

**REPORT CARD**  
**of**  
**INFORMATION COMMISSIONS**  
**in INDIA**  
**2018-19**



**Satark Nagrik Sangathan & Centre for Equity Studies**

# **Report Card of Information Commissions in India**

## **2018-19**

**Satark Nagrik Sangathan (SNS)**

**&**

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All views and opinions expressed in this report are solely those of the co-ordinators, who are also responsible for any errors or omissions.

**Previous assessments of the Right to Information Act, 2005:**

'Report Card of Information Commissions in India', SNS & CES, 2018  
(<http://snsindia.org/IC2018.pdf>)

'Tilting the Balance of Power - Adjudicating the RTI Act', RaaG, SNS & Rajpal, 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://snsindia.org/wp-content/uploads/2018/10/RAAG-study-executive-summary.pdf>)

**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. ([www.snsindia.org](http://www.snsindia.org))

**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.

*“Report Card of Information Commissions in India”* (2018) assessed the performance of information commissions across the country during the period January 2016 to October 2017. The findings of the report became the basis of a Public Interest Litigation (PIL) filed in the Supreme Court (SC) to ensure timely and transparent appointment of information commissioners in the country. The assessment showed a clear need for annual monitoring of functioning of commissions. This report is a step in that direction. It contains the performance report cards of all 29 information commission commissions in the country for 2018-19.

Another report titled the *“Adjudicating the RTI Act – Analysis of orders of the Central Information Commission”* has been simultaneously published which examines a randomised sample of over one thousand orders of the Central Information Commission of 2018.

The purpose of these reports 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.

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, the findings of which these assessments draw upon. We are also grateful to many activists, lawyers and former information commissioners, who interacted with us at various stages of these studies and gave us their insightful comments. In particular, we are grateful to Prashant Bhushan, Harsh Mander and members of the National Campaign for Peoples’ Right to Information (NCPRI).

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Anjali Bhardwaj and Amrita Johri  
Co-ordinators of the report

October 2019

## GLOSSARY

Of terms and abbreviations

<b>AP</b>	<b>Andhra Pradesh</b>
<b>APIO</b>	Assistant Public Information Officer
<b>Apr</b>	April
<b>ARU</b>	Arunachal Pradesh
<b>ASS</b>	Assam
<b>Aug</b>	August
<b>BDO</b>	Block Development Officer
<b>BIH</b>	Bihar
<b>BPL</b>	Below Poverty Line
<b>CES</b>	Centre For Equity Studies
<b>CHH</b>	Chhattisgarh
<b>CIC</b>	Central Information Commission
<b>CJI</b>	Chief Justice of India
<b>CMO</b>	Chief Minister's Office
<b>CPIO</b>	Central Public Information Officer
<b>Crore</b>	Ten million
<b>CVC</b>	Central Vigilance Commission
<b>Dec</b>	December
<b>DEL</b>	Delhi
<b>DoPT</b>	Department of Personnel & Training, Government of India
<b>DRDA</b>	District Rural Development Agency
<b>DRDO</b>	Defence Research and Development Organization
<b>FAA</b>	First Appellate Authority
<b>FAO</b>	First Appeal Order
<b>Feb</b>	February
<b>G.O.</b>	Government Orders
<b>GNCTD</b>	Government of National Capital Territory of Delhi
<b>GUJ</b>	Gujarat
<b>HAR</b>	Haryana
<b>HC</b>	High Court
<b>HP</b>	Himachal Pradesh
<b>HPC</b>	High powered committee
<b>HQ</b>	Head-quarters
<b>IC</b>	Information commission
<b>IPC</b>	Indian Penal Code
<b>Jan</b>	January
<b>JHA</b>	Jharkhand
<b>KAR</b>	Karnataka
<b>KER</b>	Kerala
<b>Lakh</b>	A hundred thousand
<b>MAH</b>	Maharashtra
<b>MAN</b>	Manipur

<b>Mar</b>	March
<b>MCD</b>	Municipal Corporation of Delhi
<b>MEG</b>	Meghalaya
<b>MIS</b>	Management information system
<b>Misc.</b>	Miscellaneous
<b>MIZ</b>	Mizoram
<b>MP</b>	Madhya Pradesh
<b>NA</b>	Not available
<b>NAG</b>	Nagaland
<b>NCPRI</b>	National Campaign for Peoples' Right to Information
<b>NGOs</b>	Non Government organisations
<b>Nov</b>	November
<b>Oct</b>	October
<b>ODI</b>	Odisha
<b>OM</b>	Office Memorandum
<b>Order</b>	Directions of information commissioners
<b>OSA</b>	Official Secrets Act
<b>PA</b>	Public Authority
<b>PIL</b>	Public interest litigation
<b>PIO</b>	Public Information Officer
<b>PMO</b>	Prime Minister's Officer
<b>PUN</b>	Punjab
<b>RaaG</b>	Research, assessment, & analysis Group
<b>RAJ</b>	Rajasthan
<b>Rs./ ₹</b>	Rupees
<b>RBI</b>	Reserve Bank of India
<b>RTI</b>	Right to Information
<b>SC</b>	Supreme Court
<b>Sep.</b>	September
<b>SIC</b>	State Information Commission
<b>SIK/SIKK</b>	Sikkim
<b>SNS</b>	Satark Nagrik Sangathan
<b>SPIO</b>	State Public Information Officer
<b>TN</b>	Tamil Nadu
<b>TRI</b>	Tripura
<b>UOI</b>	Union of India
<b>Uoi</b>	Union of India
<b>UP</b>	Uttar Pradesh
<b>UTT</b>	Uttarakhand
<b>WB</b>	West Bengal
<b>Web</b>	Internet
<b>W.P</b>	Writ Petition

# Chapter 1: Introduction and Methodology

## 1.1 Introduction

The Supreme Court of India has held in several judgments<sup>1</sup> that the right to information is a fundamental right flowing from Article 19 and Article 21 of the Constitution, which guarantee citizens the freedom of speech and expression and the right to life, respectively. The Right to Information (RTI) Act passed in 2005, has empowered people to meaningfully participate in democracy and hold the government accountable.

Estimates suggest that every year 4 to 6 million<sup>2</sup> RTI applications are filed across the country. The law has been used extensively to hold local governments and functionaries accountable for lapses in the delivery of essential services and secure access to basic rights and entitlements. It has also been used to question the highest authorities of the country on their performance, their decisions and their conduct.

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). The 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, under Section 18(1) of the law, a complaint can be filed to the commission for any violation of the Act.

Information Commissions (ICs) 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, 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. ICs have powers to impose penalties on erring officials and award compensation to information seekers.

Effective functioning of information commissions is crucial for proper implementation of the RTI Act. In a judgment dated February 15, 2019, the Supreme Court<sup>3</sup> held that information commissions are vital for the smooth working of the transparency law.

*"24) If the information is not provided and the request is rejected, appeal can be filed before the CIC or SICs as the case may be under Section 19 of the Act. Apart from hearing the appeals, some more powers are also given to CIC or SICs and it is for this reason, in the entire scheme provided*

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<sup>1</sup> 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 (2016) 3 SCC 525, Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018)

<sup>2</sup> 'Peoples' Monitoring of the RTI Regime in India: 2011-2013' by RaaG & CES, 2014 (<http://x.co/raagces>)

<sup>3</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018) [http://judicialreforms.org/wp-content/uploads/2019/02/15968\\_2018\\_Judgement\\_15-Feb-2019.pdf](http://judicialreforms.org/wp-content/uploads/2019/02/15968_2018_Judgement_15-Feb-2019.pdf)

*under the RTI Act, existence of these institutions becomes imperative and they are vital for the smooth working of the RTI Act.”*

Fourteen years after the implementation of the law, experience in India, also captured in various national assessments on the implementation of the RTI Act<sup>4</sup>, suggests that the functioning of information commissions is a major bottleneck in the effective implementation of the RTI law. Large backlog of appeals and complaints in many commissions across the country have resulted in inordinate delays in disposal of cases, which render the law ineffective. One of the primary reasons for the backlogs is the failure of central and state governments to take timely action to appoint information commissions to the Central Information Commission and state information commissions, respectively. Performance of information commissions, in terms of exercising their powers to ensure proper implementation of the law, has been a cause of great concern to the RTI community. Commissions have been found to be extremely reluctant to impose penalties on erring officials for violations of the law. Unfortunately, the transparency watchdogs themselves have not had a shining track record in terms of being transparent and accountable to the people of the country.

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.

The need to scrutinize the functioning of information commissions now is perhaps greater than ever before, in light of recent amendments to the RTI law passed by Parliament in July 2019. Security of tenure and high status was provided for commissioners under the RTI Act, 2005 to empower them to carry out their functions autonomously<sup>5</sup>. The RTI Amendment Act of 2019, amended sections 13, 15 and 27 of the RTI Act, 2005 to state that the central government shall prescribe through rules, the tenure, salaries, allowances and other terms of service of the chief and other information commissioners of the Central Information Commission (CIC) and all state information commissions (SICs). This has led to apprehensions that the amendments could undermine the autonomy of commissions and compromise their ability to direct disclosure of information that the central government would not like to divulge.

## 1.2 Statement of 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 assessment, all 29 ICs set up under the RTI Act, 2005, were covered.

A total of 129 applications under the RTI Act were filed with state information commissions (SICs) and the Central Information Commission (CIC). The information sought included:

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<sup>4</sup> 'Report Card of Information Commissions in India', SNS & CES, 2018 (<http://snsindia.org/IC2018.pdf>), 'Tilting the Balance of Power - Adjudicating the RTI Act', RaaG, SNS & Rajpal, 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://snsindia.org/wp-content/uploads/2018/10/RAAG-study-executive-summary.pdf>)

<sup>5</sup> As per the RTI Act, 2005, the tenure of information commissioners was fixed at five years, subject to the retirement age of 65 years. The law pegged the salaries, allowances and other terms of service of the Chief and commissioners of the Central Information Commission and the chiefs of state information commissions at the same level as that of the election commissioners. Election commissioner's salary equals that of a judge of the Supreme Court, which is decided by Parliament. Those of the state information commissioners was the same as chief secretaries of the states.

- Number of appeals and complaints registered, disposed and returned by each IC for the period January 2018 till March 2019;
- Number of appeals and complaints pending before each IC on March 31, 2018 and March 31, 2019;
- Number of appeals or complaints in which ICs imposed penalties, quantum of penalties imposed and the amount recovered, for the period January 2018 till March 2019;
- Number of appeals or complaints in which ICs awarded compensation and the quantum of compensation awarded by each IC, for the period January 2018 till March 2019;
- Number of cases in which disciplinary action was recommended by ICs, for the period January 2018 till March 2019;
- Latest year for which the annual report of each IC was published;
- Details of backgrounds of past and present information commissioners;
- 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 2018 till March 2019.

Each of the RTI applications was tracked to assess the manner in which it was 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 requests for information and the basis of such rejection.

In addition, the websites of all 29 ICs were analysed to assess whether they provide relevant and updated information on the functioning of ICs, including number of commissioners in each commission, orders of 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 Research, Assessment, & Analysis Group (RaaG), Satark Nagrik Sangathan (SNS) and Centre for Equity Studies (CES).

### 1.3 Structure of the report

The report is presented in two parts. The first (chapters 2 to 7) 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, Department of Personnel & Training, Government of India (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.

## Chapter 2: Composition of Information Commissions

### 2.1 Introduction

The functioning of information commissions is inextricably linked to their composition - both in terms of 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.

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.

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.

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.”*

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.

Successive assessments of the functioning of information commissions have shown that appointments to commissions are not made in a timely manner, resulting in a large number of vacancies. In February 2019, the Supreme Court, in its judgment<sup>6</sup> on a PIL regarding non-appointment of information commissioners, ruled that the proper functioning of commissions with adequate number of commissioners is vital for effective implementation of the RTI Act. The Court held that since the law stipulates that information commissions should consist of a Chief and upto ten commissioners 'as may be deemed necessary', the number of commissioners required should be determined on the basis of the workload. In fact, the judgment emphasized that if commissions do not function with adequate number of commissioners, it would negate the very purpose of enacting the RTI law.

This report found that several ICs were non-functional, or were functioning at reduced capacity despite large backlogs, as the posts of commissioners and chief information commissioners were vacant.

## 2.2 Non-functional information commissions

Two information commissions were found to be defunct 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:** After bifurcation of the state of Andhra Pradesh (AP) in 2014, the existing State Information Commission continued to function as the IC for both Telangana and Andhra Pradesh till it became defunct in May 2017 when all serving information commissioners retired. In August 2017, the High Court of Hyderabad directed that separate information commissions be set up in the two states. The AP government issued an order<sup>7</sup> regarding the constitution of the SIC of Andhra Pradesh in August 2017 but no information commissioner was appointed for over a year. Finally, it was only in October 2018, on the directions of the Supreme Court<sup>8</sup>, that the government appointed 3 information commissioners. One more commissioner was subsequently appointed in May 2019. The Chief information commissioner had not been appointed till the time of printing of this report. One of the information commissioners has been made acting Chief, although no such explicit provision exists under the RTI Act.

The SIC of the state of Andhra Pradesh was completely non-functional for a period of 17 months (from May 2017 till October 2018), which meant that people seeking information from public authorities under the jurisdiction of the AP SIC had no recourse to the independent appellate mechanism prescribed under the RTI Act, if their right to information was violated.

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<sup>6</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018), [http://judicialreforms.org/wp-content/uploads/2019/02/15968\\_2018\\_Judgement\\_15-Feb-2019.pdf](http://judicialreforms.org/wp-content/uploads/2019/02/15968_2018_Judgement_15-Feb-2019.pdf)

<sup>7</sup> [https://www.socialpost.news/telugu/wp-content/uploads/2017/09/APIC-New-Employees-GO-06092017-2017GAD\\_MS122-1.pdf](https://www.socialpost.news/telugu/wp-content/uploads/2017/09/APIC-New-Employees-GO-06092017-2017GAD_MS122-1.pdf)

<sup>8</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018),

### Box 1: Seeking information to stop illegal mining

The Kalyanapulova reservoir and dam was the first medium irrigation project in Visakhapatnam district, serving the farming community since 1978. The project provided irrigation water to over 10,000 acres and drinking water to hundreds of villages in and around the reservoir area. However, the water in the reservoir has dried up, the once cultivable land has become dry and arid and the groundwater table has also depleted since the departments concerned have allowed mining activity in the Samalamma hill and the Challagondama Thalli hill, which are part of the catchment area. Activists claim that mining is being carried out on the basis of an incorrect inspection report submitted to the Department of Mining and Geology by the Joint Inspection Committee comprising local revenue, forest and mining departments. An application was filed under the RTI Act to the Divisional Forest Office (DFO) by an activist seeking certified copies of block maps of Somalamma Hill, its Reserve Forest Notification and compartmental maps. However, the department failed to respond in the stipulated time and even the first appeal went unanswered. A second appeal was filed with the AP SIC, which is now pending.



*Rally by farmers calling for protection of the reservoir (photo source: <https://www.thehindu.com/news/national/andhra-pradesh/mining-in-catchment-area-puts-tribals-farmers-in-dire-straits/article26298867.ece>)*

**Tripura:** The information commission of the state was functioning with only the Chief Information Commissioner who retired in April 2019. Since then, no new appointment has been made resulting in the SIC of Tripura being completely defunct for over six months.

### 2.3 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, including that of Andhra Pradesh (discussed above), are functioning without a chief information commissioner.

**Rajasthan:** The SIC of Rajasthan has been functioning without a Chief Information Commissioner since December 2018.

**Tamil Nadu:** The Chief Information Commissioner of the Tamil Nadu SIC retired in May 2019 and the post has been vacant since then.

## 2.4 Commissions functioning at reduced capacity

Several information commissions across the country were found to be functioning at reduced capacity, despite large backlogs of appeals and complaints.

**Central Information Commission:** As of January 1, 2018, the CIC was functioning with 8 information commissioners, including the Chief. With one commissioner finishing her term on January 15, 2018, the total number of vacancies went up to four. More than 23,500 appeals/complaints were pending at the time. Four more commissioners, including the Chief, retired between November 21, 2018 and December 1, 2018, leading to eight out of eleven posts in the CIC becoming vacant. By January 1, 2019, the backlog increased to nearly 27,500 appeals/complaints. Finally, on the directions of the Supreme Court, posts of four information commissioners in the CIC were filled with effect from January 1, 2019. The post of the Chief Information Commissioner was also filled by appointing one of the existing information commissioners as the Chief. Since then, the CIC has been functioning with 6 information commissioners and one Chief. Four vacancies have persisted and the backlog of appeals and complaints has been steadily rising every month since January 1, 2019.

**Maharashtra:** The SIC of Maharashtra has been functioning with just five information commissioners, including the Chief, since early 2019. The commission was also without a chief between April 2017 and May 2018. The Chief was appointed finally only after a PIL was filed in the Supreme Court. As of March 31, 2019, nearly 46,000 appeals and complaints were pending with the commission. The apex court, in its judgment, opined that given the large pendency in the SIC, it would be appropriate if the commission functioned at full strength of 11 commissioners, including the chief. It gave time to the state government till September 2019 to make necessary appointments.

**Karnataka:** The SIC of Karnataka had 5 vacancies in the beginning of 2018, even though it registered the highest number of appeals/complaints across the country (see chapter 3). The commission was also without a chief between September 2018 and May 2019.

**Uttar Pradesh:** All 8 serving information commissioners of the Uttar Pradesh SIC finished their tenure on January 6, 2019 resulting in the commission being left with only the Chief. Even though these vacancies arose out of scheduled retirements, the government did not take necessary steps to appoint new commissioners in a timely manner. Finally, towards the end of February 2019, ten new information commissioners were appointed. As of January 1, 2019, nearly 47,000 appeals and complaints were pending before the SIC which jumped to 51,682 by the end of February 2019.

**Kerala:** The SIC of Kerala was functioning with only the Chief Information Commissioner since 2016. In August 2017, the High Court of Kerala<sup>9</sup> 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. 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.*" As of March 2018, nearly 15,000 appeals and complaints were pending before the SIC. Finally, 4 more information commissioners were appointed in May 2018 after a PIL was filed in the Supreme Court. Now the commission is functioning with 5 commissioners, including the Chief.

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

**Telangana:** After the bifurcation of the state of Andhra Pradesh in 2014, the SIC of Telangana was constituted and two commissioners assumed charge on September 25, 2017<sup>10</sup>. Since then the SIC has been functioning with only 2 commissioners even though nearly 9,000 appeals/complaints were pending as of March 31, 2019.

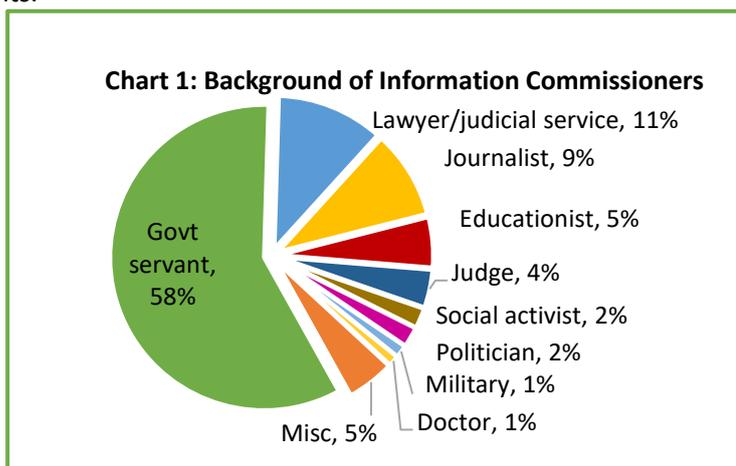
**Odisha:** The Odisha SIC is functioning with 3 commissioners despite having a large pendency of more than 11,500 appeals and complaints as of March 31, 2019.

**West Bengal:** The West Bengal SIC was functioning with only 2 commissioners since mid-2017 even though more than 8,000 appeals/complaints were pending as of October 31, 2017. Finally one more commissioner was appointed in December 2018 on the directions of the Supreme Court as a result of which the pendency has reduced marginally to around 7,000. The Supreme Court had held that the state government should sanction atleast 3 more posts and make appointments by September 2019.

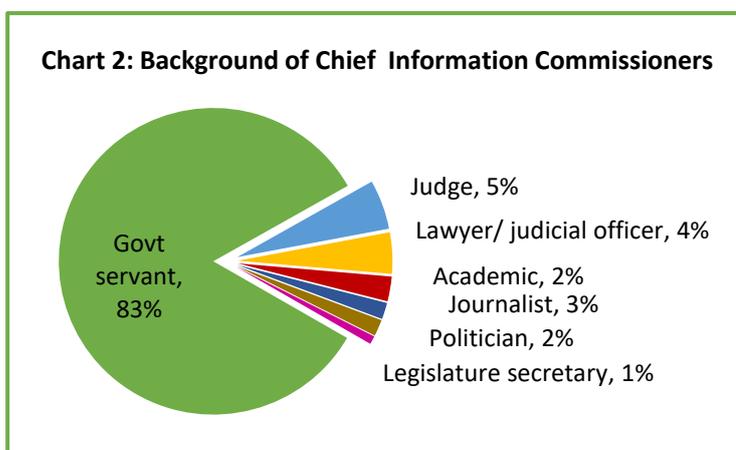
## 2.5 Background of commissioners

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 an overwhelming majority of information commissioners have been appointed from among retired government servants.

Of the 374 commissioners for whom background information was available, 58% were retired government officials. 15% had a legal or judicial background (11% were advocates or from the judicial service and 4% were retired judges), 9% commissioners had a background in journalism, 5% were educationists (teachers, professors) and 2% were social activists or workers (Chart 1).



Of the 115 chief information commissioners for whom data was obtained, an overwhelming 83% were retired government servants-including 64% retired Indian Administrative Service (IAS) officers and another 19% from other services (Chart 2). Of the remainder, 9% had a background in law (5% former judges and 4% lawyers or judicial officers).

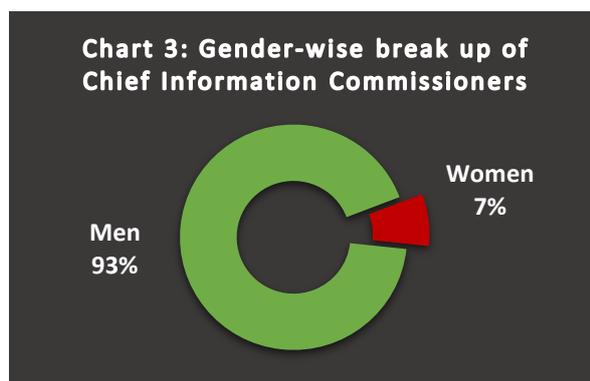


<sup>10</sup> <http://tsic.gov.in/tsicWebsite/>

## 2.6 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).

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



## 2.7 Discussion

Information Commissions (ICs) set up under the Indian RTI Act are independent, have extensive powers and are the final appellate authority under the law. The health of the RTI regime depends on how effective these institutions are.

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. However in other states the number of appeals/complaints filed and the backlog of cases is large, requiring all commissioners to be on board. Not appointing information commissioners in these commissions in a timely manner results in a huge backlog of appeals and complaints, and consequent long delays in disposal of cases. In the Andhra Pradesh and West Bengal SICs, for instance, the waiting time for disposal of a case is estimated to be 18 years and 7.4 years respectively (see Chapter 4). This amounts to a violation of peoples' right to information.

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

The Supreme Court (SC) in its February 2019 judgment<sup>11</sup>, observed that the objective of the RTI Act is to ensure time-bound access to information and, therefore, commissions should dispose appeals/complaints in a timely manner. In order to achieve this, the SC held that all information commissions should have adequate number of commissioners based on the workload. It opined that where there are large backlogs of appeals/complaints, the commissions should function at full strength i.e. 1 chief and 10 information commissioners. The judgement directed central and state governments to make appointments to commissions in a timely and transparent manner. The relevant extracts of the judgment are given below:

*"21) As per the RTI Act, the Commissions consist of the Chief Information Commissioner and upto 10 Information Commissioners, appointed by the President of India at the Central level and by the*

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<sup>11</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018),

Governor in the States, on the recommendation of a Committee. In respect of CIC, such a provision is contained in Section 12 which stipulates that CIC shall consist of the Chief Information Commissioner and 'such number of Central Information Commissioners not exceeding 10 as may be deemed necessary'. Similar, provision for SIC is contained in Section 15(2) of the RTI Act. No doubt, there is a cap/upper limit of 10 Central Information Commissioners and State Information Commissioners in respect of each State respectively. **Such number of CICs/SICs would depend upon the workload as the expression used is 'as may be deemed necessary'. The required number of CIC/SICs, therefore, would depend upon the workload in each of these Commissions.**

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24) ...Of course, no specific period within which CIC or SICs are required to dispose of the appeals and complaints is fixed. However, going by the spirit of the provisions, giving out limit of 30 days to the CPIOs/SPIOs to provide information or reject application with reasons, **it is expected that CIC or SICs shall decide the appeals/complaints within shortest time possible, which should normally be few months from the date of service of complaint or appeal to the opposite side. In order to achieve this target, it is essential to have CIC/SCIC as well as adequate number of Information Commissioners. It necessarily follows therefrom that in case CIC does not have Chief Information Commissioner or other Commissioners with required strength, it may badly affect the functioning of the Act which may even amount to negating the very purpose for which this Act came into force....**

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67(v) We would also like to impress upon the respondents to fill up vacancies, in future, without any delay. For this purpose, it would be apposite that the process for filling up of a particular vacancy is initiated 1 to 2 months before the date on which the vacancy is likely to occur so that there is not much time lag between the occurrence of vacancy and filling up of the said vacancy." (emphasis supplied)

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 Karnataka, Uttar Pradesh and Maharashtra registered more than 35,200 cases per year. 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. 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 satisfactory<sup>12</sup>, which indicates that the practice of populating ICs primarily with ex-bureaucrats has perhaps not been the best strategy.

The Supreme Court in its February 2019 judgment, made strong observations about the tendency of the government to only appoint former or serving government employees as information commissioners, even though the RTI Act states that commissioners should be chosen from diverse backgrounds and fields of experience. The relevant extracts are given below:

*“39. ... However, a strange phenomenon which we observe is that all those persons who have been selected belong to only one category, namely, public service, i.e., they are the government employees. It is difficult to fathom that persons belonging to one category only are always be found to be more competent and more suitable than persons belonging to other categories. In fact, even the Search Committee which short-lists the persons consist of bureaucrats only. For these reasons, official bias in favour of its own class is writ large in the selection process.”*

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**GENERAL DIRECTIONS FOR CIC & SCICs**

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*67(iv) We also expect that Information Commissioners are appointed from other streams, as mentioned in the Act and the selection is not limited only to the Government employee/ex government employee. In this behalf, the respondents shall also take into consideration and follow the below directions given by this Court in **Union of India vs. Namit Sharma**<sup>13</sup>*

*"32. ...*

*(iii) We direct that only persons of eminence in public life with wide knowledge and experience in the fields mentioned in Ss. 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 Ss. 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 Ss. 12(3) and 15(3) of the Act for appointment as Chief Information Commissioner or Information Commissioners.*

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<sup>12</sup> Assessment of orders of information commissions in 'Tilting the Balance of Power - Adjudicating the RTI Act', RaaG, SNS & Rajpal, 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.

<sup>13</sup>Union of India vs. Namit Sharma [(2013) 10 SCC 359]

In 2013, the Supreme Court<sup>14</sup> 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. In keeping with the spirit of the RTI Act, there has been a long standing public demand to make the process of appointing information commissioners transparent and accountable. This has 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. In several cases, the appointments of information commissioners have been challenged for being arbitrary, illegal and unreasonable. In many states, including Gujarat<sup>15</sup>, Andhra Pradesh<sup>16</sup> 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 2013 directions of the Supreme Court or because persons who did not meet the eligibility criteria were appointed as commissioners.

The Supreme Court, in its 2019 judgment<sup>17</sup> gave comprehensive directions to ensure transparency in the appointment process. It directed that the names of the members of the search and selection committees, the agenda and minutes of committee meetings, the advertisement issued for vacancies, particulars of applicants, names of shortlisted candidates, file notings and correspondence related to appointments, be placed in the public domain. The Court in its final directions also noted, *"it would also be appropriate for the Search Committee to make the criteria for shortlisting the candidates, public, so that it is ensured that shortlisting is done on the basis of objective and rational criteria."*

In its 2013 judgment<sup>18</sup>, Supreme Court had laid down 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*

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<sup>14</sup> Union of India vs. Namit Sharma [(2013) 10 SCC 359]

<sup>15</sup> Jagte Raho Versus The Chief Minister of Gujarat Writ Petition (P.I.L.) Nos. 143 and 278 of 2014

<sup>16</sup> SLP(C) No(s).30756/2013 order dated 20.04.2017, Varre Venkateshwarlu & Ors Versus K. Padmanabhaiah & Ors

<sup>17</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018)

<sup>18</sup> Union of India vs. Namit Sharma [(2013) 10 SCC 359]

*must be accessible to the citizens as part of their right to information under the Act after the appointment is made."*

## 2.8 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 initiated well in advance, so that there is no gap between the previous commissioner demitting office and a new one joining in. This would be in keeping with the directions of the Supreme Court in *Anjali Bhardwaj and others v. Union of India and others* (Writ Petition No. 436 of 2018).
3. 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 4).
4. The composition of information commissions needs to be balanced, drawing commissioners from diverse backgrounds - former civil servants, legal professionals, academics, social activists, 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 *UOI vs Namit Sharma* case [(2013) 10 SCC 359], reiterated by the court in 2019, wherein the court held that the chief information commissioner must ensure that matters involving intricate questions of law be 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. There must be transparency in the process of appointment of information commissioners as per the directions of the Supreme Court in its judgment in February 2019. The judgment<sup>19</sup> mandates that the following information regarding appointment of central and state information commissioners be proactively disclosed:
  - i. Advertisement inviting applications for the posts of Chief and other information commissioners, which should specify the terms and conditions of appointment as defined in the RTI Act
  - ii. Particulars of applicants
  - iii. Names of members of the Search Committee
  - iv. Criteria adopted by the search committee for shortlisting candidates
  - v. Minutes of search committee meetings
  - vi. Names of short-listed candidates
  - vii. Names of members of the selection committee

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<sup>19</sup> *Anjali Bhardwaj and others v. Union of India and others* (Writ Petition No. 436 of 2018)

- viii. Criteria adopted for selection of information commissioners
  - ix. Minutes of selection committee meetings
  - x. File notings and correspondence related to the appointments
6. In keeping with the Supreme Court judgement of 2013 in the Union of India vs Namit 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.

## Chapter 3: Appeals and Complaints Dealt with by Information Commissions

### 3.1 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 either 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.*

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*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:*

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*(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 regarding the procedure for filing appeals/complaints. Some of these allow the commission to return an appeal/complaint if it 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.

### 3.2 Appeals and complaints registered and disposed

Close to three lakh (2,80,288) appeals and complaints were registered, and a little over two lakh (2,16,354) were disposed, between January 1, 2018 and March 31, 2019 by 28 information commissions for whom relevant information was available. The commission wise break up of appeals and complaints registered and disposed is given in Table 1.

<b>Table 1: Appeals and complaints registered and disposed by ICs (January 1, 2018 to March 31, 2019)</b>			
<b>S. No</b>	<b>Information Commission</b>	<b>Registered</b>	<b>Disposed</b>
1.	Karnataka	48,656	23,223
2.	Maharashtra ③	46,712	40,986
3.	Uttar Pradesh	45,206	34,328
4.	Central Information Commission	28,174	23,629
5.	Rajasthan ④	19,541	15,805
6.	Gujarat	13,534	11,685
7.	Tamil Nadu ⑤	13,141	7,845
8.	Haryana	12,007	11,239
9.	Telangana	8,781	6,784
10.	Punjab	6,945	6,990
11.	Madhya Pradesh	6,460	6,101
12.	Chhattisgarh ①	5,355	4,783
13.	Odisha	5,354	3,378
14.	Kerala	5,093	7,069
15.	Andhra Pradesh ⑥	5,000	422
16.	West Bengal	2,747	1,308
17.	Uttarakhand ②	2,589	3,005
18.	Jharkhand	1,951	2,806
19.	Assam	1,050	2,735
20.	Himachal Pradesh ②	518	667
21.	Goa	489	616
22.	Arunachal Pradesh	455	369
23.	Manipur	318	336
24.	Tripura	106	103
25.	Sikkim	46	46
26.	Nagaland	23	65
27.	Meghalaya	20	20
28.	Mizoram	17	11
<b>Total</b>		<b>2,80,288</b>	<b>2,16,354</b>
Bihar did not provide information			
Notes: ① Data for Jan-Dec 2018 ② Data for April 2018 to Mar 2019 ③ Excludes appeals data for 3 months, complaints data for 6 months ④ Data for Jan 2018 to Feb 2019, excludes complaints disposed in 2019 ⑤ Excludes appeals/complaints disposed in 2019 ⑥ Data for Oct 2017 to May 2019			

The SIC of Karnataka registered the highest number (48,656) followed by the SIC of Maharashtra (46,712), Uttar Pradesh (45,206) and the CIC (28,174). Meghalaya and Mizoram registered the lowest number of appeals and complaints, 20 and 17, respectively. In terms of disposal, during the period under review, the SIC of Maharashtra disposed the highest number of appeals and complaints (40,986), followed by Uttar Pradesh (34,328), CIC (23,629) and Karnataka (23,223).

The SIC of Bihar did not provide information under the RTI Act regarding the number of appeals and complaints dealt with by the IC. This information was also not available on the website of the Bihar SIC.

### 3.3 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 government<sup>20</sup>, 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.*

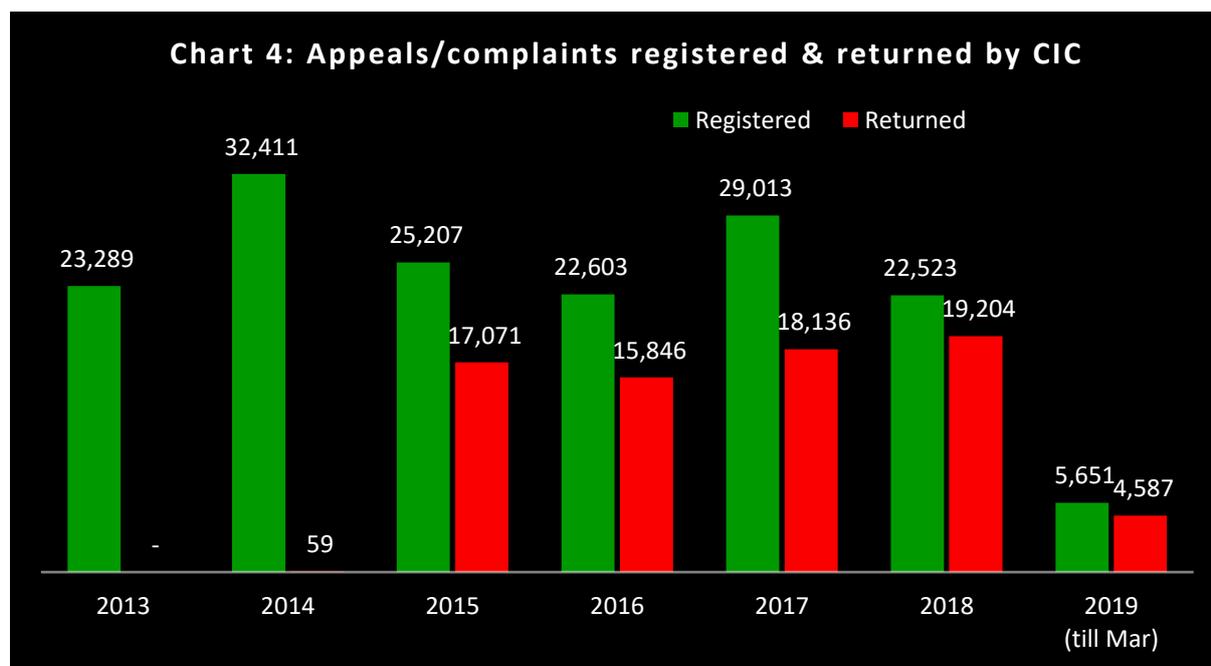
*9. Return of Appeal.—An appeal may be returned to the appellant, if it is not accompanied by the documents as specified in rule 8, for removing the deficiencies and filing the appeal complete in all respects”.*

The assessment found that the CIC and the SICs of Gujarat and Chhattisgarh returned a large number of appeals/complaints, without passing any orders, during the period January 2018 to March 31, 2019 (see Table 2). The CIC returned a whopping 23,791 appeals/complaints while it registered 28,174 during January 2018 and March 2019. The SIC of Gujarat returned 2,117 cases while it registered 13,534 cases during the period under review.

<b>Information Commission</b>	<b>Number of appeals &amp; complaints returned</b>
CIC	23,791
Gujarat	2,117
Chhattisgarh	1,199
West Bengal	3

<sup>20</sup> <http://www.cic.gov.in/sites/default/files/RTI/RTIRules2012.pdf>

The trend of a large number of appeals/complaints being returned by the CIC began 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 reasons for returning them. 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.



Since June 2018, the CIC has started disclosing additional details about appeals/complaints returned by providing a break up how many were returned due to deficiencies and how many were returned because they were ineligible for registration- either because they related to the jurisdiction of a state IC or were premature, time barred or duplicates. In addition, the CIC is now also disclosing how many appeals/complaints were re-submitted to the CIC after addressing the deficiency. The data on the CIC website for June 2018 to December 2018 showed that only about 22% of cases which were returned due to deficiencies were re-submitted to the CIC.

### 3.4 Discussion

An estimated 40 to 60 lakh (4 to 6 million) applications were filed in 2011-12 under the RTI Act. Taking that as the annual estimate of number of RTI applications filed, the data on the 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 requested<sup>21</sup>. 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

<sup>21</sup> Chapter 6, 'Peoples' Monitoring of the RTI Regime in India', 2011-2013, RaaG & CES, 2014

therefore, despite 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 entitlements<sup>22</sup>.

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 data on the CIC website, for instance, shows that over 75% of the appeals/complaints which are returned due to deficiencies were not re-submitted to the commission.

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 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. Commissions must facilitate and assist people in the process of registering their appeals/complaints, rather than summarily returning them.

### 3.5 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. The websites of ICs and public authorities must prominently display information about the procedure for filing an appeal/complaint. Commissions must adopt mechanisms to assist and facilitate people in the process of registering their appeals/complaints. All ICs must provide a help-line and facilitation desk where people can seek advice and assistance. 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 remedial action by forwarding the appeal/complaint to the appropriate authority, with a copy to the appellant. 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.
4. Further, wherever appeals and complaints are returned, the deficiency memo which enunciates the reason for the return must be made public, in addition to being communicated to the appellant/complainant. This is, in any case, a requirement under Section 4 of the RTI Act and would enable public scrutiny of the process.

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<sup>22</sup> Chapter 5, RaaG & CES, 2014

## Chapter 4: Backlog and Delays in Information Commissions

### 4.1 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, (s)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 Parliament<sup>23</sup>).

Large 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.

In February 2019, taking note of the inordinately long time taken by ICs to dispose cases, the Supreme Court ruled<sup>24</sup> that in keeping with the spirit of the RTI Act to ensure time-bound access to information, commissions should decide appeals/complaints within the shortest time possible. The Court clarified that this should normally be a few months from the date of service of complaint or appeal to the public authority. The relevant extract of the judgement is reproduced below:

*“24) ...Of course, no specific period within which CIC or SICs are required to dispose of the appeals and complaints is fixed. However, going by the spirit of the provisions, giving out limit of 30 days to the CPIOs/SPIOs to provide information or reject application with reasons, **it is expected that CIC or SICs shall decide the appeals/complaints within shortest time possible, which should normally be few months from the date of service of complaint or appeal to the opposite side.**” (emphasis supplied)*

The issue of backlog 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.

### 4.2 Backlog of appeals and complaints

The number of appeals and complaints pending on March 31, 2019 in the 26 information commissions, from which data was obtained, stood at an alarming figure of 2,18,347.

The commission-wise break-up of the backlog of appeals and complaints is given in Table 3. As of March 31, 2019, the maximum number of appeals/complaints were pending in Uttar Pradesh (52,326) followed by Maharashtra (45,796) and CIC (29,995). The comparative data for these three commissions shows that the number of cases pending increased 20% between March 31, 2018 and March 31, 2019.

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<sup>23</sup> For details see Chapter 25, *Tilting the Balance of Power - Adjudicating the RTI Act*, RaaG & SNS, 2017

<sup>24</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018), [http://judicialreforms.org/wp-content/uploads/2019/02/15968\\_2018\\_Judgement\\_15-Feb-2019.pdf](http://judicialreforms.org/wp-content/uploads/2019/02/15968_2018_Judgement_15-Feb-2019.pdf)

There were no backlogs in the SICs of Meghalaya, Sikkim and Tripura as of March 31, 2019.

The information commissions of Bihar, Karnataka and Uttarakhand 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.

**Table 3: Backlog of appeals & complaints in information commissions**

	<b>Information Commission</b>	<b>31-Mar-2018</b>	<b>31-Mar-2019</b>
1.	Uttar Pradesh	42,866	52,326
2.	Maharashtra	39,946	45,796
3.	Central Information Commission	24,248	29,995
4.	Kerala	14,990	12,638
5.	Odisha ③	10,422	11,595
6.	Chhattisgarh ②	8,565	9,137
7.	Telangana	9,878	8,829
8.	Tamil Nadu ②	6,395	8,756
9.	West Bengal	7,828	7,754
10.	Rajasthan ④	4,267	7,372
11.	Madhya Pradesh	5,575	6,069
12.	Gujarat	4,209	5,689
13.	Andhra Pradesh ①	NA	4,578
14.	Haryana	2,313	2,689
15.	Punjab	2,432	2,370
16.	Jharkhand	NA	1,362
17.	Assam	648	727
18.	Himachal Pradesh	434	285
19.	Goa	NA	170
20.	Manipur	110	140
21.	Arunachal Pradesh	23	63
22.	Nagaland ③	4	5
23.	Mizoram	0	2
24.	Meghalaya	0	0
25.	Sikkim	0	0
26.	Tripura	0	0
	<b>TOTAL</b>	<b>1,85,153</b>	<b>2,18,347</b>
Bihar, Karnataka, Uttarakhand did not provide requisite information. NA means not available			
Notes: ① Data as of May 31, 2019 not March 31, 2019 ② Data as of January 1, 2018 and January 1, 2019 not March 31, 2018 and March 31, 2019 ③ Data as of Jan 1, 2018 not March 31, 2018 ④ Data as of Feb 28, 2019 not March 31, 2019 & excludes complaints			

### 4.3 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 long periods of time for their cases to be heard. Using data on the backlog of cases in ICs and their monthly rate of disposal, the time it would take for an appeal/complaint filed with an IC on April 1, 2019 to be disposed was computed (assuming appeals and complaints are disposed in a chronological order). The analysis presented in Table 4 shows that the Andhra Pradesh SIC would take 18 years to dispose a matter- in the year 2037! In West Bengal SIC, it would take 7 years and 5 months, while in Odisha more than 4 years. The comparative data for November 1, 2017 from an earlier assessment by SNS and CES is also presented.

Table 4 : Estimated time required for disposal of an appeal/complaint		
Information Commission	Time before new case is disposed (as of Nov 1, 2017)	Time before new case is disposed (as of Apr 1, 2019)
Andhra Pradesh ①	NA	18 years
West Bengal	43 years	7 years and 5 months
Odisha	5 years and 3 months	4 years and 3 months
Kerala	6 years and 6 months	2 years and 3 months
Uttar Pradesh	1 year and 6 months	1 year and 11 months
Chhattisgarh ②	1 year and 10 months	1 year and 11 months
Telangana	1 year and 5 months	1 year and 8 months
Central Information Commission	10 months	1 year and 7 months
Madhya Pradesh	NA	1 year and 3 months
Maharashtra	NA	1 year and 1 month
Tamil Nadu ②	NA	1 year and 1 month
Gujarat	5 months	7 months
Jharkhand	NA	7 months
Rajasthan ③	NA	7 months
Manipur	5 months	6 months
Himachal Pradesh	1 year and 3 months	5 months
Punjab	4 months	5 months
Assam	3 months	4 months
Goa	NA	4 months
Haryana	4 months	4 months
Mizoram	no pendency	3 months
Arunachal Pradesh	3 months	2 months
Nagaland	8 months	1 month
Meghalaya	1 months	no pendency
Sikkim	no pendency	no pendency
Tripura	1 month	no pendency
Uttarakhand	4 months	NA
Karnataka	1 year and 1 month	NA
Bihar	NA	NA

Notes: For 2019, based on appeals/complaints pending as of ① May 31, 2019 ② Data as of January 1, 2019 ③ Data as of Mar 1, 2019 & excludes complaints

The estimate shows that eleven ICs would take more than one year to dispose an appeal/complaint. In most of these ICs, the reason for the long waiting time for disposal of appeals and complaints can be traced to vacancies in the posts of commissioners not being filled in a timely manner.

In the CIC, the estimated waiting time nearly doubled between November 1, 2017 and April 1, 2019 going up from 10 months to 1 year and seven months (see case study in Box 2). During the period under review in this assessment, at one point, the CIC was functioning with only 3 commissioners out of the sanctioned strength of 11 posts – 8 posts, including that of the Chief Information Commissioner, were vacant.

The SICs of West Bengal and Kerala showed some improvement in their performance with the estimated time for disposal coming down from 43 years to 7 years and 5 months in the case of West Bengal and from 6 and a half years to 2 years and 3 months for Kerala. In both cases, appointments were made to the respective SICs as a result of directions of the Supreme Court. In Kerala, 4 new commissioners were appointed while in West Bengal, one commissioner was appointed. Despite the improvement, the long waiting time continues to be a matter of concern.

#### Box 2: Waiting to be heard

Sabbiran lost her husband 14 years ago in an accident when her youngest child was just 7 months old. When she learnt about the Widow Pension Scheme of the Delhi government, she applied for it.

After waiting for over 10 months without a response, Sabbiran filed an RTI application to the department seeking information regarding action taken on her application. She did not receive any reply from the PIO or the first appellate authority of the department and finally filed a second appeal in the Central Information Commission on 08/06/2018. She is still waiting for her case to be heard by the commission.



#### 4.4 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. Long delays in the commissions render the law ineffective for people, especially for those living at the margins, who are most dependent on government services (and therefore need information the most).

Taking note of the unduly long time taken by ICs to dispose cases, the Supreme Court in its judgment<sup>25</sup> in February 2019 ruled that in keeping with the spirit of the RTI Act to ensure time-bound access to information, commissions should decide appeals/complaints within the shortest time possible -

<sup>25</sup> Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018), [http://judicialreforms.org/wp-content/uploads/2019/02/15968\\_2018\\_Judgement\\_15-Feb-2019.pdf](http://judicialreforms.org/wp-content/uploads/2019/02/15968_2018_Judgement_15-Feb-2019.pdf)

normally a few months from the date of service of complaint or appeal to the public authority. The Court held that since the law states that information commissions should consist of a Chief and upto ten commissioners 'as may be deemed necessary', the number of commissioners required should be determined on the basis of the workload. The Supreme Court also gave specific directions to ensure timely appointment of information commissioners.

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. Apart from the failure to appoint commissioners in a timely manner, atleast four factors contribute to the problem of large backlogs in commissions.

First, 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 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 have not adequate resources and staff.

Second, 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 application<sup>26</sup>. 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 grievance<sup>27</sup>. 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 5) 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.

#### 4.5 Agenda for action

1. The central and state governments must ensure timely appointment of requisite number of information commissioners in ICs (see chapter 1).

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<sup>26</sup> Chapter 4, 'Peoples' Monitoring of the RTI Regime in India', 2011-2013, RaaG & CES, 2014

<sup>27</sup> Ibid

2. The CIC has set an annual norm for itself of 3200 cases per commissioner, per year. 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. 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.
5. ICs must impose penalties mandated under the RTI Act for violation of the law (see chapter 5 for more details).
6. One way of reducing backlogs without illegitimately curbing the citizen's fundamental right to information would be to adopt practices in 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, 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 v State of Uttar Pradesh and Ors.* [(2008)2 SCC 409] 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 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 6) .
  - v. ICs should get annual audits of section 4 compliance done for all public authorities 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 disclosures<sup>28</sup> . 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

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<sup>28</sup> Report available from <https://goo.gl/wc0c0b>

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 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.

## Chapter 5: Penalizing Violations of the Law

### 5.1 Introduction

Section 20 of the RTI Act empowers information commissions to impose penalties of upto Rs. 25,000 on erring Public Information Officers (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 disposed, and one or more violations listed in section 20 are found to have occurred, the commission is obliged 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 given the circumstances of the case.

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.”*

## 5.2 Quantum of penalty imposed

The assessment found that for the period January 1, 2018 to March 31, 2019, the 25 commissions, which provided relevant information, imposed penalty in 2,455 cases (appeals and complaints). Penalty amounting to Rs. 3.15 crore was imposed by 26 commissions which provided the relevant data (see table 5 for commission wise details). The SICs of Maharashtra and Uttar Pradesh did not provide the requisite information on penalties imposed<sup>29</sup>.

In terms of quantum of penalty imposed, Karnataka was the leader (Rs. 77 lakh), followed by Haryana (Rs. 72 lakh) and the CIC (Rs. 47.8 lakh). SICs of Tamil Nadu, Mizoram, Sikkim and Tripura did not impose any penalty for the period under review.

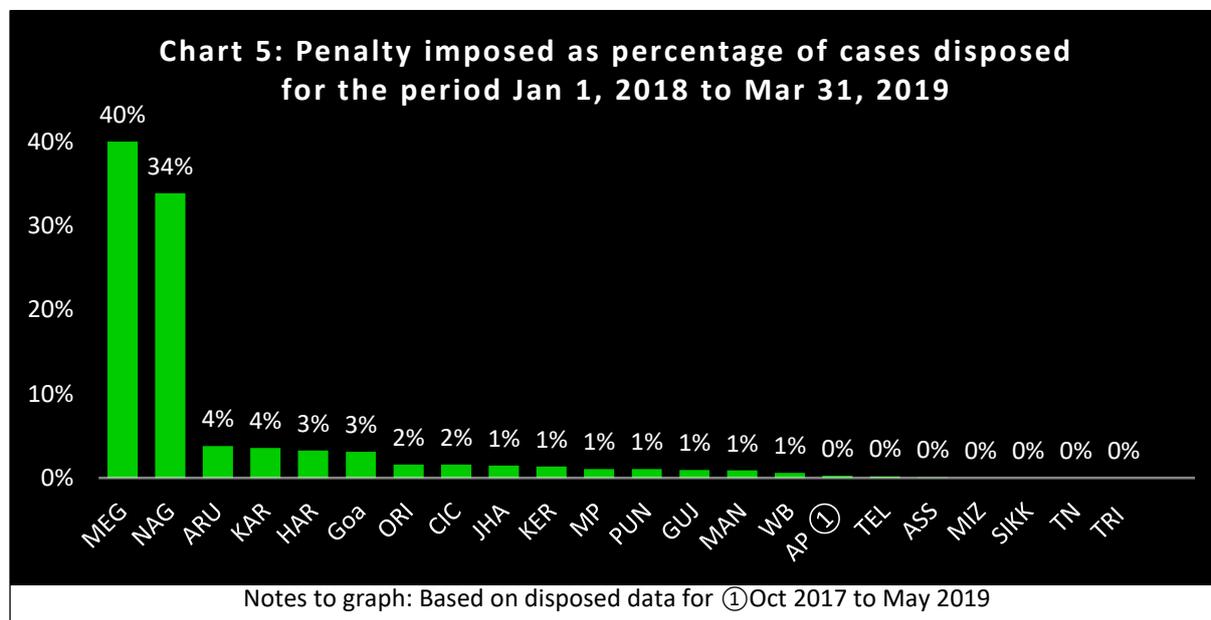
S. No	Information Commission	No. of cases where penalty imposed	Amount of penalty imposed
1.	Karnataka	826	77,12,700
2.	Haryana	367	72,12,000
3.	Central Information Commission	373	47,83,500
4.	Rajasthan	NA	26,67,500
5.	Uttarakhand	124	23,18,250
6.	Madhya Pradesh	64	15,10,000
7.	Gujarat	108	10,45,000
8.	Jharkhand	41	9,17,000
9.	Punjab	73	6,67,000
10.	Odisha	53	6,57,002
11.	Chhattisgarh ①	NA	6,51,000
12.	Nagaland	22	3,83,250
13.	Arunachal Pradesh	14	3,50,000
14.	Kerala	96	2,63,000
15.	Goa	19	64,500
16.	West Bengal	8	60,250
17.	Manipur	3	44,000
18.	Assam	2	40,000
19.	Telangana	13	39,000
20.	Himachal Pradesh	6	36,000
21.	Andhra Pradesh ②	1	25,000
22.	Meghalaya	8	12,100
23.	Mizoram	0	0
24.	Sikkim	0	0
25.	Tamil Nadu	0	0
26.	Tripura	0	0
27.	Bihar	234	NA
	<b>Total</b>	<b>2,455</b>	<b>3,14,58,052</b>

Notes: Uttar Pradesh, Maharashtra did not provide the requisite information. NA implies info not provided.  
 ① For Jan-Dec 2018 ② For Oct 2017-May 2019

<sup>29</sup> In response to RTI applications, both SICs stated that the information was on their website, however, the relevant details could not be located

### 5.3 Penalty imposed as percentage of cases disposed

Analysis of the figures for 22 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 them in just 1.8% of the cases disposed.



A previous assessment<sup>30</sup> of a random sample of orders of information commissions had found that on average **59% orders recorded one or more violations listed in Section 20 of the RTI Act**, based on which the commission should have triggered the process of penalty imposition. If this estimate of 59% is used, penalty would be imposable in 68,900 cases out of the 1,16,780 cases disposed by the 22 ICs (see Table 5). Actual penalties were imposed in 2,091 cases - only in 3% of the cases where penalties were potentially imposable! The ICs therefore did not impose penalties in 97% of the cases where penalties were imposable.

### 5.4 Recommending disciplinary action for persistent violations of the RTI Act

The assessment found that for the period January 1, 2018 to March 31, 2019, of the 21 commissions which provided information, only 9 had invoked their powers to recommend disciplinary action. The SIC of Chhattisgarh had recommended disciplinary action in the maximum number of cases (1097). This was followed by the Haryana SIC which invoked these powers in 456 cases.

11 SICs did not recommend disciplinary action in any matter adjudicated upon by them during the time period under review. The CIC and the SICs of Bihar, Kerala, Karnataka, Maharashtra, Odisha, Punjab, Rajasthan and Uttar Pradesh did not provide the requisite information. The commission wise details of number of cases where disciplinary action was recommended between January 1, 2018 and March 31, 2019 are provided in Table 6.

<sup>30</sup> 'Tilting the Balance of Power - Adjudicating the RTI Act', RaaG, SNS & Rajpal, 2017

Table 6: Number of cases where disciplinary action was recommended between Jan 1, 2018 to Mar 31, 2019		
S. No	Information Commission	No. of cases
1.	Chhattisgarh ①	1097
2.	Haryana	456
3.	Uttarakhand	135
4.	Jharkhand	29
5.	Gujarat	21
6.	Telangana	2
7.	Arunachal Pradesh	1
8.	Meghalaya	1
9.	Tamil Nadu	1
10.	Andhra Pradesh	0
11.	Assam	0
12.	Goa	0
13.	Himachal Pradesh	0
14.	Madhya Pradesh	0
15.	Manipur	0
16.	Mizoram	0
17.	Nagaland	0
18.	Sikkim	0
19.	Tripura	0
20.	West Bengal	0
Bihar, CIC, Kerala, Karnataka, Maharashtra, Odisha, Punjab, Rajasthan and Uttar Pradesh did not provide the requisite information		
Notes ① Data pertains to Jan 2018 to December 2018		

## 5.5 Discussion

Successive assessments of the implementation of the RTI Act have shown that the provision to impose penalties under the law is more honoured in the breach. 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 violations that are penalizable under the law 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.

The findings of the report reveal that ICs imposed penalties only in a miniscule percentage of cases in which they were 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. It 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 work-load 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.

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.

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.

## 5.6 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), and 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. 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 2007*<sup>31</sup>.
4. Applicants and complainants must persistently pursue the issue of imposition of penalty where any violation of the RTI Act has taken place. They need to insist that the ICs detail in each order the reasons why penalty is not being imposed.
5. 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 the provisions of section 20.
6. 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.

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<sup>31</sup> *Sakiri Vasu v State of Uttar Pradesh and Ors.* [(2008)2 SCC 409]

## Chapter 6: Compensation

### 6.1 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.

### 6.2 Compensation awarded

The assessment found that ICs rarely used their power to award compensation. Of the 25 commissions that provided information, only 16 awarded any compensation to information seekers during the period under review (see Table 7). The SIC of Punjab awarded the maximum amount of compensation, Rs. 9.5 lakh followed by Haryana (Rs. 7.16 lakh) and CIC (Rs. 6.92 lakh).

9 SICs did not award any compensation during the time period under review (January 1, 2018 to March 31, 2019).

The SICs of Bihar, Kerala, Maharashtra and Uttar Pradesh did not provide the requisite information on compensation awarded.

**Table 7: Award of compensation Jan 2018 to Mar 2019**

	Information Commission	No. of cases where compensation awarded	Amount awarded (Rs.)
1.	Punjab	280	9,51,500
2.	Haryana	205	7,16,000
3.	CIC	77	6,92,130
4.	Chhattisgarh ①	323	2,00,000
5.	Jharkhand	5	1,41,540
6.	Arunachal Pradesh	7	1,10,555
7.	Tamil Nadu	17	1,07,504
8.	Rajasthan	NA	41,000
9.	HP②	15	31,000
10.	Uttarakhand	2	30,000
11.	Goa	5	20,000
12.	Sikkim	1	20,000
13.	Telangana	1	10,000
14.	Manipur	2	8,000
15.	Gujarat	1	5,000
16.	Karnataka	2	3,000
17.	Andhra Pradesh	0	0
18.	Assam	0	0
19.	Madhya Pradesh	0	0
20.	Meghalaya	0	0
21.	Mizoram	0	0
22.	Nagaland	0	0
23.	Odisha	0	0
24.	Tripura	0	0
25.	West Bengal	0	0
	<b>Total</b>	<b>663</b>	<b>30,87,229</b>

Bihar, Kerala, Maharashtra, Uttar Pradesh did not provide the requisite information  
 Notes: Data pertains to ① January 2018 to December 2018 ② April 2017 to March 2019

### 6.3 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 every year over twenty lakh<sup>32</sup> (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 circular<sup>33</sup> 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.”*

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<sup>32</sup> Chapter 5, ‘Peoples’ Monitoring of the RTI Regime in India’, 2011-2013, RaaG & CES, 2014

<sup>33</sup> No.12/192/2009-1R dated 20<sup>th</sup> January, 2010, on page 87 of *Compilation of OMs & Notifications on Right to Information Act, 2005*.

#### 6.4 Agenda for action

1. ICs should use their power to award compensation much more effectively. 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 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.
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.

## Chapter 7: Transparency in the Functioning of Information Commissions

### 7.1 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,—*

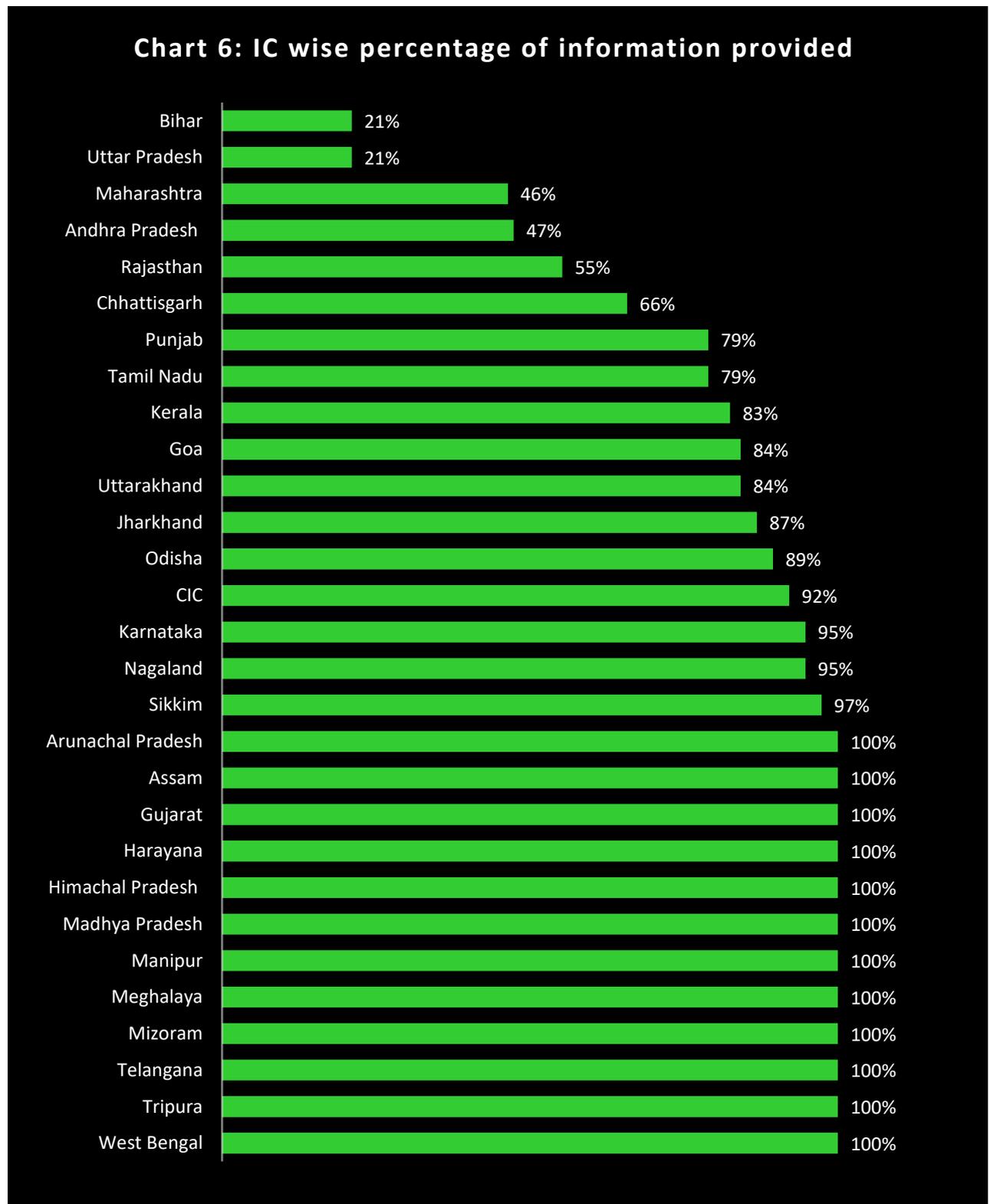
- (a) the number of requests made to each public authority;*
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;*
- (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.”*

### 7.2 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 129 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.

Only 12 out of 29 ICs provided full information in response to the RTI applications filed as part of this assessment. The SICs of Bihar and Uttar Pradesh were the worst performing - they provided only 21% of the information sought. They were followed by Maharashtra, Andhra Pradesh and Rajasthan SICs,

which provided 46%, 47% and 55% of the information sought, respectively. The commission-wise performance in terms of responsiveness under the RTI Act is provided below in Chart 6.



### 7.3 Analysis of websites of 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.”

To assess how much information ICs proactively disclosed, and how up-to-date and easily accessible this information was, websites of all 29 information commissions (CIC & 28 State ICs) were accessed and analysed. The aim was to ascertain if they give relevant and updated information on the functioning of the ICs in terms of providing their annual reports and uploading the orders passed by the commissions.

#### **Websites not accessible**

Of the 29 websites analysed, the website of the Bihar SIC was found to be non-functional. In response to an RTI application, the Bihar SIC stated that the website was not working. It appears that the website has been inaccessible for more than 18 months. Even the last assessment published in 2018 had found the website to be non-functional.

#### **Availability of orders/decisions of the ICs**

An assessment of the websites of the ICs carried out in September 2019, revealed that only 20 ICs, out of 29, provided public access to orders passed by them since January 2019. To access orders of the Uttar Pradesh SIC, the registration number of the appeal/complaint was required. The Kerala SIC had a FACTS (File, Appeal, Complaint Tracking System) feature on their website wherein orders could be searched by using the names of the commissioners. However, all attempts to retrieve decisions using this option were met with error messages. The website of the Madhya Pradesh commission had a link titled ‘orders passed’, but a search for second appeal orders of 2019 showed that only one order had been uploaded, while a search for orders related to complaints filed met with the result, ‘No records found’. For the Uttarakhand SIC, the orders could be retrieved only by providing the case number or the particulars of the appellant or by date. Inexplicably, orders could only be retrieved for one date at a time, as there was no option to retrieve the orders for a range of dates.

#### **Box 3: Search functionality disabled**

The CIC website has a search facility on its homepage which could earlier be used to search within the CIC website for information, including the text of the orders. This was extremely useful as anyone could search for particular words/phrases, including sections of the RTI Act and access earlier CIC decisions on various issues.

It appears that the functionality of search within the website has been disabled. Now the search facility has two options: “Google” and “GOI”. Choosing the “Google” option simply mirrors the google search engine results. The search functionality no longer shows any results from within the CIC website. Attempts to search using the “GOI” option are met with the error message “Request has timed out due to slow response from search server.”

### 7.4 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 May 2019, it would be reasonable to expect that annual reports upto 2018 would be available.

However, the performance of many ICs, in terms of publishing annual reports and putting them in the public domain, was found to be dismal. Table 8 provides the IC wise details of the publication of annual reports and the availability of the reports on the websites of the respective ICs. The analysis revealed that despite the statutory obligation, many of the commissions had not published their annual reports.

**22 out of 29 ICs (76%) had not published their annual report for 2018**

Table 8: Availability of annual reports of ICs			
S. No	Information commission	Latest year for which report published	Available on website
1.	Andhra Pradesh	Not published since constitution of SIC in 2017	No
2.	Arunachal Pradesh	2016-17	Yes
3.	Assam	2017-18	Yes
4.	Bihar	2015-16	No
5.	Chhattisgarh	2018	Yes
6.	CIC	2017-18	Yes
7.	Goa	2014	Yes
8.	Gujarat	2016-17	Link not working
9.	Haryana	2017	Yes
10.	Himachal Pradesh	2016-17	Yes
11.	Jharkhand	2016	Yes
12.	Karnataka	2014-15	Yes
13.	Kerala	2015-16	No
14.	Madhya Pradesh	2015	No
15.	Maharashtra	2016	Yes
16.	Manipur	2017-18	No
17.	Meghalaya	2016	Yes
18.	Mizoram	2017-18	Yes
19.	Nagaland	2017-18	Yes
20.	Orissa	2015-16	Yes
21.	Punjab	2012	Yes
22.	Rajasthan	2016-17	Yes
23.	Sikkim	2016	Yes
24.	Tamil Nadu	2016	Yes
25.	Tripura	2015-16	No
26.	Uttar Pradesh	2017-18	No
27.	Uttarakhand	2013-14	Yes
28.	West Bengal	2017	Yes
29.	Telangana	Not published since constitution of SIC in 2017	No

Punjab SIC had not published its annual report after 2012 while Telangana and Andhra Pradesh had not published annual reports since the constitution of the respective SICs in 2017, after the bifurcation of the states. The Uttarakhand SIC, in reply to an RTI application, stated that while the annual reports of 2014-15, 2015-16, 2016-17 and 2017-18 had been published, the state government had not yet laid them before the State Legislature!

In terms of availability of annual reports on the website of respective ICs, **26% of ICs did not provide their latest published annual report on the website.** The Uttar Pradesh SIC, in response to an RTI application asking for the exact link of the website where the annual reports could be located, stated that there was no arrangement made to provide the annual report on the website of the information commission.

## 7.5 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 fourteenth year of the implementation of the law, nearly 60% of the ICs failed to provide complete information within the stipulated timeframe in response to information requests filed to them.

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. 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.

## 7.6 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 state 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 governments should put in 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](http://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.

## 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, 2018 and March 31, 2019 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 April 1, 2019.

**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, 2018 and March 31, 2019. The percentage of disposed cases in which penalty was imposed is also presented in the report card.

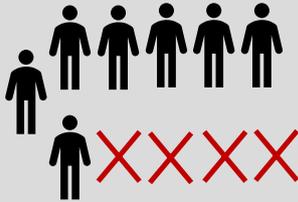
**Website of the IC:** Each report card provides information about the commission's website – whether it is accessible; if orders of the commission of 2019 are publicly accessible and; the latest year for which the annual report of the IC is available.

**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.

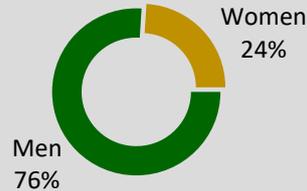
# Central Information Commission

## Composition of Information Commission

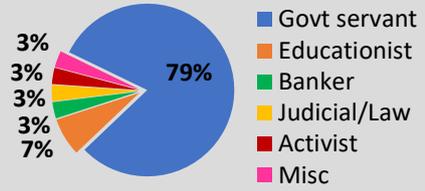
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 28,174    Pending on Mar 31, 2019: 29,995  
 Disposed\*: 23,629    Estimated time for disposal\*\*: 1yr & 7 months

\*between Jan 18 & Mar 19    \*\*for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 47,83,500

Percentage of disposed cases in which penalty imposed: 2%

\*between Jan 18 & Mar 19



## Website

Website accessible: Yes  
 Availability of IC orders of 2019: Yes  
 Latest annual report available: 2017-18

## Responsiveness Under the RTI Act



Provided 92% of information sought under the RTI Act

# Andhra Pradesh

## Composition of Information Commission

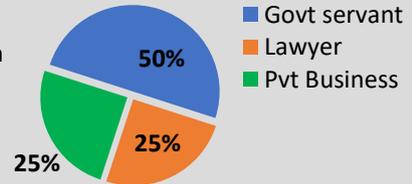
No. of commissioners



Gender\*



Background\*



\* Since 2017 when IC was constituted



## Appeals and Complaints

Registered\*: 5,000  
Disposed\*: 422

Pending on May 31, 2019 : 4,578  
Estimated time for disposal\*\*: 18 years

\*between Oct 17 & May 19 \*\* for an appeal/complaint filed on 1/6/19

## Penalties Imposed



Total amount of penalty imposed\*: 25,000

Percentage of disposed cases in which penalty imposed: 0%

\*between Oct 17 & May 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: Not published since constitution of SIC in 2017

## Responsiveness Under the RTI Act



Provided 47% of information sought under the RTI Act

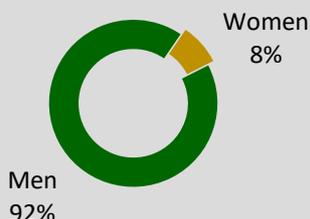
# Arunachal Pradesh

## Composition of Information Commission

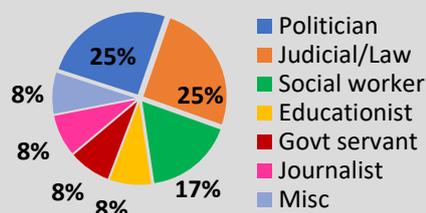
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 455

Disposed\*: 369

Pending on Mar 31, 2019: 63

Estimated time for disposal\*\*: 2 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 3,50,000

Percentage of disposed cases in which penalty imposed: 4%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2016-17

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

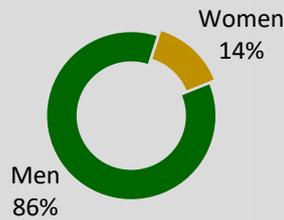
# Assam

## Composition of Information Commission

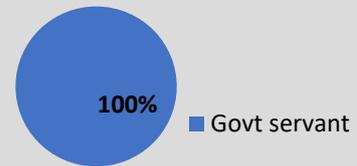
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 1,050  
Disposed\*: 2,735

Pending on Mar 31, 2019: 727  
Estimated time for disposal\*\*: 4 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 40,000

Percentage of disposed cases in which penalty imposed: 0%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes  
Availability of IC orders of 2019: Yes  
Latest annual report available: 2017-18

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

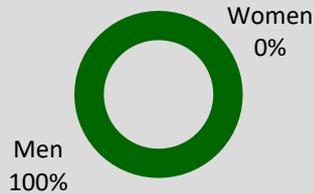
# Bihar

## Composition of Information Commission

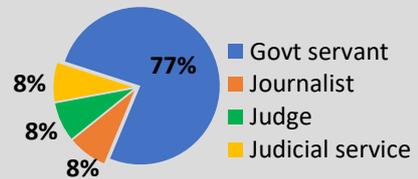
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: No reply  
Disposed\*: No reply

Pending on Mar 31, 2019: No reply  
Estimated time for disposal\*\*: No reply

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: NA

Percentage of disposed cases in which penalty imposed: NA

\*between Jan 18 & Mar 19

## Website



Website accessible: No

Availability of IC orders of 2019: Website not accessible

Latest annual report available: Website not accessible

## Responsiveness Under the RTI Act

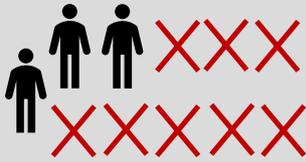


Provided 21% of information sought under the RTI Act

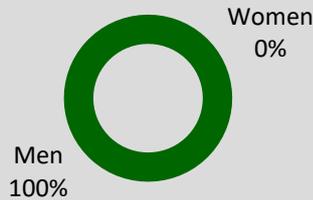
# Chhattisgarh

## Composition of Information Commission

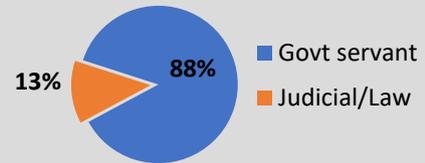
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 5,355

Pending on Jan 1, 2019: 9,137

Disposed\*: 4,783

Estimated time for disposal\*\*: 1 yr & 11 months

\*Data pertains to Jan 18 to Dec 18 \*\* for an appeal/complaint filed on 1/1/19

## Penalties Imposed



Total amount of penalty imposed\*: 6,51,000

Percentage of disposed cases in which penalty imposed: Not available

\*between Jan 18 & Dec 18

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2018

## Responsiveness Under the RTI Act



Provided 66% of information sought under the RTI Act

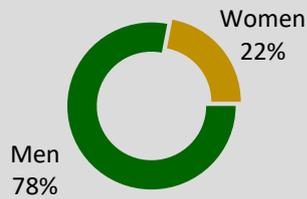
# Goa

## Composition of Information Commission

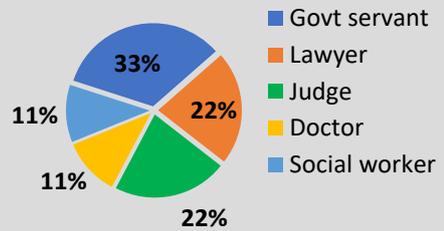
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 489

Disposed\*: 616

Pending on Mar 31, 2019: 170

Estimated time for disposal\*\*: 4 months

\*between Jan 18 & Mar 19

\*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 64,500

Percentage of disposed cases in which penalty imposed: 3%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2014

## Responsiveness Under the RTI Act



Provided 84% of information sought under the RTI Act

# Gujarat

## Composition of Information Commission

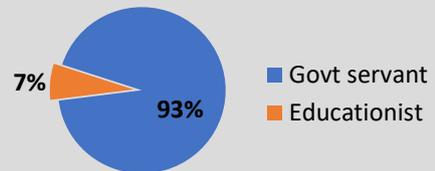
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 13,534  
Disposed\*: 11,685

Pending on March 31, 2019: 5,689  
Estimated time for disposal\*\*: 7 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 10,45,000

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2016-17, link not working

## Responsiveness Under the RTI Act

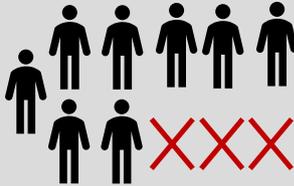


Provided 100% of information sought under the RTI Act

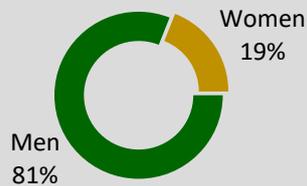
# Haryana

## Composition of Information Commission

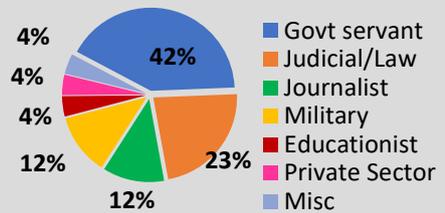
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 12,007

Disposed\*: 11,239

Pending on March 31, 2019: 2,689

Estimated time for disposal\*\*: 4 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 72,12,000

Percentage of disposed cases in which penalty imposed: 3%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2017

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

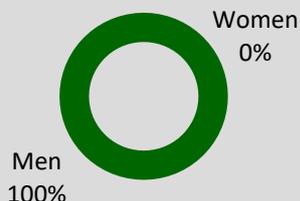
# Himachal Pradesh

## Composition of Information Commission

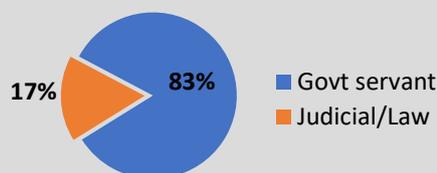
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 518

Disposed\*: 667

Pending on March 31, 2019: 285

Estimated time for disposal\*\*: 5 months

\*between April 18 & March 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 36,000

Percentage of disposed cases in which penalty imposed: NA

\*between April 17 & March 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2016-17

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

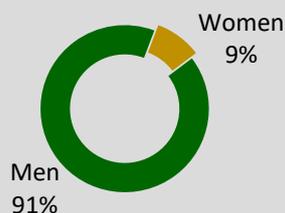
# Jharkhand

## Composition of Information Commission

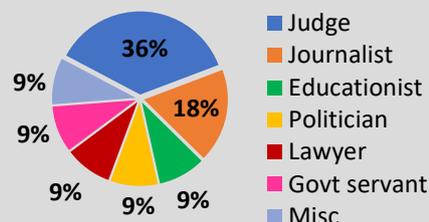
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 1,951

Disposed\*: 2,806

Pending on Mar 31, 2019: 1,362

Estimated time for disposal\*\*: 7 months

\*between Jan '18 & Mar '19 \*\* for an appeal/complaints filed on 1/4/2019

## Penalties Imposed



Total amount of penalty imposed\*: 9,17,000

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19



## Website

Website accessible: Yes

Availability of IC orders of 2019: No

Latest annual report available: 2016

## Responsiveness Under the RTI Act

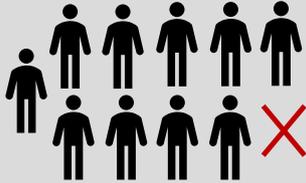


Provided 87% of information sought under the RTI Act

# Karnataka

## Composition of Information Commission

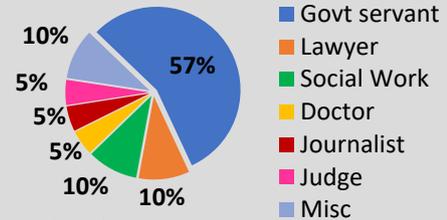
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 48,656

Disposed\*: 23,223

Pending on Mar 31, 2019: NA

Estimated time for disposal\*\*: NA

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 77,12,700

Percentage of disposed cases in which penalty imposed: 4%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2014-15

## Responsiveness Under the RTI Act



Provided 95% of information sought under the RTI Act

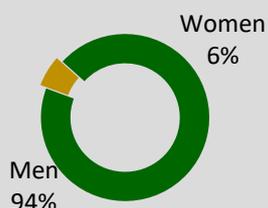
# Kerala

## Composition of Information Commission

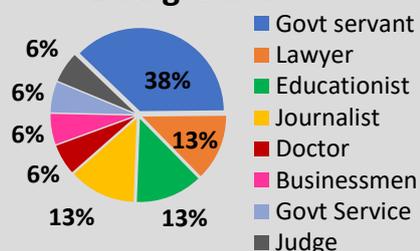
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 5,093

Pending on Mar 31, 2019: 12,638

Disposed\*: 7,069

Estimated time for disposal\*\*: 2 yrs & 3 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 2,63,000

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Partially available

Latest annual report available: 2015-16, link not working

## Responsiveness Under the RTI Act



Provided 83% of information sought under the RTI Act

# Madhya Pradesh

## Composition of Information Commission

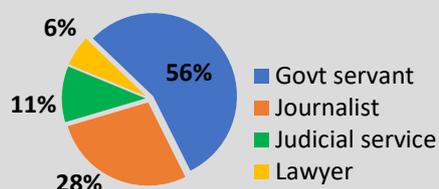
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 6,460

Pending on Mar 31, 2019: 6,069

Disposed\*: 6,101

Estimated time for disposal\*\*: 1 yr & 3 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 15,10,000

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: No

Latest annual report available: 2014

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

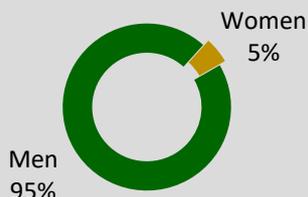
# Maharashtra

## Composition of Information Commission

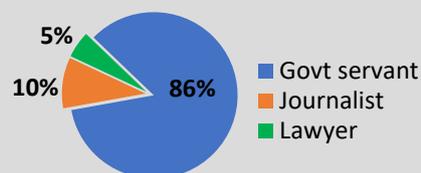
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 46,712

Pending on Mar 31, 2019: 45,796

Disposed\*: 40,986

Estimated time for disposal\*\*: 1 yr & 1 month

\*Excludes appeals data for 3 months & complaints data for 6 months \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: NA

Percentage of disposed cases in which penalty imposed: NA

\*between Jan 18 & Mar 19



## Website

Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2016

## Responsiveness Under the RTI Act



Provided 46% of information sought under the RTI Act

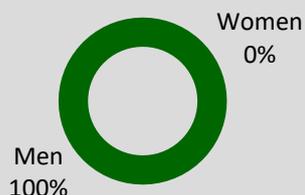
# Manipur

## Composition of Information Commission

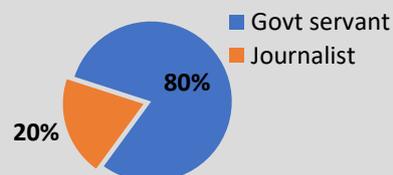
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 318

Disposed\*: 336

Pending on Mar 31, 2019: 140

Estimated time for disposal\*\*: 6 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 44,000

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: No

Latest annual report available: 2015-16

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

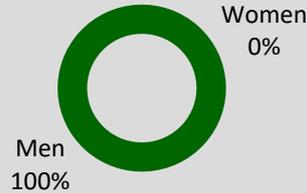
# Meghalaya

## Composition of Information Commission

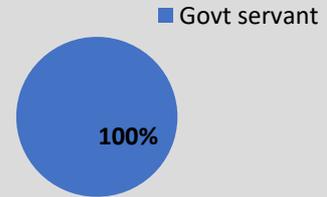
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 20

Disposed\*: 20

Pending on Mar 31, 2019: 0

Estimated time for disposal\*\*: No pendency

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 12,100

Percentage of disposed cases in which penalty imposed: 40%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2016

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

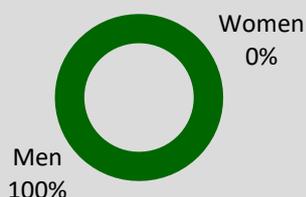
# Mizoram

## Composition of Information Commission

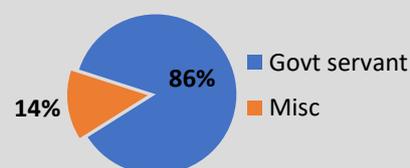
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 17

Disposed\*: 11

Pending on Mar 31, 2019: 2

Estimated time for disposal\*\*: 3 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 0

Percentage of disposed cases in which penalty imposed: 0%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2017-18

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

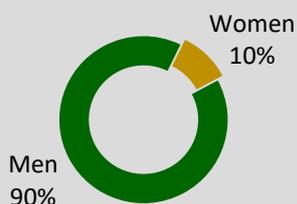
# Nagaland

## Composition of Information Commission

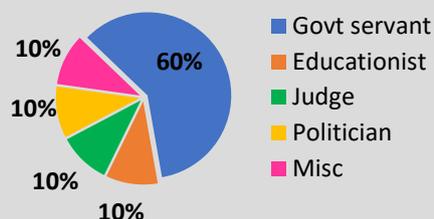
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 23

Disposed\*: 65

Pending on Mar 1, 2019: 5

Estimated time for disposal\*\*: 1 month

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 3,83,250

Percentage of disposed cases in which penalty imposed: 34%

\*between Jan 18 & Mar 19



## Website

Website accessible: Yes

Availability of IC orders of 2019: Partially available

Latest annual report available: 2017-18

## Responsiveness Under the RTI Act



Provided 95% of information sought under the RTI Act

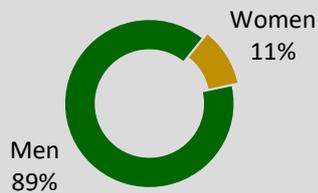
# Odisha

## Composition of Information Commission

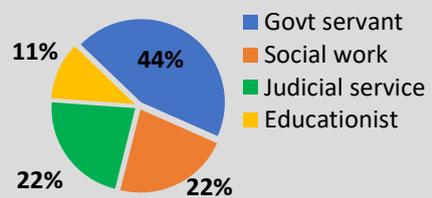
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 5,354 Pending on Mar 1, 2019: 11,595  
 Disposed\*: 3,378 Estimated time for disposal\*\*: 4 yrs & 3 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 6,57,002

Percentage of disposed cases in which penalty imposed: 2%

\*between Jan 18 & Mar 19



## Website

Website accessible: Yes  
 Availability of IC orders of 2019: Yes  
 Latest annual report available: 2015-16

## Responsiveness Under the RTI Act

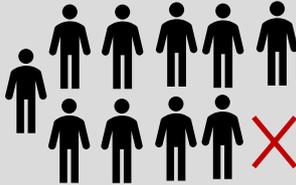


Provided 89% of information sought under the RTI Act

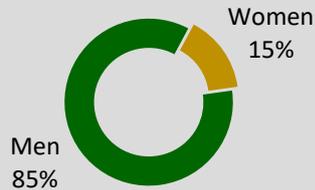
# Punjab

## Composition of Information Commission

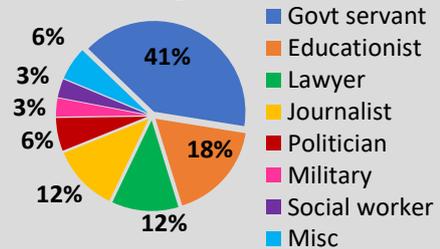
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 6,945  
Disposed\*: 6,990

Pending on Mar 31, 2019: 2,370  
Estimated time for disposal\*\*: 5 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 6,67,000

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes  
Availability of IC orders of 2019: Yes  
Latest annual report available: 2012

## Responsiveness Under the RTI Act



Provided 79% of information sought under the RTI Act

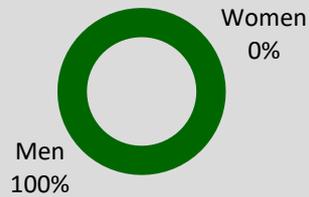
# Rajasthan

## Composition of Information Commission

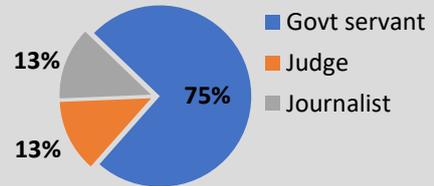
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 19,541

Disposed\*: 15,805

Pending on Feb 28, 2019: 7,372

Estimated time for disposal\*\*: 7 months

\*between Jan 18 & Feb 19 and excludes complaints disposed in 2019 \*\* for an appeal filed on 1/3/19

## Penalties Imposed



Total amount of penalty imposed\*: 26,67,500

Percentage of disposed cases in which penalty imposed: NA

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Partially available

Latest annual report available: 2016-17

## Responsiveness Under the RTI Act



Provided 55% of information sought under the RTI Act

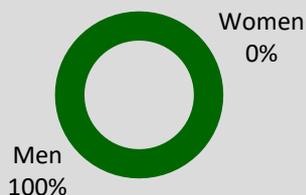
# Sikkim

## Composition of Information Commission

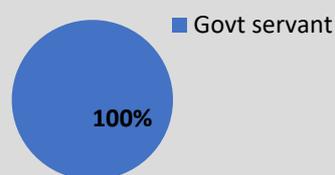
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 46

Disposed\*: 46

Pending on Mar 31, 2019: 0

Estimated time for disposal\*\*: No pendency

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 0

Percentage of disposed cases in which penalty imposed: 0%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: No

Latest annual report available: 2016

## Responsiveness Under the RTI Act

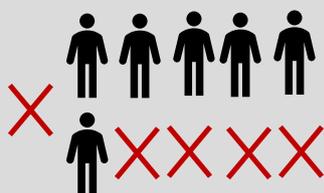


Provided 97% of information sought under the RTI Act

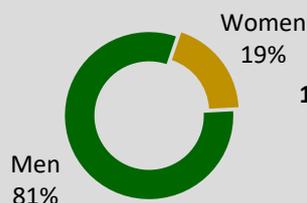
# Tamil Nadu

## Composition of Information Commission

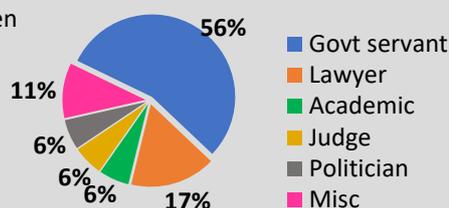
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 13,141    Pending on Jan 1, 2019: 8756  
 Disposed\*: 7,845    Estimated time for disposal\*\*: 1yr & 1month

\*between Jan 18 & Dec 18    \*\* for an appeal/complaint filed on 1/1/19

## Penalties Imposed



Total amount of penalty imposed\*: 0

Percentage of disposed cases in which penalty imposed: 0%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes  
 Availability of IC orders of 2019: Yes  
 Latest annual report available: 2016

## Responsiveness Under the RTI Act



Provided 79% of information sought under the RTI Act

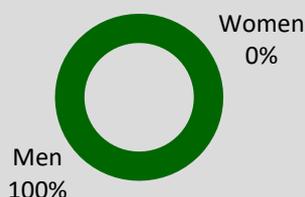
# Telangana

## Composition of Information Commission

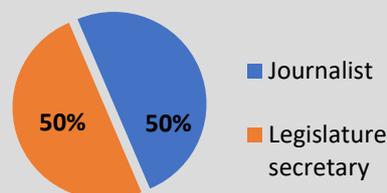
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted in 2017

## Appeals and Complaints



Registered\*: 8,781

Pending on Mar 31, 2019: 8,829

Disposed\*: 6,784

Estimated time for disposal\*\*: 1 yr & 8 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 39,000

Percentage of disposed cases in which penalty imposed: 0%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: Not published since constitution of SIC in 2017

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act

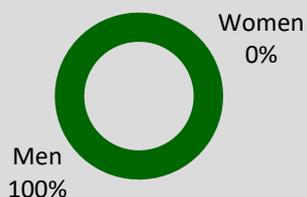
# Tripura

## Composition of Information Commission

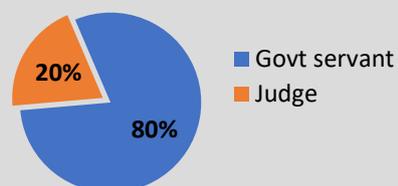
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted



## Appeals and Complaints

Registered\*: 106

Disposed\*: 103

Pending on Mar 31, 2019: 0

Estimated time for disposal\*\*: No pendency

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 0

Percentage of disposed cases in which penalty imposed: 0%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2015-16

## Responsiveness Under the RTI Act

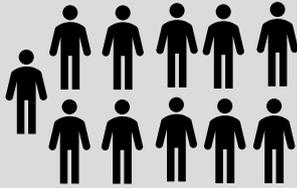


Provided 100% of information sought under the RTI Act

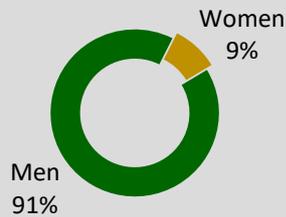
# Uttar Pradesh

## Composition of Information Commission

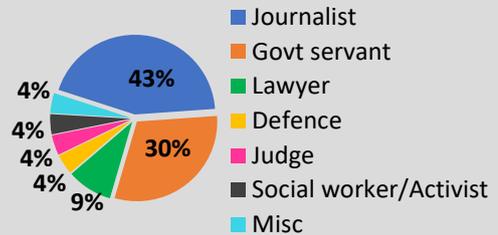
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 45,206

Pending on Mar 31, 2019: 52,326

Disposed\*: 34,328

Estimated time for disposal\*\*: 1 yr & 11 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: NA

Percentage of disposed cases in which penalty imposed: NA

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes, but retrievable only by registration number

Latest annual report available: No annual reports on website

## Responsiveness Under the RTI Act

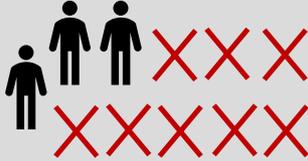


Provided 21% of information sought under the RTI Act

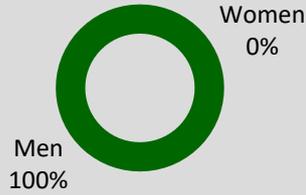
# Uttarakhand

## Composition of Information Commission

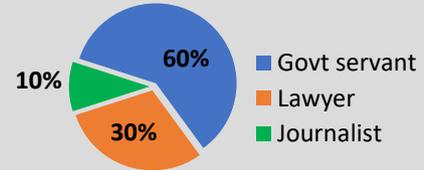
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 2,589

Disposed\*: 3,005

Pending on Mar 31, 2019: NA

Estimated time for disposal\*\*: NA

\*between April 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 23,18,250

Percentage of disposed cases in which penalty imposed: NA

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2013-14

## Responsiveness Under the RTI Act



Provided 84% of information sought under the RTI Act

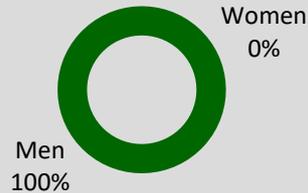
# West Bengal

## Composition of Information Commission

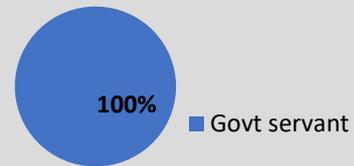
No. of commissioners



Gender\*



Background\*



\*Since IC was constituted

## Appeals and Complaints



Registered\*: 2,747

Pending on Mar 31, 2019: 7,754

Disposed\*: 1,308

Estimated time for disposal\*\*: 7 yrs & 5 months

\*between Jan 18 & Mar 19 \*\* for an appeal/complaint filed on 1/4/19

## Penalties Imposed



Total amount of penalty imposed\*: 60,250

Percentage of disposed cases in which penalty imposed: 1%

\*between Jan 18 & Mar 19

## Website



Website accessible: Yes

Availability of IC orders of 2019: Yes

Latest annual report available: 2017

## Responsiveness Under the RTI Act



Provided 100% of information sought under the RTI Act