
- Number of appeals or complaints in which ICs awarded compensation and the quantum of compensation awarded by each IC, for the period January 2016 till October 2017;
- Number of cases in which disciplinary action was recommended by ICs, for the period January 2016 till October 2017;
- Latest year for which the annual report of each IC was published;
- Details of backgrounds of past and present information commissioners.

Each of the RTI applications was tracked to assess the manner in which these applications were dealt with by the ICs, as information commissions are also public authorities under the RTI Act. The progress of the applications was monitored in terms of how many ICs provided full information, how many rejected the request for information, the basis of such rejection and the effectiveness of the first appeal mechanism.

In addition, the websites of all 29 ICs were analysed to assess whether the websites provide relevant and updated information on the functioning of ICs, including number of commissioners in each commission, orders passed by the commissions, and their annual reports.

Further, where relevant, judgments of the Supreme Court and High Courts related to the RTI Act were accessed and analysed. The report also draws on findings and discussions of previous national assessments of the RTI regime carried out by RaaG, SNS and CES.

Structure of the report

The report is presented in two parts. The first contains the findings of the assessment and presents a detailed analysis and discussion of the various aspects of the performance of information

commissions. It also provides a recommended agenda for action for ICs, appropriate governments, DoPT and civil society, to ensure better functioning of information commissions in India.

The second part presents individual report cards, which provide a snapshot of the performance of the Central Information Commission and the information commissions of all states in the country. These provide a statistical profile of the critical parameters related to the functioning of each commission.

PART I: ASSESSING THE FUNCTIONING OF INFORMATION COMMISSIONS

1. Composition of Information Commissions

1.1 Introduction

The performance of information commissions is inextricably linked to their composition - both in terms of the timely appointment of adequate number of commissioners and the suitability of those appointed.

Section 12(2) of the RTI Act states that,

*“(2) The Central Information Commission shall consist of—
(a) the Chief Information Commissioner; and
(b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.”*

Similarly, under section 15 of the RTI Act, state information commissions consist of a chief information commissioner and up to ten information commissioners. In several judgments, various High Courts have held that each information commission must consist of at least the chief and one other information commissioner.

With respect to the appointment of commissioners to the Central Information Commission, Section 12(3) of the RTI Act states that,

*“(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of-
(i) the Prime Minister, who shall be the Chairperson of the committee;
(ii) the Leader of Opposition in the Lok Sabha; and
(iii) a Union Cabinet Minister to be nominated by the Prime Minister.”*

Under Section 15(3) of the law, the chief and other information commissioners of the SICs are to be appointed by the governor on the recommendation of a committee comprising the Chief Minister, leader of opposition in the Legislative Assembly and a cabinet minister to be nominated by the Chief Minister.

Further, Sections 12(5) and 15(5) of the RTI Act define the criteria for selection of information commissioners of the CIC and SIC, respectively. They clearly state that the Chief Information Commissioner and information commissioners, *“shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.”*

The Supreme Court in *Union of India vs. Namit Sharma* (2013), while upholding Sections 12(5) and 15(5) of the Act, further directed that:

“39(iii) We direct that only persons of eminence in public life with wide knowledge and experience in the fields mentioned in Sections 12(5) and 15(5) of the Act be considered for appointment as Information Commissioner and Chief Information Commissioner.

(iv) We further direct that persons of eminence in public life with wide knowledge and experience in all the fields mentioned in Sections 12(5) and 15(5) of the Act, namely, law, science and technology, social service, management, journalism, mass media or administration and governance, be considered by the Committees Under Sections 12(3) and 15(3) of the Act for appointment as Chief Information Commissioner or Information Commissioners.”

It is, therefore, the responsibility of the selection committee (headed by the Prime Minister at the centre and Chief Ministers in states) to recommend suitable names for the post of information commissioners to ensure that commissions function effectively.

The RTI Act envisages a critical role for the chief information commissioner, including superintendence, management and direction of the affairs of the information commission. Section 12(4) the law states that,

“(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.”

Section 15(4) similarly spells out the role of the chief of the SIC.

1.2 Findings

The assessment found that several ICs were non-functional or were functioning at reduced capacity, despite large backlogs, as the posts of commissioners, including that of the chief information commissioner, were vacant during the period under review. In many cases, the appointments of information commissioners were found to be set aside by courts due to lack of transparency in the process of appointment and for being in violation of the provisions of the RTI Act and directions of the Supreme Court.

1.2.1 Non-functional information commissions

During the time period under review, there were four information commissions which were not functional for varying lengths of time. In the absence of functional commissions, information seekers have no reprieve under the RTI Act if they are unable to access information as per the provisions of the law.

Andhra Pradesh and Telangana: After the bifurcation of the state of Andhra Pradesh in 2014, the SIC of Andhra Pradesh continued to function as the information commission for both Telangana and Andhra Pradesh. In 2017 there were six serving commissioners in the SIC, of which the appointment of four commissioners was set aside in April 2017 when the Supreme Court⁴ upheld the order of the Hyderabad High Court striking down their appointments. The High Court had held that the four commissioners were in violation of the directions laid down by the Supreme Court in *Union of India vs. Namit Sharma* (2013), as after their appointment, none of them had, *“relinquished and/or dissociated the respective political allegiance and affiliation and post nor any of them, who are Advocates, has suspended his/her enrolment in the Bar Council”*. The commission became defunct in May 2017 after the remaining information commissioners retired. In August 2017, the High Court of

⁴ SLP(C) No(s).30756/2013 order dated 20.04.2017, Varre Venkateshwarlu & Ors Versus K. Padmanabhaiah & Ors

Hyderabad directed that separate information commissions be set up in Telangana and Andhra Pradesh⁵. The Telangana government constituted the Telangana SIC and two commissioners assumed charge on September 25, 2017⁶. The state of Telangana, therefore, did not have a functioning SIC for a period of more than three months. The Andhra Pradesh government issued an order⁷ regarding the constitution of the SIC of Andhra Pradesh in August 2017, but till date not a single commissioner has been appointed to the commission. The SIC of the state of Andhra Pradesh is yet to become functional. For the last 10 months, people seeking information from public authorities under the jurisdiction of the AP SIC have had no recourse to the independent appellate mechanism prescribed under the RTI Act, if their right to information is violated.

Box 1: No right to know in Andhra Pradesh?

Adivasis (tribals) belonging to a tribe called 'Gadaba', recognized as a Particularly Vulnerable Tribal Group by the government, live in Chatterjipuram, a small tribal hamlet in Vishakapatnam district of Andhra Pradesh. For the last 40 years, they have been cultivating land in the area. In recent years, their right to the land has been under threat. Acting under political pressure, the administration has been trying to manipulate the land records of the area in an effort to evict them. The tehsildar of the area admitted this before a fact-finding team according to a report in a national daily (The Hindu, October 7, 2017). Nookaraju, a land rights activist, filed an RTI application in July 2017 in the Tehsildar's office seeking copies of old records which would help the tribals prove that they have been tilling the land for a long time. However, no information was received and there was no response to the first appeal. Nookaraju filed a second appeal before the State Information Commission of Andhra Pradesh. As the AP SIC is not functioning, the matter is languishing and people are being denied their fundamental right to information.



Tribals of Chatterjipuram at a protest

⁵ <https://www.deccanchronicle.com/nation/current-affairs/050118/telangana-10-per-cent-of-rti-pleas-being-disposed.html>

⁶ <http://tsic.gov.in/tsicWebsite/>

⁷ https://www.socialpost.news/telugu/wp-content/uploads/2017/09/APIC-New-Employees-GO-06092017-2017GAD_MS122-1.pdf

West Bengal: The SIC of West Bengal is currently functioning with just two commissioners. During the time period under review, for nearly 12 months (November 2015 to July 2016 and April 2017 to July 2017), the SIC did not hear any appeals or complaints as there was only one commissioner in the SIC. The Calcutta High Court, in the case of Tata Motors vs. State of West Bengal, 2008 had held that the State Information Commission should consist of at least one information commissioner apart from the Chief Commissioner.

Sikkim: During the time period under review, the SIC of Sikkim was defunct for a period of 2 months, from December 2017 to February 2018, when the lone commissioner retired.

1.2.2 Commissions functioning without a Chief Information Commissioner

The RTI Act envisages a critical role for the chief information commissioner, including superintendence, management and direction of the affairs of the information commission. The absence of a chief commissioner, therefore, has serious ramifications for the efficient and autonomous functioning of the commission. Currently, three SICs are functioning without a chief information commissioner.

Nagaland: The SIC of Nagaland has been without a Chief Information Commissioner since September 2017.

Gujarat: The Gujarat Chief Information Commissioner retired in January 2018 and the position is currently vacant.

Maharashtra: The Chief Information Commissioner of Maharashtra retired in April 2017. One of the information commissioners has taken up additional charge of the chief commissioner⁸, although there is no such explicit provision under the RTI Act, 2005. The government is yet to appoint a new chief.

1.2.3 Commissions functioning at reduced capacity

Several information commissions across the country are functioning at a reduced capacity, despite large backlogs of appeals and complaints.

Kerala: The SIC of Kerala has been functioning with a single commissioner since 2016. As of October 31, 2017 nearly 14,000 appeals and complaints were pending with the commission. In 2016, the High Court of Kerala⁹ set aside the appointment of five information commissioners stating that the selection process was flawed. The court noted that no criteria had been laid out for short-listing candidates, and the entire selection process was vitiated. Further, one person who was chosen as an information commissioner was a primary school teacher, the other a practicing lawyer in the district court and yet another was a development officer in LIC, who as per the judgment would be by “no stretch of imagination...qualify as persons of eminence in public life with wide knowledge and experience.” According to the HC, “they had lacked basic eligibility”. Further, in its ruling the HC came down heavily on the manner in which the selection committee had proceeded. The relevant extract is reproduced below:

“..we do not approve of the way the committee conducted itself. The constitution of the Committee as statutorily provided is not a very democratic committee. There is the Chief Minister and a Minister of his Cabinet and then the solitary leader of opposition. Surely the

⁸ https://sic.maharashtra.gov.in/Site/Downloads/Section_4New/Section-4%20dated.pdf

⁹ WA No. 2012 of 2016, State Of Kerala Vs. Ankathil Ajayakumar & Ors

decisions are known. But we may add that from the very fact that such senior persons are chosen to constitute the committee, it is expected that they would rise above party affiliations and private political interest and act as a repository of public faith and confidence. This is more so when Act 22 of 2005 was enacted by the Parliament for setting out the practical regime of right to information for citizens and to secure access to information under the control of public authorities so as to promote transparency and accountability in the working of every public authority. The State Information Commissioners are high ranking officials who are to perform various functions as contemplated under the Act for safeguarding the individual rights of citizens and so as to provide transparency and accountability in governance. If viewed in this manner, then even this Committee should function quite democratically and independent of personal biases.

...The criteria for short listing the candidates is still a mystery... This is not compatible with the status and purpose of constitution of the Selection Committee. The Selection Committee was not dealing with a domestic enquiry or a trivial issue. We do not approve of such a decision taking process, which is completely a flawed decision making process. It does not stand to judicial scrutiny. This is precisely the objection raised by the Leader of the Opposition which has been brushed aside by the brute majority in the Selection Committee. This, in our view, is sufficient to vitiate the entire selection process."

Odisha: The Odisha SIC is functioning with three commissioners despite having a pendency of more than 10,000 appeals and complaints as of October 31, 2017.

Central Information Commission: There are currently four vacancies in the CIC – the first of which arose in December 2016. Of the existing seven commissioners, four commissioners, including the Chief, are set to retire in 2018.

Box 2: No appointments, case closed!

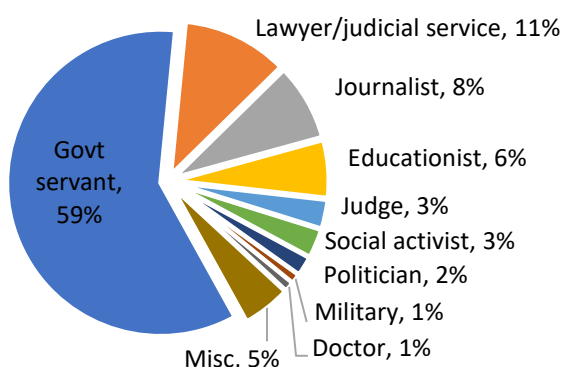
The National Campaign for Peoples' Right to Information (NCPRI) wrote to the Prime Minister on June 5, 2017 regarding two posts of information commissioners lying vacant in the Central Information Commission. However, no response or acknowledgment was received. In response to an application under the RTI Act seeking information on the action taken on the representation made to the PM, the reply received stated that the representation was treated as a public grievance and registered on the online public grievance portal of the central government. Upon tracking the grievance, it was found that the online status was "Case closed" even though under the field 'Details', it stated that "The matter is under consideration".

1.2.4 Majority of commissioners appointed from among retired government officials

Information was sought under the RTI Act from 29 ICs about the background of all commissioners, including the chief information commissioners, appointed since the inception of the ICs. Despite the RTI Act providing that commissioners should be appointed from diverse backgrounds and fields, the assessment found that since the RTI law came into effect, an overwhelming majority of information commissioners have been appointed from among retired government servants.

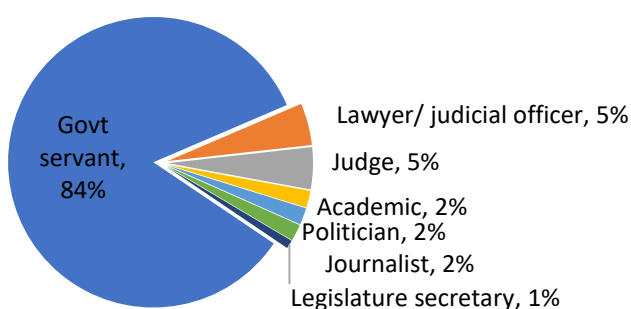
Of the 303 commissioners for whom background information was available, 59% were retired government officials, while 14% had a legal or judicial background (11% were advocates or from the judicial service and 3% were retired judges). 8% commissioners had a background in journalism, 6% were educationists and 3% were social activists or workers (Chart 1).

Chart 1: Background of Information Commissioners



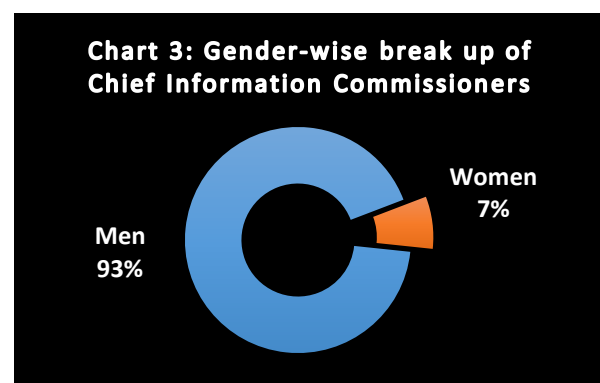
Of the 107 chief information commissioners for whom data was obtained, the overwhelming majority (84%) were retired government servants- including 67% retired Indian Administrative Service (IAS) officers and another 17% from other services (Chart 2). Of the remainder, 10% had a background in law (5% former judges and 5% lawyers or judicial officers).

Chart 2: Background of Chief Information Commissioners



1.2.5 No gender parity

The assessment found the gender composition of commissions to be extremely skewed . Since the passage of the RTI Act in 2005, merely 10% of all information commissioners across the country have



been women. In terms of Chief Information Commissioners, the gender parity is even worse, with less than 7% chiefs being women (Chart 3). At present, of the 26 serving chief information commissioners in the country, only one is a woman- the chief of the SIC of Tamil Nadu.

Clearly much needs to be done to address the poor representation of women in information commissions.

1.3 Discussion

Information Commissions (ICs) under the Indian RTI Act are independent, have a high stature, extensive powers and are the final appellate authority under the law. The health of the RTI regime primarily depends on how effective and pro-active these commissions are. The assessment found that several ICs in the country were non-functional or were functioning at reduced capacity, as the posts of commissioners, including those of chief information commissioners, were vacant during the period under review.

Vacancies are often a result of the apathy and inefficiency of appropriate governments, with the process of appointments not being started in time, leading to delays in filling up vacancies. There is also a strong apprehension that information commissions are purposely deprived of commissioners by governments to scuttle the effective functioning of the RTI Act.

The non-functioning of information commissions amounts to a violation of peoples' right to information, as ICs are the final adjudicators under the RTI law. Among other problems, non-functional ICs result in a huge backlog of appeals and complaints and the consequent long delays, as is evident in the case of the West Bengal and Kerala SICs, where the waiting time is estimated to be 43 years and 6.5 years respectively (see Chapter 3).

While in some of the smaller states in the country, where very few appeals and complaints are filed, an eleven-member information commission might not be justified, in other states the number of appeals/complaints filed and the backlog of cases is large, requiring all commissioners to be on board. One way of ascertaining the number of commissioners required in an IC is that commissions agree, through a broad consensus, on the number of cases each commissioner should be expected to deal with in a month. Given an agreement on the maximum time within which appeals and complaints should ordinarily be dealt with –not more than 90 days - the required strength of commissioners in each commission can be assessed on an annual basis.

If the requisite number of commissioners are appointed, and they dispose an optimal number of cases (agreed as the norm) each year, in most ICs the pendency could be easily tackled. The CIC has set an annual norm for itself of 3200 cases per commissioner, per year. Adopting such a norm would mean that each commission, if it was fully staffed, could dispose 35,200 cases a year. This is more than the number of cases registered annually by most commissions. Only the state ICs of Uttar Pradesh and Maharashtra¹⁰ registered more than 35,200 cases per year. It has been felt that perhaps, in such states, legally limiting the size of the information commission to eleven is not the best way to ensure its efficacy. However, even in these states, eleven commissioners could be adequate if the commissions adopt efficient systems of disposing cases (perhaps drawing on international experience) and are provided appropriate resources, including legal and technical experts, to assist commissioners dispose of cases expeditiously.

The background of information commissioners is an issue that has been debated from the time the RTI Act became functional. Sections 13(5) & 15(5) provide that the salaries and allowances, and other terms and conditions of service, of the Chief Information Commissioner of the CIC shall be the same as that of the Chief Election Commissioner, and of central information commissioners and state chief information commissioners the same as that of election commissioners, all of whom are equivalent to judges of the Supreme Court, at No. 9 in the Warrant of Precedence¹¹. State information commissioners would be paid and treated at par with chief secretaries of states, who are equivalent to secretaries to the Government of India, at No. 23 in the Warrant of Precedence.

While the RTI Act was being drafted, it was thought by many that it was important to give commissioners a sufficiently exalted status to empower them to carry out their functions

¹⁰ While the SIC of Maharashtra did not provide information on the number of appeals and complaints received, using the information for one month as available on the website of the SIC, an extrapolation suggests that the SIC receives upwards of 40,000 appeals/complaints annually.

¹¹ For details of the Warrant of Precedence, see:

<http://164.100.47.194/Loksabha/writereaddata/instruction/precedence.pdf>

autonomously and direct even the highest offices to comply with the provisions of the law. The Parliamentary Standing Committee, which examined the RTI Bill, 2004, observed that, *“Information Commission is an important creation under the Act which will execute the laudable scheme of the legislation ...It should, therefore, be ensured that it functions with utmost independence and autonomy.”*

An important reason for giving this high status to commissioners was also to attract the right set of eminent people to take up these positions. Unfortunately, despite the fact that the prescribed qualifications for being appointed a commissioner are very broad based and include many types of expertise and experience, of which “administration and governance” is only one, a majority of information commissioners are retired government officials. One explanation could be that these posts are sought after by retired and retiring civil servants, who often enjoy political patronage and are perhaps seen as being more pliant by the political masters.

There has been much debate on the desirability of populating information commissions primarily with retired government servants. Many argue that civil servants know best what information is available with the government, where it is to be ferreted out from, and how best to do it. Therefore, they have an advantage over others when it comes to ordering governments to be transparent. On the other hand, there has been a very strong apprehension that they are likely to have much greater sympathy and affiliation with their erstwhile colleagues than with the general public. It is possible that they might have a vested interest in protecting their own past actions or those of their colleagues and friends still serving in the government.

Research has shown that the quality of orders passed by most information commissions in India is far from satisfactory¹², which indicates that the practice of populating ICs primarily with ex-bureaucrats has perhaps not been the best strategy. In 2013, in the UOI vs Namit Sharma case, the Supreme Court taking cognisance of the functioning of commissions across the country, including the poor quality of orders passed by ICs, directed that chief information commissioners must ensure that matters involving intricate questions of law are heard by commissioners who have legal expertise: *“39.(vi). We also direct that wherever Chief Information Commissioner is of the opinion that intricate questions of law will have to be decided in a matter coming up before the Information Commission, he will ensure that the matter is heard by an Information Commissioner who has wide knowledge and experience in the field of law.”*

Information commissions need to be better balanced bodies having greater gender parity and a mix of former civil servants, legal professionals, social activists, academics, journalists and other professionals. Even if decisions are taken by individual members, diversity would strengthen the working of the commission by providing commissioners opportunities to discuss cases with other commissioners from different backgrounds, so that the final orders are a manifestation of all the experience and expertise that a commission, with a varied membership, would be privy to.

A pre-requisite for ensuring that the right people are appointed as information commissioners is to have a transparent and robust selection process. There has been a long standing public demand to make the process of appointing information commissioners transparent and accountable. This has

¹² Assessment of orders of information commissions in RaaG & SNS, 2017 had found that more than 60% orders contained deficiencies in terms of not recording critical facts like- dates, information sought, decision of PIO/ FAA and the grounds for their decision etc. Of the orders where information was denied, 50% denied information in violation of the RTI Act.

partly been a result of the inexplicable selections made in many of the information commissions, where people with little merit, and sometimes with specific demerits, were appointed. This demand is also in keeping with the spirit of the RTI Act and of the transparency regime.

The Supreme Court, in *Union of India vs Namit Sharma* 2013, laid down the beginnings of a transparent process and directed that the qualifications and experience of selected candidates must be made public:

"39.(v). We further direct that the Committees under Secs. 12(3) and 15 (3) of the Act while making recommendations to the President or to the Governor, as the case may be, for appointment of Chief Information Commissioner and Information Commissioners must mention against the name of each candidate recommended, the facts to indicate his eminence in public life, his knowledge in the particular field and his experience in the particular field and these facts must be accessible to the citizens as part of their right to information under the Act after the appointment is made."

However, despite the clear directive of the Supreme Court, even these minimum procedures and requirements for transparent selection are not followed by governments. In several cases, the appointments of information commissioners have been challenged for being arbitrary, illegal and unreasonable. In many states, including Gujarat¹³, Andhra Pradesh and Kerala, the appointments of information commissioners have been set aside by courts due to lack of transparency in the process of appointment, for being in violation of the directions of the Supreme Court or because persons who did not meet the eligibility criteria were appointed as commissioners.

1.4 Agenda for Action

1. There needs to emerge, through a broad consensus, agreement on the number of cases a commissioner should be expected to deal with in a month. Given an agreement on the maximum time within which appeals and complaints should ordinarily be dealt with – not more than 90 days – the required strength of commissioners in each commission must be assessed on an annual basis.
2. The central and state governments must ensure timely appointment of requisite number of information commissioners. Wherever a commissioner is due to demit office in the regular course of time (by way of retirement), the government must ensure that the process of appointment of new commissioners is completed well in advance, so that there is no gap between the previous commissioner demitting office and a new one joining in.
3. In most ICs, appeals/complaints can easily be addressed within 90 days by having upto eleven commissioners. In the few ICs, where even having the full complement of eleven commissioners may not suffice, there should be a provision to appoint more than eleven ICs. In the meanwhile, additional staff should be provided to enable each commissioner to be even more productive than the norm requires, so that without compromising the principles of natural justice, appeals and complaints can be disposed in a timely manner. Also, all commissions, especially those with very large numbers of cases received and pending, should draw on international best practice and adopt efficient systems and processes for disposing cases so that the productivity of commissions increases and many more cases can be disposed of without necessarily increasing the number of commissioners (more detailed discussion in chapter 3).

¹³ *Jagte Raho Versus The Chief Minister of Gujarat* Writ Petition (P.I.L.) Nos. 143 and 278 of 2014

4. The composition of information commissions needs to be balanced, drawing commissioners from diverse backgrounds - former civil servants, legal professionals, social activists, academics, journalists and other professionals. There must be gender diversity in the composition of information commissions. In keeping with the 2013 Supreme Court judgment in the matter of *Union of India vs. Namiit Sharma*, wherein the court held that the chief information commissioner must ensure that matters involving intricate questions of law are heard by commissioners who have legal expertise, persons with knowledge and experience in the field of law need to be appointed as information commissioners.
5. Due process must be followed to select candidates who meet the eligibility criteria laid out in the law and are from a diverse background without any one gender, profession or service dominating the composition of commissions. There must be transparency and accountability in the process of appointment of information commissioners. In order to ensure transparency in the selection process, vacant posts must be advertised to invite applications from eligible candidates. The eligibility criteria, the criteria used for short listing and selection and the process for selection must be made public. The names of short listed candidates, along with details of how they satisfy the eligibility criteria, why they were selected over those who were not, and their background details (such as asset declarations etc.) should be placed in the public domain. Finally, the minutes of the selection committee meetings must be proactively disclosed in compliance with the RTI Act and these must record reasons for decisions taken and dissenting opinions, if any.
6. Clearly what is required is not just greater transparency but also greater accountability in the selection process, where the government must give detailed and credible reasons why each one of those appointed was preferred over all the others. At a minimum, in keeping with the Supreme Court judgement of 2013 in the *Union of India vs. Namiit Sharma* case, while making recommendations to the President/Governor for appointment of the chief and other information commissioners, the selection committees must mention against the name of each candidate recommended, the facts to indicate their eminence in public life, knowledge and experience in the particular field. These facts must be accessible to the citizens after the appointment is made.
7. The procedure laid down in the Lokpal Act of setting up a search committee of independent eminent experts who recommend suitable names to the selection committee in a transparent manner should be adopted. This committee should identify and encourage eligible and deserving people, especially women, from diverse backgrounds to apply for the position of information commissioners.

2. Appeals and Complaints Dealt with by Information Commissions

2.1 Introduction

Information commissions adjudicate on appeals and complaints of citizens who have been denied their right to information under the law. Information seekers can file a second appeal under Section 19(3) to the commission if they are aggrieved by the decision of the first appellate authority or have not received the decision of the first appellate authority within the stipulated time-frame. Further, Section 18(1) of the law obligates commissions to receive complaints with respect to any matter relating to accessing information under the law.

18. (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

xxx

19. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

xxx

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time."

The central government and some state governments have framed rules that prescribe a format in which appeals/complaints must be filed. Some of these rules allow the commission to return an

appeal/complaint if it is not filed in a prescribed format or is deficient in any manner. Using these, in recent years, some ICs have been returning a large number of appeals and complaints to the sender without passing any orders.

A key feature of the RTI Act in India is that it prescribes specific timelines within which information must be provided. While ordinarily information is to be provided (or the request for information rejected) within 30 days, the proviso to Section 7(1) states that information which concerns the life and liberty of a person has to be supplied within 48 hours of the request being received. While this is a laudable inclusion in the law recognizing that at times the furnishing of information in a short time-frame may be crucial, however, no corresponding provision to expedite appeals/complaints related to non-provision of such information is prescribed in the law.

2.2 Findings

2.2.1 Appeals and complaints registered and disposed

Close to three lakh (2,76,405) appeals and complaints were registered, and a little over two lakh (2,14,809) were disposed, between January 1, 2016 and October 31, 2017 by 23 information commissions for whom relevant information was available.

The information commissions of Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Rajasthan and Tamil Nadu did not provide information under the RTI Act regarding the number of appeals and complaints dealt with by the ICs (see chapter 6 for further details). This information was also not available on the websites of these six commissions.

The IC-wise break up of appeals and complaints registered and disposed is given in Table 1. The SIC of Uttar Pradesh registered the highest number of appeals and complaints (83,054) followed by the CIC (47,756) and Karnataka (32,403). Mizoram and Meghalaya registered the lowest number of appeals and complaints, 21 and 63, respectively. In terms of disposal, the CIC disposed the highest number of appeals and complaints (54,219), followed by Uttar Pradesh (42,911) and Karnataka (28,648) during the period under review.

Table 1: Appeals and complaints registered and disposed by ICs (January 1, 2016 to October 31, 2017)			
	IC	Registered	Disposed
1.	CIC	47,756	54,219
2.	UP ④	83,054	42,911
3.	Karnataka	32,403	28,648
4.	Telangana	29,318	20,257
5.	Gujarat	15,071	18,001
6.	Haryana	16,338	15,065
7.	Punjab	10,337	11,415
8.	Uttarakhand ⑤	6,117	6,271
9.	Assam	6,776	4,741
10.	Kerala	7,230	3,918
11.	Odisha	7,067	3,596
12.	Chhattisgarh ①	4,776	3,156
13.	HP ②	737	610
14.	Manipur	432	435
15.	Arunachal	468	401
16.	Jharkhand	5,000	389
17.	West Bengal	2,471	349
18.	Tripura ②	212	206
19.	Sikkim	98	98
20.	Meghalaya	63	61
21.	Nagaland ③	88	58
22.	Mizoram	21	4
23.	Goa	572	NA
	Total	2,76,405	2,14,809
AP, Bihar, MP, Maharashtra, Rajasthan, TN did not provide information. Notes: Data pertains to ① Jan-Dec 2016 ② Apr 2016 - Oct 2017 ③ Apr 2015 - Mar 2017 ④ Jan 2016 - July 2017 ⑤ Apr 2016 - Nov 2017			

2.2.2 Appeals and complaints returned by ICs

Though the RTI Act does not prescribe any format for filing an appeal/complaint, the central government and some state governments have, through their respective rules, prescribed formats and also a list of documents that must accompany each appeal/complaint. Further, some of these rules, like those framed by the central government¹⁴, empower the IC to return the appeal/complaint, if found deficient. The relevant provisions of the RTI Rules, 2012 of the central government are reproduced below:

“8. Appeal to the Commission.—Any person aggrieved by an order passed by the First Appellate Authority or by non-disposal of his appeal by the First Appellate Authority, may file an appeal to the Commission in the format given in the Appendix and shall be accompanied by the following documents, duly authenticated and verified by the appellant, namely:

- (i) a copy of the application submitted to the Central Public Information Officer;*
- (ii) a copy of the reply received, if any, from the Central Public Information Officer;*
- (iii) a copy of the appeal made to the First Appellate Authority; (iv) a copy of the Order received, if any, from the First Appellate Authority;*
- (v) copies of other documents relied upon by the appellant and referred to in his appeal; and*
- (vi) an index of the documents referred to in the appeal.*

9. Return of Appeal.—An appeal may be returned to the appellant, if it is not accompanied by the documents as specified in rule 8, for removing the deficiencies and filing the appeal complete in all respects”.

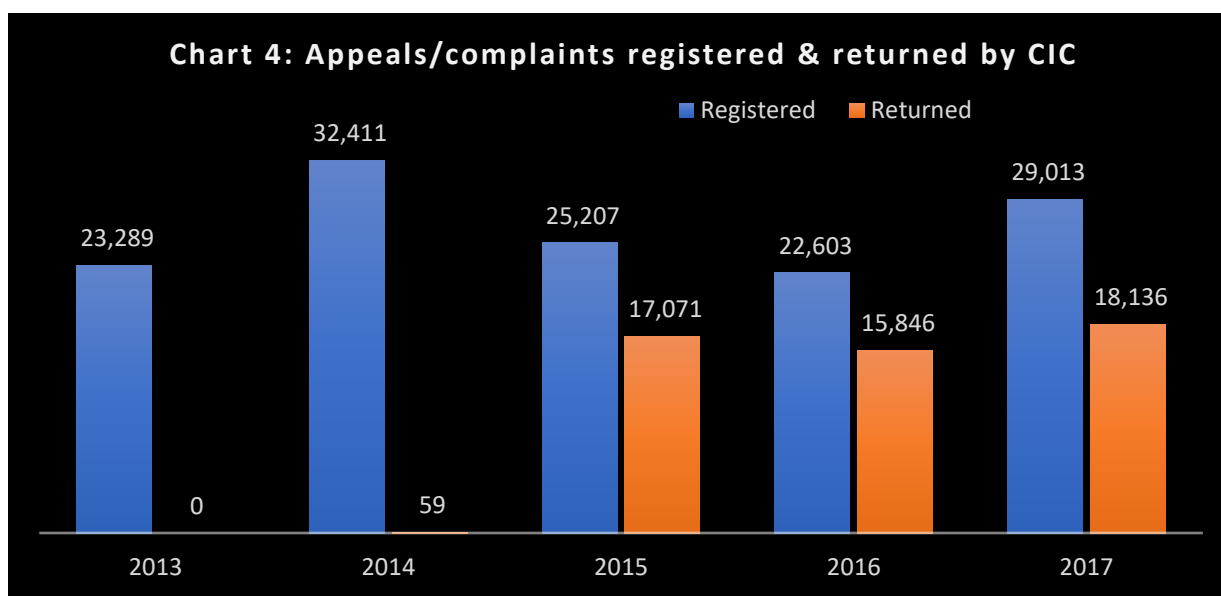
The assessment found that the CIC and the SICs of Gujarat, Assam and Uttarakhand returned a large number of appeals/complaints, without passing any orders, during the period January 2016 to October 2017 (see Table 2). The CIC returned 27,558 appeals/complaints while it registered 47,756 during January 2016 to October 2017. The SIC of Gujarat returned 9,854 cases while it registered 15,071 cases during the period under review.

This trend of a large number of appeals/complaints being returned began in the CIC in 2015, when there was a sudden surge in the number of cases being returned (see Chart 4). Several RTI activists wrote to the then Chief Information Commissioner of the CIC urging that the commission proactively and publicly disclose information on the number of appeals/complaints being returned and also the reason for the return. All deficiency memos, which record the reason for returning an appeal/complaint, were then publicly disclosed on-line. Subsequently, however, these memos, have again been made inaccessible to the public and can be accessed only if the appeal/complaint number is known.

Table 2: Appeals/complaints returned by ICs without passing orders between Jan 1, 2016 & Oct 31, 2017

Information Commission	Number of appeals & complaints returned
CIC	27,558
Gujarat	9,854
Assam	1,580
Uttarakhand	1,121

¹⁴ <http://www.cic.gov.in/sites/default/files/RTI/RTIRules2012.pdf>



Although, the RTI Rules, 2012 of the central government allow the CIC to only return appeals (there is no provision for returning complaints), the assessment found that in violation of the rules, the CIC returned nearly 3,000 complaints during the period under review. Further, there have been instances where appeals/complaints have been returned incorrectly as described in Box 3.

Box 3: Defective deficiency memos of CIC!

A complaint under section 18 of the RTI Act was filed to the CIC on September 15, 2016 regarding non-compliance of its order directing proactive disclosure of information about the expenditure of MLA Local Area Development Funds. Nearly five months later, the complaint was returned by the CIC pointing out several defects, none of which were legally tenable under the RTI Act. The defect memo repeatedly referred to the complaint as a second appeal even though it was clearly marked as a complaint. The RTI Rules, 2012 only empower the CIC to return a second appeal if it is incomplete, there is no power to return a complaint. The defect memo stated that the copy of the first appeal and the order of the first appellate authority were missing, even though the complaint procedure under section 18 does not require a first appeal to be filed!

The deficiency memo was replied to in February 2017 itself, but the CIC website shows the registration date as 03-07-2017. A complaint filed originally in September 2016, is therefore, awaiting disposal despite the passage of 17 months.

2.2.3 Life and liberty

Section 7(1) states that information which concerns the life or liberty of a person has to be supplied within 48 hours of the request being received.

“7.(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case

within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.” (emphasis supplied)

However, the RTI law does not prescribe any time frame for dealing with appeals and complaints relating to life and liberty. This effectively incapacitates this provision because if public authorities do not provide such information within 48 hours, the appeals/complaints filed with ICs would enter the regular cycle and are disposed after many months/years, depending on the backlogs in the commissions. This necessitates the adoption of relevant guidelines by commissions to expeditiously deal with appeals and complaints relating to life or liberty – a demand that has been repeatedly made by RTI users and activists.

In order to determine whether commissions have put in place any mechanism to identify and expedite the process of hearing matters related to the life or liberty of a person, information was sought from all 29 ICs about the number of such appeals/complaints dealt by them and whether ICs had defined any process to be followed if a complaint or appeal states that the information sought relates to the life or liberty of a person.

The assessment found that most commissions had not adopted any specific procedures for identifying and fast-tracking appeals/complaints for matters in which information sought related to the life or liberty of a person. 19 ICs (65%) stated that they had no defined process which is followed if a complaint or appeal states that the information sought relates to the life or liberty of a person. Only the ICs of Punjab and West Bengal stated that they have put in place a mechanism to expedite the disposal of such cases. Four ICs did not reply to the RTI application and did not provide any response even after a first appeal was filed.

These were the ICs of Andhra Pradesh, Rajasthan, Tamil Nadu and Madhya Pradesh.

In terms of the number of appeals/complaints related to life or liberty dealt with by each commission, 14 ICs or nearly 50% stated that the information could not be provided, as it was not maintained or was not consolidated.

The 11 ICs which provided the requisite information, stated that they had not received any appeals/complaints related to life or liberty during the period under review.

Box 4: Unpacking the definition of life or liberty

The Sikkim State RTI Rules, 2005 attempt to define what may be considered as information relating to life or liberty under section 7(1) of the RTI Act. The rules state that at a minimum, information related to a person’s confinement, internment, arbitrary detention, imminent death at the hands of the State or another individual, torture, or violation of due process rights, should be considered to be related to a person’s life or liberty and therefore, its disclosure should be expedited. Further, the rules direct that with respect to information related to life or liberty, the PIOs should adopt an interpretation which is most beneficial to the information seeker. This is an initiative that needs to be replicated by other states.

2.3 Discussion

An estimated 40 to 60 lakh (4 to 6 million) applications under the RTI Act were filed in 2011-12. Taking that as the annual estimate of number of RTI applications filed, the data on the estimated number of appeals and complaints registered annually suggests that ICs are petitioned in only about 5% of the total RTI applications filed. However, this does not mean that in 95% of the cases people get access to the information they sought. The RaaG & CES 2014 assessment, estimated that only about 45% of RTI applications were successful in terms of obtaining the information requested¹⁵. Therefore, of the remaining 55%, less than 10% actually end up filing a second appeal or complaint - perhaps because many of those who file RTI applications do not have the resources or skills needed to approach ICs and therefore, on not receiving the information sought, are unable to approach the commissions. National assessments have shown that a large number of RTI applications emanate from the urban poor and from rural households seeking information about their basic entitlements¹⁶.

In this context, the practice being followed by the CIC and several SICs, of returning a very large number of appeals and complaints without passing any orders, becomes extremely problematic. It also creates an apprehension that this is perhaps a way of frustrating information seekers in a bid to reduce backlogs in ICs since many people, especially the poor and marginalised, would feel discouraged and often give up if their appeal/complaint is returned. The CIC, for instance, returned 48,634 appeals/complaints between January 2015 to October 2017¹⁷. Admittedly some of the returned cases would have subsequently been registered after the deficiency was removed by the information seeker. Further, some others may have been legitimately returned as they did not pertain to the CIC etc. Even then, at least 25-30% of the cases would perhaps be such where information seekers, discouraged by the return of their case, would have given up on the process of pursuing their appeal/complaint¹⁸. If these people had been properly assisted, and their cases registered, the backlog in the CIC as on October 31, 2017 would have increased by around 50%.

Unlike the courts, where people take the assistance of lawyers, most information seekers navigate the process of filing RTI applications and following up on their own. Therefore, it is important that the process of filing an appeal/complaint to the commission should be people-friendly. Procedural deficiencies like the absence of an index or page numbering must not be grounds for returning appeals/complaints under the RTI Rules. In fact, a new set of RTI Rules proposed by the central government¹⁹ in March 2017, met with strong resistance from civil society as they sought to make the process of filing an appeal/complaint to the CIC more cumbersome and legalistic. For example, the proposed rules placed an additional burden on citizens to provide a certificate stating that the matter under appeal or complaint has not been previously filed and disposed, and is not pending with the commission or any court. They also sought to empower the CIC to return complaints to information seekers in case of deficiencies. The proposed rules are still under consideration and have not been adopted yet.

¹⁵ Chapter 6, RaaG & CES, 2014

¹⁶ Chapter 5, RaaG & CES, 2014

¹⁷ Data sourced from CIC website

¹⁸ In an email communication in October 2017, the Additional Registrar of the CIC had stated that in 2017, approximately 40% of all cases received had been returned. Of these about 50% were subsequently registered, while 18% of the returned cases were not registered and 4% of returned cases remained undelivered. No explanation on the fate of the remaining 28% of returned cases was provided.

¹⁹ http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_5_2016-IR-31032017.pdf

Commissions must facilitate and assist people in the process of registering their appeals/complaints, rather than summarily returning them. In cases where a substantive deficiency is noticed, for instance if a second appeal has been filed without exhausting the first appeal process or where an appeal/complaint which should lie with the CIC has been filed to the SIC or vice versa, the commission should, to the extent possible, facilitate the remedial action by forwarding the appeal/complaint to the appropriate authority. Returning an appeal/complaint should be a last resort adopted by ICs.

Such an approach would be in keeping with the RTI law, which explicitly recognizes that many people in the country would need assistance in exercising their right to information.

Further, wherever appeals and complaints are returned, the deficiency memo which enunciates the reason for the return must be made public. This is, in any case, a requirement under Section 4 of the RTI Act and would enable public scrutiny of the functioning of the ICs.

The absence of any mechanism in ICs to identify appeals/complaints related to the life or liberty of a person, and expedite their disposal, renders the clause that information related to life or liberty be provided within 48 hours, ineffective. ICs need to adopt proper procedures to deal with such appeals/complaints. Further, the commissions could also invoke their powers under section 25(5) to recommend to all public authorities that they also put in place a mechanism to expedite first appeals in cases related to the life or liberty of a person. Section 25(5) states:

“(5) If it appears to the Central... or State Information Commission...that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.”

2.4 Agenda for action

1. Appropriate governments must examine the rules made by them under the RTI Act for filing appeals and complaints with ICs and ensure that the procedures prescribed therein are in conformity with the law and are people-friendly.
2. RTI rules should not allow for returning of appeals/complaints due to minor or procedural defects. They must place an obligation on ICs to assist people in filing appeals and complaints, rather than summarily returning them due to a deficiency.
3. In recognition of the hardships faced by people, especially the poor and marginalized, in filing RTI applications and approaching the ICs, commissions must adopt mechanisms to assist and facilitate people in the process of registering their appeals/complaints. Returning an appeal/complaint should be the last resort. All ICs must provide a help-line and facilitation desk where people can seek advice and assistance. The websites of ICs and public authorities must prominently display information about the procedure for filing an appeal/complaint.
4. In cases where an appeal/complaint is returned, the reasons for returning must be publicly disclosed on the website, in addition to being communicated to the appellant/complainant. This would be in conformity with Section 4 of the RTI Act and would allow public scrutiny.
5. Appropriate governments, through rules, should prescribe the procedures to be adopted by the first appellate authorities and ICs to fast-track the disposal of deserving cases relating to life or liberty. While ordinary matters should be heard in chronological order, an exception must be made for such cases. In the interim, ICs can themselves put in place an appropriate mechanism

and using their powers under section 25(5) of the RTI Act, recommend to all public authorities that their first appellate authorities adopt similar mechanisms.

3. Backlog and Delays in Information Commissions

3.1 Introduction

The RTI Act prescribes statutory timelines for disposing information requests - ordinarily thirty days from the date of application. In case information is not granted, or the applicant is aggrieved by the nature of response received, she/he is entitled to file a first appeal with the designated First Appellate Authority, which has to be disposed within a maximum period of 45 days. No time-frame, however, is prescribed for disposal of a second appeal or complaint which lies with information commissions (an error that appears to have crept in as the law made its way through Parliament²⁰).

Huge backlogs in the disposal of appeals and complaints by information commissions is one of the most serious problems being faced by the transparency regime in India. These backlogs result in applicants having to wait for many months, even years, for their cases to be heard in ICs, defeating the objective of the RTI law of ensuring time-bound access to information.

The issue of backlogs and delays is especially problematic for marginalized sections of the Indian population who use the RTI Act to access information about their basic entitlements like subsidized rations, old age pensions and minimum wages, in the hope of being able to hold the government accountable for delivery of these services. It is a daunting task for them to file an information request and follow it up with an appeal/complaint to the IC in case of denial of requisite information. If there are inordinate delays in the commissions, the law becomes meaningless for them in terms of ensuring their right to information.

3.2 Findings

3.2.1 Backlog of appeals and complaints

The number of appeals and complaints pending on December 31, 2016 in the 23 information commissions, from which data was obtained, stood at an alarming figure of 1,81,852. The pendency increased to about two lakh cases (1,99,186) at the end of October 2017.

The commission-wise break-up of the backlog of appeals and complaints is given in Table 3. As of October 31, 2017, the maximum number of appeals/complaints were pending in Uttar Pradesh (41,561) followed by Maharashtra (41,178) and Karnataka (32,992). The CIC with 23,944 pending appeals and complaints came in at number four. There were no backlogs in the SICs of Mizoram and Sikkim as of October 31, 2017.

The information commissions of Andhra Pradesh, Bihar, Jharkhand, Madhya Pradesh, Rajasthan and Tamil Nadu did not provide requisite information on the backlog of appeals and complaints under the RTI Act. The information was also not available on their websites.

²⁰ Chapter 25, RaaG & SNS, 2017

Table 3: Backlog of appeals & complaints in information commissions			
	IC	As on Dec 31, 2016	As on Oct 31, 2017
1	Uttar Pradesh ③	49,597	41,561
2	Maharashtra	43,136	41,178
3	Karnataka	NA	32,992
4	CIC	28,502	23,944
5	Kerala	12,602	13,964
6	Odisha	9,170	10,296
7	Telangana	8,266	15,578
8	West Bengal	8,115	8,195
9	Chhattisgarh	5,860	NA
10	Gujarat	5,780	3,941
11	Assam	3,193	642
12	Punjab	2,832	1,882
13	Uttarakhand ④	1,823	1,275
14	Haryana	1,574	2,668
15	Goa	821	391
16	Himachal Pradesh ①	442	491
17	Manipur	100	106
18	Nagaland ②	21	22
19	Arunachal Pradesh	15	52
20	Meghalaya	2	2
21	Mizoram	1	0
22	Sikkim	0	0
23	Tripura	0	6
	Total	1,81,852	1,99,186
Andhra Pradesh, Bihar, Jharkhand, Madhya Pradesh, Rajasthan and Tamil Nadu did not provide information			
Notes: ① Data as of March 2016, not Dec 2016 ② Data as of March 2017, not Dec 2016 ③ Data as of July 2017, not Oct 2017 ④ Data as of March 2017 & Nov. 10, 2017			

The information provided by the CIC, in response to RTI applications, on the number of appeals/complaints pending before it was inconsistent with the information available on its website (see Box 5).

Box 5: CIC misinforming citizens about its pendency?

The website of the CIC appears to be providing misleading information about the number of appeals and complaints pending before it. In response to an application filed under the RTI Act, the CIC stated that on December 31, 2016, the total number of appeals and complaints pending with it were 28,502. However, the CIC website shows that only 364 cases were pending with the commission on January 1, 2017. It is inexplicable how overnight the pendency reduced from 28,502 to 364!

3.2.2 Estimated time required for disposal of an appeal/complaint

The large backlog of appeals and complaints in ICs results in information seekers having to wait for many months, even years, for their appeals and complaints to be heard. Using data on the backlog of appeals/complaints in ICs and their monthly rate of disposal of cases, the time it would take for an appeal/complaint filed with an IC on November 1, 2017 to be disposed was computed (assuming appeals and complaints are disposed in a chronological order). The analysis presented in Table 4 shows that a matter filed on November 1, 2017 would be disposed in the West Bengal SIC after 43 years- in the year 2060! In Kerala it would take 6 years and 6 months, while in Odisha more than 5 years. The comparative data from the RaaG & CES 2014 report and RaaG & SNS 2017 report is also presented.

Table 4: Estimated time required for disposal of an appeal/complaint

	IC	Time before new appeal is disposed (as of Jan 1, 2014)	Time before new appeal is disposed (as of Jan 1, 2016)	Time before new appeal is disposed (as of Nov 1, 2017)
1.	West Bengal	17 years & 10 months	11 years & 3 months	43 years
2.	Kerala	2 years & 3 months	7 years & 4 months	6 years and 6 months
3.	Odisha	9 months	2 years & 9 months	5 years and 3 months
4.	Chhattisgarh ①	1 year & 3 months	2 years	1 year and 10 months
5.	Uttar Pradesh ②	1 year & 4 months	1 year & 2 months	1 year and 6 months
6.	Telangana	IC not formed	IC not formed	1 year and 5 months
7.	Himachal Pradesh	2 months	5 months	1 year and 3 months
8.	Karnataka	1 year & 2 months	1 years & 8 months	1 year and 1 month
9.	CIC	1 year & 1 month	1 year & 10 months	10 months
10.	Nagaland	1 month	no pendency	8 months
11.	Gujarat	9 months	NA	5 months
12.	Manipur	NA	NA	5 months
13.	Haryana	3 months	2 months	4 months
14.	Punjab	3 months	4 months	4 months
15.	Uttarakhand ③	3 months	NA	4 months
16.	Arunachal	4 months	NA	3 months
17.	Assam	2 years & 8 months	30 years	3 months
18.	Meghalaya	No pendency	2 months	1 months
19.	Tripura	No pendency	NA	1 month
20.	Mizoram	No pendency	NA	No pendency
21.	Sikkim	No pendency	No pendency	No pendency
22.	Madhya Pradesh	60 years & 10 months	NA	NA
23.	Rajasthan	3 years & 4 months	2 years & 3 months	NA
24.	Andhra Pradesh	1 year & 6 months	NA	NA
25.	Maharashtra	1 year & 1 month	8 months	NA
26.	Bihar	NA	NA	NA
27.	Goa	NA	NA	NA
28.	Jharkhand	NA	NA	NA
29.	Tamil Nadu	NA	NA	NA

Notes: For 2017, based on appeals/complaints pending as of ① 31-12-2016 ② 31-7-2017 ③ 10-11-2017

In 8 ICs, the waiting time for disposal for an appeal/complaint filed on November 1, 2017 was more than 1 year.

Unfortunately, the SIC of Madhya Pradesh, which had the longest waiting time of 60 years, as per the 2014 report, did not provide information under the RTI Act or through its website on the number of appeals/complaints pending and disposed during the period under review. Therefore, it was not possible to analyse whether it has registered any improvement.

In West Bengal, the estimated time for disposal of an appeal/complaint filed on November 1, 2017 was a whopping 43 years, as during the period under review for this report, the IC was non-functional for nearly 12 months due to vacancies (see chapter 1). This resulted in an abysmally low monthly rate of disposal of cases by the West Bengal SIC.

The Assam SIC which had the longest estimated waiting time for disposal of appeals/complaints of 30 years, in the 2017 assessment improved its performance drastically. The improvement has a direct correlation with the vacancies in the Assam SIC being filled up. In the time period under review for the previous assessment, the Assam SIC was non-functional for 9 months and functioned with a single commissioner for 11 months. On the other hand, during the period under review for the current report, the commission was functioning with three commissioners, resulting in a drastic reduction in the estimated time required for disposal of cases from 30 years in the previous assessment to three months in the current one.

Box 6: Sixteen months, no hearing in the CIC

Reena, a single mother from Dakshinpuri, Delhi had applied for scheduled caste certificates for her children but was told by the Revenue Department that she needed to produce the caste certificate of the father of her children as a mother's caste certificate would not suffice. Reena filed an RTI request in June 2016 seeking information about the documents required for applying for a caste certificate for children and the procedure to be followed in case a single mother is not in possession of their father's caste certificate.

She filed a second appeal to the CIC on the 30th of November, 2016 as she did not get any response to her RTI application or first appeal. After the second appeal was filed, her first appeal was heard and the appellate authority directed that an appropriate reply should be provided within 10 days. However, till date neither has the PIO complied with the order of first appellate authority, nor has her matter been taken up for disposal by the CIC.



The long time taken by ICs to dispose appeals/complaints against violations of the RTI Act often results in errant PIOs getting away scot free (see Box 7).

Box 7: Justice delayed is justice denied!

Amitava Chowdhury filed an application under the RTI Act on March 28, 2008 seeking information on the names and designations of persons connected with the appointment related activities of the West Bengal College Service Commission. However, no information was provided in response to the RTI application and therefore, he filed a complaint before the West Bengal State Information Commission on February 25, 2009. The complaint was finally heard on 7th of March 2018- more than nine years after it was filed!



With so much time having elapsed, the disclosure of information lost its relevance for Chowdhury and therefore, he no longer needed the information. His only demand was that a penalty be imposed on the erring officials. However, the SIC in its order noted that the PIO had retired and therefore refrained from imposing penalty. The order states that the SIC *“reprimands the then SPIO (State Public Information Officer) for not providing the information within the statutory period”*!

3.3 Discussion

Access to information is meaningful only if information is provided within a reasonable timeframe. Backlogs in the disposal of appeals and complaints by information commissions is one of the most critical indicators of poor implementation of the RTI Act in the country. The resultant inordinate delays by ICs in disposing appeals/complaints violate the basic objective of the RTI Act.

Research shows that a large number of RTI applications in India emanate from the urban poor and from rural households living below the poverty line, seeking information about their basic entitlements in a bid to secure justice²¹. For people living at the margins, who are most dependent on government services (and therefore need information the most), it is a daunting task to file an application seeking information and then follow it up with an appeal or complaint to the IC in case of denial of requisite information. If they have to face inordinate delays in the commissions, the law becomes meaningless for them.

Successive national assessments have identified and flagged the issue of long delays in the disposal of appeals/complaints by ICs caused due to a huge backlog of cases in the commissions. At least five factors contribute to the problem of large backlogs in commissions. First, non-appointment of adequate number of information commissioners in ICs. As discussed in chapter 1, during the period under review in this report, several ICs were non-functional or were performing at reduced capacity due to vacancies in the post of commissioners, resulting in appeals/complaints piling up in commissions.

Second, tardy rate of disposal of cases by ICs even where adequate number of commissioners exist. Most information commissions have not adopted any norms regarding the number of cases a

²¹ The RaaG & CES, 2014 assessment found that more than half the urban applicants and all of the rural applicants from among those randomly interviewed for the assessment, were living below the poverty line (BPL)

commissioner should deal with in a month. This is especially problematic in ICs which receive large numbers of appeals and complaints. Also, the processes adopted by ICs to handle cases are not efficient and most commissions do not have adequate resources and staff.

Third, poor implementation of section 4 of the RTI law, which obliges public authorities to proactively disclose information. Previous reports on the implementation of the RTI Act have shown that nearly 70% of the RTI applications seek information that should have been proactively made public without citizens having to file an RTI application²². Since central and state governments are not fulfilling their statutory obligations under section 4 of the RTI Act, lakhs of people in India are forced to spend their time and resources to get information from public authorities. This leads to an increase in the number of information requests, which ultimately increases the workload of ICs. Unfortunately, ICs have largely hesitated in invoking their powers to address the issue of violations of section 4.

Another factor contributing to a large number of information requests being filed in public authorities, many of which subsequently reach ICs, is the absence of effective grievance redress mechanisms in the country. An analysis of RTI applications showed that at least 16% of applications seek information aimed at getting action on a complaint, getting a response from a public authority or getting redress for a grievance²³. In the absence of effective grievance redress laws, people often invoke the RTI Act in an attempt to force the government to redress their complaints by seeking information about the action taken on their complaint.

Finally, the lack of penalty imposition by ICs (see chapter 4) fosters a culture of impunity and encourages PIOs to take liberties with the RTI Act. This results in many unanswered applications and an equal number of delayed or illegitimately refused ones, leading to a large number of appeals/complaints to ICs and the consequent backlogs and delays in commissions. By not imposing penalties, information commissions increase their own work-load.

These factors need to be comprehensively addressed if the problems of large backlogs and concomitant delays in ICs are to be tackled.

3.4 Agenda for action

1. The central and state governments must ensure timely appointment of requisite number of information commissioners in ICs (see chapter 1).
2. Information commissioners in all ICs must agree upon and adopt norms on the number of cases a commissioner must deal with every year. This is especially important in commissions which receive a large number of appeals and complaints. These norms must be made public and the number of cases disposed by each commissioner annually must also be proactively disclosed by ICs.
3. There is a concomitant need to develop a consensus among information commissioners across the country, on norms for budgets and staffing patterns of ICs, including legal and technical experts, based on the number of cases to be dealt with by each commissioner, and other relevant state specific issues.
4. There needs to be a review of the structure and processes of ICs to ensure that they function more efficiently. Even though a large majority of cases are essentially procedural, requiring no adjudication at least at the initial stages, they all come before information commissioners, thereby

²² Chapter 4, RaaG & CES, 2014

²³ Ibid

unnecessarily taking up their time and also causing huge delays in disposal. Perhaps learning from other ICs like that of the United Kingdom, in order to reduce pendency and waiting time, the Indian ICs need to be infused with a trained cadre of officers to facilitate the processing of appeals and complaints. In the UK commission, matters received are assessed by senior functionaries and allocated to professional staff. The “case officers” who are allocated these cases have a maximum of 30 days to initiate action on each case, monitored by senior officers. There is a separate enforcement wing so that when a matter has been adjudicated upon, it is referred to the enforcement wing that determines the legal possibilities of imposing a penalty. Another wing liaises with public authorities to advise them on making their policy and practice in consonance with the information law²⁴.

5. ICs must impose penalties mandated under the RTI Act for violation of the law (see chapter 4 for more details).
6. One way of reducing backlogs is that without illegitimately curbing the citizen’s fundamental right to information, practices are adopted by public authorities for ensuring that the number of RTI applications received by them do not become unmanageable. Poor compliance by public authorities with section 4 of the RTI Act forces information seekers to file applications for information that should be available to them proactively, consequently creating extra work for the concerned public authorities and for information commissions. The following steps must be undertaken to improve proactive disclosures:
 - i. ICs should ask, of each matter coming before them for adjudication, whether the information being sought was required to be proactively made public or communicated to the applicant, as an affected party. Where the answer is “yes”, the IC should send directions, as empowered to do under section 19(8) of the RTI Act, to the concerned PA to start disseminating the information proactively and report compliance.
 - ii. One of the problems with ensuring implementation of section 4 of the law is that the RTI Act empowers the commission to impose penalties only on PIOs, while the responsibility of ensuring compliance with section 4 of the RTI Act is actually with the public authority rather than with a specific PIO. Also, the RTI Act does not explicitly provide for the appointment of PIOs to ensure compliance with the provisions of section 4(1) of the RTI Act. Perhaps the most effective way of dealing with this problem is to make Heads of Departments (HoDs) personally responsible for ensuring compliance with provisions of section 4. This would be in keeping with general administrative practice, considering that the ultimate responsibility for the functioning of a public authority lies with the HoD.
 - iii. Where a complaint is received against non-compliance with any provision of section 4, the commission should institute an enquiry under section 18 of the RTI Act, against the HoD or any other official responsible. ICs should penalise the relevant official for any violations of the obligation for proactive disclosure, using the “implied powers” of the commission, as mandated by the Supreme Court. The SC, in *Sakiri Vasu vs State of Uttar Pradesh*, 2007 held that it is well settled that, once a statute gives a power to an authority to do something, it includes the implied power to use all reasonable means to achieve that objective. By implication, there is no legal reason why the IC cannot impose a penalty on other liable persons, say the HoD of the public authority, or whoever else is responsible, for violating the RTI Act. As the IC is empowered by the RTI Act to impose penalties explicitly on PIOs, it can also impose it on whoever else might be in violation of the RTI Act, by using its “implied powers”.
 - iv. Where an appeal or complaint comes before an IC relating to information that should rightly have been made available *suo motu* under section 4 of the RTI Act, but was not, the IC should

²⁴ For further details, see Chapter 24, Raag & SNS, 2017

exercise its powers under S. 19(8)(b) and award compensation to the appellant/complainant. If done in adequate number of cases, this would provide a strong incentive for public authorities to comply with section 4 (see chapter 5) .

- v. The ICs should get annual audits of section 4 compliance done for each public authority and the findings of this audit should be placed before Parliament and the legislative assemblies, and disseminated to the public.
 - vi. Information that is proactively disclosed by public authorities must be properly categorized and organised in such a manner that it facilitates easy retrieval. Information on the website must be organised in a searchable and retrievable database to enable people access relevant records. Otherwise, the proactive disclosure of a large amount of disorganized and unsearchable information can actually contribute to opaqueness rather than transparency.
 - vii. Public authorities should conduct periodic audits (at least six monthly) and identify the type of information that is being repeatedly asked for in RTI applications being received by them. Where such information is not exempt under the RTI Act, they should effectively disseminate the information proactively, thereby obviating the need to file applications.
 - viii. The Department of Personnel and Training (DoPT) must take appropriate steps to operationalise and implement the recommendation made by a committee set up to examine proactive disclosures²⁵ . The committee had recommended that compliance with section 4 be included as one of the performance indicators in the annual performance appraisal report (APAR) of the HoDs of all public authorities.
7. In order to ensure systemic improvement in governance, every public authority should analyse the information being sought under the RTI Act, with the purpose of identifying and acting on any lapses or weaknesses that these RTI applications might point towards, both in terms of the functioning of the concerned public servant or prevailing policy and practice in the public authority. All PAs must analyse RTI applications with a view to address short-comings in governance and bringing about systemic change. This was also stated by the Prime Minister, while addressing the CIC convention in 2015. Considering a large number of RTI applications are filed by people to access information related to poor delivery of basic services resulting from bad governance, this would result, among other things, in reducing the work load of ICs. This step must be immediately initiated by all public authorities.
 8. Often RTI applications are filed because there are unattended grievances that the public has with the public authority. The central government must immediately re-introduce the grievance redress bill, which had lapsed with the dissolution of the Lok Sabha in 2014, for enactment in Parliament.
 9. Another practice that would minimize the work load of many public authorities is the putting of all RTI queries and the answers given (except where exempt under the RTI Act) in the public domain, in a searchable database. This would allow people to access information that has already been accessed by someone earlier without having to resort to filing an RTI application. Though the DoPT has already vide its memorandum No.1/6/2011-IR, dated 15th April 2013, directed that *“All Public Authorities shall proactively disclose RTI applications and appeals received and their responses, on the websites maintained by Public Authorities with search facility based on key words”*, this hardly seems to have had an impact even on PAs of the Government of India. Therefore, the DoPT and the state governments need to push harder for this to happen, and the ICs should also take cognizance of this and “require” the PAs to comply, using the powers provided under section 19(8)(a)(iii).
 10. A major constraint faced by PIOs in providing information in a timely manner is the poor state of record management in most public authorities, leading to information seekers petitioning ICs. Section 4(1) (a) of the RTI Act obligates every public authority to properly manage and speedily computerize its records. However, given the tardy progress in this direction perhaps what is needed is a national task force specifically charged with digitization and scanning all office records

²⁵ Report available from <https://goo.gl/wc0c0b>

in a time bound manner and organizing them. ICs should exercise the vast powers provided to them under the RTI Act and use these to ensure that records are managed in a way that they facilitate access to information of the public.

4. Penalizing Violations of the Law

4.1 Introduction

Section 20 of the RTI Act empowers ICs to impose penalties of upto Rs. 25,000 on erring PIOs for violations of the RTI Act. The penalty clause is one of the key provisions in terms of giving the law its teeth and acting as a deterrent for PIOs against violating the law.

“20 (1) Where the Central Information Commission or the State Information Commission ... at the time of deciding any complaint or appeal 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 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 which was the subject of the request or obstructed in any manner in furnishing the 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:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.”

As per the RTI Act, whenever an appeal or a complaint is being disposed, and one or more violations listed in section 20 are found to have occurred, the commission is obliged under the law to either impose the prescribed penalty after following the prescribed procedure, or provide reasons why it is not imposing a penalty from within the reasons allowed by law. The penalty is imposable whether or not asked for by the appellant or complainant, as long as it is warranted.

Despite Section 20(1) of the RTI Act clearly defining the violations of the law for which PIOs must be penalised, ICs impose penalty in only an extremely small fraction of the cases in which it was imposable.

Section 20(2) empowers information commissions to recommend disciplinary action against a PIO for “persistent” violation of one or more provisions of the Act.

“(2) 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 or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or 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 which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.”

4.2 Findings:

4.2.1 Quantum of penalty imposed

The assessment found that for the period January 1, 2016 to October 31, 2017, the 22 commissions which provided relevant information, imposed penalty in 4,194 cases (appeals and complaints). Penalty amounting to Rs. 4.41 crore was imposed by these 22 commissions during the period under review (see Table 5 for commission wise details). The quantum of penalties recovered for the same period was Rs. 49.73 lakh. The SICs of Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu & Uttar Pradesh did not provide information on penalties imposed and recovered.

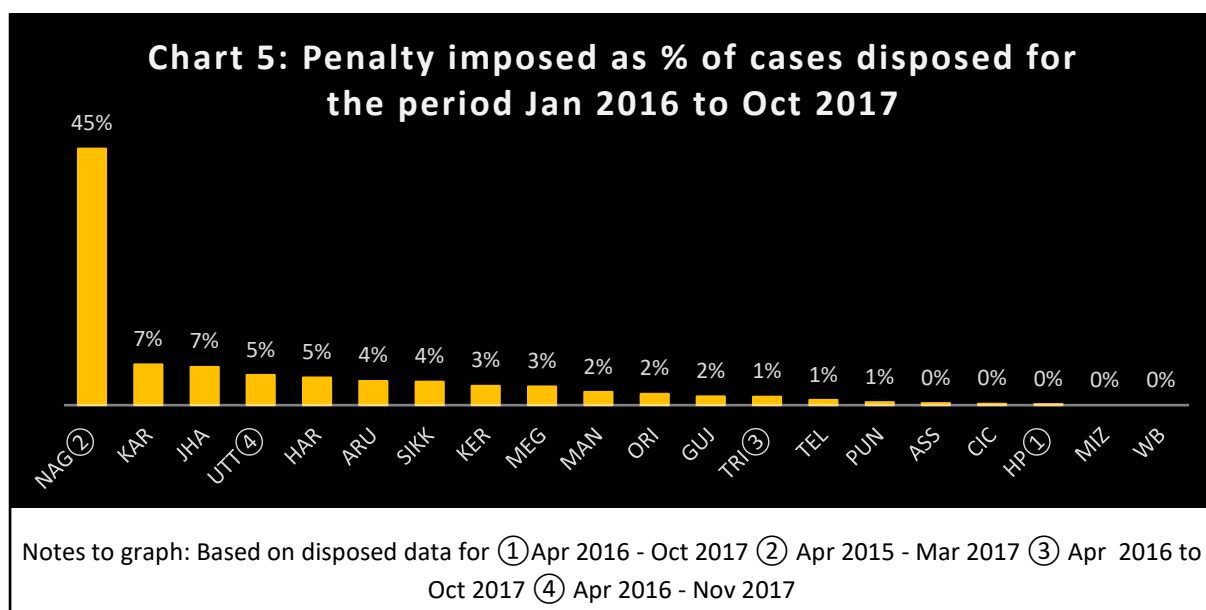
In terms of quantum of penalty imposed, Karnataka was the leader (Rs. 1.7 crore), followed by Haryana (Rs. 96 lakh), and Uttarakhand (Rs. 72 lakh). CIC imposed penalty amounting to Rs. 29.4 lakh. SICs of West Bengal and Mizoram did not impose any penalty for the period under review.

Table 5: Penalty imposed and recovered (January 1, 2016 to October 31, 2017)				
	IC	No. of cases where penalty imposed	Penalty imposed (in Rs.)	Penalty recovered (in Rs.) for cases decided in 2016 & 17
1	Karnataka	2,044	1,69,17,750	NA
2	Haryana	731	95,96,989	-
3	Uttarakhand ^④	330	71,99,750	14,46,000
4	CIC	146	29,35,750	13,77,752
5	Odisha	72	16,99,000	3,09,000
6	Gujarat	281	13,92,500	6,49,000
7	Punjab	59	10,90,000	NA
8	Telangana	181	10,42,500	2,38,000
9	Jharkhand	26	5,75,000	NA
10	Arunachal Pradesh	17	4,25,000	4,25,000
11	Kerala	133	3,68,500	1,62,500
12	Nagaland ^②	26	3,56,500	99,000
13	Assam	17	1,85,000	1,85,000
14	Manipur	10	1,39,600	34,750
15	Chhattisgarh ^①	NA	1,15,500	NA
16	Goa	111	53,500	NA
17	Meghalaya	2	33,750	33,750
18	Sikkim	4	9,000	6,500
19	Tripura ^③	3	7,000	7,000
20	Himachal Pradesh	1	5,000	NA
21	Mizoram	0	0	0
22	West Bengal	0	0	0
	Total	4,194	4,41,47,589	49,73,252
Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu & Uttar Pradesh did not provide information. Notes: ① For Jan 2016- Dec 2016 ② Number of cases and penalty imposed pertains to Apr 2015 to Mar 2017, penalty recovered pertains to 2016 & 17 ③ For Apr 2016 to Oct 2017 ④ Number of PIOs on whom penalty was imposed				

In terms of recovering penalties imposed during 2016 and 2017, the SIC of Uttarakhand recovered the highest amount of penalty (Rs. 14.5 lakh), followed by the CIC (Rs. 13.8 lakh). Some ICs such as Karnataka and Punjab, which had imposed penalties were unable to provide information on the amount of penalty recovered claiming that such information did not exist.

4.2.2 Penalty imposed as percentage of cases disposed

Analysis of the figures for 20 ICs (which provided information on both the number of cases disposed and the number of cases where penalty was imposed) shows that penalty was imposed by ICs in just 2.4% of the cases disposed.



A previous assessment²⁶ (2017) of a random sample of orders of information commissions had found that an average of 59% orders recorded one or more violations listed in Section 20 of the RTI Act, based on which penalties were imposable. If this estimate of 59% is used, penalty was imposable in 99,558 cases out of the 1,68,742 cases disposed by the 20 ICs between January 1, 2016 and October 31, 2017 (see Table 5). Actual penalties were imposed in 4,083 cases- only in 4.1% of the cases where penalties were imposable! The ICs therefore did not impose penalties in almost 96% of the cases where penalties were imposable.

4.2.3 Recommending disciplinary action for persistent violations of the RTI Act

The assessment found that for the period January 1, 2016 to October 31, 2017, of the 18 commissions which provided information, only 6 had invoked their powers to recommend disciplinary action. The CIC, and the SICs of Chhattisgarh, Gujarat, Haryana, Jharkhand and Odisha had recommended disciplinary action for persistent violations.

Chhattisgarh had recommended disciplinary action in the maximum number of cases (1068), even though information for Chhattisgarh is available only for the period January to December 2016. This was followed by the Haryana SIC which invoked these powers in 412 cases. The CIC recommend

²⁶ RaaG & SNS, 2017

disciplinary action in only 4 cases during the period under review. The commission wise details are provided in Table 6.

Table 6: No. of cases where disciplinary action was recommended between Jan 2016 to Oct 2017		
	IC	No. of cases
1	CHH ①	1068
2	HAR	412
3	JHA	14
4	GUJ	9
5	CIC	4
6	ODI	2
7	ARU	0
8	ASS	0
9	HP	0
10	MAN	0
11	MEG	0
12	MIZ	0
13	NAG	0
14	SIKK	0
15	TRI	0
16	UTT	0
17	WB	0
18	TEL	0
Notes: AP, BIH, GOA, KAR, KER, MP, MAH PUN, RAJ, TN, UP ① Data only for Jan-Dec 2016		

4.3 Discussion

The provision to allow for imposition of penalties under the RTI Act is widely seen as the clause that is most critical for ensuring effective compliance with the information law. There are numerous court orders²⁷ that reiterate that it is mandatory to impose a penalty, as prescribed in section 20(1) of the RTI Act, if a PIO has violated the RTI Act in any one or more of the following ways:

- i. without any reasonable cause refused to receive an application
- ii. without any reasonable cause delayed furnishing information
- iii. with mala fide denied the request for information
- iv. knowingly given incorrect information
- v. knowingly given incomplete information
- vi. knowingly given misleading information
- vii. destroyed information which was the subject of any request
- viii. obstructed in any manner the furnishing of information

²⁷ For a discussion of these orders see Chapter 28, RaaG & SNS, 2017

It is a settled legal position that the commission's orders must be speaking orders and must contain detailed reasons for decisions. Therefore, whenever an appeal or a complaint provides evidence that one or more of the penalizable violations has occurred, the commission must either impose the prescribed penalty or give reasons why in its opinion the PIO has been able to establish that the relevant exception is applicable (reasonable cause, no mala fide, or not knowingly, as described above). This is especially so, because under sections 19(5) and 20(1) of the RTI Act, PIOs have the onus to prove that they did not commit a penalizable offence. Therefore, it becomes essential in all such cases for the information commissions to issue a notice to the PIO asking for a justification.

In addition, as discussed in the previous chapter, penalties must not only be imposed in cases of denial of information sought, but also to punish non-compliance with provisions of section 4 of the RTI Act. The responsibility of ensuring compliance with section 4 of the RTI Act is with the public authority rather than with a specific PIO, therefore, in keeping with general administrative practice, Heads of Departments (HoDs) of public authorities must be held responsible for violations of section 4 by their department. Where a complaint is received against non-compliance with any provision of section 4, the commission should institute an enquiry under section 18 of the RTI Act, against the HoD or any other official responsible. Penalties must be imposed on the guilty HoD/officials for any violations of the obligation for proactive disclosure, using the "implied powers" of the commission, as mandated by the Supreme Court. The SC, in *Sakiri Vasu vs State of Uttar Pradesh* 2007, held that, once a statute gives a power to an authority to do something, it includes the implied power to use all reasonable means to achieve that objective. The RTI Act is a self-contained legislation empowering ICs to impose penalties on PIOs and mandating ICs to receive complaints regarding violations of section 4. By implication, ICs can invoke their "implied powers" to impose penalties for violations of section 4 on the HoD of the public authority, or whoever else is responsible.

Successive assessments of the implementation of the RTI Act have shown that penalties are imposed in only a miniscule percentage of cases in which they were imposable. As discussed above, in more than 95% cases penalty was not imposed even though it was imposable. Non-imposition of penalties causes a loss to the public exchequer. But, even more important than the revenue lost is the loss of deterrence value that the threat of penalty was supposed to have provided. The failure of the commissions to impose penalties in clearly deserving cases, sends a signal to the PIOs that violating the law will not invite any serious consequences. This destroys the basic framework of incentives and disincentives built into the RTI law, promotes a culture of impunity and exasperates applicants who seek information at a high cost and often against great odds.

The laxity in imposing penalties allows PIOs to take liberties with the RTI Act, at the cost of the public. Experience has shown that the tendency to misuse exemptions available in the RTI Act, and many which are not mentioned in the law, has been increasingly manifesting itself among PIOs. This leads to many unanswered applications and an equal number of delayed or illegitimately refused ones, resulting in a large number of appeals and complaints to the commission, and the consequent long wait before appeals and complaints come up for consideration. Therefore, by not imposing even the legally indicated and mandatory penalties, information commissions are increasing their own workload and encouraging delays and illegitimate denials for the public.

In effect, this near universal violation by information commissions is threatening the very viability of the information regime in India. If a penalty is imposed each time an RTI application is ignored or illegitimately denied, as is legally required, there would hardly be an application that would be

delayed, ignored, illegitimately denied, or otherwise illegally dealt with. Therefore, the mandatory imposition of penalties, as laid down in the law, would most likely change the whole incentive base of PIOs and significantly tilt the balance in favour of the public and of transparency.

The lack of an effective monitoring mechanism to ensure recovery of penalties also adversely affects the efficacy of the penal provisions of the RTI Act. Several ICs being unable provide figures on amount of penalty being recovered is a matter of grave concern. It would be reasonable to assume that in the absence of any follow-up/monitoring by the IC, the penalty is perhaps never actually recovered in most cases, which further emboldens PIOs to violate the law.

Often, commissioners cite lack of adequate powers to ensure compliance with the law. However, information accessed as part of this assessment shows that ICs are, by and large, reluctant to use even the powers explicitly given to them under the RTI Act – not just imposition of penalties but also the power to recommend disciplinary action against persistent violators. In order to invoke the powers to recommend disciplinary action, all ICs need to maintain a comprehensive database on PIOs who are found to be violating the RTI Act in terms of the grounds mentioned in section 20. This information must be available to each commissioner while hearing an appeal or complaint, in order to identify and act against persistent violators.

Finally, the persistent reluctance of commissioners to do their duty of imposing mandatory penalties (and thereby causing loss to the public ex chequer) needs to be publicly debated and perhaps adjudicated on by the Supreme Court.

4.4 Agenda for action

1. Information commissioners across the country must collectively resolve to start applying the penalty provision of the RTI Act more rigorously. There needs to be a serious discussion among the ICs to resolve their hesitation in imposing penalties envisaged in the law.
2. ICs must adopt a standardized format for their orders that contains at least basic information about the case and the rationale for the decision. Each order needs to be a speaking order and must include information on whether the actions of the PIO/officer attract a penalty under any of the grounds laid down in section 20 of the Act; the course of action adopted by the IC (including issuing a show cause notice); legal basis and grounds relied on by a commissioner if a penalty is not imposed despite existence of any of the circumstances mentioned in section 20.
3. As discussed in chapter 3, where a complaint is received against non-compliance with any provision of section 4 of the RTI Act, ICs should penalise the guilty official/HoD, using the “implied powers” of the commission, as mandated by the Supreme Court in *Sakiri Vasu vs State of Uttar Pradesh* 2007²⁸.
4. Since penalties imposed on the PIOs contribute revenue to the public exchequer, perhaps an order from the SC would be useful directing that all ICs must strictly follow the provisions of the RTI law regarding the imposition of penalties and wherever there are violations, they would risk prosecution under relevant sections of the Indian Penal Code for wilfully causing a loss to the exchequer. The SC could also be petitioned to hold that commissioners who were not willing to function in accordance with the provisions of the RTI Act should be liable to be acted against.

²⁸ *Sakiri Vasu v State of Uttar Pradesh and Ors.* AIR 2008 SC 907 : 2008 AIR

5. Applicants and complainants must persistently pursue the issue of imposition of penalty where any violation of the RTI Act has taken place. They must insist that the ICs detail in each order the reasons why penalty is not being imposed.
6. The commissions should maintain a detailed database of the penalties imposed by them, including the name and designation of the PIO, quantum of penalty imposed and date of imposition. This would enable commissioners to identify repeat offenders so that they can recommend the initiation of disciplinary proceedings against erring PIOs as per provisions of section 20.
7. All ICs must put in place a mechanism to enforce and monitor the implementation of their orders in terms of imposition of penalty and recommendation of disciplinary action. In cases where PIOs or PAs refuse to comply, the ICs must initiate appropriate legal proceedings, including approaching the courts if necessary, for recovery of penalties and enforcement of their directions.

5. Compensation

5.1 Introduction:

Section 19(8)(b) of the RTI act empowers commissions to award compensation to information seekers. Section 19(8)(b) states:

19(8) "In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

xxx

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;"

This is an important provision, which forms an intrinsic part of the structure of incentives and disincentives envisaged under the law. Unlike the provision of penalty which can be imposed only for specific violations prescribed in the law, the power to award compensation is more wide ranging. Wherever the IC is of the opinion that the information seeker has suffered any loss or detriment, due to any violation of the law, it may award compensation, which is to be paid by the public authority.

5.2 Findings:

The assessment found that ICs rarely used their powers to award compensation. Of the 21 commissions that provided information, only 12 ICs awarded any compensation to information seekers during the period under review (see Table 7). The SIC of Haryana awarded the maximum amount of compensation, Rs. 14.3 lakh followed by Karnataka (Rs. 11.8 lakh) and Punjab (Rs. 9.2 lakh). Despite the fact that a very large percentage of appeals and complaints would be the result of wrongful denial or delay in providing information, and most cases, if not all, must have caused loss or detriment to the information seeker due to expense involved, compensation has been awarded in very few cases.

Table 7: Award of compensation (Jan 2016 to Oct 2017)

S. No.	IC	No. of cases where compensation was awarded	Amount of compensation awarded (in Rs.)
1	HAR	464	14,27,700
2	KAR	736	11,77,100
3	PUN	247	9,14,800
4	CIC	30	4,24,000
5	JHA	13	4,15,000
6	CHH ①	NA	3,02,300
7	ARU	12	1,96,410
8	TEL	38	40,500
9	MAN	5	22,000
10	SIKK	3	20,000
11	GUJ	5	15,100
12	HP	4	7,500
13	ASS	0	0
14	KER	0	0
15	MEG	0	0
16	MIZ	0	0
17	NAG	0	0
18	ORI	0	0
19	TRI	0	0
20	UTT	0	0
21	WB	0	0
	TOTAL	1,557	49,62,410
AP, BIH, GOA, MP, MAH, RAJ, TN, UP did not provide the requisite information. Notes: Data pertains to ① Jan 2016- Dec 2016			

Box 8: The Right to Know, the Right to Live! *Hum Janenge, Hum Jiyenge*

Sumitra Devi, 78, embodies the spirit of the popular slogan of the RTI movement - the right to know, the right to live. Resident of Lal Gumbad Camp, a slum in South Delhi, Sumitra was a beneficiary of the old age pension scheme of the Delhi government. Her pension of Rs. 1,500 per month was her sole source of income. In April 2012 she stopped receiving her pension without any information from the concerned department. Despite repeated visits to the department, she was not informed of the reason for the discontinuation of her pension. Due to lack of resources, she became homeless as she could not afford to pay the rent for her *jhuggi*. She took shelter in the courtyard of a temple.



In June 2013, she filed an application under the RTI Act seeking information on the status of her pension. She filed a second appeal before the CIC as she did not receive complete information. The CIC directed the public authority to pay Sumitra Rs. 43,500 (the amount of pension due to her for the 29 months) as compensation as her pension had been stopped without informing her, a violation of the RTI Act. Her monthly pension was restarted. When the order to give compensation was not complied with, the CIC ordered a penalty and recommended disciplinary action against the PIO for repeatedly defying the RTI Act. Although the government challenged the CIC order in the Delhi High Court and the penalty was set aside, the court granted Sumitra Devi compensation of Rs. 43,500. With her pension restarted and the compensation amount received, she is once again able to afford a roof on her head.

Box 9: Waiting for the wheels of justice to turn!

Prema Devi, a resident of Kusumpur Pahadi slum settlement in Delhi, had a below poverty line (BPL) ration card which entitled her to receive subsidized grain under the Public Distribution System. She was not provided her monthly ration entitlements from May 2011 to June 2013 (period of 26 months). In violation of Section 4 of the RTI Act the food department did not proactively provide information on why her ration was abruptly stopped. Prema filed an RTI application seeking copies of the stocks and sale registers of her ration shop and the reasons for the discontinuation of her ration entitlements. In response, the PIO stated that Prema's ration had been discontinued as her ration card, "*is closed in the computer*". Unable to make sense of the reply, Prema filed a first appeal followed by an appeal before the CIC in March 2013.



The CIC, in September 2014, directed the public authority to pay Prema a compensation of Rs 26,000 for the loss incurred by her because of deactivation of her ration card without informing her and for providing incomplete information in response to her RTI application. The public authority failed to comply with the direction of the CIC leading to the commission imposing a penalty of Rs. 25,000 on the PIO. In July 2015, the Delhi government challenged the orders of the CIC in the Delhi High Court. While the matter has been listed eleven times, the hearings have been adjourned and the case is yet to be disposed. Prema Devi awaits justice.

5.3 Discussion

Inadequate use of the compensation provision in the RTI law is further evidence of the reluctance on the part of ICs to utilise the powers at their disposal. A large proportion of the appeals and complaints disposed by ICs are the result of wrongful denial or delay in providing information, and would have caused “loss or other detriment” to the information seekers – many of whom have to forego daily wages to file RTI applications/appeals/complaints and cannot easily afford the cost involved in travelling to public authorities and ICs. In all such cases, it can be reasonably expected that commissioners should use their powers to award compensation.

Unlike a penalty, there is no upper limit prescribed for the quantum of compensation that can be granted by commissions. Also, while a penalty has to be paid personally by the PIO, compensation is paid by the public authority and would, therefore, require the approval of appropriate sanctioning authorities – which would often entail offering an explanation for the need to pay compensation. Awarding compensation, therefore, has the potential to send out a strong message to public authorities.

Awarding compensation can also be an effective tool to ensure compliance with Section 4 of the RTI Act. Where public authorities do not comply with section 4, or are not adequately responsive to the directions and “requirements” of commissions regarding section 4 obligations, ICs can use their powers under 19(8)(b) to award compensation. There is nothing to stop the commission from awarding compensation to anyone who complains that information that should have been proactively disseminated under section 4(1) (b), (c) and (d), was not so disseminated and resulted in loss or detriment, even to the extent of forcing the complainant to waste time, effort and money filing and pursuing an RTI application. Considering that every year over twenty lakh²⁹ (two million) applicants try to access information that should have been proactively provided, even a nominal compensation in each case would be a strong incentive for PAs to start conforming to the provisions of section 4.

The Central Information Commission and the DoPT seem to have also recognised this possibility for default related to section 4(1)(a), which could also be applicable to violations relating to other clauses of section 4(1). In a circular³⁰ to all ministries and departments, the DoPT has stated:

“The Central Information Commission in a case has highlighted that the systematic failure in maintenance of records is resulting in supply of incomplete and misleading information and that such failure is due to the fact that the public authorities do not adhere to the mandate of Section 4(1)(a) of the RTI Act, which requires every public authority to maintain all its records duly catalogued and indexed in a manner and form which would facilitate the right to information. The Commission also pointed out that such a default could qualify for payment of compensation to the complainant. Section 19(8)(b) of the Act gives power to the Commission to require the concerned public authority to compensate the complainant for any loss or other detriment suffered.”

²⁹ Chapter 5, RaaG & CES, 2014

³⁰ NO.12/192/2009-1R dated 20th January, 2010, on page 87 of Compilation of OMs & Notifications on Right to Information Act, 2005. Op. Cit.

5.4 Agenda for action

1. ICs must start using their power to award compensation much more widely. While disposing a case, the IC must examine if the information seeker has suffered any loss or other detriment due to non-disclosure of information or a violation of any provision, including section 4, of the RTI Act. In order to ensure that the provision to award compensation is adequately deliberated upon while hearing appeals/complaints, ICs should include it as a parameter in the standard format for their orders (discussed in chapter 4).
2. When dealing with an appeal or complaint relating to violation of section 4 of the RTI Act, the IC should exercise its powers under section 19(8)(b) and award compensation to the appellant/complainant. The time, effort and cost involved in seeking information that should have been provided proactively by the government, besides the opportunity cost of filing an appeal/complaint and the delay involved, would qualify to be counted as “loss or other detriment suffered”, as required under the RTI Act.

6. Transparency in the Functioning of Information Commissions

6.1 Introduction

For institutions that are vested with the responsibility of ensuring that all public authorities function transparently and adhere to the letter and spirit of the RTI Act, it would perhaps be fair to expect that information commissions lead by example.

ICs are also public authorities under the RTI Act and therefore, other than responding to applications for information under law, they are also required to proactively disclose (under section 4) information on their functioning and the details of decisions taken by them.

To ensure periodic monitoring of the implementation of the RTI Act, section 25 obligates each commission to prepare a “*report on the implementation of the provisions of this Act*” every year which is to be laid before Parliament or the state legislature. Section 25(3) states:

“(3) Each report shall state in respect of the year to which the report relates, —
(a) the number of requests made to each public authority;
(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
(c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
(e) the amount of charges collected by each public authority under this Act;
(f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
(g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.”

6.2 Findings

6.2.1 RTI tracking

As part of the assessment, in order to access information about the functioning of information commissions, RTI applications were filed with the 28 state information commissions (SIC) and the Central Information Commission (CIC). A total of 169 RTI applications were filed seeking identical information from all the 29 information commissions. The RTI applications were tracked to assess how each information commission performed as a public authority, in terms of maintaining and disclosing information.

No response to RTI applications

Three information commissions did not respond to, or even acknowledge, the RTI applications filed as part of the report:

Madhya Pradesh: Since the SIC of MP did not respond to any RTI application, first appeals were filed against deemed refusal of the SIC to provide information (under Section 7(2) of the RTI Act, the failure to respond to an RTI application within the specified time-frame is deemed to be a refusal of the request). The MP SIC refused to accept the first appeals stating that a fee of Rs. 50 had to be deposited with each appeal³¹. Even though the fee was subsequently paid, the commission failed to dispose the appeals in the stipulated time-frame of 45 days. In fact, other than the correspondence regarding the non-payment of fee for appeal, the IC did not send any response to the RTI applications or first appeals.

Andhra Pradesh: The IC did not respond to any RTI application. A first appeal was filed in each case against deemed refusal of the commission. None of the first appeals were acknowledged, nor was any notice of hearing or order on the appeals given.

Tamil Nadu: After more than 50 days of the RTI applications being filed, the SIC of Tamil Nadu returned all the RTI applications stating that, as per the rules framed by the state government, they did not accept Indian Postal Orders (IPOs) as a mode of payment of the application fee. All the RTI applications were filed again with bank drafts and were delivered to the SIC on December 28, 2017. However, till the time of publishing of this report in March 2018, there was no response to the RTI applications. There has also been no response to the first appeals filed to the SIC.

The refusal to accept IPOs as a mode of payment causes unnecessary hindrance and additional cost for citizens in accessing information. The cost incurred in getting bank draft of Rs. 10 ranges from Rs. 25 to Rs. 50.

Illegal denial of information

Several ICs rejected requests for information invoking provisions seemingly in violation of the RTI Act. In all these cases, an appeal was filed against the denial of information. However, till the time of publication of this report, the requisite information had not been disclosed.

Bihar: The SIC of Bihar denied information sought for 2016 and 2017 on: the number of appeals/complaints registered, disposed and pending with the SIC; number of cases in which penalty was imposed or compensation awarded and the amount of penalty imposed and compensation awarded. The SIC denied information on each of the particulars mentioned above citing three grounds: a) information not maintained in the format in which it was sought; b) information sought will form part of the annual report and as the report has not been published, disclosure of information will lead to breach of privilege of state legislature; c) in light of Section 7(9) which states that *“information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question”*. The denial of information on these grounds is in contravention of the RTI Act. First, section 7(9) is not a ground for denial of information. It only allows the PIO to provide information in a different form (eg. electronic copy instead of physical copy) if the PIO can show that providing information in the form sought would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question. Second, most of the information sought is in any case required to be included in the annual report under Section 25 of the Act. Therefore, since it is a statutory requirement to maintain this information, the PIO cannot deny information on the

³¹ Whereas the RTI Act provides for a reasonable fee to be charged to apply for information (application fee) and to obtain information (cost of photocopy/CD etc.), several state governments have also prescribed a fee for filing appeals, even though there is no such explicit provision in the RTI law.

pretext that information is not maintained or providing it would cause disproportionate diversion of resources. Finally, the denial of information on the grounds that it will form part of the annual report which has not been published is absurd! There is no provision in the RTI law exempting information disclosure, merely because it might form part of a report, which has not been published yet.

Chhattisgarh: The SIC of Chhattisgarh denied information on the number of appeals/complaints registered and disposed during the period 2016 and 2017 by stating the information sought was *nirank* or blank. No further explanation was provided and no grounds for exempting information under sections 8 or 9 of the RTI Act were invoked.

Maharashtra: The SIC of Maharashtra, stating that information sought would be part of forthcoming annual reports, illegally denied information on: the number of cases in which penalty was imposed and the quantum of penalty imposed; number of cases in which compensation was awarded and the amount of compensation awarded.

In terms of information on the number of appeals/complaints registered and disposed during 2016 and 2017, the SIC stated that information was available in the monthly reports provided on the website of the SIC. Even though in the first appeal it was specifically pointed out that the monthly reports for several months were not available on the website of the SIC and for several other months incorrect hyperlinks were provided.

Rajasthan: Of the 5 RTI applications that were filed to the Rajasthan SIC, it provided requisite information in response to only one. In three applications there was no reply. For the application pertaining to penalty imposition, recommendation of disciplinary action and awarding compensation for 2016 and 2017, the PIO illegally denied information stating that the information being asked for was large and would require disproportionate use of resources and hence could not be provided.

Uttar Pradesh: Information relating to penalties, compensation and disciplinary action for the period 2016 and 2017 was not provided by the UP SIC on the pretext that the requisite information is available on the website of the SIC even though no such information was available. Further, the PIO invoked the UP RTI Rules 2015, which appear to be in contravention of the RTI Act, to deny information sought for two years, stating that information sought should not be so vast that its collection involves disproportionate diversion of resources affecting efficient operation of the public authority concerned.

RTI applications returned

Apart from Tamil Nadu (discussed above), three SICs returned the RTI applications citing procedural deficiencies.

Odisha: The SIC returned all the RTI applications stating that form 'A', which has been prescribed under the rules made by government of Odisha, had not been enclosed and no proof of identity of applicants was attached.

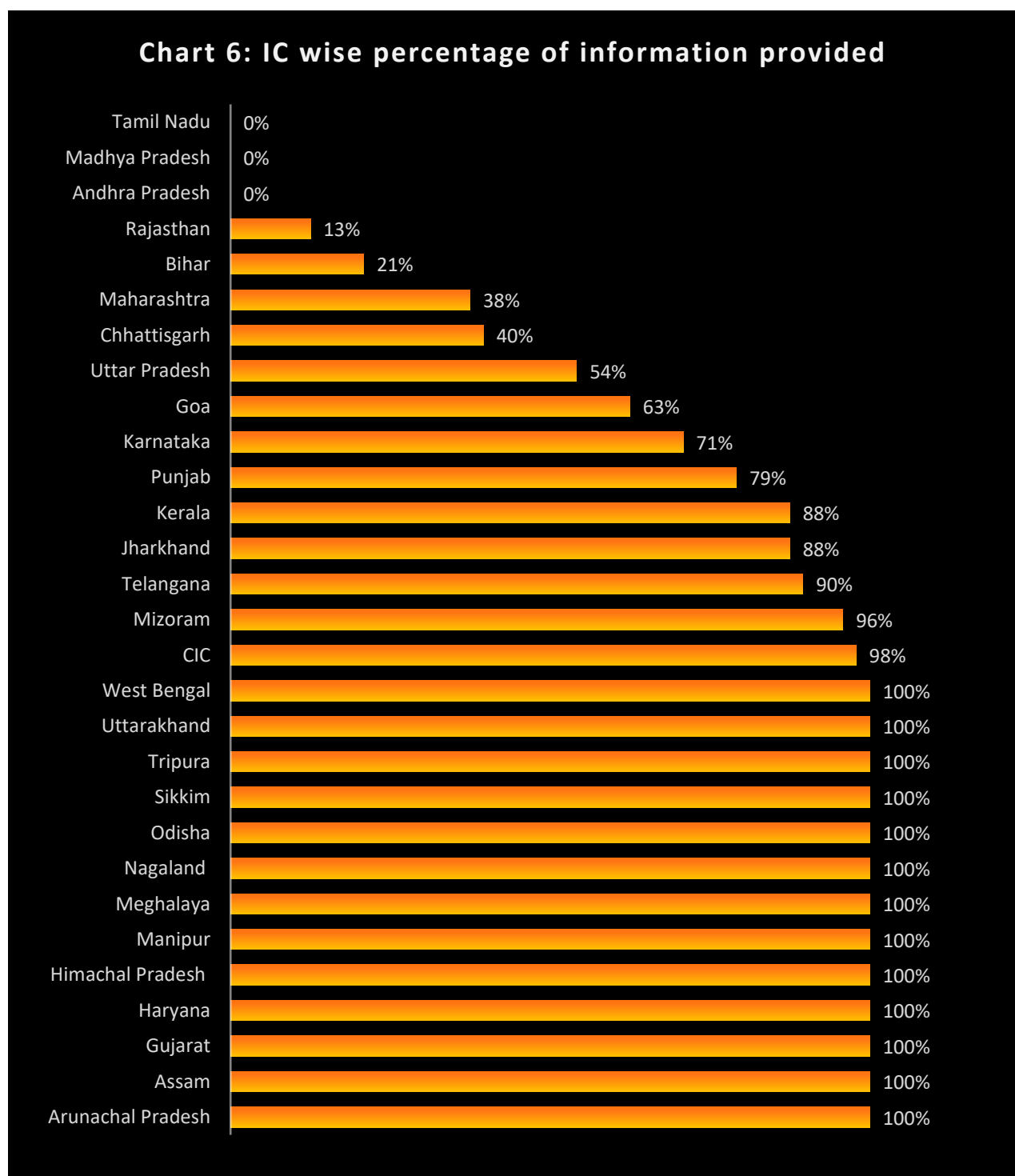
Sikkim: The SIC of Sikkim refused to accept the RTI applications citing rules made by the state government, which made it mandatory to furnish proof of being an Indian citizen.

Kerala: The SIC returned the RTI applications citing rules of the state government that Indian Postal Orders were not an acceptable mode of payment.

RTI applications were filed again to each of the SICs of Odisha, Sikkim and Kerala after redressing the specific deficiency, following which they all provided either full or more than 90% of the information sought.

Full information provided

Only 13 out of 29 ICs provided full information in response to the RTI applications filed as part of this assessment. The commission-wise performance in terms of responsiveness under the RTI Act is provided below in Chart 6.



Response to first appeals by ICs

A total of 42 first appeals were filed to ICs, as either the request for information was rejected or because there was no response received. Of these, in 57% cases, there was no response to the first appeals. In several cases, the first appellate authority of the ICs upheld the response of the PIO in a mechanical way without considering any of the grounds mentioned in the first appeal. For instance, in one appeal to the UP SIC in which deficiencies in the reply were pointed out, the first appellate authority, without addressing any of the grounds for appeal, disposed of the appeal stating that the PIO had provided a reply and simply reiterating the reply. Similarly, the Maharashtra SIC did not take into account any of the grounds and deficiencies highlighted in the first appeals - it merely upheld the reply of the PIO and dismissed the appeals.

6.2.2 Analysis of websites of ICs

To assess how much information ICs proactively disclosed, and how up-to-date and easily accessible this information was, websites of 29 information commissions (CIC & 28 State ICs) were accessed and analysed. The aim was to ascertain if they provide relevant and updated information on the functioning of the ICs, including the number of commissioners in each commission, orders passed by the commissions and the annual reports of the ICs. Section 4 of the RTI Act states that, *“each public authority has an obligation to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.”*

Websites not accessible

Of the 29 websites analysed, the websites of two ICs – Bihar and Tamil Nadu - were completely inaccessible and displayed error messages. In response to an RTI application, the Bihar SIC in its reply dated 8th December 2017, stated that the website was experiencing technical issues. Till the publication of this report (March 2018), the website continued to be inaccessible. Similarly, the website of the Tamil Nadu IC (<http://tnsic.gov.in/>) was not accessible.

While the Andhra Pradesh Information Commission website was accessible (<http://www.apic.gov.in/>), no updated information was available as the commission is defunct.

Availability of orders/decisions of the ICs

In March 2018, of the 29 ICs, only 18 provided public access to orders passed by them in January and February, 2018. The website of the Gujarat IC has a link titled, ‘Decisions of GIC’, however, all attempts to retrieve the decisions were met with the message, ‘Server was unable to process request’. Similarly, while the Jharkhand IC has a link titled, ‘Judgment and Hearing’, the link was unresponsive. The Uttar Pradesh SIC website did not provide any orders online. The website of the Madhya Pradesh commission had a link titled ‘orders passed’, but every search query was met with the result, ‘No records found’. The website of the Manipur IC provided access to only about 10 orders of

Box 10: One day at a time!

While the Uttarakhand SIC website has links to ‘Second Appeal Decisions’ and ‘Complaint Decisions’, the orders can be retrieved only by providing the case number or the particulars of the appellant or by date. Inexplicably, orders can only be retrieved for one date at a time, as there is no option to retrieve the orders for a range of dates!

2017, whereas information obtained under the RTI Act showed that they had disposed more than 200 matters. The SICs of Rajasthan and Sikkim provided orders related to second appeals only upto 2016. Kerala SIC had not uploaded any orders after 2015.

Statistics on appeals/complaints dealt with by information commissions

The assessment found that in March 2018, 76% of the ICs (22 out of 29) did not provide information on their websites regarding the number of appeals/complaints received, disposed and pending for the months of January and February, 2018.

Websites of only 6 ICs provided the requisite information. These were the Central Information Commission and the SICs of Gujarat, Haryana, Punjab, UP and Uttarakhand. The website of the SIC of Maharashtra has a link to monthly reports on the functioning of the IC. However, complete information appeals/complaints received and disposed was not available.

Provision for online filing

The assessment found that three ICs provided the facility for filing appeals and complaints online through their websites- the Central Information Commission and SICs of Gujarat and Odisha. The SICs of Jharkhand and Maharashtra provide a facility for filing second appeals online, but do not allow complaints to be submitted online. While the SIC for Rajasthan does not provide a mechanism to enable online filing of second appeals/complaints, the RTI portal of the Rajasthan government (rti.rajasthan.nic.in) provides online filing of RTI applications, first appeals, second appeals and complaints. In order to use this facility, however, one has to register on the portal by furnishing one of the specified proofs of identity (eg Aadhar ID).

The portal of the Bihar government which provides facility for online filing of RTI applications allows a user to only choose Bihar as the state of residence! While restricting the scope of the portal to only those public authorities under the jurisdiction of the Bihar government is understandable, there is no reason why the online facility should be only available to those residing in Bihar.

Box 11: Arbitrary charges?

The portal of the Maharashtra government which provides a facility for online filing of RTI applications, requires users to pay a fee beyond the application charges allowed by the RTI Act. A portal fee of Rs. 5 (50% of the application fee!) and GST of Rs. 0.90 (18% of the portal fee) is charged for the transaction. There is no provision for charging this additional fee in the rules. If allowed, such practice could be misused by public authorities to charge for transaction costs (both online and offline) which would raise the cost of accessing information.

6.2.3 Annual Reports of ICs

Much of the information sought as part of this assessment, should have been available in the annual reports of each commission.

Since RTI applications seeking information about the latest annual reports were filed in November 2017, a reasonable expectation was that ICs would provide annual reports upto the financial year 2016-17. However, the performance of many ICs in terms of publishing annual reports and putting them in the public domain was found to be dismal³². Table 8 provides the IC-wise availability of annual reports.

The assessment found that the Punjab and Kerala SICs have not published their annual reports after 2012 and 2012-13 respectively, while Jharkhand, Odisha, Telangana, Tripura, Uttarakhand and Andhra Pradesh have not published annual reports after 2013-14.

An analysis of the IC websites revealed that many commissions had not posted their annual reports online - 18 out of 29 ICs (62%) had not published their annual report for 2016 on their website (see table 8). The Uttar Pradesh IC, in response to an RTI application, stated that the annual report for 2016-17 had been published, the same was not available on its website - in fact the website did not provide a link to any annual report of the SIC.

Table 8: Availability of annual reports of ICs		
IC	Latest year for which report available	Available on website?
Andhra Pradesh	2013	Yes
Arunachal Pradesh	2015	No
Assam	2015-2016	Yes
Bihar	2014-15	No
Chhattisgarh	2016	Yes
CIC	2015-16	Yes
Goa	2014	Yes
Gujarat	2015-16	Yes
Haryana	2016	Yes
Himachal Pradesh	2015-16	Yes
Jharkhand	2013	No
Karnataka	2014-2015	Yes
Kerala	2012-2013	No
Madhya Pradesh	2014	Yes
Maharashtra	2015	Yes
Manipur	2015-16	Yes
Meghalaya	2015	Yes
Mizoram	2016-17	Yes
Nagaland	2016-17	Yes
Orissa	2013-14	Yes
Punjab	2012	Yes
Rajasthan	2015-16	Yes
Sikkim	2016	Yes
Tamil Nadu	-	No
Tripura	2013-14	Yes
Uttar Pradesh	2016-17	No
Uttarakhand	2013-14	Yes
West Bengal	2015	Yes
Telangana	2013	Yes

6.3 Discussion

For institutions that are vested with the responsibility of ensuring that all public authorities adhere to the RTI Act, it is alarming to note that in the thirteenth year of the implementation of the law, 55% of ICs failed to provide complete information within the stipulated timeframe in response to information

³² The websites were audited in the first week of March 2018

requests filed to them. Further, more than 75% failed to proactively disclose basic updated information about their functioning on their own websites.

Transparency is key to promoting peoples' trust in public institutions. By failing to disclose information on their functioning, ICs continue to evade real accountability to the people of the country whom they are supposed to serve. The legal requirement for the central and state information commissions to submit annual reports every year to Parliament and state legislatures respectively, is to make, among other things, their activities transparent and available for public scrutiny. However, very few ICs fulfil this obligation, and even fewer do it in time. Answerability of ICs to the Parliament, state legislatures and citizens is compromised when annual reports are not published and proactively disclosed every year as required under the law.

Unless ICs significantly improve their responsiveness to RTI applications, provide information proactively in the public domain through regularly updated websites and publish annual reports in a timely manner, they will not enjoy the confidence of people. The guardians of transparency need to be transparent and accountable themselves.

6.4 Agenda for action

1. All information commissions must put in place necessary mechanisms to ensure prompt and timely response to information requests filed to them.
2. Each information commission must ensure that relevant information about its functioning is displayed on its website. This must include information about the receipt and disposal of appeals and complaints, number of pending cases, and orders passed by commissions. The information should be updated in real time.
3. Information commissions must ensure that, as legally required, they submit their annual report to the Parliament/state assemblies in a reasonable time. Violations should be treated as contempt of Parliament or legislature, as appropriate. The Parliament and legislative assemblies should treat the submission of annual reports by ICs as an undertaking to the house and demand them accordingly. Annual reports published by ICs must also be made available on their respective websites.
4. ICs in collaboration with appropriate government should put place a mechanism for online filing of RTI applications, along the lines of the web portal set up by the central government (rtionline.gov.in). Further, the online portals should also provide facilities for electronic filing of first appeals, and second appeals/complaints to the information commissions.

PART II: REPORT CARDS OF INFORMATION COMMISSIONS

The individual report cards in this section provide a statistical profile of each IC in terms of the following parameters:

Composition of the information commission: Under the RTI Act, information commissions consist of a chief information commissioner and up to 10 information commissioners. Each report card provides statistics on the number of commissioners currently serving in the commission and the number of posts lying vacant. It also gives the gender wise break up and a snapshot of the background of all commissioners since the IC was constituted (commissioners whose background information was not provided by the ICs have been excluded).

Appeals and complaints: Data on the number of appeals and complaints registered and disposed by each commission between January 1, 2016 and October 31, 2017 is provided. In addition, for each commission, the number of pending cases is given along with the estimated time it would take the commission to dispose an appeal/complaint filed on November 1, 2017.

Penalties imposed: The RTI Act empowers ICs to impose penalties of upto Rs. 25,000 on erring PIOs for violations of the RTI Act. Report cards provide information on the total number of cases where penalty was imposed and the total amount of penalty imposed by the commission between January 1, 2016 and October 31, 2017. The percentage of disposed cases in which penalty was imposed is also presented in the report card.

Website of the IC: Each report card provides information about the commission's website – whether it is accessible; if orders of the commission of January and February, 2018 are publicly accessible and; the latest year for which the annual report of the IC is available.

Responsiveness under the RTI Act: The report cards provide a snapshot of the performance of each IC in terms of disclosing information sought from it under the RTI Act, as part of the assessment.

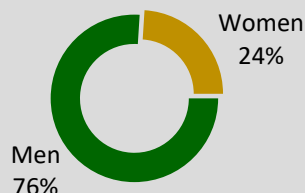
Central Information Commission

Composition of Information Commission

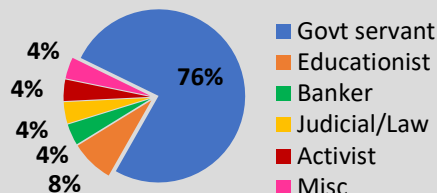
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 47,756
Disposed*: 54,219

Pending on Oct 31, 2017 : 23,944
Estimated time for disposal**: 10 months

*between Jan 16 & Oct 17 **for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 29,35,750

Percentage of disposed cases in which penalty imposed: 0.3%

*between Jan 16 & Oct 17

Website



Website accessible: Yes
Availability of IC orders of 2018: Yes
Latest annual report available: 2015-16

Responsiveness Under the RTI Act



Provided 98% of information sought under the RTI Act

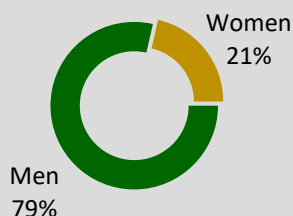
Andhra Pradesh

Composition of Information Commission

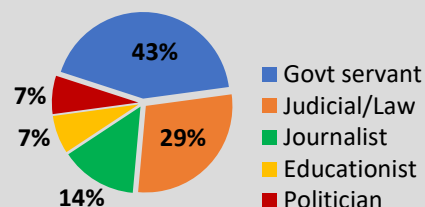
No. of commissioners *



Gender **



Background **



*No commissioners have been appointed since bifurcation of state **Since 2005 when IC was constituted

Appeals and Complaints



Registered* : Info denied

Disposed* : Info denied

Pending on Oct 31, 2017: Info denied

Estimated time for disposal : Info denied**

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed* : Info denied

Percentage of disposed cases in which penalty imposed: Info denied

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: 2013

Responsiveness Under the RTI Act



Provided 0% of information sought under the RTI Act

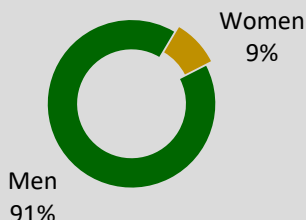
Arunachal Pradesh

Composition of Information Commission

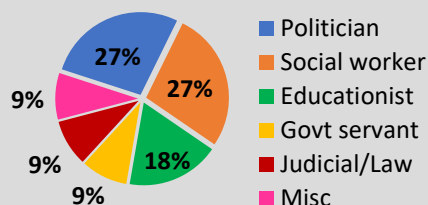
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 468

Disposed*: 401

Pending on Oct 31, 2017: 52

Estimated time for disposal**: 3 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 4,25,000

Percentage of disposed cases in which penalty imposed: 4%

*between Jan 16 & Oct 17

Website



Website accessible: No

Availability of IC orders of 2018: Website not accessible

Latest annual report available: Website not accessible

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

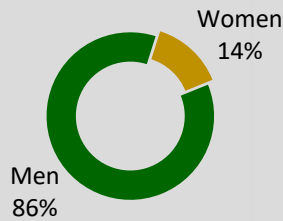
Assam

Composition of Information Commission

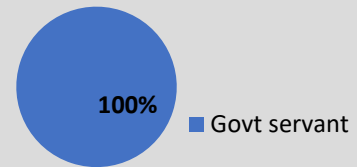
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 6,776

Disposed*: 4,741

Pending on Oct 31, 2017: 642

Estimated time for disposal**: 3 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 1,85,000

Percentage of disposed cases in which penalty imposed: 0.4%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2015-16

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

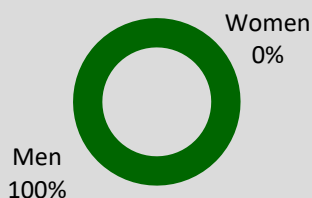
Bihar

Composition of Information Commission

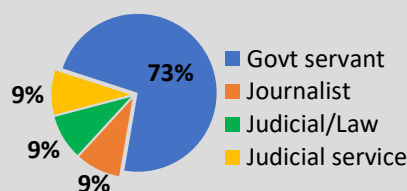
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: Info denied

Disposed*: Info denied

Pending on Oct 31, 2017: Info denied

Estimated time for disposal**: Info denied

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty

imposed*: Info denied

Percentage of disposed cases in

which penalty imposed: Info denied

*between Jan 16 & Oct 17

Website



Website accessible: No

Availability of IC orders of 2018: Website not accessible

Latest annual report available: Website not accessible

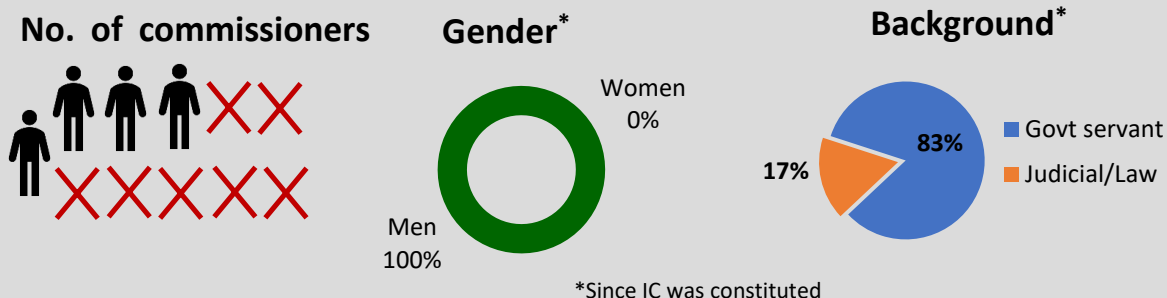
Responsiveness Under the RTI Act



Provided 21% of information sought under the RTI Act

Chhattisgarh

Composition of Information Commission



Appeals and Complaints



Registered*: 4,776
Disposed*: 3,156

Pending on Dec 31, 2016: 5,860
Estimated time for disposal**: 1 year 10 months

* Data pertains to Jan '16 to Dec '16 ** for an appeal/complaint filed on 1/1/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 1,15,500

Percentage of disposed cases in which penalty imposed: Data not available

*between Jan 16 & Dec 16

Website



Website accessible: Yes
Availability of IC orders of 2018: Yes
Latest annual report available: 2016

Responsiveness Under the RTI Act



Provided 40% of information sought under the RTI Act

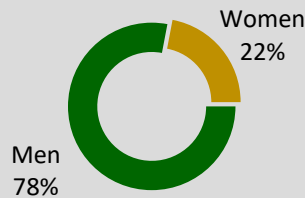
Goa

Composition of Information Commission

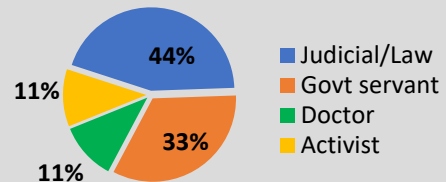
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 572

Disposed*: Information denied

Pending on Oct 31, 2017: 391

Estimated time for disposal**: N.A.

*between Jan 16 & Oct 17 ** Data not available as information on cases disposed denied

Penalties Imposed



Total amount of penalty imposed*: Rs. 53,500

Percentage of disposed cases in which penalty imposed: Data not available

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2014

Responsiveness Under the RTI Act



Provided 63% of information sought under the RTI Act

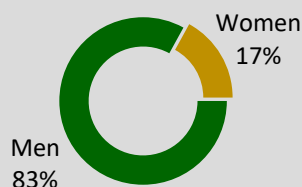
Gujarat

Composition of Information Commission

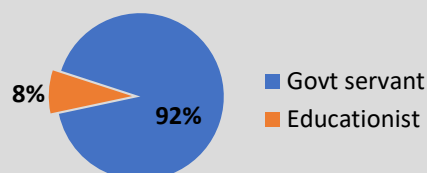
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 15,071

Disposed*: 18,001

Pending on Oct 31, 2017: 3,941

Estimated time for disposal**: 5 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 13,92,500

Percentage of disposed cases in which penalty imposed: 2%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: 2015-16

Responsiveness Under the RTI Act

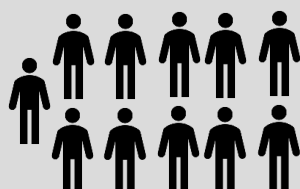


Provided 100% of information sought under the RTI Act

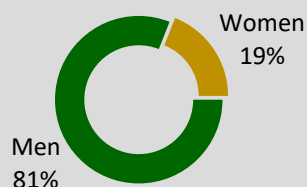
Haryana

Composition of Information Commission

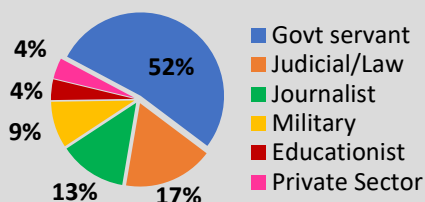
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 16,338

Disposed*: 15,065

Pending on Oct 31, 2017: 2,668

Estimated time for disposal**: 4 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 95,96,989

Percentage of disposed cases in which penalty imposed: 5%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2016

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

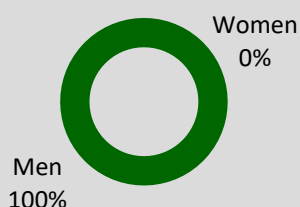
Himachal Pradesh

Composition of Information Commission

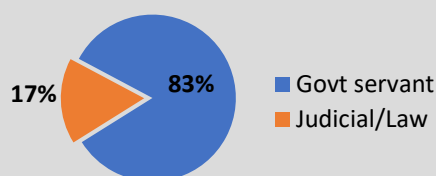
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 737

Disposed*: 610

Pending on Oct 31, 2017: 491

Estimated time for disposal**: 1 year & 3 months

*between Apr 16 & Oct 17 ** data as of Mar,16, not Dec,16

Penalties Imposed



Total amount of penalty imposed*: Rs. 5,000

Percentage of disposed cases in which penalty imposed: 0.2%

*between Apr 16 & Oct 17



Website

Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2015-16

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

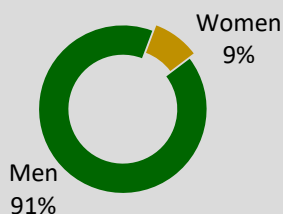
Jharkhand

Composition of Information Commission

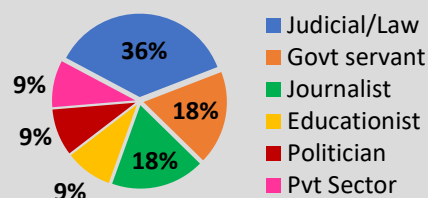
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 5000

Disposed*: 389

Pending on Oct 31, 2017: Data not available

Estimated time for disposal**: Data not available

*between Jan 16 & Oct 17 ** for an appeal/complaints filed on 1/11/2017

Penalties Imposed



Total amount of penalty imposed*: Rs. 5,75,000

Percentage of disposed cases in which penalty imposed: 7%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: 2010-11

Responsiveness Under the RTI Act



Provided 88% of information sought under the RTI Act

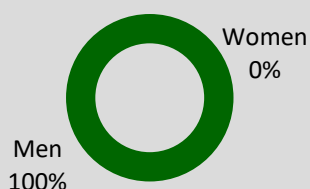
Karnataka

Composition of Information Commission

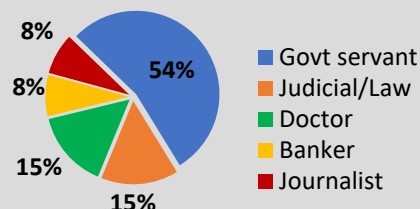
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 32,403

Disposed*: 28,648

Pending on Oct 31, 2017: 32,992

Estimated time for disposal**: 1 year & 1 month

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 1,69,17,750

Percentage of disposed cases in which penalty imposed: 7%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2014-15

Responsiveness Under the RTI Act



Provided 71% of information sought under the RTI Act

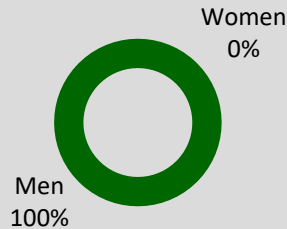
Kerala

Composition of Information Commission

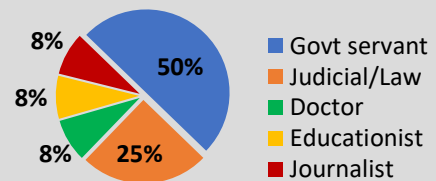
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 7,230

Disposed*: 3,918

Pending on Oct 31, 2017: 13,964

Estimated time for disposal**: 6 yrs & 6 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 3,68,500

Percentage of disposed cases in which penalty imposed: 3%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: 2010-11

Responsiveness Under the RTI Act



Provided 88% of information sought under the RTI Act

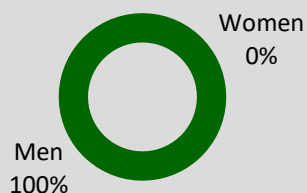
Madhya Pradesh

Composition of Information Commission

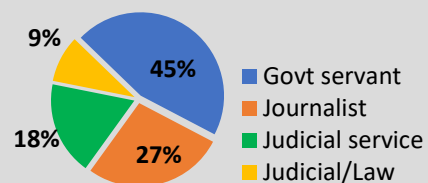
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: Info denied

Disposed*: Info denied

Pending on Oct 31, 2017: Info denied

Estimated time for disposal**: Info denied

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Info denied

Percentage of disposed cases in which penalty imposed: Info denied

*between Jan 16 & Oct 17



Website

Website accessible: Yes, intermittently

Availability of IC orders of 2018: No

Latest annual report available: 2014

Responsiveness Under the RTI Act

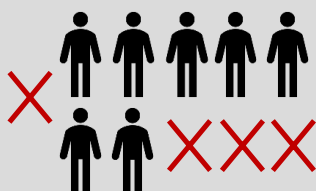


Provided 0% of information sought under the RTI Act

Maharashtra

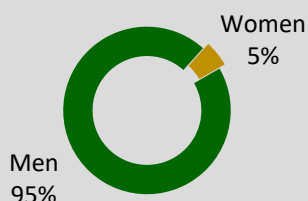
Composition of Information Commission

No. of commissioners*

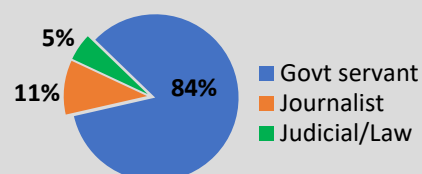


*Existing commissioner has taken on additional charge of chief

Gender**



Background**



**Since IC was constituted



Appeals and Complaints

Registered*: Info denied

Disposed*: Info denied

Pending on Oct 31, 2017: 41,178

Estimated time for disposal**: N.A.

*between Jan 16 & Oct 17 ** Data not available as information on cases disposed denied

Penalties Imposed



Total amount of penalty imposed*: Info denied

Percentage of disposed cases in which penalty imposed: Info denied

*between Jan 16 & Oct 17



Website

Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2015

Responsiveness Under the RTI Act



Provided 38% of information sought under the RTI Act

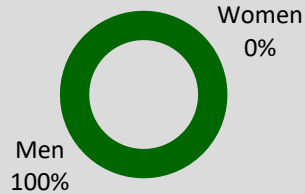
Manipur

Composition of Information Commission

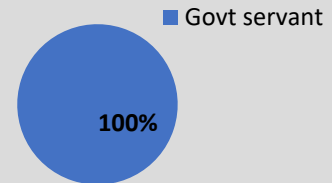
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 432

Disposed*: 435

Pending on Oct 31, 2017: 106

Estimated time for disposal**: 5 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 1,39,600

Percentage of disposed cases in which penalty imposed: 2%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: 2015-16

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

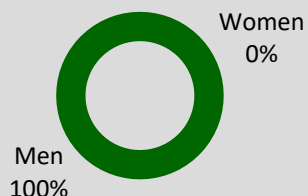
Meghalaya

Composition of Information Commission

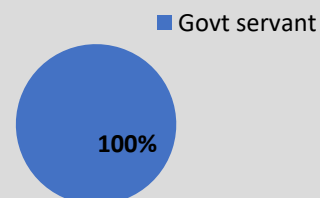
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 63

Disposed*: 61

Pending on Oct 31, 2017: 2

Estimated time for disposal**: 1 month

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 33,750

Percentage of disposed cases in which penalty imposed: 3%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2015

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

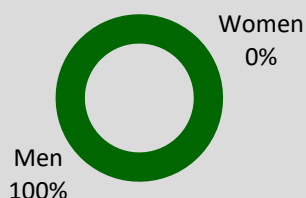
Mizoram

Composition of Information Commission

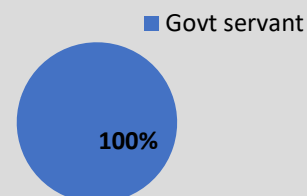
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 21
Disposed*: 4

Pending on Oct 31, 2017: 0
Estimated time for disposal**: Nil

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty
imposed*: Rs. 0

Percentage of disposed cases
in which penalty imposed: 0%

*between Jan 16 & Oct 17

Website



Website accessible: Yes
Availability of IC orders of 2018: Yes
Latest annual report available: 2016-17

Responsiveness Under the RTI Act



Provided 96% of information sought under the RTI Act

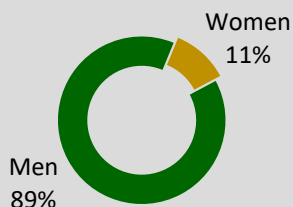
Nagaland

Composition of Information Commission

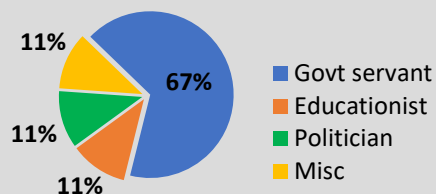
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 88

Disposed*: 58

Pending on Oct 31, 2017: 22

Estimated time for disposal**: 8 months

*between Apr 15 & Mar 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 3,56,500

Percentage of disposed cases in which penalty imposed: 45%

*between Apr 15 & Mar

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2016-17

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

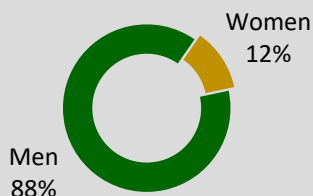
Odisha

Composition of Information Commission

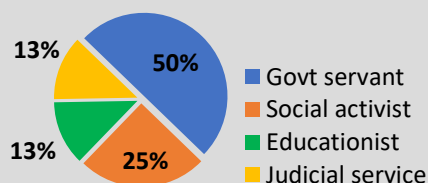
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 7,067

Disposed*: 3,596

Pending on Oct 31, 2017: 10,296

Estimated time for disposal**: 5 yrs & 3 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 16,99,000

Percentage of disposed cases in which penalty imposed: 2%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2013-14

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

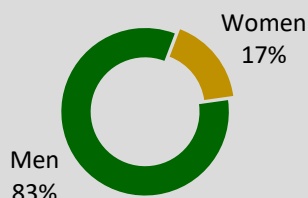
Punjab

Composition of Information Commission

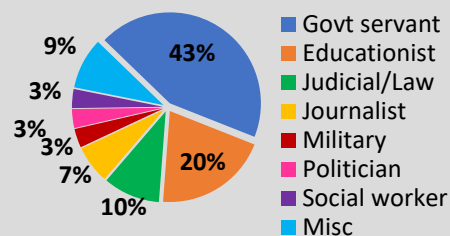
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 10,337

Disposed*: 11,415

Pending on Oct 31, 2017: 1,882

Estimated time for disposal**: 4 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 10,90,000

Percentage of disposed cases in which penalty imposed: 1%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2012

Responsiveness Under the RTI Act



Provided 79% of information sought under the RTI Act

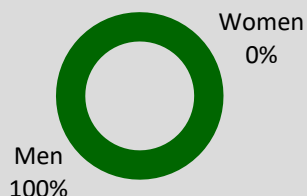
Rajasthan

Composition of Information Commission

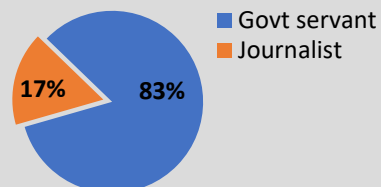
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: Info denied

Disposed*: Info denied

Pending on Oct 31, 2017: Info denied

Estimated time for disposal**: Info denied

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Info denied

Percentage of disposed cases in which penalty imposed: Info denied

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: 2015-16

Responsiveness Under the RTI Act



Provided 13% of information sought under the RTI Act

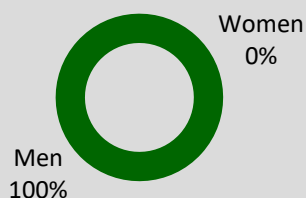
Sikkim

Composition of Information Commission

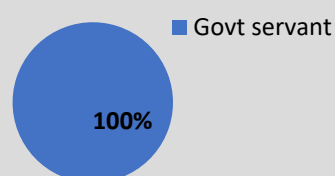
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 98

Disposed*: 98

Pending on Oct 31, 2017: 0

Estimated time for disposal**: Nil

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 9,000

Percentage of disposed cases in which penalty imposed: 4%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2016

Responsiveness Under the RTI Act

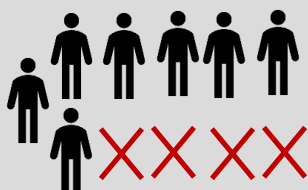


Provided 100% of information sought under the RTI Act

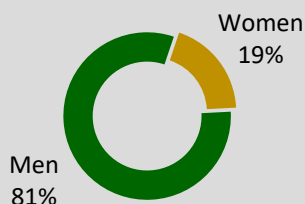
Tamil Nadu

Composition of Information Commission

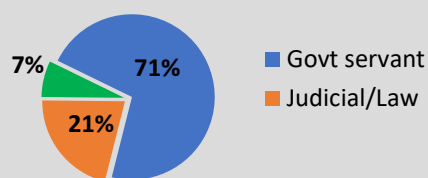
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: Info denied

Disposed*: Info denied

Pending on Oct 31, 2017: Info denied

Estimated time for disposal**: N.A.

*between Jan 16 & Oct 17 ** Data not available as information on cases disposed denied

Penalties Imposed



Total amount of penalty imposed*: Info denied

Percentage of disposed cases in which penalty imposed: Info denied

*between Jan 16 & Oct 17

Website



Website accessible: No

Availability of IC orders of 2018: Website not accessible

Latest annual report available: Website not accessible

Responsiveness Under the RTI Act



Provided 0% of information sought under the RTI Act

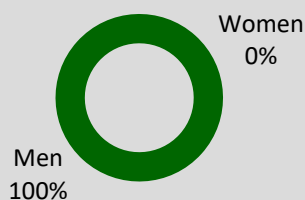
Telangana

Composition of Information Commission

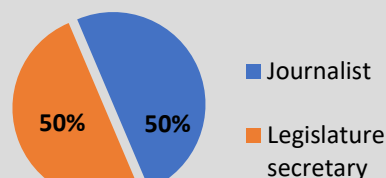
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 29,318

Disposed*: 20,257

Pending on Oct 31, 2017: 15,578

Estimated time for disposal**: 1 yr & 5 months

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 10,42,500

Percentage of disposed cases in which penalty imposed: 1%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: No annual reports available

Responsiveness Under the RTI Act



Provided 90% of information sought under the RTI Act

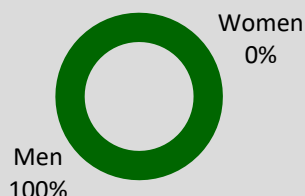
Tripura

Composition of Information Commission

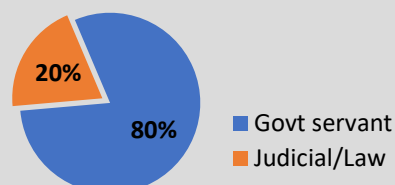
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 212

Disposed*: 206

Pending on Oct 31, 2017: 6

Estimated time for disposal**: 1 month

*between Apr 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 7,000

Percentage of disposed cases in which penalty imposed: 1%

*between Apr16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2013-14

Responsiveness Under the RTI Act

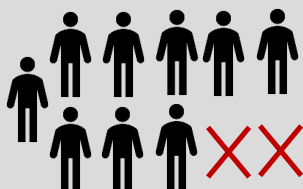


Provided 100% of information sought under the RTI Act

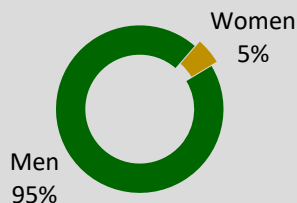
Uttar Pradesh

Composition of Information Commission

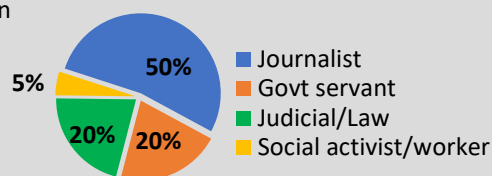
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 83,054

Disposed*: 42,911

Pending on July 31, 2017: 41,561

Estimated time for disposal**: 1 yr & 6 months

*between Jan 16 & July 17 ** for an appeal/complaint filed on 1/8/17

Penalties Imposed



Total amount of penalty imposed*: Info denied

Percentage of disposed cases in which penalty imposed: Info denied

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: No

Latest annual report available: No annual reports available

Responsiveness Under the RTI Act



Provided 54% of information sought under the RTI Act

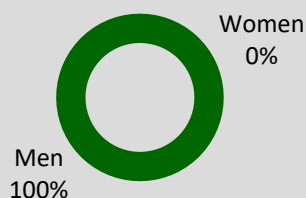
Uttarakhand

Composition of Information Commission

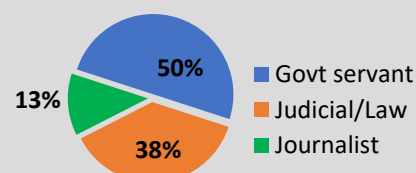
No. of commissioners



Gender*



Background*



*Since IC was constituted



Appeals and Complaints

Registered*: 6,117

Disposed*: 6,271

Pending on Nov 10, 2017: 1,275

Estimated time for disposal**: 4 months

*between Apr16 & Nov 17 ** for an appeal/complaint filed on 11/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 71,99,750

Percentage of disposed cases in which penalty imposed: 5%

*between Jan 16 & Oct 17

Website



Website accessible: Yes

Availability of IC orders of 2018: Yes

Latest annual report available: 2013-14

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

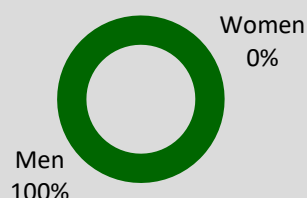
West Bengal

Composition of Information Commission

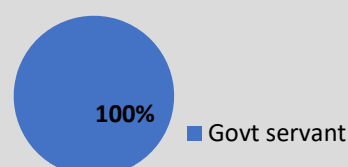
No. of commissioners



Gender*



Background*



*Since IC was constituted

Appeals and Complaints



Registered*: 2,471
Disposed*: 349

Pending on Oct 31, 2017: 8,195
Estimated time for disposal**: 43 years

*between Jan 16 & Oct 17 ** for an appeal/complaint filed on 1/11/17

Penalties Imposed



Total amount of penalty imposed*: Rs. 0

Percentage of disposed cases in which penalty imposed: 0%

*between Jan 16 & Oct 17

Website



Website accessible: Yes
Availability of IC orders of 2018: Yes
Latest annual report available: 2015

Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act