

Report Card on the Performance of Information Commissions in India, 2022-23

Key Findings

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I. Introduction

The Supreme Court of India has held that the right to information is a fundamental right flowing from Article 19(1)(a) (freedom of speech and expression) and Article 21 (right to life and liberty) of the Constitution. The courts of the country have declared in a plethora of cases that transparency is key for the functioning of a healthy democracy. In the matter of State of UP v. Raj Narain (1975), a constitution bench of the Supreme Court (SC) held that: *“In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets.... To cover with veil of secrecy, the common routine business is not in the interest of public.”* In the case of S.P. Gupta v. President of India and Ors (1982), a 7 Judge Bench of the Supreme Court observed that, *“...disclosure of information in regard to the functioning of Government must be the rule and secrecy an exception justified only where the strictest requirement of public interest so demands.”*

The Right to Information (RTI) Act, 2005 provides a practical regime for people to exercise their fundamental right to information by accessing information from public authorities. The preamble of the RTI Act states: *“...democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed”*.

The RTI law has empowered people in India to meaningfully participate in democracy and hold their governments accountable. Estimates suggest that every year 4 to 6 million² RTI applications are filed across the country. The law has been used extensively in the last 18 years to hold governments and functionaries accountable for corruption and lapses in the delivery of essential services and secure access to basic rights. 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 (ICs) are the final appellate authority and are mandated to safeguard and facilitate people’s fundamental right to information. ICs have been set up at the central level (Central Information Commission) and in the states (state information commissions). Commissions have wide-ranging powers including the power to require public authorities to provide access to information, appoint Public Information Officers (PIOs), publish certain categories of information and make changes to practices of information maintenance. ICs have the power to order an inquiry if there are reasonable grounds for one, and also have the powers of a civil court for enforcing attendance of persons, discovery of documents, receiving evidence or affidavits, issuing summons for examination of witnesses or documents. Section 19(8)(b) of the RTI Act empowers information commissions to *“require the public authority to compensate the complainant for any loss or other detriment suffered”*. Further, under Section 19(8) and Section 20 of the RTI Act, information commissions are given powers to impose penalties on erring officials, while under Section 20(2), commissions are empowered to recommend disciplinary action against a PIO for “persistent” violation of one or more provisions of the Act.

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² Peoples’ Monitoring of the RTI Regime in India, 2011-2013 by RaaG & CES, 2014

In a judgment dated February 15, 2019, the Supreme Court³ held that information commissions are vital for the smooth working of the transparency law: “24)in the entire scheme provided under the RTI Act, existence of these institutions [ICs] becomes imperative and they are vital for the smooth working of the RTI Act.”

Eighteen years after the RTI Act was implemented, experience in India 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 report 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.

Two regressive amendments to the RTI Act in the last five years- in 2019 and 2023- severely diluted the law. The 2019 amendments dealt a blow to the autonomy of information commissions by empowering the central government to determine the tenure, salaries and terms of service of all information commissioners in the country. In August 2023, the Digital Personal Data Protection Act (DPDP Act) was passed which included an explicit provision to amend section 8(1)(j) of the RTI law to exempt all personal information from disclosure. Further, the DPDP Act deleted the proviso to Section 8(1) which stated that “*information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person*”.

The amendments to the RTI Act have further underlined the need to scrutinize the functioning of information commissions to ensure that the commissions perform their mandated role of safeguarding people’s right to information.

The key findings of the report titled, ‘Report Card on the Performance of Information Commissions in India, 2022-23’ prepared by Satark Nagrik Sangathan (SNS) are given below.

II. Methodology

The report is primarily based on an analysis of information accessed under the RTI Act, from 29 information commissions⁴ across India. A total of 174 RTI applications were filed with state information commissions (SIC) and the Central Information Commission (CIC). The information sought included:

- Number of commissioners serving in each commission for the period July 1, 2022 till June 30, 2023 and their backgrounds;

³ Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018) <https://snsindia.org/wp-content/uploads/2022/04/Judgment.pdf>

⁴ For the purpose of the study 29 ICs were covered, including the Central Information Commission which have been set up under the RTI Act, 2005

- The number of appeals and complaints registered, disposed, returned by each IC for the period July 1, 2022 till June 30, 2023;
- Number of appeals and complaints pending before each IC on June 30, 2023;
- The quantum of penalties imposed by each IC, and the amount recovered, for the period July 1, 2022 till June 30, 2023;
- The quantum of compensation awarded by each IC, for the period July 1, 2022 till June 30, 2023;
- Number of cases in which disciplinary action was recommended by each IC;
- Latest year for which the Annual Report of the IC has been published.

Each of the RTI applications was tracked to assess the manner in which these applications were dealt with by the ICs, as information commissions are also public authorities under the RTI Act.

In addition, information has been sourced from the websites and annual reports of information commissions. The report also draws on findings and discussions of previous national assessments of the RTI regime.

III. Key findings

1. Vacancies in Information Commissions

Under the RTI Act, information commissions consist of a chief information commissioner and up to 10 information commissioners. For the chief and commissioners of the CIC, the selection committee comprises the Prime Minister (Chairperson), the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister, while for chief and commissioners of SICs, the selection panel consists of the Chief Minister (Chairperson), the Leader of Opposition in the Legislative Assembly and a Cabinet Minister.

In February 2019, the Supreme Court, in its judgment⁵ 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 of the commission. 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. The court gave directions to ensure timely appointment of information commissioners and held that:

“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.”

The assessment found that **several ICs were non-functional or were functioning at reduced capacity** as the posts of commissioners, including that of the chief information commissioner, were vacant during the period under review. This is extremely concerning given that without access to relevant

⁵ Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018), <https://snsindia.org/wp-content/uploads/2022/04/Judgment.pdf>

information citizens, especially the most marginalized, are often denied their rights and entitlements as abuse of power and corruption thrive.

1.1 Non-functional information commissions

Four information commissions were found to be **completely defunct at the time of compilation of this report**. 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.

Jharkhand: The Chief Information Commissioner of the Jharkhand SIC, demitted office in November 2019. Subsequently the lone information commissioner was also made the acting Chief, although no such explicit provision exists under the RTI Act. However, upon the completion of the tenure of the commissioner on May 8, 2020, the information commission has been without any commissioner, rendering it completely **defunct**. For **more than 3 years**, people seeking information from public authorities under the jurisdiction of the Jharkhand SIC have had no recourse to the independent appellate mechanism prescribed under the RTI Act if their right to information is violated.

Tripura: The information commission of Tripura became **defunct on July 13, 2021** when the sole commissioner, who was the Chief, completed his tenure. The SIC has been defunct for the last **27 months**. Since April 2019, this is the third time the commission has become defunct. It was defunct from April 2019 to September 2019, then from April 2020 to July 2020 and now again since July 13, 2021.

Telangana: The information commission of Telangana became **defunct on February 24, 2023** when all five information commissioners finished their tenure. It has been defunct for the last **7 months**. After the creation of the state in 2014 through bifurcation of Andhra Pradesh, the Telangana State Information Commission was constituted only in 2017 upon the orders of the High Court. The post of the Chief has been vacant since August 24, 2020.

Mizoram: The information commission of Mizoram became **defunct on June 20, 2023**.

1.2 Commissions functioning without a Chief Information Commissioner

Currently, **six commissions are functioning without a chief information commissioner** and in addition, as discussed above, in 4 commissions all posts of information commissioners, including that of the Chief, are vacant (Jharkhand, Tripura, Telangana and Mizoram).

The absence of a chief information commissioner has serious ramifications for the effective functioning of the ICs since the RTI Act envisages a critical role for the Chief, including superintendence, management and direction of the affairs of the information commission.

Central Information Commission: The Chief of the Central Information Commission demitted office on October 3, 2023 upon attaining the age of retirement (65 years). This is the **sixth time in 10 years that the CIC has been rendered headless**. Despite these vacancies arising in a routine manner, either upon the expiry of the Chief's tenure or upon attaining the age of 65 years, wherein the date of demitting office is known in advance, the government has failed to appoint a new chief.

Manipur: The SIC of Manipur has been functioning without a Chief for **56 months**, since February 2019. While one of the commissioners has been given charge as the acting Chief commissioner, no such legal provision exists in the law.

Chhattisgarh: The SIC of Chhattisgarh has been functioning without a Chief since December 2022 when the Chief demitted office upon completion of his tenure.

Maharashtra: The Maharashtra SIC has been functioning without a Chief since April 2023. The Maharashtra commission has the highest number of pending appeals & complaints in the country.

Bihar: The Bihar SIC has been functioning without a Chief since May 2023.

Punjab: The Punjab SIC has been without a Chief since September 2023.

1.3 Commissions functioning at reduced capacity

Under the RTI Act, information commissions consist of a chief information commissioner and up to 10 information commissioners. Several information commissions have been functioning at reduced capacity. The non-appointment of commissioners in the ICs in a timely manner leads to a large build-up of pending appeals and complaints.

Maharashtra: The SIC of Maharashtra has been functioning with just four information commissioners for several months. Due to the commission functioning at a severely reduced strength, the number of pending appeals/complaints has risen at an alarming rate. As of March 31, 2018, close to 40,000 appeals and complaints were pending. The backlog as of May 2021 increased to nearly 75,000 and reached an alarming level of 1,15,524 by December 2022. A nearly 200% increase in the backlog in four years! Due to the large backlog and reduced strength, the assessment shows that it would take the SIC an estimated 4 years to dispose a fresh appeal/complaint (see table 3). The apex court, in its February 2019 judgment, had observed that given the large pendency in the Maharashtra SIC, it would be appropriate if the commission functioned at full strength.

Central Information Commission: The CIC is currently working with only 4 commissioners as 7 posts, including that of the Chief, are vacant. Even these 4 commissioners are set to demit office in November 2023, either on account of completion of tenure or due to attaining the retirement age of 65 years. In December 2019, when there were 4 vacancies in the CIC, the Supreme Court had directed the central government to fill all vacancies within a period of 3 months⁶ given the backlog in the commission. However, the government did not comply with the directions. The backlog of appeals/complaints currently stands at more than 20,000 cases.

Karnataka: The Karnataka Information Commission is functioning with only 5 commissioners, including the Chief, as 6 posts remain vacant. 5 commissioners demitted office between February and June 2023 and till date no new appointments have been made to fill these posts. In its February 2019 judgment, the Supreme court taking cognizance of the fact that the commission had a backlog of 33,000 appeals/complaints, directed the Karnataka government to ensure that the Commission functions at full strength of 11 commissioners. As of June 2023, the backlog has increased to more than 41,000 pending appeals and complaints.

Chhattisgarh: The SIC of Chhattisgarh has been functioning with only 2 commissioners since December 2022. Due to the reduced strength of the Commission, the number of cases pending before the commission has increased significantly- from 10,301 in June 2022 to more than 17,500 in June 2023.

⁶ Order dated December 16, 2020 in MA 1979 of 2019

West Bengal: The West Bengal SIC is functioning with just 3 commissioners despite a backlog of nearly 12,000 appeals and complaints. From June 2022 to April 2023, the work of the commission in terms of hearing appeals/complaints was suspended as the then Chief demitted office upon attaining the age of 65 years and no new Chief was appointed. One month before the retirement of the Chief, the Secretary of the Commission wrote⁷ to the government highlighting that the Calcutta High Court had held that the provisions of the RTI Act require the Commission to be a multi-member body consisting of the Chief Information Commissioner and atleast one information commissioner. The letter urged the government to take suitable action to ensure that the commission can function after the Chief demits office. However, the government failed to appoint a Chief and therefore, the SIC suspended its work with effect from June 2022. The government appointed two new commissioners in September 2022 though a Chief was not appointed and the hearings remained suspended. It was only on April 20, 2023 upon the appointment of a Chief, that the Commission resumed hearings of appeals and complaints. The report estimates the West Bengal SIC will have the longest waiting time for disposal of a fresh appeal/complaint.

Bihar: The Bihar SIC is functioning with just 2 commissioners for the last several months even though it has a backlog of nearly 8,200 appeals and complaints.

Odisha: The Odisha SIC is functioning with 3 commissioners despite having a large pendency of nearly 17,000 appeals and complaints. The assessment shows that the estimated waiting time for an appeal/complaint to be disposed is 2 years and 7 months (see table 3).

2. Number of appeals & complaints dealt with by ICs

2,20,382 appeals and complaints were registered between July 1, 2022 and June 30, 2023 by 28 information commissions for which relevant information was available. During the same time period, **2,14,698** cases were disposed by 29 commissions.

The SICs of **Jharkhand** and **Tripura** were defunct throughout the period under consideration, and therefore no appeals/complaints were registered or disposed by these ICs. The SIC of **Tamil Nadu did not provide requisite information** under the RTI Act regarding the number of appeals and complaints registered.

The **UP** SIC disposed the highest number of cases (**48,607**) followed by the **CIC (27,452)** and **Karnataka (21,516)**. SIC of **Maharashtra** registered the highest number of appeals and complaints (**30,479**) even though this data pertains only to 6 months and not the whole period under review as data for January to June 2023 was not provided by the SIC. The **SIC of Karnataka** registered **30,207** appeals and complaints while **Uttar Pradesh** registered **29,637**. The **CIC** registered **20,083** appeals/complaints. The commission-wise break up of appeals and complaints registered and disposed is given in Table 1 (next page).

⁷ Letter of Secretary, WB SIC <http://wbic.gov.in/files/NewAndEvents/79.pdf>

**Table 1: Appeals and complaints registered and disposed by Information Commissions
July 1, 2022 to June 30, 2023**

S. No.	Information Commission	Appeals & complaints registered	Appeals & complaints disposed by passing orders
1	Uttar Pradesh	29,637	48,607
2	CIC	20,083	27,452
3	Karnataka	30,207	21,516
4	Rajasthan	15,860	18,040
5	Maharashtra ①	30,479	14,297
6	Bihar	12,063	11,887
7	Tamil Nadu	Info not provided	9,281
8	Punjab	8,166	8,768
9	Andhra Pradesh	9,247	7,843
10	Gujarat	10,025	6,676
11	Haryana	7,548	6,526
12	Telangana	7,895	6,481
13	Odisha	5,697	6,379
14	Kerala	2,879	5,180
15	Madhya Pradesh	8,650	4,704
16	Chhattisgarh	11,594	4,083
17	Uttarakhand	4,197	3,725
18	Assam	1,509	1,243
19	Himachal Pradesh	837	511
20	West Bengal	1,922	493
21	Goa	426	408
22	Arunachal Pradesh	1,054	268
23	Manipur	228	208
24	Nagaland	61	50
25	Sikkim	32	30
26	Mizoram	42	24
27	Meghalaya	44	18
28	Jharkhand	DEFUNCT	DEFUNCT
29	Tripura	DEFUNCT	DEFUNCT
	TOTAL	2,20,382	2,14,698
Note- ① pertains to July to December 2022			

3. Backlogs in Information Commissions

3.1 Pending appeals and complaints

The number of appeals and complaints **pending on June 30, 2023 in the 27 information commissions, from which data was obtained, stood at 3,21,537**. The backlog of appeals/complaints is steadily increasing in commissions. The 2019 assessment had found that as of March 31, 2019, a total of 2,18,347 appeals/complaints were pending in the 26 information commissions from which data was obtained which climbed to 2,86,325 as of June 30, 2021 and then crossed 3 lakh as of June 30, 2022. The commission-wise break-up of the backlog of appeals and complaints is given in Table 2.

S. No	Information Commission	Pending as of June 30, 2023
1	Maharashtra ^①	1,15,524
2	Karnataka	41,047
3	Uttar Pradesh	27,163
4	CIC	20,078
5	Chhattisgarh	17,567
6	Odisha	16,703
7	West Bengal	11,871
8	Rajasthan	10,988
9	Telangana	10,030
10	Madhya Pradesh	9,078
11	Bihar	8,185
12	Jharkhand ^②	7,768
13	Kerala	5,228
14	Haryana	4,783
15	Gujarat	4,632
16	Punjab	4,069
17	Andhra Pradesh ^③	3,245
18	Uttarakhand	1,713
19	Arunachal Pradesh	786
20	Himachal Pradesh	503
21	Assam	279
22	Goa	184
23	Manipur	75
24	Meghalaya	17
25	Nagaland	13
26	Mizoram	6
27	Sikkim	2
28	Tripura	Defunct
29	Tamil Nadu	Refused information
	Total	3,21,537

Note- ^① Pending as of December 31, 2022 ^② Pending as of May 2020 when the SIC became defunct ^③ Pending as of May 2023

Maharashtra SIC with an alarming backlog of **1,15,524** had the highest number of appeals/complaints pending in the country (as of December 31, 2022). This was followed by the **Karnataka SIC at more than 41,000, Uttar Pradesh at 27,163** and the **CIC at 20,078**. The SIC of Tamil Nadu was the only IC in the country that did not provide the requisite information under the RTI Act. This information could also not be located on the TN SIC website.

3.2 Estimated time required for disposal of an appeal/complaint

Using data on the backlog of cases in ICs and their monthly rate of disposal for the period under review, the time it would take to dispose an appeal/complaint filed with an IC on July 1, 2023 was computed (assuming appeals and complaints are disposed in a chronological order). Table 3 shows that the **West Bengal SIC would take 24 years & 1 month to dispose a matter**. A matter filed on July 1, 2023 would be disposed in the **year 2047** at the current monthly rate of disposal! For SICs of **Chhattisgarh and Maharashtra the estimated time for disposal would be 4 years or more** and in **Arunachal Pradesh and Odisha** more than **2 years**.

Table 3: Estimated time required for disposal of appeal/complaint		
S. No	Information Commission	Estimated time for disposal of appeal/complaint filed on July 1, 2023
1	West Bengal	24 years & 1 month
2	Chhattisgarh	4 years and 4 months
3	Maharashtra ①	4 years
4	Arunachal Pradesh	2 years and 11 months
5	Odisha	2 years and 7 months
6	Madhya Pradesh	1 year and 11 months
7	Karnataka	1 year and 11 months
8	Telangana	1 year and 7 months
9	Kerala	1 year
10	Himachal Pradesh	1 year
11	Meghalaya	11 months
12	Haryana	9 months
13	CIC	9 months
14	Gujarat	8 months
15	Bihar	8 months
16	Rajasthan	7 months
17	Uttar Pradesh	7 months
18	Punjab	6 months
19	Uttarakhand	5 months
20	Goa	5 months
21	Andhra Pradesh ②	5 months
22	Manipur	4 months
23	Nagaland	3 months
24	Mizoram	3 months
25	Assam	3 months
26	Sikkim	less than a month
27	Tamil Nadu	no info on pendency
28	Jharkhand	Defunct
29	Tripura	Defunct

Note: Based on backlog as of ① December 2022 ② May 2023

The assessment shows that **10 commissions** would take 1 year or more to dispose a matter. The estimated time required for disposal of an appeal/complaint in the **CIC would be 9 months**.

The long delays in disposal of cases can be attributed largely to two factors: vacancies in commissions (discussed above) and tardy rate of disposal by commissioners. While the CIC has set a norm of 3,200 cases per commissioner annually for disposal of matters, other information commissions have not adopted any norms regarding the number of cases a commissioner should deal with in a year.

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).

4. Penalties imposed by Information Commissions

The RTI Act empowers the ICs to impose penalties of upto Rs. 25,000 on erring PIOs for violations of the RTI Act. The penalty clause is one of the key provisions in terms of giving the law its teeth and acting as a deterrent for PIOs against violating the law. Whenever an appeal or a complaint shows that one or more of the violations listed in the RTI Act has occurred, the commission should initiate penalty proceedings under section 20. The Act requires the commission to give the PIO an opportunity of being heard before imposing penalty (commissions usually issue a show-cause notice asking PIOs to show cause why penalty should not be levied).

The assessment found that ICs imposed penalty in an extremely small fraction of the cases in which penalty was imposable. In fact, commissions appear to be reluctant to even ask the PIOs to give their justification for not complying with the law.

For the period July 1, 2022 to June 30, 2023, a total of **5,006 show cause notices** were issued to PIOs under the penalty clause of the Act by the 16 commissions which provided relevant information. The SIC of Haryana issued the maximum number (1,545) followed by Punjab (861) and Telangana (857). The SIC of Gujarat stated that it had not issued any notices under section 20, even though it imposed penalty in multiple cases. The SICs of Bihar, Himachal Pradesh, Karnataka, Odisha, Rajasthan, Uttar Pradesh and Uttarakhand stated that they did not maintain this information. The SICs of Andhra Pradesh, Chhattisgarh and Tamil Nadu did not provide any reply while the SIC of Maharashtra denied the information stating it was available in the annual report even though the annual report for the period under review for this assessment has not yet been prepared by the SIC!

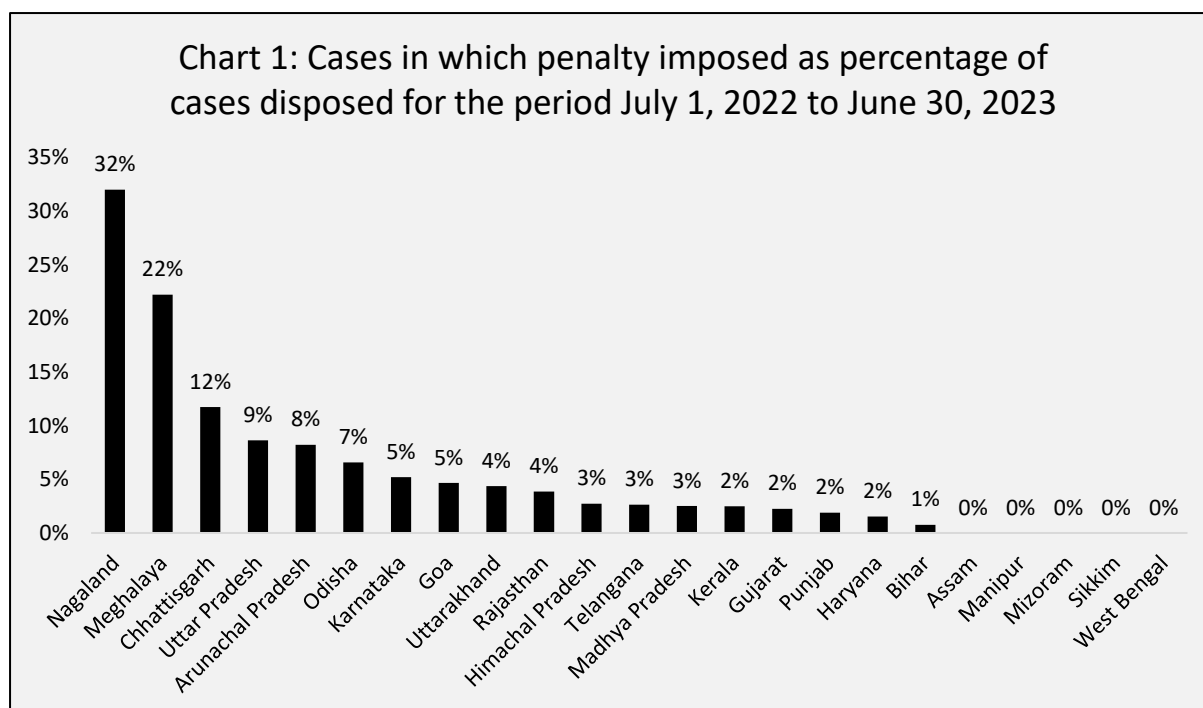
In terms of penalty imposition, of the 23 commissions which provided relevant information, **penalty was imposed in a total of 8,074 cases**. Penalty amounting to **Rs. 15.37 crore** was imposed by 23 commissions during the period under review.

Uttar Pradesh imposed the highest amount of penalty (Rs. 10.39 crore), followed by Karnataka (Rs. 1.89 crore), Chhattisgarh (Rs. 91.73 lakh) and Odisha (Rs. 52.01 lakh).

The Central Information Commission and the SIC of Maharashtra did not provide the requisite information stating that it could be located in their annual reports even though neither commission has published its annual report for the time frame for which information was sought i.e. July 2022 to June 2023. Even the appeal against this refusal to disclose information has been rejected by the CIC. The SICs of Tamil Nadu and Andhra Pradesh did not furnish any reply to the application filed under the RTI Act. The SICs of Jharkhand and Tripura were defunct for the period under review and therefore did not dispose any cases. The commission-wise details are provided in table 4 (next page).

Table 4: Details of penalty imposed by ICs (July 2023- June 2023)			
S. No.	Information Commission	No. of cases where penalty was imposed	Amount of penalty imposed (in Rs.)
1	Uttar Pradesh	4,197	10,39,04,250
2	Karnataka	1,119	1,89,37,000
3	Chhattisgarh	479	91,73,038
4	Odisha	419	52,01,000
5	Rajasthan	697	25,70,000
6	Haryana	101	24,39,500
7	Madhya Pradesh	118	23,80,500
8	Punjab	165	16,23,500
9	Bihar	91	14,44,000
10	Uttarakhand	163	13,77,756
11	Gujarat	150	12,75,500
12	Telangana	171	12,47,100
13	Kerala	129	10,84,250
14	Arunachal Pradesh	22	5,50,000
15	Nagaland	16	2,36,250
16	Goa	19	1,56,000
17	Himachal Pradesh	14	1,00,000
18	Meghalaya	4	11,000
19	Assam	0	0
20	Manipur	0	0
21	Mizoram	0	0
22	Sikkim	0	0
23	West Bengal	0	0
24	Andhra Pradesh	no reply	no reply
25	Tamil Nadu	no reply	no reply
26	CIC	refused info	refused info
27	Maharashtra	refused info	refused info
28	Jharkhand	SIC defunct	SIC defunct
29	Tripura	SIC defunct	SIC defunct
	TOTAL	8,074	15,37,10,644

Analysis of the figures for 23 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 in just **5% of the cases disposed by the ICs.**



A previous assessment⁸ 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.** If this estimate of 59% is used, penalty would be potentially imposable in **91,937** cases out of the **1,55,825** cases disposed by the 23 ICs. Penalties were therefore imposed only in 9% of the cases where penalties were potentially imposable. The ICs **did not impose penalties in 91% of the cases where penalties were imposable.**

Non imposition of penalties in deserving cases by commissions sends a signal to public authorities that violating the law will not invite any serious consequences. This destroys the basic framework of incentives built into the RTI law and promotes a culture of impunity.

5. Transparency in the functioning of information commissions

Much of the information sought as part of this assessment should have been available in the annual reports of each commission. Section 25 of the RTI Act 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. Since RTI applications seeking information about the latest annual reports were filed in July 2023, it would be reasonable to expect that annual reports upto calendar year 2022 or financial year 2022-23 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. The analysis revealed that despite the statutory obligation, many of the commissions have not published their annual reports. Table 5 provides the IC wise details

⁸ ‘Tilting the Balance of Power - Adjudicating the RTI Act’, RaaG, SNS & Rajpal, 2017

of the publication of annual reports and the availability of the reports on the websites of the respective ICs.

19 out of 29 ICs (66%) have not even published their annual report for 2021-22. Only the CIC and SICs of Chhattisgarh, Gujarat, Kerala, Manipur, Mizoram, Nagaland and Sikkim have published their annual report for 2022 (either calendar year 2022 or financial year 2021-22) and made them available on the official websites.

The SICs of Andhra Pradesh and Telangana have not published their annual report since the constitution of the respective SICs in 2017 following the bifurcation of the erstwhile state of Andhra Pradesh.

The SIC of Karnataka has not published their annual report since 2016-17.

Some ICs stated that though they had published their annual report, it was yet to be tabled before the respective legislative assemblies and the reports would be uploaded only after that. The Odisha SIC stated that the reports for the years 2018 to 2021 have been prepared and forwarded but are yet to be laid before the assembly. Similarly, the SIC of Uttarakhand stated that the reports for 2020-21 till 2022-23 have been sent to the Assembly but are yet to be formally laid before it. In both cases, the latest annual report which can be located on the website was for the year 2017-18 (i.e. more than 6 years ago).

In terms of availability of annual reports on the website of respective ICs, **26% of ICs have not made their latest annual report available on their website.**

Table 5: Availability of Annual Reports of ICs			
S. No.	Information Commission	Year of last publication	Available on website
1	Andhra Pradesh	Not published since SIC constituted in 2017	
2	Arunachal Pradesh	2020-21	Yes
3	Assam	2020-21	Yes
4	Bihar	2017-18	Yes
5	Chhattisgarh	2022	Yes
6	CIC	2021-22	Yes
7	Goa	2021	No
8	Gujarat	2021-22	Yes
9	Haryana	2020	Yes
10	Himachal Pradesh	2020-21	No
11	Jharkhand	2018	Yes
12	Karnataka	2016-17	Yes
13	Kerala	2021-22	Yes
14	Madhya Pradesh	2022	No
15	Maharashtra	2020	Yes
16	Manipur	2021-22	Yes
17	Meghalaya	2020	Yes
18	Mizoram	2021-22	Yes
19	Nagaland	2021-22	Yes
20	Odisha	2020-21	No
21	Punjab	2020	Yes
22	Rajasthan	2021	No
23	Sikkim	2021-22	Yes
24	Tamil Nadu	2019	Yes
25	Telangana	Not published since SIC constituted in 2017	
26	Tripura	2020-21	No
27	Uttar Pradesh	2020-21	Yes
28	Uttarakhand	2022-23	No
29	West Bengal	2021	Yes

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