

# The Right to Information Act, 2005

Improving transparency & accountability in the government through effective  
implementation of the Right to Information Act

DoPT

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## I. INTRODUCTION

The right to information act was passed in the year 2005. This law empowers Indian citizens to seek any accessible information from a Public Authority and makes the Government and its functionaries more accountable and responsible.

During the period of the implementation of the RTI Act i.e. October 2005 onwards, it has become evident that there are many issues to be addressed at various ends for effective implementation of the Act. There have been discussions and debates about the effectiveness and impact of the Act. The Civil Society Organizations and Government agencies have been engaging themselves in the debate over various aspects of the Act and its effectiveness and interpretations. There is a broad consensus that the implementation of the Act needs to be improved to achieve the objectives. At the same time the information seekers too have to learn how to use the Act more effectively. Therefore, this study has been undertaken to identify the problems plaguing the system and suggest remedial measures so as to enable better access of information and uphold the spirit of the act.

The basic objective of the act was to increase the transparency and increase the accountability of the government offices. Notwithstanding the improvement requirements, the following achievements are undisputable:

- ó The basic tenets of the Act have been implemented and the institutional mechanism is in place and is in use by citizens
- ó Civil society organizations and the media have started using the Act for bringing in transparency and objectivity
- ó Centre and State Government departments have initiated the training of key functionaries to assume the responsibilities of PIOs and FAAs
  - Government employees/Public Authorities are aware of the basic elements of the Act
  - Various State Governments have taken up initiatives, which go beyond the stipulations of the Act, and further the spirit of the Act.

It is acknowledged by Department of Personnel and Training (DoPT), the nodal Department that some changes need to be brought in. It recognizes that there are various constraints involved in achieving the objective of the act on the part of both the information seekers and information providers.

The commencement of the RTI regime 7 years ago marked the dawn of a new era. Different stakeholders have played a crucial role in carrying forward the regime and have helped the government in inculcating a culture of transparency and accountability in the working of public authorities. It has been observed that information seekers face problems in making use of the act and the officers of the public authorities face problems in implementing the provisions of the act. Therefore, this study also focuses to identify the problems plaguing the system and suggest remedial measures so as to enable better access of information and uphold the spirit of the act.

Under this program that has been undertaken the interns were attached to the ministry of department of personnel and training wherein they were required to interact with the officers involved in the implementation of the RTI regime and consolidate and document its experience in the implementation of RTI, its successes, its constraints in implementation, identify areas which need more attention, address the gap areas and suggest what more had to be done to help achieve the objectives of the act. Then finally for the researchers this is an exercise which familiarised them with the process of seeking information and enabling access to information under RTI regime.

## **II. EXPERIENCE**

The Internship started on the 2<sup>nd</sup> of January 2012, with ministry of DOPT and the task was to analyse RTI applications at hand, and submit analysis of the study to the concerned department which will play crucial role in improving the working of the act as a whole and to help improve efficiency and effectiveness.

The first day started with a briefing about the task, and the way the task has to be fulfilled. RTI applications had to be read, analysed and specifics about each individual application had to be filled in and tabulated in a questionnaire. Each such application had to be scrutinised separately and read individually to fill up the table, which was comprehensive enough to include all the aspects and parts of each application. Each application, once dealt with completely, is kept in a separate file with all the related papers. It was necessary for us to read the applications more than once to fully understand the file.

The first day was a revealing experience, and the amount of knowledge and exposure which the interns gained, not only in terms of filing of applications, but as a whole, in terms of gaining a perspective on the working of the government, has an enormous value and it is

provided an insight of how the government is supposed to function and to gather the views and opinions of the officials who work on the other end of the line.

When the researcher started on the job, he received some landmark RTI applications to help get a view about how applications are written and received, and how they are replied to and under what rules and regulations such replies and information is given.

The interns realised that the public view and opinion on the government, its functioning and its components and machinery were fairly skewed and were based more on the general public anger against corruption and the relative easiness in labelling the whole of the government and its officials as 'inefficient' or 'corrupt'. With whatever little interaction the researcher has had with various government officials throughout the government, he realised that only a small percentage of such officials are dishonest, but to label the whole of the machinery as being corrupt.

As has been tabulated in the file, the researcher saw that most RTI applications were rather unnecessary and was either about information with respect to classified or secret documents, or for providing unnecessary roadblocks to government officials of various departments in their own departments with respect to promotions, salaries etc. Also, such RTIs prove to be an unavoidable nuisance for the CPIOs who receive them.

The first week was, in a nutshell, one of the most informative, as the interns were new in the internship and were gaining a vast amount of knowledge, experience and exposure from the files and applications they were reviewing. The CPIOs and other officials who provided the interns with valuable inputs and shared their personal experiences which they had acquired with years of experience in RTI.

### **III. THE PUBLIC AUTHORITY**

The department which the Interns were allotted was the Department of Personnel and Training, under the Ministry of Personnel, Pensions and Public Grievances, where the overseeing authority was Smt. Anuradha Chagti, and the Central Public Information Officer was the rank of an Under Secretary to Government of India.

The Ministry of Personnel, Pensions and Public Grievances aims to develop an enabling environment for the development and management of human resources of the Government for efficient, effective, accountable, responsive and transparent governance. Also, it aims to

recruit, place, train and compensate officials of the Government of India, making it one of the most important ministries in the government.

The Department of Personnel and Training (DoPT) is under the charge of Secretary (Personnel) comprises of six wings

- (i) Establishment Officer,
- (ii) Services and Vigilance
- (iii) Establishment,
- (iv) Administrative Tribunal and Administration,
- (v) Training
- (vi) Central Services.

Each of these wings is headed by an officer of the rank of Joint Secretary or an Additional Secretary. DoPT acts as the formulator of policies pertaining to recruitment, regulation of service conditions, and deputation of personnel besides advising all organisations of the Central Government on issues pertaining to personnel management.

The Department is multi-faceted, and performs work in many different fields. It is responsible for framing rules and regulations governing service conditions of employees including

- a) recruitment rules
- b) promotions and seniority
- c) flexible complementing scheme
- d) leave travel concession
- e) deputation
- f) child care leave etc.

Personnel are recruited for the central government by the Union Public Service Commission through competitive examinations conducted by them for appointments to higher civil servants. The Staff Selection Commission recruits non-gazetted staff in group-B & C categories. In order to achieve the objective of upliftment and welfare of the Scheduled Castes and Scheduled Tribes, Other Backward Classes and persons with Disabilities, the Department is responsible for framing policies to provide reservation to these groups in various central government services and for monitoring its implementation. The department

is also responsible for the recruitment in the AIS(All India Services) and the UPSC (Union Public Services Commission) comes under this ministry even though it is a statutory authority under the Constitution of India.

Also, DoPT is the nodal Department to impart training to the government functionaries. The training wing of the DoPT formulates policies and implements its training programmes by identifying areas of training, designing training programmes, development of trainers and training capabilities and administering policies in training. Major training activities undertaken, as per the Annual Report published by the ministry are-

- (i) In-service training of IAS officers
- (ii) Mid-Career Training of IAS Officers
- (iii) Domestic Funding of Foreign training
- (iv) Post Graduate Programmes in Public Policy
- (v) Training Support,
- (vi) Intensive Training Programme,
- (vii) Augmentation of the Capacity of training institutions
- (viii) Capacity Building for poverty reduction
- (ix) Distance and e- learning initiatives and
- (x) e-governance initiatives.

#### **IV. LIMITATIONS OF THE STUDY**

The study has been limited to the RTI Applications received in the year 2010-11. Out of many CPIOs in the Department of Personnel & Training only the RTIs received by five of the CPIOs were analysed.

The study has been restricted by the following factors:

- i. The research has been limited to the Ministry of Department of Personnel & Training.
- ii. Out of many Chief Public Information Officers (CPIOs), RTI applications received by only 5 CPIOs have been studied. Thus the pool from which the sample has been chosen is restricted and thus may not be representative of the situation in the entire department/ministry.
- iii. From each CPIO only 20 RTI applications were picked up. Thus a sample of only 100 RTIs were chosen from the 7605 applications received by the Department and therefore may not indicate the correct situation of the RTI system.

- iv. An inadvertent bias crept into the selection process, as RTI records which were incomplete were purposely left out, so as to achieve a more meaningful analysis and result.
- v. The parameters adopted for analysis of the RTI mechanism and RTI records (Annexure I, II & III), may not cover all aspects related to the system and applications.
- vi. The ministry is more of a coordinating authority that deals with different attached offices established by them. Most of the RTI applications were transferred to these attached offices which are different public authorities under sec. 6 (3)(a) of the RTI act , as a result of which analysis of the RTI with regard to certain parameters such as Information is available in Public Domain, Information sought under the purview of Suo Moto disclosure became impossible.
- vii. Due to lack of in-depth knowledge of the work, policies and the functions of the ministry, it was difficult to assess the quality of the responses given by the CPIOs.
- viii. Though the interns were told that the various points of information (52 in total) listed in the excel sheet to be filled up which were prepared by officials of the RTI Cell. The interns felt that none of the points actually required the interns to read the file, and all the points could be filled up by a cursory glance at the pages, as the points were very basic, and there is a need for a more comprehensive basis for such a programme, if it is being conducted in the future.

## **V. METHODOLOGY**

The interns were allotted the Department of Personnel and Training for the purpose of the study of the RTI system and records. At the Ministry the interns worked under five CPIOs. These CPIOs were those who had received the maximum number of RTI applications during the year 2010-11. The interns randomly selected twenty applications from each CPIO for the purpose of the study (however some records which were incomplete were purposefully left out). There were hundred applications in total which were analysed for the purpose of the research. Each researcher worked on 50 RTI applications each.

The study was an empirical study. The interns filled two templates provided by the Department of Personnel and Training; one giving a general overview of the RTI mechanism in the Department of DOPT such as no. Applications received, no. Of CPIOs etc. (Annexure

I), the other one was for the purpose of scrutinizing the RTI applications (Annexure II & III). For the purpose of filling Template II the interns got the hundred records photocopied and then read them thoroughly. From time to time assistance was sought from the concerned CPIOs. For filling in certain parameters such as *Information sought under the purview of Suo Moto disclosure* the ministry's website was referred to.

On the basis of the observations recorded in the templates by the interns an analysis was done. The observations have then been analysed with the help of graphs which attempt to give a scientific explanation of the given data. The analysis, besides interpretation of diagrams, includes identification of certain patterns. After the results were discussed certain conclusions were drawn out. The areas which need more attention in the implementation of RTI act were identified and measures were suggested to address the gap and achieve the objectives of the Act.

As a part of the methodology, the interns followed a systematic procedure to fill up the templates given as part of the internship, and the templates, report and analysis were completed as per the rules and guidelines given by DOPT. The process of such collection of information was as follows ó

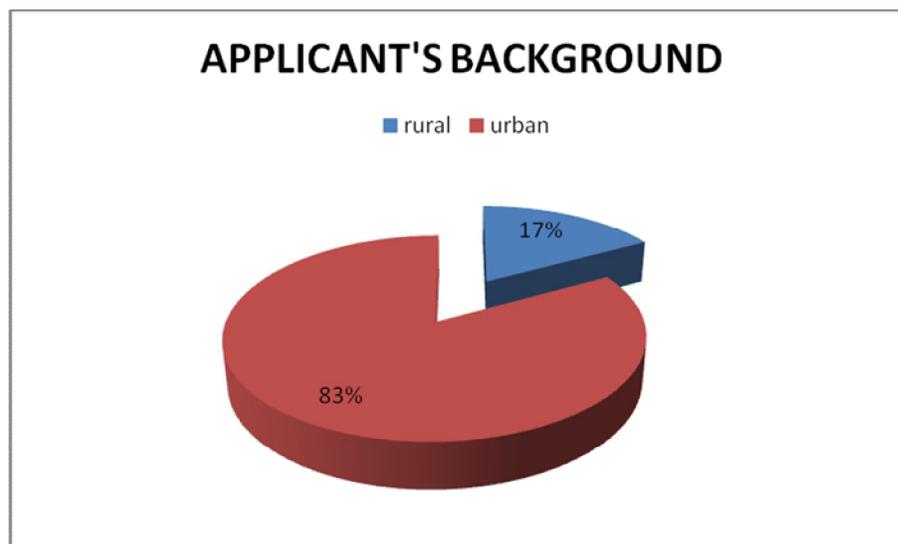
- (i) The interns were divided into a groups of two and sent to different ministries to assess the different kinds of RTI applications which came up on various issues, subjects and areas. The interns were to read the applications and fill in the templates given by DOPT.
- (ii) Many officers from the concerned ministries met and were instructed to help the interns reading and analysing the applications, and also help them in the total completion of the project.
- (iii) The interns were sent to 5 CPIOs per ministry and each CPIO was to provide 20 randomly selected RTI applications to provide a view of the general working of the RTI.
- (iv) Thus, 100 applications had to be collected from concerned ministry, read, analysed and recorded, as per the points tabulation given of DOPT, and such recorded points were then saved onto the soft copy, the templates were filled in, and photocopies of all relevant files were made.

- (v) The overall observations were noted, analysed and included in the final report to be submitted at the end of the internship.

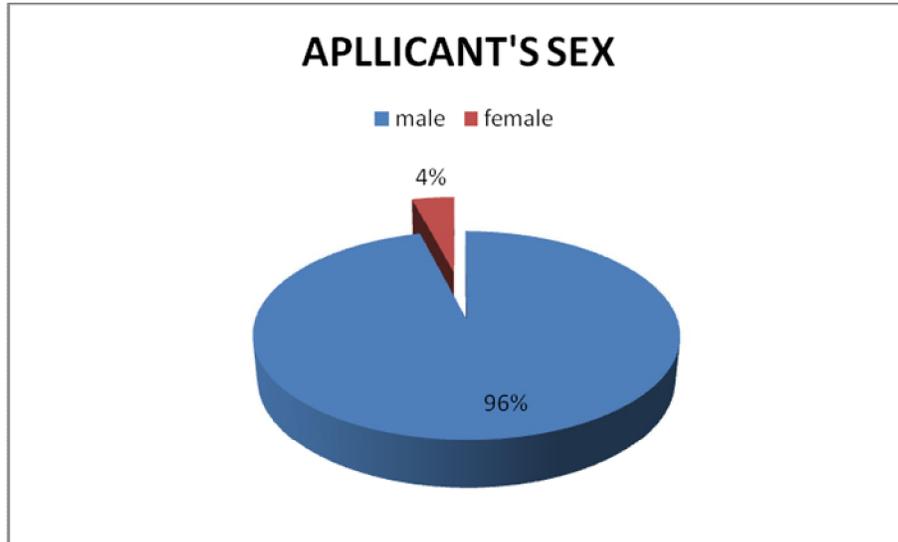
## VI. BRIEF ANALYSIS

The analysis to be given is solely on the basis of the information collected through the 100 RTI applications which were analysed by the two interns working in the DoPT. The analysis has been as eye-opening as the whole experience of RTI as a whole, because it has shown some facts which would otherwise have been hidden behind the veil of papers and files. A point-by-point analysis has been done by the intern below

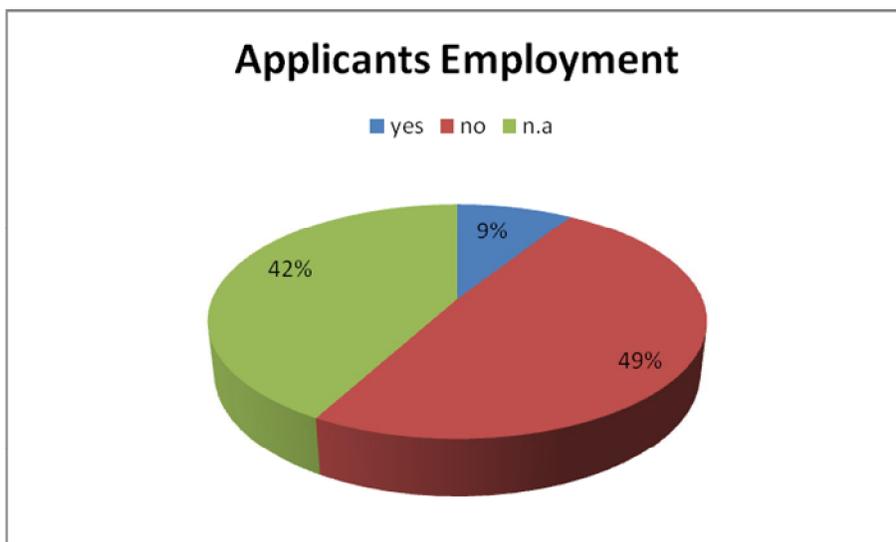
- (i) **BACKGROUND OF APPLICANT** In most cases, the applicant is from an urban area, and only very rarely do applications originate from villages and areas other than towns and cities. Most applications originate in the metros and there is scope for much greater percolation of the RTI Act and its benefits in rural areas.



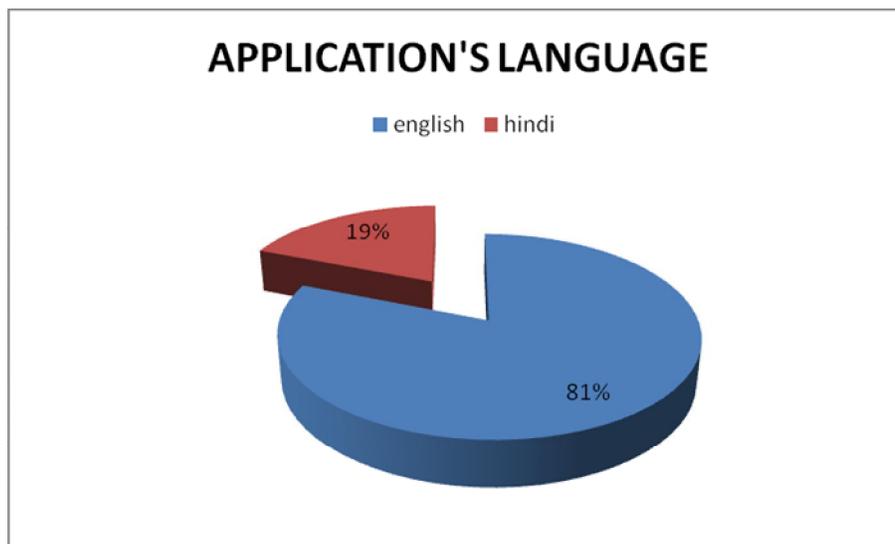
**ii) SEX OF THE APPLICANT** – In most cases had been filed by males, and only very rarely were recipientø females, and whenever they were, they turned out to be researchers or reporters, and no regular concerned citizen or RTI Activist was known to be a woman.

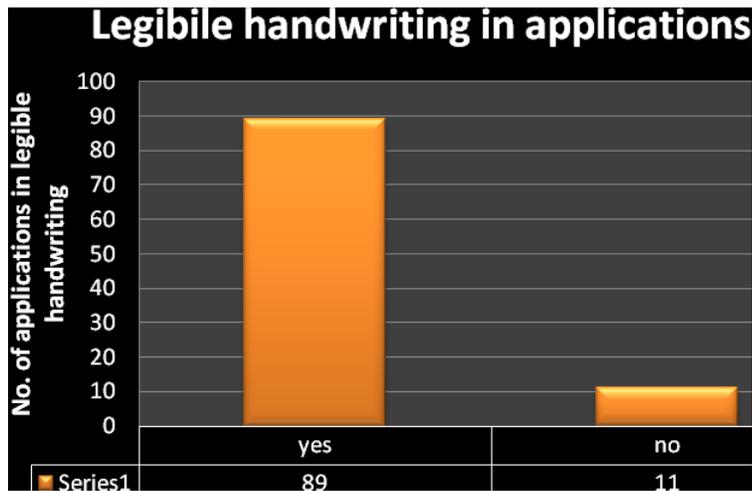


**iii) Whether Govt. Employee** –Most applications received in the 5 departments seen were private applications, and the applications were neither from government employees, and even if some were, there was no way to check as occupation is not mentioned on the RTI form.

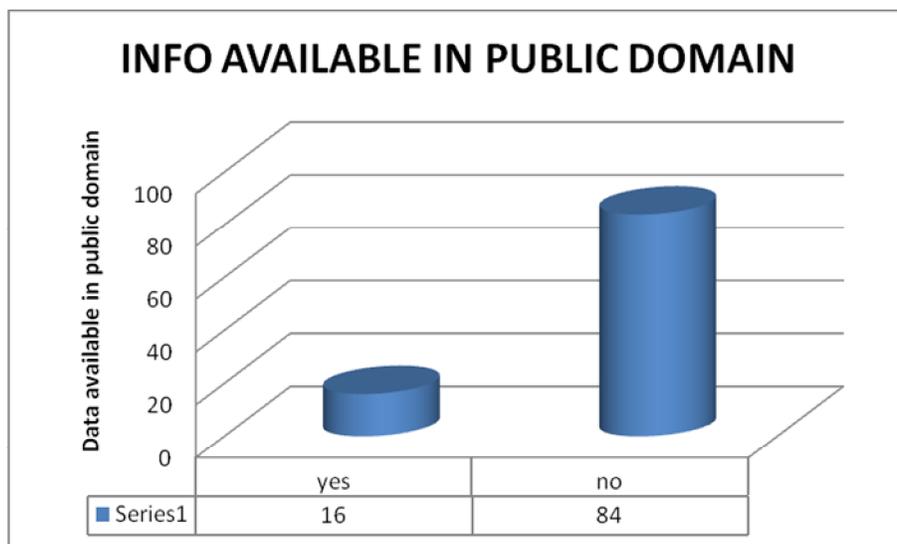


- iv) WHETHER APPLICANT FILED MORE THAN ONE APPLICATION** – To see or check this fact, one has to go through all RTI applications available, which is much outside the purview of the internship, and hence it was not very simple filling up this part, as information was never available concerning private activists.
- v) APPLICATION DATE** – Though there was nothing specifically wrong in this regard, it interns noticed in many applications that the date of posting of letter and the date of receiving were far apart, sometimes even a month, and as the period of 30 days starts at receiving, one felt that discretion was possible in receiving the application at a later date.
- vi) LANGUAGE AND LEGIBILITY OF APPLICATION**–As the central government recognises Hindi and English, no applications were seen by the interns in languages other than Hindi or English. Also, it is interesting to note that well above 90% applications were in English and only 5-10 applicants used Hindi as the medium. All applications were legible and most of them were printed.



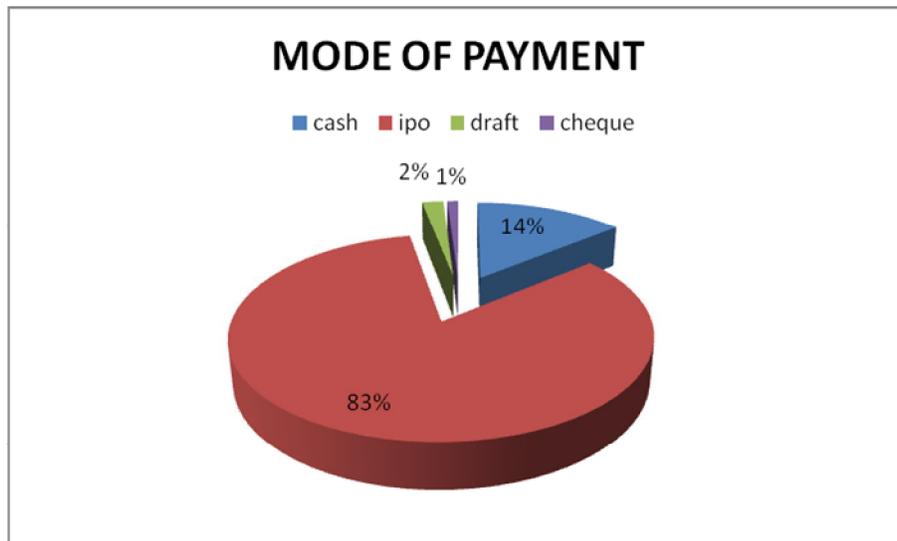


**VII. AVAILABILITY OF INFORMATION IN PUBLIC DOMAIN-** The interns found that most of the applications filed for information under the RTI act were not available in the public domain and most of the applications did not pertain to suo moto disclosure.

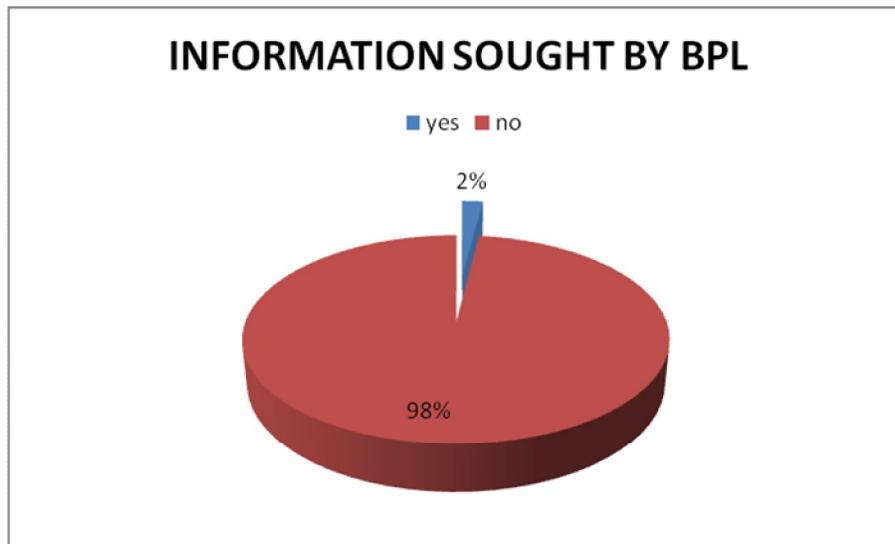


**VIII. PAGES IN APPLICATION** – Most applications were 1-4 pages long but there were many applicants who felt the need to either ask too many questions, or to attach material along with the application, like newspaper articles etc. and therefore, we see that awareness about nature and number of questions needs to be spread.

**IX. FEE PAYMENT** – The interns observed that most of the payments are done through IPO, as most applications come through post, and also that the rest are done through cash, and the other mediums are rarely used. Also, such fee of Rs. 10 is generally correct and additional fee is rarely sought by the CPIOs.



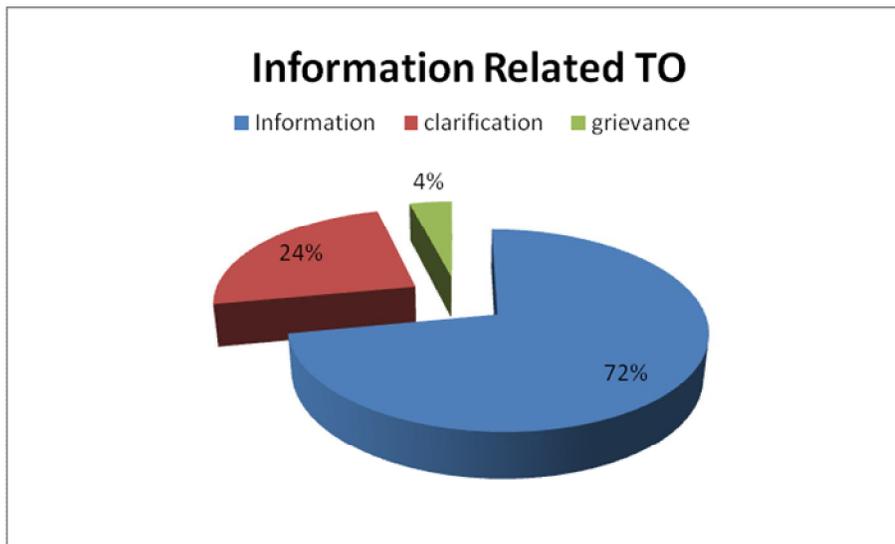
**X. BPL/APL** – By the prior experience of the CPIOs we learnt that very rarely do they receive genuine applications from BPLs, and it is mostly just economically well off people who procure CDs and extensive documents free of cost in the name of a BPL candidate. Also, such BPLs are exploited for such uses.



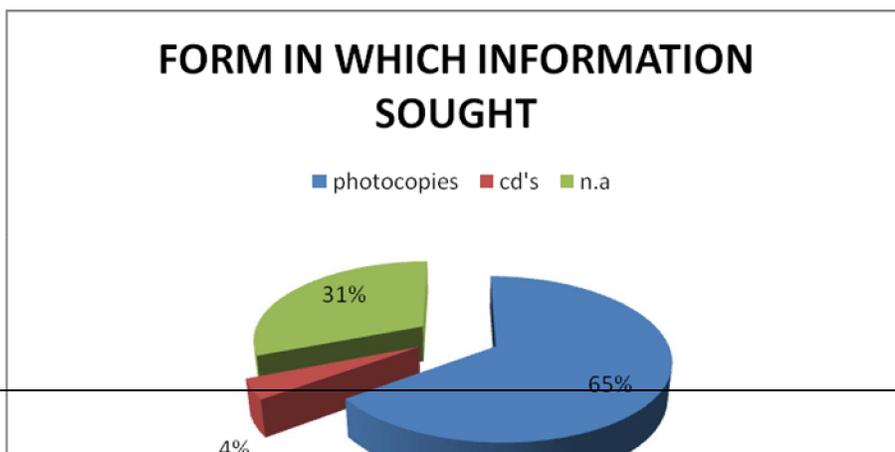
**XI. QUESTIONS ASKED** – The number of questions asked vary from one to sometimes more than 20, but normally, an application contains anywhere between 3-7 questions, and such questions are generally on the same topic. Such questions are over within 200 words.

**XII. NATURE OF APPLICATION** – The applications nature depends on the department, and in some department, all RTIs are based on policy matters, while in others, most are on personnel and this depends on various departments. Also, most applications relate to information and only rarely do relate to grievances. Such

information is, in almost all cases not based on life and liberty, but some frivolous applications on life and liberty are received which are refused by the RTI Cell and CPIO. Also, this information required is new, and information about past events is rarely asked for.

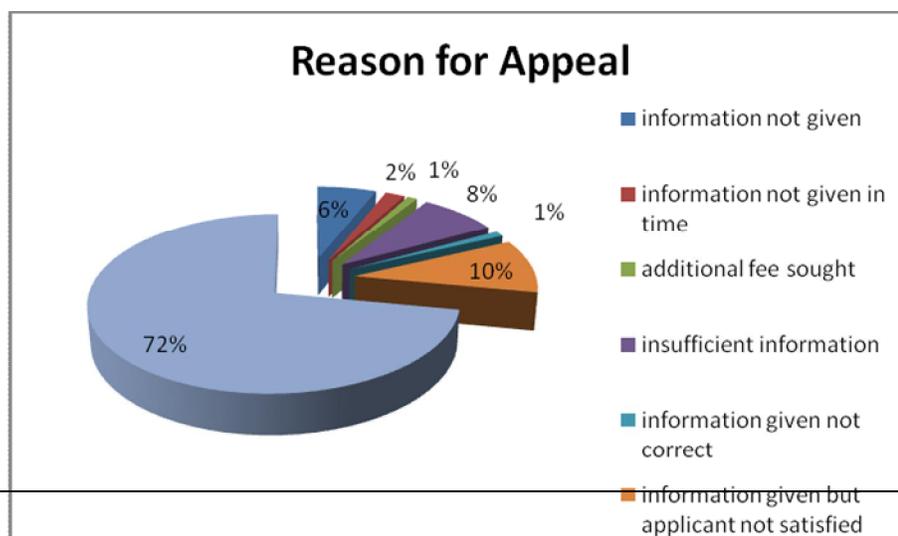
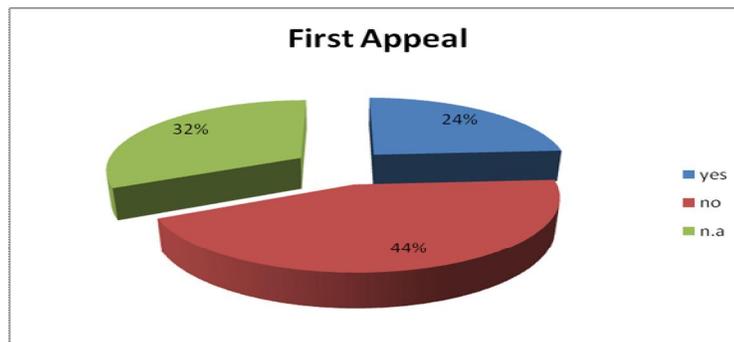


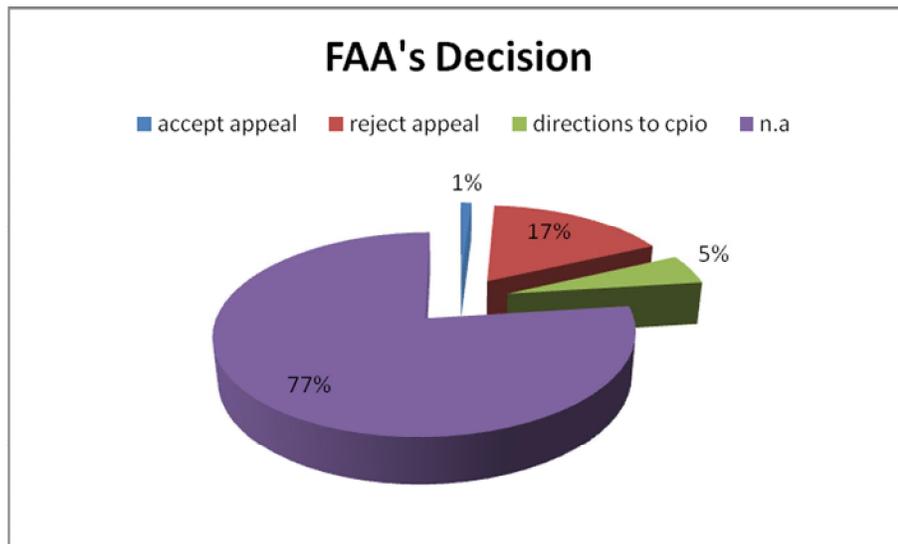
**XIII. FORM IN WHICH INFORMATION SOUGHT** – The information sought by applicants is, in almost all cases sought in the form of certified photocopies, and in the rare case of having unusually bulky amounts of information, CDs are given at Rs.50 per CD. Though we have observed that in many cases, additional fee was not sought from the applicant, and the relevant photocopies were still duly given. Such information is, in almost all cases sought through Ordinary Post, and is generally linked to a new major policy decision of the government.



**XIV. HANDLING OF APPLICATION** – The application given is sometimes addressed to the wrong authority, and has to be transferred to the concerned authority within 5 days, and this target is generally met by the CPIOs of various ministries. Also, such information is given within the stipulated 30 days, as a fine is imposed upon CPIOs if it crosses the stipulated 30 days. In many cases, some questions are addressed to a different authority, and hence assistance from other authorities has to be taken, but it was observed that only a fraction of total applications comes for the inspection which the ministries offer. Also, often no reasons are cited for holding back information, and the reason is that the CPIO holds no such information.

**XV. FIRST APPEAL** – It was observed in the first appeal system that only about 5% applicants apply for first appeal, though the number may be higher in the interns table, as one CPIO told the intern to understand the first appeal cases first, and handpicked first appeal cases were given. Also, within first appeal cases, interns observed that most of the appeals were filed due to non-availability of the information. Interns also observed that the FAA is the immediate senior of the CPIO in any case, and both interact on a day to day basis, and hence all first appeals are rejected, and sometimes small directions are given to the CPIO showing biased nature of the appellate authority.





- xii) **Second Appeal** – The interns observe that a very small number of cases reach the second appeal authority, i.e. the CIC. Therefore, the second appeal is an option which is not exercised as it is perhaps too cumbersome to do so.

## **XVI. CONCLUSION**

The conclusion we draw from this study and the internship is that the RTI is one of the most progressive legislations in the past couple of decades, and that, even though it has been made in good faith and the government wants to help itself run in as transparent manner as possible, the RTI has become more powerful. But the bureaucrat of today is still stuck in 1995, and believes in holding his files close to his chest and remains in the opaque system which was prevalent before the act, and this mismatch can only be healed by time, and we are sure that it soon will be. Also, there were many points about the internship programme and about the core study where there is scope for improvement and the intern has humbly submitted his claims, opinions, findings and research with DOPT. The whole of the interns department was a cheerful lot, and worked in a very positive environment, though the gaping hole of inefficiency is problematic for the government as a whole. Some of the findings are listed below experienced by the interns during their month long internship with DOPT:-

### **(A) PROBLEMS FACED DURING INTERNSHIP**

The interns have, in the interest of the internship and for their personal development tried to be as true in providing and reproducing information as possible. The officials entrusted with the duty of providing the relevant files and materials were helpful but there were many serious handicaps faced by the intern during their month long internship, which were of many types, theoretical, practical, social, etc. The interns has listed the various problems faced, in writing the report, and otherwise in the whole process

- **OFFICIALS ON DUTY** ó Many officers of various divisions on duty were found to be uninterested and unsupportive of the project, and felt it was tending to be an additional burden on them and added to their workload. Therefore, officers of some divisions across ministries were unsupportive to a large extent, and as such support is essential for students in assessing documents which are unorganised, incomplete, complex or illegible at most times. The interns were told that all the concerned CPIOs were already informed of the internship, but unfortunately it seems that it went unheard in many departments.

- **STATUS OF APPLICATIONS** – The RTI application and redressal system seems quite interesting as one gets the hang of things, but it was noticed in some departments, that RTI applications were relatively disorganised, pages were not in chronological order, some pages were missing, and many applications were illegible. But as the intern was in the RTI's nodal ministry, the problem was relatively subdued, and was more pronounced in other ministries.
- **LACK OF RESOURCES**– A major hassle which interns across ministries faced was that the resources available with each ministry or department were either not made available to the interns or were just not there. Minor items(which were of course to be returned) like paper, pen, file covers, folders and pencils were not handed over on many occasions though instructions were issued for the same.
- **PHOTOCOPY** – The point has to be highlighted and discussed separately owing to the sheer severity of the situation. The OM Sheet which appoints the interns for this internship has specifically stated that photocopies of the RTI Applications made have to be handed over along with the report to ensure that there is no discrepancy in tabulation and no fraudulent tactics have been employed. But the problem interns faced was that the concerned CPIO/Official was reluctant to let the intern take the RTI file for photocopying, and also that the photocopy machine was granted for the purpose of photocopying the files only after heated debate, discussion and argument!

## **(B) MANAGEMENT OF RECORDS**

### **BEST PRACTICES**

- The RTI applications were maintained in a separate file by the AVD department. Thus all information associated with the RTI such as appeals, resubmission etc. were found in one place and is not scattered.
- The RTI applications are arranged in chronological order, thus increasing the ease of retrieval in case a certain application needs to be sourced in all divisions.
- The AVD cell maintains an electronic record of every RTI received by the CPIO, which contains details regarding the name of the applicant, date of application, date of receipt, status of the RTI (whether pending or not), file number etc.

## **PRACTICES THAT NEEDS IMPROVEMENT**

- In the other divisions of the DOPT department, all the applications for the year 2005 till date have been stacked up in one folder, making the retrieval of a particular RTI almost impossible.
- In the some divisions, the documents pertaining to a RTI application are arranged haphazardly, leading to confusion. All documents of an RTI should be arranged in a proper order.

The above two things are because of the lack of staff available with the concerned CPIO.

## **(c) SUGGESTIONS**

- 1 There is an urgent requirement for awareness to be spread with regard to the Right to Information Act and its procedure. This has been inferred on the basis of the fact that the population type that tends asking for information is limited to a male, urban population and not- BPL. This is not a positive trend since such a population comprises only a minority in India. There was only two BPL applicant. This can be done through awareness programmes that can be conducted by the government, especially in rural areas and amongst woman-folk.
- 2 The application takes time in reaching the CPIO from the PIC cell, and the time frame of 30 days is counted after the application reaches the CPIO so in effect the reply to the informant reaches later than what has been provided for in the Act. Thus, there is a need to clear the position of such confusion.
- 3 Many of the applications were forwarded to all the CPIOs from the PIC cell because the (PIC) was not able to ascertain as to which CPIO the information pertains to. Thus, there is a need for the officials of the PIC cell to be trained and made better conversant of the functions and duties of each division. This will also save time for photo-copying, stationery etc.
- 4 It has been seen that in many cases, the CPIOs provide the photocopies without asking for the additional fees as required by the RTI act.

- 5 From the perusal of the website, it was observed that information was uploaded on a periodical basis relating to projects, their costs and progress. Annual reports also contained information in a particular manner but most of the time the applicant desired information in his format. In such cases, the information providers should reject the applications as they are not required to interpret and compile the matter. Therefore, guidelines relating to such aspects need to be reiterated on continuous basis and even the applicants should be made aware of these provisions. These guidelines can be put on each public Authority's website.
- 6 Another area that requires awareness is with regard to the functions of the various divisions under a public authority. Though the ministry of DOPT and its constituent bodies have done a commendable job by putting up all the information regarding their functions on the website in a brief and concise manner, but people do not seem to be aware of the functions of each division and Ministry, and thus write applications to the wrong Public Authority. Such ignorance has been the main cause for the large number of applications that have been transferred from one public authority to another. This trend of transferring applications has slowed down the process of providing the information to the applicants and has also unnecessarily increased the burden of work with the CPIOs. So it is recommended that the ministry, on its main website, under its suo moto disclosure, give a chart showing the basic functions of each division .
- 7 Various CPIOs have observed that the questions asked are not pointed and meaningful at certain times, making it difficult for them to understand.
- 8 Inadequate space, staff and infrastructure to maintain records and manage the files. Thus, it becomes difficult to keep the files in a proper manner, arrange papers and attach full information within the file. The CPIOs have mentioned these constraints to the authorities several times but of no avail.
- 9 A separate file for each RTI application should be made in accordance with a notification ordered by the DoPT.
- 10 A dedicated cabinet should be made for keeping the files of RTI applications making them easier. Moreover, the cabinets should be tagged with labels for easy retrieval of all kinds of files.

11 Some divisions of the department suffers from serious lack of space to keep the files as a result of which many of the files are kept on the floor bordering the table. The rooms has been stuffed with files which need to be pondered upon.

In all, this internship was a life changing experience on the basis of knowledge, experience and exposure, and the intern hopes to continue this association with the RTI Department.

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