



## Message from His Excellency the Governor of Orissa Shri Rameshwar Thakur

The Government of India passed the National Rural Employment Guarantee Act 2005 on September 2005. The Act gives legal guarantee of a hundred days of wage employment in a financial year to adult members of a rural household who demand employment and are willing to do unskilled manual work.

The Objective of the Act is to enhance the livelihood security of the people in rural areas by generating wage employment through works that develop the infrastructure base of that area. The choice of works suggested addresses causes of chronic poverty like drought, deforestation, soil erosion. Effectively implemented, the employment generated under the Act has the potential to transform the geography of poverty.

The Act confers entitlements upon people and puts their demand center-stage. For people to know their Rights under the Act, it will be necessary that Communication and Publicity is ensured so that information about the Act and the Employment Guarantee Scheme is widely disseminated, specially in local languages.

The critical aspects of the Act like Registration, Application for work, entitlements of workers, social audit, grievance redressal, roles of different agencies must be communicated in clear and simple language.

The effectiveness of such a communication process would be evident in the extent to which people who need work under this Act come forth and register, local communities are actively involved in selecting works monitoring and evaluating their execution, workers receive their due entitlements.

I am happy to know that Panchayati Raj Department is taking all necessary steps so that this legislation becomes people's act.



## Message from Hon'ble Chief Minister of Orissa Shri Naveen Patnaik

The Objective of the National Rural Employment Guarantee Act (September 2005) is to enhance the livelihood security of the people in rural areas by generating wage employment through works that develop the infrastructure base of that area. The choice of works suggested addresses causes of chronic poverty like drought, deforestation, soil erosion. Effectively implemented, the employment generated under the Act has the potential to transform the economy of our state.

Orissa Rural Employment Guarantee Scheme will be open to all rural households in the areas notified by the Central Government. The entitlement of 100 days of guaranteed employment in a financial year is in terms of a household. Planning is critical to the successful implementation of the Employment Guarantee Scheme. A key indicator of success is timely generation of employment within 15 days while ensuring that the design and selection of works are such that good quality assets are developed. The need to act within a time limit necessitates planning in advance. The Act envisages a planning process that coordinates different levels of needs and resources so that the district is prepared well in advance to offer employment upon demand on works that have been selected and designed with care.

The overall responsibility for ensuring that the Scheme is implemented according to the Act at the District level with the District Collector as the District Programme Coordinator, and at the Block level with the Block Development Officer as Programme Officer.

If a worker who has applied for work is not provided employment within fifteen days from the date on which work is requested, an unemployment allowance shall be payable by the State Government at the rate prescribed in the Act. The responsibility for payment of unemployment allowance shall be with the Programme Officer.

I am happy to know that Panchayati Raj Department is taking all necessary steps so that this legislation fulfills the dream of getting gainful employment for the rural poor within his/her village. I am sure the Mission Shakti groups promoted by us will take advantage of this.



Message from Hon'ble Minister,  
Panchayati Raj & Culture, Orissa  
Dr. Damodar Rout  
on the Occasion of Launching of the Orissa Rural  
Employment Guarantee Scheme  
on February 2, 2006.

National Rural Employment Guarantee Act (September 2005) envisages a collaborative partnership between the Center and the State Governments, the Panchayats and the local community. The Gram Panchayat has a pivotal role in implementation. It is responsible for planning, registering, issuing job cards, allocating employment, executing 50% of the works and monitoring. The importance attached by the Act to the Gram Panchayats is evident in its section 15(7) that provides that the State Governments may direct that the functions of the Programme Officer be discharged by the Gram Panchayat or a local authority.

The Act authorizes the Palli / Gram Sabha to recommend works to be taken up, monitor ,supervise and undertake social audit of the implementation of the Scheme. In addition, it is suggested that the institution of Gram Sabha be used extensively for facilitating the implementation of the Scheme. The Scheme is intended for the village communities, many of which may be located in remote or isolated areas, and the Gram Sabha could be the most effective institutional vehicle for reaching out to them. The Gram Sabha should be used as a forum for sharing information about the Scheme so that people may come forth for registration as well as for verification of applicants and for reporting on each aspect of implementation of the Scheme.

The Gram Sabha is the statutorily mandated institutional mechanism for eliciting community participation . In addition, other methods of community participation could be evolved such as local vigilance and monitoring committees, local beneficiary committees, local self-help groups, user groups, and other grass root structures that broaden base of participation so that the implementation of the Act has transparency and public accountability.

All key agencies would need to be trained to discharge the responsibilities under the Act. This would include PRIs, District and State level Department Personnel involved with Employment Guarantee Scheme, as well as local committees/groups formed for the purpose of vigilance, monitoring, and social audit.

I am happy to know that Panchayati Raj Department is taking all necessary steps so that this legislation fulfills the dream of getting gainful employment for the rural poor within his/her village in 19 districts covering 205 blocks, 3672 Gram Panchayats in Orissa.

# THE RIGHT TO INFORMATION ACT, 2005

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 21st June, 2005/Jyaistha 31, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 15th June, 2005, and is hereby published for general information :-

## THE RIGHT TO INFORMATION ACT, 2005

No.22 of 2005

[15th June, 2005]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS 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;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

Now, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows :-

### CHAPTER-I

#### PRELIMINARY

1. (1) This Act may be called the Right to Information Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.

2. In this Act, unless the context otherwise requires, -

(a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly -

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

(c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) "competent authority" means -

(i) the Speaker in the case of the House of the people or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) "public authority" means any authority or body or institution of self-government established or constituted -

(a) by or under the Constitution;

- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government, and includes any-
  - (i) body owned, controlled or substantially financed;
  - (ii) non-Government organisation substantially financed,

directly or indirectly by funds provided by the appropriate Government;

- (i) "record" includes -
  - (a) any document, manuscript and file;
  - (b) any microfilm, microfiche and facsimile copy of a document;
  - (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
  - (d) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to -
  - (i) inspection of work, documents, records;
  - (ii) taking notes, extracts or certified copies of documents or records;
  - (iii) taking certified samples of material;
  - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
- (l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information commissioner appointed under sub-section (3) of section 15;
- (m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) "third party" means a person other than the citizen making a request for information and includes a public authority.

**CHAPTER - II**  
**RIGHT TO INFORMATION AND OBLIGATIONS OF**  
**PUBLIC AUTHORITIES**

3. Subject to provisions of this Act, all citizens shall have the Right to Information.

4. (1) Every Public Authority shall -

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitate the Right to Information under this Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated

(b) publish within one hundred and twenty days from the enactment of this Act, -

(i) the particulars of its organization, functions and duties;

(ii) the powers and duties of its officers and employees;

(iii) the procedure followed in the decision making process, including channels of supervision and accountability;

(iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorizations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed;

and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) 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.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

**Explanation** - For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

**5. (1)** Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section(1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section(1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:



Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section(4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

**6. (1)** A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be,

specifying the particulars of the information sought by him or her:

Provided that where such request can not be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,-

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7.(1) Subject to the proviso to sub-section(2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

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

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section(1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving -

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section(5), the person making request for the information shall provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

**8.(1)** Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, –

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secretes Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

**9.** Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

**10.(1)** Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing -

(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;

(c) the name and designation of the person giving the decision;

(d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and

(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

**11.(1)** Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

### CHAPTER - III

#### THE CENTRAL INFORMATION COMMISSION

**12.(1)** The Central Government shall, by notification in the official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(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.

(3) The Chief Information Commissioner and the 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.

**Explanation:** For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the house of the people has not been recognized as such, the Leader of the single largest group in opposition of the Government in the house of the people shall be deemed to be the Leader of Opposition.

(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.

(5) 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.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

**13.(1)** The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information commissioner, his term of office shall not be more than five years in aggregate as the Information commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of -

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of



their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

**14.** (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be, -

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

#### CHAPTER - IV

##### THE STATE INFORMATION COMMISSION

**15.** (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the..... (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The State Information Commission shall consist of—

(a) the State Chief Information Commissioner, and



(b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of –

- (i) the Chief Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Legislative Assembly; and
- (iii) a Cabinet Minister to be nominated by the Chief Minister.

**Explanation :** For the purposes of removal of doubts, it is hereby declared that where the leader of Opposition in the Legislative Assembly has not been recognized as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the leader of Opposition.

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

(5) The State Chief Information Commissioner and the State 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.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The Headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

**16.** (1) The state Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, on oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

17. (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a state Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be, –

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a state Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

## CHAPTER V

### POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES

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.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

**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:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(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:

Provide 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.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

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

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including –

- (i) by providing access to information, if so requested, in a particular form;
- (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
- (iii) by publishing certain information or categories of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;
- (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

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

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

**20.** (1) 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, 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.

(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.

## CHAPTER - VI

### MISCELLANEOUS

**21.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

**22.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

**23.** No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

**24.(1)** Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section :

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Scheduled by including therein any other intelligence or security organization established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organization shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organization being organizations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every Notification issued under sub-section (4) shall be laid before the State Legislature.

**25. (1)** The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during the year and forward a copy thereof to the appropriate Government.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply



with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(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, modernization, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

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

**26.(1)** The appropriate Government may, to the extent of availability of financial and other resources, -

(a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and



(d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include -

(a) the objects of this Act;

(b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of Section 5;

(c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;

(d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;

(e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;

(f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;

(g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;

(h) the notices regarding fees to be paid in relation to requests for access to an information; and

(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

**27.(1)** The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(b) the fee payable under sub-section (1) of section 6;

(c) the fee payable under sub-section (1) and (5) of section 7;

(d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;

(e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and

(f) any other matter which is required to be, or may be, prescribed.

**28. (1)** The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(ii) the fee payable under sub-section (1) of section 6;

(iii) the fee payable under sub-section (1) of section 7; and

(iv) any other matter which is required to be, or may be, prescribed.

**29. (1)** Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

**30. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, the Central Government may, as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after its is made, be laid before each House of Parliament.

31. The Freedom of Information Act, 2002 is hereby repealed.

**THE FIRST SCHEDULE**

*[See sections 13(3) and 16(3)]*

FORM OF  
OATH OR AFFIRMATION TO BE MADE BY THE CHIEF INFORMATION  
COMMISSIONER/THE INFORMATION COMMISSIONER/THE STATE CHIEF  
INFORMATION COMMISSIONER/  
THE STATE INFORMATION COMMISSIONER

"I, ....., having been appointed Chief Information Commissioner/Information Commissioner/  
State Chief Information Commissioner/State Information Commissioner swear in the name of God that  
solemnly affirm

I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

**THE SECOND SCHEDULE**

*(See section 24)*

INTELLIGENCE AND SECURITY ORGANISATION  
ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.

12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

T.K. VISWANATHAN  
*Secy. to the Govt. of India*

### **GENESIS : THE RIGHT TO INFORMATION ACT, 2005**

The Government of India resolved that in order to ensure greater and more effective access to information, it is required that the Freedom of Information Act, 2002 must be made more progressive, participatory and meaningful. On this issue National Advisory Council suggested certain important changes to be incorporated in the said Act to ensure smoother and greater access to information. After examining the suggestions of the National Advisory Council and others the Government decided to make number of changes in the law. In view of the significant changes proposed by the National Advisory Council and others, it was decided to repeal the Freedom of Information Act, 2002 and enact another law for providing an effective framework for effectuating the right of information recognized under Article 19 of the Constitution of India. To achieve this object, the Right to Information Bill was introduced in the Parliament.

#### **Statement of Objects and Reasons**

In order to ensure greater and more effective access to information, the Government resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The important changes proposed and incorporated, inter alia, include establishment of an appellate machinery with investigating powers to review decisions of the Public Information Officers, penal provisions for failure to provide information as per law, provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities, etc. In view of significant changes proposed on the existing Act, the Government also decided to repeal the Freedom of Information Act, 2002. The proposed legislation was passed in the Parliament and became effective from 12th of October, 2005 all over the country as Right to Information Act, 2005 for providing an effective framework for effectuating the Right to Information recognized under Article 19 of the Constitution of India.

The National Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The Government examined the suggestions made by the National Advisory Council and others and decided to make a number of changes in the law.

# ORISSA RIGHT TO INFORMATION RULES, 2005

GOVERNMENT OF ORISSA  
INFORMATION & PUBLIC RELATIONS DEPARTMENT

## NOTIFICATION

**The 1st October, 2005**

No.27163/I&PR. In exercise of the power conferred by Section 27 of the Right to Information Act (No.22 of 2005), the State Government do hereby make the following rules, namely: -

**1. Short title and commencement.** - (1) These rules may be called the Orissa Right to Information Rules, 2005. (2) They shall come into force on the date of their publication in the Orissa Gazette.

**2. Definitions.** - (1) In these rules, unless there is anything repugnant in the subject or context -

- (a) 'Act' means the Right to Information Act, 2005 (No. 22 of 2005);
- (b) 'BPL Card' means a card issued to any citizen who is below the poverty line;
- (c) 'fee' means amount payable by the applicant for obtaining any information under the provisions of sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 excluding the cost of providing information;
- (d) 'form' means a form appended to these rules;
- (e) 'identity' means an evidence to show the citizenship like an electoral photo identity card, a passport or any other document which can satisfy the authority about the citizenship of the person;
- (f) 'Nodal Officer' means the Commissioner-cum-Secretary to Government, Information & Public Relations Department;
- (g) 'Public Information Officer' means the State Public Information Officer designated under sub-section (1) of section 5 of the Act and includes an Assistant Public Information Officer designated as such under sub-section (2) thereof;
- (h) 'Schedule' means a Schedule appended to these rules; and
- (i) 'State Government' means the Government of Orissa

(2) Words and expressions used but not defined in these rules shall have the meaning as assigned to them in the Act.

### **3. Appointment & Obligations of Public Information Officers.-**

(1) A public authority, if it is a department of State Government, shall designate as many officers as it deem proper, not below the rank of Under Secretary as Public Information Officers.

(2) In each sub-ordinate office of the Department of Government including the Heads of Department and offices in the district and Sub-divisional level the head of such offices shall designate as many officers as they deem proper as Public Information Officers and Assistant Public Information Officers.

(3) Every public authority other than those mentioned in sub-rules

(1) and (2) of the said rule 3 shall designate one or more Public Information Officers in all administrative units and offices under such authority:

Provided that every such public authority shall, while designating such officers as Public Information Officers so designated, ensure that an officer higher in rank to public Information Officer, is available to be specified as Appellate Authority.

(4) If, for any reason beyond the control of Public Information Officer furnishing of information is delayed, he shall record reasons with justification thereof and shall communicate the Head of the office about such delay.

**4. Procedure to obtain information.** - (1) A citizen desirous of any information may apply for information in form A to the Public Information Officer, with the required fee in shape of Treasury Challan or cash as specified in the Schedule under the appropriate head of Account:

Provided that application fee shall not be payable in case of a person whose name appears in the latest list of persons below poverty line for which he has to produce BPL Card.

Provided that a citizen seeking information through electronic means has to submit evidence regarding deposit of prescribed application fee.

(2) The Public Information Officer or any other officer authorized by him shall furnish the acknowledgement and after being satisfied with the identity of the applicant shall also intimate in form B as soon as possible the amount of cost for providing information required to be paid by the applicant in cash, as mentioned in the Schedule.

(3) The applicant may deposit the said amount within a period of fifteen days from the date of receipt of such information, failing which the application shall stand rejected.

**5. Information regarding rejection.** - (1) Where a request has been rejected under sub-section (1) of section 7, the Public Information Officer shall intimate the applicant, the reasons for such rejection in form C.

(2) Wherever information applied for is available in electronic means, the Public Information Officer may advise in form C to the applicant to obtain the information from the appropriate website to be specified by the Public Information Officer.

**6. Meeting of the recommending Committee.** - For the purpose of appointment of the State Chief Information Commissioner and the State Information Commissioner under sub-section (3) of section 15, the Nodal Officer shall, in consultation with the State Government, convene the meeting of the Committee for their recommendation.

**7. Memorandum of appeal.** - (1) An appeal under sub-section

(1) of section 19 shall be filed in form D to the officer as designated by the Public Authority to hear such appeal.

(2) The Memorandum of appeal shall be accompanied with such fee as specified in the Schedule which shall be paid in the shape of court fee stamp.

(3) Any person aggrieved by the decision under sub-section (1) of section 19, may prefer a second appeal before the State Information Commission under sub-section (3) thereof in form E which shall be accompanied with such fee in the shape of court fee stamp as specified in the Schedule.

(4) The appeal preferred under sub-rules (1) and (3), if not accompanied with the required fee, shall be rejected by the concerned Appellate Authority, but no fee is payable by the applicant holding a BPL Card.

(5) Every order of the Appellate Authority shall be communicated to the appellant concerned and to the Public Information Officer where such appeal is from the order of the Public Information Officer and to the first Appellate Authority in case it is a second appeal.

**8. Guidelines by the State Government.** - The State Government shall have the power to issue guidelines not inconsistent with the provisions of the Act and these rules for smooth implementation of the provisions of the Act and the rules.

**9. Penalties.** - In the event of imposition of penalty under section 20 on the Public Information Officer concerned, such penalty may be deposited by the said officer by Treasury Challan under the appropriate receipt Head of the State Budget within a period of thirty days, failing which the amount shall be recovered from the salary of the officer concerned.

**10. Calculation of cost of damage.** - If any damage is caused to the public property in the course of giving any information in the form of samples of materials, the damage caused to such property shall be included while calculating further fees representing the cost of providing the information.

**11. Maintenance of Register.** - (1) The Public Information Officer shall maintain a register in form F for recording the details of the applications received and the information supplied by him and keep the Head of Office informed after furnishing any information and it shall be the duty of the Head of office to ensure required assistance if any, as would be sought for by the Public Information Officer to facilitate providing information.

(2) The Public Information Officer shall maintain a cash register in form G for recording the details of money received by him relating to providing information and deposit the money in such head of account or in any Scheduled Bank in the name of such officer as the concerned Head of Office decides.

**12. Deposit of expenditure.** - The expenditure to be incurred for production of witness or documents before the State Information Commission shall be deposited before the Commission by the party at whose instance the witnesses or the documents are to be produced.

**13. Realisation of penalties or damages.** - Any penalty or damage or any other sum payable under the Act, if not paid within thirty days of the date of receipt of the order for realization of the same or cannot be recovered, it can be realized from such person as arrears of land revenue.

By Order of Governor  
Sd/-  
(Digambar Mohanty)  
Commissioner-cum-Secretary to Govt.

**FORM - A**

***See Rule - 4 (I)***

Application for Information under section 6 (1) of the Act

To

The Public Information Officer  
(Name of the office with address)

1. Full name of the applicant
2. Father / Spouse name
3. Permanent address
4. Particulars in respect of Identity of the applicant
5. Particulars of information solicited
  - (a) Subject matter of information
  - (b) The period to which the information relates
  - (c) Specific details of information required
  - (d) Whether information is required by post or in person  
(The actual postal charges shall be included in providing information)
  - (e) In case by post (ordinary, registered or speed)
6. Address to which information will be sent & in which form
7. Has the information provided earlier
8. Is this information not made available by the Public authority
9. Do you agree to pay the required fee



10. Have you deposited application fee  
(If yes details of such deposit)

11. Whether belongs to BPL category, have you furnished the proof of the same

Place \_\_\_\_\_ Full Signature of the applicant  
Date \_\_\_\_\_ Address \_\_\_\_\_

**Office of the Public Information Officer**

Received the application from \_\_\_\_\_  
\_\_\_\_\_ address \_\_\_\_\_  
\_\_\_\_\_ on \_\_\_\_\_ seeking  
information.

Place : \_\_\_\_\_ Full name of Public Information Officer  
Date : \_\_\_\_\_ Designation & Seal

**FORM B**

[See Rule 4 (2) ]

Information for Payment

From  
Name & Designation of the Public Information Officer

To  
Name of the applicant -  
Address

Sir,

Please refer to your application dated \_\_\_\_\_ addressed to the undersigned requesting information on \_\_\_\_\_. I am to inform you that the following amount towards cost for providing information may be deposited in cash, to enable the undersigned to furnish information sought for.

Please make payment within a period of fifteen days from the date of receipt of this intimation failing which the application shall be rejected.

Fee \_\_\_\_\_

Yours faithfully

Place: \_\_\_\_\_ Public Information Officer  
Date: \_\_\_\_\_ Seal

**FORM C**

[See Rule 5 (1) and (2) ]

Intimation of rejection

Sir,

The undersigned regrets to express his inability to furnish the information asked for on account of the following reasons-

- (i) It comes under the exempted category covered under sections 8 and 9 of the Act.
- (ii) Your application was not complete in all respect.
- (iii) Your identity is not satisfactory.
- (iv) The information is contained in published material available to Public.
- (v) You did not pay the required cost for providing information within the prescribed time.
- (vi) The information sought for is prohibited as per section 24 (4) of the Act.
- (vii) The information would cause unwarranted invasion of the privacy of any person.
- (viii) The information as sought for by you is available in our Website \_\_\_\_\_  
\_\_\_\_\_ you may download the information.
- (ix) For any other reason please see overleaf.

However, if you feel aggrieved for the above said refusal you may file an appeal before the ..... within 30 days of the receipt of this letter.

Place:

Name & Designation of

Date:

Public Relations Officer

To

Sri \_\_\_\_\_  
\_\_\_\_\_

**FORM - D**

[See Rule - 7 (1)]

Form of Memorandum of Appeal to the first Appellate Authority under Section 19 (1) of the Act  
From

\_\_\_\_\_  
(Applicant's Name & address)

Before

**The First Appellate Authority**

1. Full name of the Appellant :
2. Address :
3. Particulars of Public Information Officer :
4. Date of receipt of the order appealed against :
5. Last date for filing the appeal :
6. Particulars of information :
  - (a) Nature and subject matter of the information required :
  - (b) Name of the office or Department to which the information relates :
7. The grounds for appeal :  
(Details if any to be enclosed in separate sheet)

**Verification**

I, \_\_\_\_\_ Name of the appellant, son of / daughter of / wife of \_\_\_\_\_ hereby declare that the particulars furnished in the appeal are to the best of my knowledge and belief, true and correct and that I have not suppressed any material fact.

Signature of the Appellant

Place :

Date :

To

\_\_\_\_\_  
**Name and address of Appellate Authority**

**FORM - E**

[See Rule 7 (3)]

Second Appeal under Section 19 (3) of the Act

From

\_\_\_\_\_  
(Applicant's Name & address)

To

The State Information Commission

1. Full name of the Appellant :
2. Address :
3. Particulars of the first Appellate Authority :
4. Date of receipt of the order appealed against :
5. Last date for filing the appeal :
6. Particulars of information
  - (a) Nature of subject matter of the information required :
  - (b) Name of the office or Department to which the information relates :
7. The grounds for appeal :

(Details items to be enclosed in separate sheet)

***Verification***

I, \_\_\_\_\_ (Name of the appellant, son of / daughter of / wife of \_\_\_\_\_) hereby declare that the particulars furnished in the appeal are to the best of my knowledge and belief, true and correct and that I have not suppressed any material fact.

Signature of the Appellant

Place :

Date :

To

**Orissa State Information Commission**

**FORM - F**

[See Rule 11 (1)]

**FORMAT FOR THE INFORMATION REGISTER**

Sl. No	Date of application	Name of the person requiring the information	Address of the person	Nature of information	Whether all formalities have been complied by the person requiring the information	Name of the authority which the information are to be collected	Date on which the information shall be supplied	Date on which the authority/authorities concerned requested to supply the required information	No & date of reminder issued	Date on which the information are received by the P.I.O from the authority/authorities concerned	Date of supply of information to the person concerned requiring the information	Reasons in brief for not supplying information	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14

**FORM G**

[See Rule 11 (2)]

**CASH REGISTER**

Name & Address of the Applicant	Date of application	Date of deposit of amount	Particulars of fee/ with Challan / Bank draft/ Cash	Refund, if any	Remarks
1	2	3	4	5	6

**Schedule**

(See Rules 4 and 7)

Fees / Amount to be charged for providing information

**PART - I**

(A) Application fee	Rate to be charged	Mode of deposit
(i) Application fee seeking information	Rupees twenty per Application	Treasury Challan/ cash
(ii) Application fee for 1st Appeal	Rupees forty	Court fee stamp
(iii) Application fee for 2nd Appeal	Rupees fifty	Court fee stamp

**PART - II**

(B) Amount to be charged for Providing information

(i) Inspection of documents	Rupees fifteen per each hour or fraction thereof	By cash
(ii) A4 size paper for each folio		
(a) Typed copy/photocopy per page	Rupees five	By cash
(b) Print out from computer per page	Rupees ten	By cash
(iii) CD with cover	Rupees one hundred per CD	By cash
(iv) Floppy Diskette (1.44MB)	Rupees one hundred per Floppy	By cash
(v) Maps & Plans	Reasonable cost to be fixed by P.I.O. depending upon the cost of labour and material and equipment and other ancillary expenses	By cash
(vi) Video Cassette/Microfilm/Microfiche	- do-	By cash
(vii) Certified sample of material	-do-	By cash

**N.B:** Proper and authenticated money receipt to be issued for all cash payment

The office is to state the cash receipt No. on the application Form 'A'.



*Hon'ble Chief Minister Shri Naveen Patnaik offering homage to Utkal Gaurav Madhusudan Das on his 72th death anniversary in a function organized in Orissa Legislative Assembly premises on 4.2.2006.*



## BIODATA OF SHRI D.N. PADHI, I.A.S (RETD.) State Chief Information Commissioner, Orissa

Shri Dharendra Nath Padhi is the State Chief Information Commissioner, Orissa. Son of Late RK Padhi, IP, former IG, Police, Orissa, he belongs to Parlakhemundi, Gajapati District, Orissa. He is a former member of the IAS.

Shri D.N. Padhi was a Visiting Fellow at Oxford University, UK during the full academic year 1991-92 and worked on “India-European Union Trade Relations”. He possesses the degrees of M.Sc. (Physics) with specialization in Electronics from Ravenshaw College, Cuttack and MBA from Delhi University with major in International Trade, International Financial Management and Industrial Management.

Shri Padhi joined the IAS in 1971. Apart from holding very significant and important assignments in Orissa, he has also served under the Government of Bihar, in the Ministry of Defence, New Delhi and Ministry of Consumer Affairs, Food & Public Distribution as Additional Secretary and Financial Advisor, Government of India and Special Secretary, Ministry of Power, Government of India, New Delhi. Prior to his joining the Indian Administrative Service he served the State Bank of India as a Probationary Officer in New Delhi.

Under Government of Orissa, some of the posts held by him are: Deputy/Joint/Additional Secretary in the Department of Forests, Fisheries and Animal Husbandry, Director, Tourism, Culture and Sports and Information & Public Relations, Founder Managing Director of OTDC, Settlement Officer, Ganjam--Koraput Major Settlement, Director, CD, RR and Social Welfare, Director, Harijan and Tribal Welfare, Additional Secretary, Industries, Collector and District Magistrate, Mayurbhanj District, Commissioner-cum-Secretary to His Excellency, Governor(s) of Orissa, Commissioner-cum-Secretary in the Departments of Information and Public Relations, School and Mass Education, Tourism, Culture, Sports and Youth Services, Special Relief Commissioner, Orissa and Principal Secretary in the Departments of Steel & Mines and Energy, CMD, OHPC, Chairman, OPGC and Resident Commissioner, Government of Orissa, New Delhi.

He was the Governor of Rotary International District 3260 comprising of Orissa and eastern half of Madhya Pradesh (now including Chattisgarh) during 1996-97. He has received Rotary's Highest International award of "Service Above Self" as also the coveted citation for Meritorious Service of the Rotary Foundation. Since 1997-98 he is a Member of the India National Polio Plus Committee of Rotary International and has been decorated with the prestigious Regional Service Award for Polio Free World in South East Asia from the Rotary Foundation of Rotary International

Shri Padhi has a keen interest in social work. His professional interests are in the area of Human Resource Development, Rights of the Children, International Trade, Industrial Marketing, International Financial Management, Strategic Business Management and Tourism Management. He is former Chairman, Institute of Directors and Council for Corporate Governance (Orissa Chapter), former Chairman of the Indian Institute of Public Administration (Orissa Branch), Director, Centre for Strategic Initiatives in Public Administration (IIPA), Orissa, Advisor to the Orissa Branch of the World Wide Fund for Nature (India), Working President of the Bhubaneswar Metropolis Management Association and National President, Indian Association of Kickboxing Organisations. He also served as Honorary Secretary, Indian Red Cross Society, Orissa and Director, Orissa State Council for Child Welfare. He is a Life Member of the Indian Council for Child Welfare, New Delhi.

He is happily married to Dr.(Smt) Deepa Padhi, Ph.D, who is Reader in Logic and Philosophy in Rama Devi Womens College, Bhubaneswar and pursuing research under the National Research Award of the UGC, New Delhi. They have two sons; Rajvansh. (wife: Raneer) and daughter : Sasha) and Rishivansh (wife: Reeti) who are well-settled in jobs.





## BIODATA OF PROF. RADHAMOHAN STATE INFORMATION COMMISSIONER

- \* Born on 30th January 1943 in village Rangani Patna in the ex-princely state of Nayagarh, Orissa.
- \* After schooling in Odgaon, graduated with Honours in Economics from the SCS College, Puri. Did Master degree in Applied Economics from the Utkal University in the year 1965.
- \* Taught Economics in different Government colleges. Worked with Government of India for 3 years and besides teaching, also worked with State Government in various capacities in Departments like Science, Technology and Environment, Education & Youth Services, and Rural Development. Retired as Principal, SCS College (Autonomous), Puri, in January 2001.
- \* Worked for sometime as a Member, State Planning Board, Member, Advisory Committee, State Watershed Mission, Member, Task Force on Education, Member, State Wildlife Advisory Committee, NSS Advisory Committee, Member, Steering Committee on Joint Forest Management, Member, NSS Evaluation Committee, Government of India and so on.
- \* Currently, continuing as Member, State Pollution Control Board, Member, Governing Body of State Resource Center for Adult Education, Advisor, State Resource Center, Center for World Solidarity, Hyderabad, Advisor, Rastriya Gramin Vikas Nidhi, Guwahati, Member, Programme Advisory Committee, All India Radio etc.
- \* At present working as State Information Commissioner, Orissa.
- \* Initiated grassroot level efforts to establish colleges, schools and NGOs for development.
- \* Founder of *Sambhav*, a grassroot level initiative for sustainable development and gender justice.
- \* Associated with voluntary sector, people's movements and initiatives for development, students and INGOs etc.
- \* UNEP conferred 'The Global Roll of Honour' for distinguished work on environment.
- \* The State Government conferred the highest civilian award of *Utkal Seva Samman* for dedicated public service.
- \* Married. Blessed with 3 daughters. Believes in non-violence, vegetarianism, peace, disarmament, justice, equality and unity of nature.
- \* Contact at: HIG-238, Kalinga Vihar, Patrapada Post, Bhubaneswar-19, e-Mail : radhamohan\_cwsy@yahoo.co.in

# Right to Information Act

*Kamaljit Das*

In the emerging knowledge society, information or knowledge itself is power. A great deal of information is being generated and disseminated by public and private institutions. The people may use this information in any manner they like. However they still do not have access to a great deal of information available with the government which uses it for taking decisions of vital interest to the community. Most of the government decisions are taken secretly and the people do not come to know the reasons for these decisions although they are deeply affected by them. Almost every information contained in government record is considered secret, people therefore have no access to this information. The problem is further compounded by the fact that there are laws like Official Secret Act which permit the government agencies to classify almost all informations as secret, therefore have no access. As rightly observed by Paras Kuhad "Secrecy as a component of executive privilege or transparency through right to information - which of the two be adopted as a paradigm for governance. Both offer public interest as their rational. Which in fact serves public interest and can they be harmonised."

## **Meaning**

Freedom of information means the right of the people to have access to government information. It implies that the citizen and the non-

governmental organizations enjoy a reasonably free access to all files and documents pertaining to the governmental operations, decisions and performance. In other words, it means openness and transparency in the functioning of the government. So it is antithetical to secrecy in public administration. Remarking upon the importance of right to information Woodrow Wilson said "I for one have the conviction that government ought to be all outside and not inside. I, for my part, believe that there ought to be no place where everything can be done that everyone does not know about. Every one knows corruption thrives in secret places and avoid public places."

So "Right to Information" or freedom of information means that citizens have a right to share information with the government regarding all its actions subject to a few restrictions relating to the security of the country, public order etc. While we generally talk about the right with reference to the actions of the government, it should not be forgotten that ideally such a right should cover the actions of the private organizations so far as they affect the public interest.

## **Constitutional Basis**

Most of the constitutions of the world do not contain specific reference to the right to information. However, some constitutions like

those of Sweden, Nepal and South Africa have specific provisions in this regard. USA has granted the right to information to its citizens by the Freedom of Information Act" (1966). The Fulton Committee (1966-68) in Britain found too much secrecy in Public Administration. Hence it recommended for an inquiry into the Official Secrets Act (1911).

The Constitution of India has no direct provision expressly conferring right to information to the citizens. However, Supreme Court has been stating since 1975 that the right to information is an intrinsic part of the right to freedom of speech and expressing guaranteed under article 19(1)(a) of the constitution. In the Indian context, the Right to Information is derived from the "Right to equality" under article 14, "right to freedom of speech and expression" under article 19(1)(a) and Right to life and personal liberty" under article 21. According to article 14 "The state shall not deny to any person equality before law or the equal protection of laws within the territory of India." The right to equality include lack of arbitrariness. The right to information is essential to transparency and lack of arbitrariness in government action.

Article 19(1)(a) says "All citizens shall have the right to freedom of speech and expression." Although article 19 does not specifically mention the right to information, the SC has held on several occasions that the right to know is a part of the right to freedom of speech and expression on the ground that -

- \* To speak and express freely, we must have information in any subject.
- \* In a democracy, we must know what the government is doing in order to express opinion on it.
- \* The Supreme Court has also held in several cases that the freedom of information not

only means freedom of the media but also access to government-held information.

Article 21 says "No person shall be deprived of his life and personal liberty except according to the procedure established by law. The right to life and personal liberty has received wide definition in several Supreme Court rulings. The Right to life covers the right to basic needs such as food, education, health and personal liberty covers freedom from illegal and unnecessary restraint. Denial of information relating to these aspects is often a denial of the right itself." In one of the important cases "State of U.P. *vs* Raj Narain (AIR, 1975 SC 865) the SC has held that "In a government of responsibility like ours where the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transactions in all its bearings. The right to know which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which at any rate have no repercussion on public security."

This judgement and other similar cases provide judicial sanction for the Right to Information as derived from the constitutional provisions. Moreover Right to Information is also a part of the Universal Declaration of Human Rights to which India is a signatory.

### **Position in India**

The Lok Sabha created history of sorts by passing the RTI Bill 2004. The passage of the Bill marks the culmination of the decade-long campaign by civil society groups for a law that makes the state accessible and accountable.

Though the RTI Bill passed by the Lok Sabha recently but it has been passed by the several State Governments earlier. The previous N.D.A. Govt. presented the Bill on the July 25, 2000 before the Parliament. The Bill provides general access to the Government held information by way of inspection of records, obtaining certified copies of records, or obtaining printouts of computerized information on payment of fee prescribed by the government. The exemptions are not too many. But information can be effused on the general that it is of too general in nature or that it would involve disproportionate diversion of resources of the authority or that it would adversely interfere with the working of the authority.

But the present UPA Govt. had made some modification of the earlier Bill presented by the previous Government. This has tried to provide information to the citizens on many accounts but has put some limitations in some key areas.

The RTI Bill covers a wide spectrum of bodies and officials from the Central and State Governments, Panchayati Raj Institutions, local bodies and significantly all bodies including NGOs, that are established, constituted, owned and substantially financed by the Government. The Bill provides for the constitution of a Central Information Commission with a Chief Information Commissioner and up to 10 Central Information Commissioners. A similar set up is envisaged for the State Information Commissions (SICs).

The RTI Bill provides for what is called "Pro-active disclosure": the PIO must publish a wide verity of information on the particulars of its organizations, functions and duties. This information has to be disseminated widely through the media and through public announcement in the local language. The Bill prescribes that the PIO can charge a reasonable fee for supplying the information but there is no charge for the people living below poverty line.

The RTI Bill has reduced the number of exemptions from disclosure that the previous law provided, though it has now included cabinet papers, and deliberations of council of ministers, secretaries and other officers in the exempted category. But these exemptions are not absolute and public authority may allow access to information even if it is exempted if "public interest in disclosure out-weighs the harm to the protected interests, a provision that has immense potential". An important feature of the legislation is that it overrides the provision of the Official Secret Act, 1923.

The legislation by including the states in its purview, has prompted questions on the nature of relationship between Central Information Commissioners and State Information Commissioners. The Right to Information is not specified in the union, state or concurrent list, and therefore a residuary subject that the centre is responsible for. In any case of conflict, it is the central legislation that will prevail.

While India proceeded a pace with economic reforms, simplifying procedure for business at least on paper, the state continued to loom large. Hence, a business application can still take all of three months to be okayed without an entrepreneur knowing what is going on, just as villagers might never know the finances of his local road project. An effective information law is meant to empower all individuals vis-a-vis the State. To do so, it should meet three conditions: Ensure maximum exemption, provide an independent appeal mechanism for the citizen, or one that is unrelated to Govt. Department in question and slap penalties on erring official for misinforming or not providing information.

The Bill introduces a new category of Govt. bodies that will be outside its purviews - intelligence and security agencies established by

the States. If the new law is serious about reducing areas outside its scope, it should officially lead to an amendment to the Official Secret Act. It provides for an independent appeal system, in the form of a Central Information Commission and State Information Commissions, but drops the Chief Justice of India from the committee which will appoint the Chief Information Commissioner and the rest. The Prime Minister and the Leader of the Opposition are on the panel, but it is well known that political interests can happily converge for politicians bent on suppressing information and undermining institutions. The Bill includes a stern penalty provision for violation but dilutes this by taking too broad a view of who constitutes third party." Besides third parties have been provided the right of appeal against the information petition, by allowing government agencies to be

categorized as third party, the law provides scope of collusion between an erring official and other govt. bodies.

### Conclusion

The struggle for a progressive RTI law is not over. The government has shown great political will in enacting the legislation. But the key to utilizing the immense potential of the legislation lies in creating the institutions envisaged by the law in the stipulated 120 day period and appointing information officers dedicated to the purpose of this legislation—the pressing need for a more transparent and accountable government.

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Kamaljit Das is a Research Fellow, Society for Participatory Research in Asia, New Delhi-110062

### OMC GETS 3 - STAR EXPORT HOUSE STATUS

The Orissa Mining Corporation has been adding feathers of success on its cap. The corporation is celebrating its golden jubilee weathering 50 years of twists and turns since its formation in May, 1956. Thanks to the spirited and dedicated work force, which coupled with the vision of the top management have aided the corporation to climb dizzy heights. Today the Corporation is the largest State PSU in India's Mining Sector with a turnover of more than Rs.725 cr.

The Corporation mostly engaged in exploration, exploitation and exports of chrome ore and iron ore has today created a niche for itself as a leading exporter of iron ore and chrome ore in the country. 100% export oriented chrome ore beneficiation plant makes OMC one of the largest chrome concentrate exporters in the country. Because of its consistent export performance, the Corporation has been decorated with the Capexil Export Award in row from 1998 till 2004.

Not surprisingly, the Corporation has been conferred three-star export house status by the Director General of Foreign Trade, Ministry of Commerce, Government of India in 2006. OMC has become the 1st State PSU in Orissa to have this distinction. Earlier it had the proud privilege of becoming the 1st PSU in the mining sector in the country to implement SAP (Systems Applications and Products - an EPP tool) with ERP, the Corporation has become a single entity with faster decision making and symbiotic relationship between its different Departments. A formal function is on the anvil where the 3 star export house status shall be conferred on OMC.



## The Right to Information Bill - A Landmark Legislation

*Satyanarayan Mohapatra*

Pandit Jawaharlal Nehru had once said "The Constitution is after all some kind of legal body given in the ways of Governments and the life of a people. A Constitution if it is out of touch with the people's life, aims and aspirations becomes rather empty if it falls behind those aims it drags the people down. It should be something a head to keep the peoples eyes and minds up to a certain high mark." It is therefore the solemn duty of the people to keep the Govt. confined within the constitutional limitations and realization of their aims and aspirations and it is equally an obligation of the Government to treat the people at the end of all State organisations to treat the people and activities.

With the passage of the Rights to Information Bill, citizens have the right to obtain any Govt. records from most Central and State Government authorities, Panchayat Raj institutions, local bodies and even from receipts of Govt. grants. On the whole the R.T.I. Act offers an opportunity to change the culture both within and outside the Government. On the whole it is yet another right bestowed upon an ordinary citizen to bring in the realization that in a true democracy, "the Government is finally answerable to the people not just for the broad policies and achievements and failures but for each action and process."

The broad spectrum of the Act enjoins upon any citizen to obtain information on the status of his driving licence, application to CAG or from

the names of the beneficiaries of a certain Government to a multimillion scam report - one just needs to send an application on an e-mail with a prescribed fee to the Public Information Officer (PIO) at the Sub-division or District level. The PIO must respond to your application within 30 days or in certain cases within forty eight hours if it concerns your life and liberty otherwise they are liable to prosecution.

"The passing of the Act is a historic event that will create opportunities for the people of India to participate meaningfully in democratic governance." With the passage of the Act India will be reckoned among the 10 Commonwealth Countries which have a comprehensive legislation on the right to information.

No doubt with the passage of this path breaking legislation the country has been freed from the Official Secrets Act which made divulging of any official information an offence. The Right to Information Act 2005 overrides contrary provision of any other law in force. The Act will come into force with immediate effect after President's signature. It will have jurisdiction over every public authority in the country. Some states have already passed or propose to bring in Right to Information Laws. Thus both the central and state Act shall co-exist giving citizens a choice.

There shall be a strong and independent information commission as appellate bodies at the state and central level with power to impose penalties. They are expected to promote

transparency and accountability in the working of every public authority. The Chief Information Commissioner is selected by a committee which includes the Prime Minister of India, Leader of the Opposition among others to confer it an independent status. Under provisions of the Central Act the Information Commission while disposing of an appeal may impose fine on an official Rs.250/- per day subject to a maximum of Rs.25000/- if information is delayed without reasonable grounds beyond the stipulated period of 30 days. Those officers who have willfully distorted or destroyed or obstructed in providing the information are also liable to disciplinary proceedings as per the relevant Service Rules. This has been provided for undue influence exerted on a public servant for suppression of information and undermining the institution as a whole.

The legal connotation of information has been broadly defined and relates not just to paper or electronically stored records but also to material of any form. It is also supposed to include materials used in road, building and construction in order to ensure effective checks. The Act further postulates that information shall be obtained from the private sector through Government channel. Access to such information relating to any private body can be accessed by public authority under any other law for the time being in force. This may prove to be a crucial provision for an individual to get fully informed about the working of the private sector in matters affecting their lives.

The Act enjoins further to allow third parties to a proceeding to be given an opportunity before disclosing any information with reference to confidentiality. The law allows a grace period of 15 days in order to complete the formality after which the required information shall be supplied. The third party which broadly implies Govt. agencies provides scope for collusion between the erring officials and other Govt. bodies.

There are ten categories of information exempted from disclosure under law. Necessary overriding provision is there to plug any loophole if it is desirable in public interest and which shall be more advantageous in relation to the harm it is likely to cause in disclosing the same. It enjoins upon every public authority to publish every year its basic functions and decisions. It behaves upon every notified agencies to provide information on question of corruption and violation of human rights. This has been specially provided to ensure accountability during execution of the law on the part of public authorities under the special provisions under the Armed Forces Special Power Act that have resulted in alienation of the local population.

The Act is a major improvement and a culmination of people's movement to usher in greater transparency in the implementation of policies and programmes undertaken for people's welfare.

Democratic constitutions are no guarantee for the accomplishment of democratic values for "a constitution is only an organisation of men and women. Its character depends upon the character of the people engaged in governing and being governed." Thus in ultimate analysis it is the man that matters and not the law.

Jeremy Cronin of the South African Communist party speaking at a meeting to review 10 years of democracy in South Africa put forth three powerful challenges for democracy. "How do we learn to speak truth to power; make truth powerful and make the powerful truthful." The right to information should be understood and appreciated in this broader perspective.

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## Right to Information Act - An Imperative Need

*Benudhar Senapati*

The public authorities have internalized corruption in their blood. It is inherited by the next generation. Question is how to seek a clean, honest and transparent governance in the present situation. Thanks to the sustained grassroots campaign and political will on the part of the Government that the long awaited Right to Information Act, 2005 got the ratification of both the Houses of Parliament on 12th May, and came into force from 12th October, 2005.

India is now one of the 55 countries that have comprehensive laws to protect the citizens' right to information. This Right is in line with the doctrine of democracy and also a suitable response to the relentless efforts and mass mobilization in favour of a comprehensive Central Act providing access to information.

It has been realized by most of the countries through experience that greater access of the citizens to information enhances the responsiveness of government to community needs. In turn, this facility speeds up the redressal of public grievances and thus improves feeling of goodwill towards the government. On the other hand, restrictions to the free flow of information results in feeling of 'powerlessness' and 'alienation' among the citizens. Concealing information makes the government machinery less accountable and therefore more prone to misuse of the power.

It has been noticed that poverty and ignorance makes the people powerless. People especially the ignorant villagers always live a life of fear of the government bureaucrats and politicians. Ignorant of their rights they pay bribes to get a job done in the public office. They do not know that even a beggar on the street pays tax when he buys anything like a matchbox or a piece of soap. The government spends so much money on various developmental works but they do not ask out of fear that how much is actually spent and on what it is spent. Actually a number of works exist only on papers. So government personnel and contractors are left scot free. They are not accountable for any thing.

At a personal level I tried to pull out the villagers from such fear psychosis and ignorance and to empower them to fight for ensuring their right. I applied for some information to the Public Information Officer, Nimapara Block, in the Puri District. The information was received and when I was just giving up all hope lo ! and behold ! the reply arrived on the 29th day regarding a certain amount of public money, which had never been reported. It was evident that it had been misappropriated. When I applied for the information I also wanted the name of the person in whose name the work order was issued. But deliberately the PIO did not give me that

information. I had then several ways open to expose the matter. I gave this news to the news papers, called a public meeting in the village and informed the people, public petitions were sent to appropriate authorities like District Magistrate and Collector, Puri, Superintendent of Police, Vigilance to investigate the matter, Chief Justice, Orissa High Court requesting him to consider the matter as a public interest litigation and examine the subject and a complaint case in the court of the Lokpal, Orissa. I await appropriate investigation and full information.

If this small attempt of mine to test the act and the system succeeds I can visualize what changes will take place in my village.

1. People will be encouraged to be conscious and discuss the Act.
2. They will attempt to access the information regarding the working of the system itself and already several applications have been filed.
3. Corrupt officials will become conscious of
  - (a) Grievances of the general public
  - (b) Preventing unnecessary delay in the movement of files.
  - (c) Taking bribes with impunity
  - (d) Being discouraged to attempt any illegal work e.g. distribution of Indira Awas Yojana houses in Nimapara block.

Many a time the people have pending work with the government departments. The bureaucrats really do not work on the file the way they are expected to act on it. Even if the grievances / petitions are filed to the higher authorities the matter is simply ignored. The Right to Information Act is then the most effective weapon to redress the issue. Simply demanding

to know the status of the work and name of the officials responsible for pending the work will force them to act. The officials have to give in writing the name of the person responsible to harass the people and the reason for the delay. Most of the time the files are held up without any reason. In that case they have to dig their own well to be drowned.

By compelling the state and central government to appoint Information Commissioners, empowering these Commissioners to act as appellate authorities and by vesting them with the powers of a civil court, these bodies have been given the teeth to discourage public authorities from refusing to part with information. The provisions of the Act require authorities to respond to queries within 30 days or in as less as 48 hours if it is a matter of life and liberty. However, real change can come only when the people of this country hold their government and public servants accountable, so that they are forced to respond to the poorest citizen of this land. And when that happen, no public servant or government would dare to be corrupt, inefficient or insensitive.

Transparency in the Indian system of governance has not been up to the desirable level till now. Several factors have contributed to this situation.

A) Traditionally, there has been a pervasive culture of secrecy in the system of government that is compounded by some provisions of the Officials Secret Act.

B) Moreover, low levels of literacy and lack of awareness amongst the general masses restrict information flow in India.

C) Absence of reliable and effective communication tools for storage and dissemination of information is also an encumbrance in the free

flow of information. In many government departments, the standard of record keeping is not up to the mark. Access to information is thus denied in many cases on the pretext that record is either irretrievable or 'misplaced'.

However this Act is defined as an "*Act of transparent governance*". I feel that it is actually an "*Act of the poor*". Despite all the shortcomings and lacunae in the Act and the state rules it can surely help to ensure the rights of the poor. Since the RTI has been put into force let it find its feet. Let us first see how it works and then modifications

like payments to access information, simpler application forms, acceptance of alternative modes of payment e.g. Indian Postal Order, government stamps etc. can be suggested. We are after all seeking transparent, responsible and accountable governance.

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#### **NATIONAL SYMPOSIUM ON "AYURVEDA IN 21ST CENTURY" INAUGURATED BY GOVERNOR**

Governor Rameshwar Thakur today inaugurated a symposium and seminar on "Ayurveda in 21st Century" on 22nd February at May Fair Lagoon Hotels, Bhubaneswar. The symposium has organised by Shree Vaidyanath Group, manufacturer of Ayurvedic medicines.

The Governor said that Ayurveda is a form of medicine that takes care of the body, mind and spirit. More research is required in this field to benefit the people. He said that Orissa is home to nearly 250 varieties of medicinal plants and many of them are available in the Gandhamardan range of mountains. Our ayurvedic doctors and researchers should go to that area and conduct extensive research. The tribal people of the locality should be involved, so that they can gain profit by cultivating these medicinal plants at a large scale.

Quoting BBC's panel discussion this morning that Ayurveda contains solution to the dreaded bird-flue disease, Shri Thakur said that our researchers should try to find solutions to cure dreaded diseases. Describing his own initiative in encouraging medicinal plant farming, he said that in Raj Bhawan there is a small ayurvedic garden in an area designed in the shape of a human body and relevant plants have been planted on each part, considering the possibility of diseases that could attach that particular part. Thakur invited ayurvedic doctors to come and see the garden. He also informed that President of India Dr. A.P.J. Abdul Kalam had also planted a tree in that garden.

Quoting Charaka, Shri Thakur said that the duty of a doctor is to enter the patients room with a smile, diagnose properly, then prescribe medicine and advise the patient regarding which medicine to take at what time and what intervals, for how many days. In case the patient is suffering from any incurable disease, the doctor should politely disclose that and continue his treatment with the advice that the patient should pray the Almighty for mental peace.

Works & Housing Minister, Shri Ananga Uday Singh Deo said that Orissa government will extend all co-operation to Ayurvedic research in the state and spread of Ayurveda. Ayurveda is gaining popularity day by day.

## A Noble Step Towards Right Direction

*Gobinda Pattanaik*

India, the world's largest democracy, which is approaching towards its 59th grand anniversary of freedom, is firmly established on the concept of, "the people, by the people and for the people" of this vast country. Constitution of this subcontinent has stood up on the strong pillar of transparency and accountability towards its citizens. But, how far the country and its constitution are able to achieve its vision and objectives is certainly debatable. Acts and amendments are always meant to cater the need of the common people and to nullify the degree of adulteration from the society. It may be a serious crime or a piece of information; they have to be disseminated to the general public and discussed widely to keep the procedure of any development, pure. But, the bureaucrats and the administrators of our country are strongly accosted with the culture of maintaining secrecy since the British ruler. The British rulers had initiated the process of confiding information due to their prejudiced mindset towards the Indians. And this process is prevailing even after independence and increasing the trend of cynicism among the officers. The aware and educated are getting benefit by tricking the poor and illiterate people in the country.

Though, India is a developing country but majority of its citizens are affiliated to ignorance and grinding poverty, since a long. They are easily

duped by others for their simplicity and illiteracy. They don't know where goes their energy and money after paying for revenues and taxes used for the common purposes. They are only limited to hand to mouth and deceived by corruption and immoral act done by some fistful unsocial elements. Thus, in order to put a stop in disparity and to fight for the greater interest, some philanthropists guide the whole nation to make the government answerable towards the utilization of the huge resources and money generated out of their flesh and blood. And the country at large arouses to claim their right to access the developmental processes in order to liberate the drowning consumerism from the influence of conspiracy and fraud. Ultimately, gathering momentum and increased pressure by people compel the central government for setting out the practical regime of Right to Information for citizens to secure access the information under public authority.

Therefore, for furnishing certain information to the general citizenry to promote optimum use of limited fiscal resources the Indian government promulgated the Right To Information Act, 2005, in 56th year of Republic day. The Orissa government enacts this unique tool of communication as the Right To Information Rule, 2005 and Special cells are being designed to disperse the desirable information within a limited

time to every citizen applied for it after payment of required fees. This fee is waived for the citizens who are below poverty line (BPL).

Undoubtedly, this phenomenon sounds preserving the real democracy at the paramount and involving every citizen of the nation in all implementing process. But, is this pragmatic and will succeed to attain its objectives in reality? Seventy percent Indian citizens are residing in villages as well as tribal areas. Most of them are not exposed to proper education, awareness and modernity. Especially, Orissa being a poor state and a sizable portion of its population are tribal and underdeveloped, they are prone to remain unaware about the govt. policies, formulated for their well-being in far away cities. Poor and below marginal people here are not aware about what BPL is and need not to discuss their knowledge level about the programme especially meant for them. Under such circumstances will the implementation of the Orissa Right To Information Rules, 2005 be effective to groom the common people to be more assertive towards their rights?

First and foremostly, it raises the question of awareness level among the people staying in extremely rural and remote areas. Even if they will be informed by any means, then how far it is feasible for an uneducated person to go through the rules and regulation, filling the application form and depositing the required amount of money for the information. How the persons with disabilities will be able to move for these purposes? If even they get the help of anyone then who will ensure that their work be done in time and with a single approach! Chances are high that in order to get a piece of information they may pay the double or even more than that of the actual expense, in form of travel, pursuance and other miscellaneous. Level of manipulation and delaying will be high as these people may not

be able to follow the real procedures and easily influenced by the authorities in charge. Then again there will prevail the same darkness of corruption as before. In spite of all these constraints if they succeed to get information and find out any mismatch or cheat in the process, then who will guarantee their right further and punish the mischievous officers for the cause! Who will again raise voice against it? When an educated and well aware person keeps silence even eye-witnessing a inhumane or heinous act out of fear of not making annoyed the corrupt officers, then how far it is tangible for the poor rural citizens to fight against any duplicity, done by the government authorities. Rather, it will wind the activities of some politically influenced leaders and volunteers to start advocating, initiating rallies and shedding tears against corruption but for their self interest! If this will be the result then what is the need of such an innovative step, which will again overburden some of the punctual officers, those sincere at work!

Yes, the purpose can be fulfilled for those who have courage to raise voice and understand the programme properly. They may get benefitted in some ways. But, again for a larger portion of people information will remain unaccessed. Educated middle class and high elite groups are always responsible towards their well-being. They can fight for their rights and make the things done at their own level. So perhaps they even do not require this system of acquiring adequate information because they know how to get their work done. The authority usually donot cheat a knowledgeable person due to the fear of being caught red handed. But, what about the actual sufferers! They will be kept aside and used as puppets in this rule. Counts of success will be numbered through this rule as of large number, but only in records and documents. Actual result will be sceptical.



In another way even if they execute the whole process with clarity and cleanliness, then how far it is possible for them to consider all the applications deposited by crores of people in Orissa ! The possibility of misutilization and intrincating the official information by some shrewd people to misguide the common people will be high. Leakage of restricted official data may be highly entertained. Misinterpretation of proper information may affect the information providing officers by the agitated ignorant people around us. Thus, both the pros and cons of the rule are needed to look into and lacunas should be found out early. Because already the Indian citizens are headed with heavy weight Acts such as Acts against women emancipation, domestic violence, crimes, discrimination of minorities, disabled SCs, STs and so on. But how much we have achieved the status of an anti-corruption system in our nation ! Rather growing issues supporting the crimes have made the common people apprehensive about the honesty and credibility of each employee as well as the employer and the government.

But, this Act can be a genuine and praiseworthy one, if promulgated in right way. People can enjoy the accountability and transparency of the government and be conscious about each paise of their money spent and energy utilized. It can reduce the stake of bureaucrats and dictatorship upon certain projects / programmes and activities of the government. Interference of general public can accelerate the process of decision making, to be taken within specific time frame and administrative officers will have fear for misutilization of power. Even if there will be, then the strength of a conscious mass can compel the government for punishing those

obstacles in the process. Simultaneously, glares of this simmering success can make the people concern towards their other fundamental rights and responsibilities.

Advantages and constraints are at the either side of this wonderful tool of the Right to Information Rule, 2005 for empowerment of the individual and the community. But it needs to be educated, aware and advocated properly at all level so that every person will acquire intensive knowledge about the Rule and how to walk smoothly in the process. The pros and cons should be discussed among different groups. And the government as well as the general public should be open to accept the probable changes in the process for a greater interest. People must be empowered not only for their rights and demands but also responsible to be involved actively in the process towards the attainment of their desired result. The habit of dependency upon the government for each and every action should be discouraged and people should initiate the process of looking into those matters, which can be solved at their end. Finally as the government has already vowed transparency about their activities, then people also be clear enough to trace out their best form out of this new innovation but with honesty. This way the whole mass of a sub-continent can be communicable to its government directly, by keeping the concept of democracy, intact.

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## Right to Information : Principles, Practice and Prospects

*Pradeep Kumar Baisakh*

Information is power. Withholding of information by the Government authorities weakens the position of public, whereas its disclosure empowers them. Various civil society organizations, experts and individuals have been demanding before the Government to pass legislations effectuating the right to information of people. Owing to the demand the Parliament passed the Right to Information Bill-2005 and the President gave his assent very recently; thus it becomes a law now. The law came to effect on 12th October 2005. It is applicable to both the Centre and the States.

The Right to Information (RTI) of citizens has democratic, logical and constitutional basis. (a) In a democracy the government's power and authority flows from the people of the nation and all public servants exercise power only on behalf of the people. Therefore it would be an anathema if what they did were hidden from the people. Moreover the freedom of speech enables people to contribute to debate on different issues socio-cultural, political, economic and moral. It is the only vehicle of political discourse so essential for strengthening the democracy. (b) Everybody pays tax. The money spent in welfare and developmental work and for paying the salaries and allowance to the officials and the public representatives is people's money. Even a beggar on the street pays tax, when he buys anything like

soap or a match box in form of sales tax, excise duties etc. Therefore the people of a nation has the fundamental right to know the details of how, when, where and by whom public money is spent. (c) The right to information of citizens is guaranteed under Article-19(1)(a) of Indian Constitution. The Supreme Court in *State of UP vs. Raj Narain Case* in 1975 observed the people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings. On many other occasions also the highest judiciary has reiterated the constitutional sanction behind the concept.

The RTI campaign started in Rajasthan by Ms. Aruna Roy and others of MKSS (Mazdoor Kisan Shakti Sangathan) with the demand for minimum wages of the 'daily majdoors' and their right to see the muster rolls from the authorities. Eventually the movement spread to other places of India and various governments were exhorted to pass the RTI legislations. Broadly four principles should guide the RTI laws. They are (a) Access to information should be the rule, and denial to it be the exception. (b) The grounds of denial to information be clearly and specifically mentioned. (c) Penalty provision for non-compliance to the demand of information or for furnishing false information by the officials



(d) Provision for an independent mechanism to address to the complaints of public, denied information or provided with false information. Once these principles are adhered upon the law would serve the following purposes. It will help (a) to bring about openness and transparency in the functioning of government, (b) to curb corruption and ensure accountability of the authorities to public, (c) to make the governance more meaningful and democratic by facilitating involvement and participation of people in the formulation and implementation of policies and programmes of government. The RTI Act-2005 seems to have fairly adhered to the above discussed principles and therefore is expected to usher a new era of democracy by achieving the aforesaid goals.

The news has started pouring in about how the use of RTI Act in different states has borne fruit. For instance, in Delhi a daily wage earner-Nannu, got his new ration card against the old one in just three days by making use of the RTI Act, which otherwise would have taken months together. In as many as 250 cases the people got their works done from the Delhi Vidyut Board (DVB), before it was privatized, without paying any bribe or using any contact, but using the RTI Act, Shri Anna Hazare-the Maharastra based social worker and RTI activist, claims on the basis of feedback given by people in 26 districts that transparency in governance is seeping into the grass root level due to the use of RTI Act. Similarly in Rajasthan the use of RTI campaign has a salutary effect on the functioning of the Panchayats and rural development, and in checking corruption in different levels. Some modest success stories on the use of RTI are reported from Goa and Madhya Pradesh also. After the central RTI Act came into effect in Orissa more than 56 applications have been filed by citizens for information in less than a month.

The exercise of the right to information has the potential to kill the seed of corruption from the society by infusing openness and transparency into the system and change the very face of the nation by making it more democratic. It depends on the imagination and innovativeness of the people as to how and in what fields they can use the RTI Acts. It can be used to remove poverty and unemployment from the country by ensuring the effective utilization of government funds allocated for the purpose. Mr. Jean Dreze, the NAC (National Advisory Council) member and the architect of the Employment Guarantee Bill while discussing the succesful implementation of the same underscored the importance of having effective RTI law and its wide use.

As much as 26000 crores of rupees per annum are spent as food subsidy in order to make available to the poor people their monthly rations. Due to the existence of unholy nexus between the licencees of the fair price shops (FPS) and the officers of food supply department substantial portion of the money is siphoned off; as a result the whole PDS system is in shambles. Due to the wide use of the RTI Act by the people of Sunder Nagri area of Delhi, the ration distribution has been streamlined to a large extent. This movement compelled the Delhi Govt. to accept some systematic changes infusing transparency and thereby facilitating accountability to the public. Now, under the rules, the records of ration shop owners will be thrown open for public verification everyday, and for any discrepancy found during the exercise the concerned FPS owner's license would be cancelled right on the spot and criminal proceedings would be initiated against him. So it may be safely assumed now that if the public in Delhi make use of this provision of seeing the records regularly, it would be impossible for the middlemen to black market the food stuffs. If similar exercise can be conducted all over the

country, then the starvation death and widespread malnutrition would be matters of past.

The Act can also be used to know how the fund under the MP/MLA LAD scheme has been utilized; to seek reports on what action has been taken on different grievances of public, if no action is taken, then why; to get the list of officers against whom complaints of corruption has been received and the nature of allegation in each case; to inspect the developmental works done by any government body in order to ascertain the authenticity of those etc.

During the process of ascertaining the information from various departments, the members of public are likely to suggest remedial measures and alternative policy proposals on different issues. For instance, in Rajasthan the suggestions of MKKS removed the serious anomalies existing in policies of rural development. Under the RTI law the authorities are supposed to make some *suo moto* disclosures. Once this

is properly done, it would provide ample opportunities to the intellectuals, civil societies and to a common man to contribute their rich inputs to the process of decision making and their execution.

After having a strong law now, what is needed is to bring about a change in the mindset of bureaucracy. They should be trained to abjure their propensity for secrecy and adapt to the concepts of good governance. The major onus to constantly maintain pressure on the government and to popularise the use and benefits of the Act lies on the civil society, the media and intellectuals. "It will take the form of a mass movement", hopes Arvind Kejriwal of *Parivartan*. Anna Hazare opines "once RTI becomes a part of the culture, the poor will get the real taste of freedom."

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The Government have decided to increase the monthly entitlement of APL wheat from 9.455 kg. per card to 15 kg. per card. The enhanced quota of the APL wheat will be supplied to all APL card holders through fair price shops as before. The APL wheat is sold by FPS's at the prescribed price of Rs.7/- per kg.

## The Right to Information Act, 2005

*Dr. Jyotirmati Samantaray*

The Right to Information Act promulgated countrywide on October 12, 2005, is a significant milestone in the journey of Indian democracy. The theoretical zeal behind the "Information Movement" needs to be tempered by an acute awareness of real life conditions at the grass-root level. Information has been perceived as power everywhere in general and by the executive (at various levels) of developing countries in particular.

The celebrated Hindi novel *Rag Darbari* (The Court Music) of Srilal Shukla, written about thirty years ago poignantly and allegorically depicts '*Dharam-ki-Ladai*' of a '*Langad*' (Lame ore), who spends a life time in vain in trying to get a '*nakal*' (copy) from a Registration Office without paying the mandatory bribe. Even after 30 odd years of '*Rag Darbari*' it has taken a strong-willed public movement to brave the odds for eight long years to get to the people what should be naturally theirs - the "Right to Information", in the form of an act.

The movement for RTI can be traced back to the grass-root struggle of the rural poor, who have sought to fight against corruption in their areas affecting their livelihood and justice around them. The RTI got the legal support for the first time in 1975 in Supreme Court Case of *State of U.P. vs Raj Narain* (1975). In 1978, RTI was sought for

exercising certain suggestions and objections to the Motor Vehicle Act in Gujarat. The State Government refused to part with the information stating that, it was confidential under the Official Secrets Act, 1923. The RTI took the ground in another landmark judgment in 1981 by Attorney General Soli Sorabjee in the case of *S.P. Gupta vs Union of India*. The Court declared that "the concept of an open Government is direct emanation from the right to know which seems to be implicit in the right of speech and expression guaranteed under Act 19(1)A."

In 1982, Mathew Commission Report recommended for the amendment of the Official Secrets Act, 1923. In 1989, V.P. Singh's National Government came to power and declared its decision to make RTI a Fundamental Right.

By this time the demand for RTI got intensified and took the shape of a mass movement. The struggle for the same reason came alive when Mazdoor Kisan Shakti Sangathan (MKSS), a NGO in Rajasthan stirred national conscience through a unique movement for justice in wages, livelihood and land concerning various districts of Rajasthan.

In 1995, the Press Council of India drew up the first blue print for a Freedom of Information Bill. It asserted that information which could not be denied to Parliament or State

Legislature should not be denied to a citizen. In 1997, the Government of India introduced the Freedom of Information Legislation. In 1997 itself, a working group presented another draft. In July, 2000, the Freedom of Information Bill 2000 was finally introduced in Parliament. The Parliament of India have passed the Right to Information Act (RTI) in May, 2005. The Act which received Presidents' assent in June 2005, came into full force from 12th October, 2005.

One of the most important issues raised in respect of the new Act first came to public prominence when President of India commented on the Law in June, 2005 and expressed his disapproval of the inclusion of file notings under the purview of the Act.

Prime Minister Dr. Manmohan Singh has instructed the Department of Personnel and Training to exempt file notings on identifiable individuals, groups of individuals, organizations, appointments, matters relating to inquiries and departmental proceedings from the purview of the Right to Information Act.

The Right to Information Act (RTI) is a legislation for the have-nots. The RTI is a comprehensive legislation that would confer statutory rights on citizens for seeking information from public authorities. It is a legislation for poor. The Act seeks to ensure (a) maximum disclosure and minimum exemptions consistent with constitutional provisions, (b) an effective mechanism for access to information and disclosure by authorities, (c) an independent appeal mechanism and (d) penalty for failure to provide information as per law.

The Act is not applicable to Jammu & Kashmir. Intelligence and security organizations are out of its purview. It provides exemptions for all documents of the Cabinet and Council of Ministers.

The Preamble of the RTI Act states that it sets out to provide a "practice regime of right to information for people to secure access to information . . . . in order to promote transparency and accountability." Only citizens can request information from a public authority.

It is simple. You need to make a written request to the PIO (Public Information Officer) of the department concerned on plain paper in the prescribed format and fee. It should never take more than 30 days, except in cases concerning the life and liberty of a person, where information must be provided within 48 hours. Where no response is received, that will be deemed to be refusal. Where applications are approved, a fee will be imposed for accessing the information.

If a person feels that he or she has been wrongly denied information, he or she can appeal to the officer senior to the PIO in the public authority concerned who is the Appellate Authority. A second appeal can be lodged with the State Information Commissioner and penalties can be imposed on the concerned PIO at Rs.250/- per day.

Want to know how much money was earmarked for repairing roads in your neighbourhood, or what the Government spends on VIP Security? Now onwards, just ask the Government and it is obliged to provide answers. That too within a specified time. The RTI Act places India among 55 countries in the world to have such legislation.

The Act provides for penalties. It will be the power of the Central Information Commission / State Information Commission to receive complaints if the PIO does not provide correct and timely information. In our State, Orissa, the State Information Commission is headed by the

Chief Information Commissioner who is assisted by one Information Commissioner at present.

Former senior IAS Officer, Shri D.N. Padhi is the Chief Information Commissioner of the State Information Commission. Prof. Radhamohan is the State Information Commissioner of the two member Commission. Presently the Commission is located at State Guest House, Bhubaneswar. The Commissioner is the Appellate Authority for hearing appeals from aggrieved persons who have been denied information. The Commission can inquire into an appeal from a person who has been refused access to any information requested under this Act or who has not got a response to a request for information within the specified time limit.

In Orissa, there is RTI Cell at Reception Office of the Orissa Secretariat to receive applications for all the departments functioning in the Orissa Secretariat Building. Similarly, for each office of the State Government there are PIOs and Appellate Authority.

The RTI Act has given hope to the common man. To making it work is the task ahead. Ms. Aruna Roy, whose Mazdoor Kisan Shakti Sangathan (MKSS) first took up the cause feels that a forum is to be created so that people all over the country can make use of RTI through

the time tested method of social audits. She has also asked the World Bank to review its disclosure policy and projects of public importance.

The RTI Act if implemented effectively will give people information. One of the most important part is section 8(2) which stipulates that information legislation of a state shall not be denied to any person. The citizen should take this opportunity to utilize the new Act. This Act will definitely stiff Indian democracy to a vigorously participatory one. The law can bring transparency, accessibility and accountability or can combat diseases of corruption only if citizens use it intelligently and effectively.

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*Hon'ble Chief Minister Shri Naveen Patnaik at the 31st Biennial National Convention of Hind Mazdoor Sabha at J.N. Indoor Stadium, Cuttack on 3-2-2006.*





## Right to Information : A Step Towards Accountability

*Basanta Das*

Independent India inherited an administration which was framed by the British masters to rule the Indians. The Britishers had ruled India for nearly two centuries and for their convenience had set up a bunch of rules to keep their position safe. When India became independent we followed the same colonial rule without making any major changes. Even today, fifty-nine years after Independence, the basic colonial structure of administration persists. The words like His Excellency and His Lordship are still used in official correspondences. Though the red colour of the tape of the files had been changed, red-tapism still deprives the common man from his legal rights. Despite all high sounding words, for everything in Revenue matters we are to affix court fees which was practised in a colonial system. Though article 14 of the Indian Constitution provides, "the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India", could it be boldly said in free India all the citizens are enjoying equal treatment before law? what percentage of people have the access to know about the affairs of their own government? The fundamental rights as envisaged in the Constitution are still misnomer for majority people. Fifty-nine years after independence nearly forty percent of people are illiterate who even can not give their signature.

Under this background Government of India has enacted the Rights to Information Act, 2005 which has been given effect from October 12, 2005. Orissa Government on its part have also framed "Orissa Right to Information Rules,

2005" for effective implementation of the Act. No doubt it is a step to make the administration more transparent and accountable, but how-far the Act would achieve its objective goals is difficult to pronounce.

Our bureaucratic system functions under the shield of "Official Secrecy Act" and most of the officials are averse to part with any information. Even the legislators, the elected representatives of the people at times are deprived of getting informations in reply to the question they put in the House fourteen days in advance. The concerned Ministers being guided by their respective bureaucratic machinery prefer to shift responsibility by simply saying, "informations are being collected". The Assurance Committee in more than one occasion have expressed their concern over the apathetic attitude of the official set-up. But we don't find any substantial change in the attitude. The grievance cells functioning in different departments have also miserably failed to redress the miseries of the common mass. Then how can we expect good response from the same apparatus? How far the old system would be able to handle the new act is a million dollar question.

A critical analysis of both the Act and the Rule somehow reflects a gloomy picture. First of all a common man of the Indian society is totally ignorant about the functioning of the government to which he has voted to power. Unless he or she has the basic knowledge regarding the budgetary provisions, funds allotted for different projects and schemes or other welfare measures for which

government decisions have already been taken, how can he seek for informations? Second, the procedure prescribed for seeking information looks cumbersome. It has not been specified whether the prescribed forms would be made available to the person living at the grass-root or not? Third, the method of depositing money for the purpose appears to be complicated. It is not practically possible for everybody to go to the treasury to deposit the required fees in shape of treasury challan for filing application. Besides, it has been prescribed to deposit the application fee for first and second appeals in shape of court fee stamp.

Though the persons living Below the Poverty Line (BPL) have been exempted from the fees to file application, both the Act and the Rule are silent whether they would be required to deposit required amount of fees to receive information in shape of print out copies, floppy diskette, C.D. or map and plans. In a state like Orissa about sixty percent people are in the Below Poverty Line category and they do not enjoy even a square meal a day.

Therefore it is more pertinent for the State Government either to change the present structure and thereby exempt the BPL persons from paying any fees at any level or to make budgetary provisions so that government could deposit fees on their behalf.

Another vital aspect on which the state Government should act is to provide adequate training to the Public Information Officers and the Appellate Officials who are so far tuned to deny information to the people under the plea of Official Secrets Act. It is not an easy task for the officials to adopt a total divergent approach. Under the provisions of the Right to Information Act now they are supposed to part with all the informations at their possession except which affect the sovereignty and integrity of the state, which has been expressly forbidden by any court of law or which might cause a breach of privilege of Parliament or the State Legislature.

Another area which draws the government attention is to include all categories of institutions and organisations under the purview of the Act. The non-Government organisations popularly known as NGOs who are handling crores of rupees including the foreign contributions are not accountable to anybody. They should be asked to disclose their income from different sources and the expenditures they make on different projects.

Meanwhile Orissa Government have floated one website through which all informations regarding the functioning of state machinery are available. But compared to the magnitude of four crore population, there are a few fortunates who have access to website. Despite of all claims through manipulations the language dailies of Orissa have not yet covered even two percent of the State's population.

In Orissa over eighty percent of people live in rural areas for whom the modern technology or the advancement of science is nothing but a myth. Most of them are unconcerned to know about the functioning of the government to whom they vote to power. Under such a circumstances what is more needed is to create awareness among the people through various methods of propaganda. The provisions of the new Act alongwith the prescribed forms should also be available to the people at the grassroots.

Though in infancy, the Right to Information Act has raised a new hope to promote transparency and accountability in the Government, no doubt it provides a scope to the people to know the ins and outs of the Government which they choose at the interval of every five years. Let us wait patiently for the seedling to bear fruits.

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# Right to Information Act 2005 and Beyond

*Prof. Digambar Shatapathy*

The Right to Information Act, 2005 is an epoch making legislation that has been enacted by the Indian Parliament. Ever since it came into force, it has created ripples in the democratic firmament of the country. It has set the ball rolling with the avowed objective of promoting transparency and accountability in public life. There is no denying the fact that democracy has been deeply entrenched in Indian body politic. But what disturbs the common man's mind is the erosion of faith in the outcome of democratic process and its far reaching ramifications in the Governance of the State. Transparency, accountability and good governance have found its abode mostly in lip service. People speak of probity in public life, but refrain from practicing in trying situations. Corruption in all forms are becoming more and more pronounced in every walk of life. Everybody points finger to others. Self introspection has become word of myth. One of the major reasons for this kind of frustrating scenario is the lack of free flow of information. Democracy requires an informed citizenry and transparency of information, which are vital to its functioning and containing corruption. Plethora of rules, regulations have been made since independence by successive governments to achieve transparency of information. But, every bit of it's found wanting when put it into practice. We could not, may be subconsciously, make ourselves free from excess

use of two words, namely, "Confidentially" and "Secrecy" a legacy let loose in the colonial period to keep people in darkness. RTI Act 2005 is a determined attempt to take us from darkness to sunshine.

The dynamics of "change" has been so profound in legislating this RTI Act, 2005, that the Freedom of Information Act, 2002 could not hold its forte and had to be repealed. Each of the 31 Sections of this Act bear testimony to law makers' unadulterated intention and sincerity of purpose. Instead of making attempt to discuss this act in totality, let me focus on some of its major strengths.

1. Excepting eighteen subjects enshrined in the Second Schedule of the Act relating to intelligence and security organizations, the Act pervades all other subjects of Governance. Even these exempted subjects are totally not out of bound of this Act. Access is allowed to that part of the record if it is linked with human rights violation or allegations of corruption.

2. Section 4 of the Act makes it mandatory for every "Public Authority" as defined by the Act, to make voluntary disclosure on seventeen items and publish the same for general information. These information need to be computerised and connected through a network all over the country. The Act stipulates one hundred and twenty days



from the enactment of this Act i.e. by 12th October 2005 for publication of the information by Public Authority. Once this is done, majority of information could be available from the publication itself.

3. The definition of information is another landmark in the Act. It includes records, documents, memos, e-mails, opinions, advices circulars, orders etc. In fact, section 8(J) states in the proviso that the information which cannot be denied to the Parliament or State Legislature shall not be denied to any person. This proviso puts any person at par with a Member of Parliament or Member of Legislative Assembly so far as access to information is concerned. It is the general experience to counter question like "Why" and "What for" if one asks for an information from a Public Authority. Then information provider denies giving information on the ground of confidentiality, secrecy, unreasonable, non-connected, so on and so forth. That is the reason section 6(2) clearly states, "an applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him." Not only that, as per the Act, right to information includes right to (i) inspection of work, documents, records (ii) taking notes, extracts, certified copies of documents and records (iii) taking certified samples of materials (iv) obtaining information in the form of tapes, floppies, video cassettes, computer printout etc.

4. Each "Public Authority" shall designate Central Public information Officer or State Public Information Officer, as the case may be, in all administrative units or offices to be the provider of information. Wherever necessary the Public Authority can appoint Asst. Public information Officer. Section 7 stipulates that the information

need to be provided within 30 days of the receipt of the request. But if the information sought for concerns life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request. Unless the information is given within aforementioned specified period, it shall deemed to have been refused. In the event of refusal, the aggrieved party may prefer an appeal before such an officer superior in rank to the Public Information Officer in each Public Authority within 30 days from the date of receipt of the decision of the PIO / APIO. This first Appellate Authority is to be designated by the Public Authority within the ambit of Section 19.

The information seeker may prefer the second appeal against the decision of the first Appellate Authority before the Central Information Commission or State Information Commission, as the case may be, within 90 days from the date of decision of first Appellate Authority is received.

5. The Central Information Commission and State Information Commission constituted by the respective Government as per the guidelines enshrined in the Act under Chapter III and Chapter IV respectively enjoys wide range of powers. Both the commissions, in the matter of inquiry have the same powers as are vested in a civil court while trying a suite under the Code of Civil Procedure, 1908. The strengths of these commissions can be well understood from the Section 19 (7) which says that the decision of the Central Information Commission and State Information Commission, as the case may be, shall be binding.

6. Penalty provision under this Act is unmatched in its quality and content. If the application for information is not received without any reasonable cause or the information is not furnished within the specified time limit, the

commission shall impose a penalty of two hundred fifty rupees each day till application is received or information is furnished subject to condition that the total penalty amount shall not exceed twentyfive thousand rupees. Before imposing penalty, the concerned Public Information Officer shall be given reasonable opportunity of being heard. Further, depending on the " gravity of the offence like malafied denial of request or furnishing of deliberate incorrect information, the commission can recommend disciplinary action against concerned Public Information Officer under the applicable service rules.

The discussion in preceding paras bring home some of the major thrust areas of the Act which make it so much exemplary in helping to contain corruption and providing good governance. But with the passage of time, the shortcomings can be surfaced as feed back through process of implementing the Act. For example, Section 21 of the Act which reads, "No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made there under" may provide leeway for partial or complete protection from the perview of penalty provisions. Similarly, the gap between first appellate authority and the commission may become the breeding ground, specially at the perception level, for erosion of faith in the Act. For example, at Panchayat level the hierarchical system is so very limited selection of first Appellate Authority with the same Public Authority will be extremely difficult. Secondly, even if it is done, there will be huge gap between the first appellate authority and the commission. These perceived difficulties can be obviated to a great extent provided the appropriate Government in exercise of power conferred by Section 27 of the Act make well thought out rules to carry out the provisions of the Act.

The State Government rules notified on 1st October 2005 is a step in right direction to provide teeth to the Act. But going through the thirteen rules and appendices included in the notification, it appears to be a hasty attempt taken to meet the time limit stipulated by the Act. Usually provisions of the Act are more stringent than the rules framed there under. The Act, in the instant case, instills confidence and sense of dignity in the minds of common citizen. One can feel sense of participation in the governance of the State. But Orissa Right to Information Rules 2005 is yet to generate same feeling.

- (i) The Rule 4(2) stipulates that PIO needs to be satisfied with the identity of the applicant before issue of acknowledgement of receipt of application. Further, definition of identity as given by Rule 2(e) specifies documents like Photo Identity Card, Passport etc. But the Section 6 (2) of the Act expects the applicant to give only the personal details for communication.
- (ii) The fee structure included in the rule for calculating the amount to be charged is on higher side. For example, when person doing Photocopy business charges 75 paise per page per Photocopy, the State Rules Prescribe Rs.5/- per page. Central Rules has fixed it at Rs.2/- per page. Further, the Central Government has fixed rupees fifty per diskette or floppy whereas state rules has fixed double the amount.
- (iii) The Form-B is designed to inform the applicant about "Total Fee" to be paid for providing information. But this form should also mention the detail break up of the fees as it is obligatory on the part of PIO under Section 7(3a).
- (iv) The Section 27 and 28 of the Act specifies kind of fees for which appropriate Government and Competent Authority can make rules to provide information. But prescribing fees for first

and second appeals needs to be considered for deletion. The appeal procedure needs to be more vivid for that State Government may bring out separate notification as Central Government has done it.

(v) Orissa rule should also make provision under Section 20 (2) of the Act, recommending disciplinary action against the defaulting PIO under the applicable Service Rules.

(vi) Rule 10 which relates to calculation of cost of damage and charging the cost to the applicant is arbitrary. The applicant is no way linked directly causing damage to the public property. Hence, it needs to be deleted or further elaborated.

(vii) Form -C which relates to intimation of rejection contains nine points. The Section 7(1) of the Act says that a request for information can be rejected for any of the reasons specified in Sections 8 and 9 only. But the tone and tenor of Form-C drives it to become prohibitive in nature and provides shelter for non-compliance of the request.

The Act is now in force. The rules have been notified. Let us now look beyond the Act. How we can help in making it fully functional? How can we make it citizen friendly? The first task is to give a relook to the Rules with a positive frame of mind and make necessary additions and alterations so that it serves the objectives of the Act. Secondly, the Official Secrets Act, 1923 promulgated during British era was founded on sheer negativism to keep the citizens in dark by denying information. Unfortunately this Act continued to play the major role in Independent

India as it provided protective cover from Public Scrutiny to the executive wing of the Government. Several attempts have been made to modify or abolish Official Secrets Act, but in vein. But, now it has to be relooked and reframed so that it does not act as a stumbling block in successful implementation of RTI Act. Similarly, Orissa Government Servants (Conduct) Rules, 1959 needs reframing. But, what is urgently needed is to drop the word "Confidential" from the format meant for the annual assessment of the Government servants by the superiors in rank in the hierarchical system. If this is done, it will go a long way in emboldening the PIOs / APIOs in providing information without fear or favour.

The RTI Act, if implemented with letter and spirit, will certainly warrant change in dynamics of "Question Hour" in parliamentary democracy. When the path providing access to information is so lucid, the necessity for getting information by Hon'ble members through legislative wings gets limited. As a result the time consumed to get information at every level in the bureaucratic corridor can be saved for addressing other issues. In other words, it will set in inertia of quick disposal resulting in good governance. This is just a food for thought. It requires indepth introspection and analysis to arrive at a decision. But, can we give a start in thinking in that direction? It is a million dollar question.

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## Biju Patnaik, The Unique Mass Leader of Orissa

*Balabhadra Ghadai*

His life was a story of struggle, sacrifice and achievements. In his childhood he once broke the police cordon to touch an aeroplane. As a football player, he always dominated the playground. He could swim across the river Mahanadi in spate. As a student in Ravenshaw College he undertook an adventurous journey by bicycle from Cuttack to Peshwar, a distance of 4500 miles. As a pilot he displayed exemplary skill and courage by bringing revolutionary leaders from Indonesia in face of stiff opposition from the Dutch. He was no other than Bijayananda Pattnaik, popularly known as Biju Babu, the foremost mass leader of modern Orissa.

As a dreamer he dreamt of a progressive and prosperous Orissa in which the glory of the days of Emperor Kharavela would be revived. He recalled the days when it was the greatest empire of India extending from the Ganga to the Godavari. Its army had defeated Alexander's Greek Army and had thrown them across the border of India. Kalinga was the largest maritime power ever known in the world whose merchant-sons had to brave the rivers and seas to establish commercial trade link with Java, Sumatra, Bali, Borneo and many other South East Asian countries and made the Kalinga Empire affluent. The epoch also witnessed a galaxy of architectural marvels at Puri, Konark and Bhubaneswar.





Biju Babu was a patriot par excellence. It seems that his mother Asha Devi had moulded the emotional life and character of young Biju and had left her imprint on his personality. Her advice was, "Beginning from the dust every object of this world is working for the benefit of human beings. You will also work for the human society". At a later stage he was profoundly influenced by Gandhiji's trumpeting call to free India from the British rule and came forward to associate himself with the underground movement led by Jayprakash Narayan and Ram Manohar Lohia in 1942. He was arrested on 13.1.1943 and was put behind the bar for two years. Soon after his release from jail in 1945, Biju Babu appeared as a vibrant leader in the political firmament of Orissa.

In the year 1946 Biju Babu was elected uncontested to the Orissa Legislative Assembly from North Cuttack Constituency. In 1952 and 1957 he won from Bhanjanagar and Jagannath Prasad respectively. On 13 February 1961 Biju Babu assumed the presidentship of the State Congress. The over all responsibility of the Congress Party in fighting the mid-term election in 1961 was that of Biju Patnaik. The Congress Party captured 82 seats out of 140 securing 45% of the total votes polled and he won from Choudwar Constituency. The poll verdict was astounding and as a reward for securing absolute majority for the Congress first time in the Legislature, Biju Babu took over as the Chief Minister on 23 June, 1961. In 1967 he unsuccessfully contested but the next year he was nominated to the Rajya Sabha. In 1971 he contested from four Assembly constituencies and one Lok Sabha Constituency as a candidate of his newly formed regional party named Utkal Congress but lost the election. In spite of successive defeats he was firm and headstrong.

Biju Babu was elected to the Orissa Legislative Assembly in 1971 in a by-election from Rajnagar. In 1974 he won from Patkura and became the Leader of the Opposition. In 1977 he won from the Kendrapara Lok Sabha Constituency and became the Union Minister for Steel & Mines from 1977 to 1979 and Union Minister for Steel & Mines and Coal from July 1979 to January 1980. He was the Member of the Lok Sabha from 1980-85. In 1985 he resigned his Lok Sabha seat to contest from the Bhubaneswar Assembly Constituency and became the Leader of the Opposition in Orissa Legislative Assembly. In 1990 Assembly Polls he steered his party Janata Dal into victory and became the Chief Minister of Orissa for the second time. It is worth mentioning that his party could secure 123 seats out of 147 and reduced the main opposition party strength to 10 as against the required number of 15. Biju Babu contested the 12th Lok Sabha election (1996) from Aska and Cuttack Constituencies and won both the seats. Later on he resigned from Cuttack Parliamentary seat.

Biju Babu's first spell of Chief Ministership lasted for only 15 months but during this short period he made a mark in the history of Orissa by giving his people a powerful and efficient administration. He sought to inject a rare dynamism into the administration and lifted the featureless and futureless people of Orissa out of the slough of despondence. He succeeded in setting up the Paradeep Port, the MIG factory at Sunabeda, a Thermal plant at Talcher, the Express Highway connecting the iron ore deposits of Sukinda with Paradeep, Balimela Hydel Project, Engineering College of Rourkela, Sainik School and Regional College of Education at Bhubaneswar and Orissa University of Agriculture and Technology at Bhubaneswar.

The name of Kalinga was so dear to the heart of Biju Babu that he set up Kalinga Tubes, Kalinga Airways, Kalinga Iron Work, Kalinga Refractories and the Kalinga, a daily Oriya Newspaper. In 1951 he established the international Kalinga Prize for popularization of Science and Technology among the people and entrusted the responsibility to the UNESCO.

Biju Babu was well aware of the fact that Orissa was a poor and backward state in the country inspite of having a good deal of natural resources and its reason was the lack of proper planning for development. He set up the State Planning Board and a number of Public Corporations. Ayodhya Nath Khosla, the internationally reputed engineer as the Governor of Orissa gave a helping hand to Biju Babu in formulating the development of the river basin of Orissa, by preparing a ten-year plan popularly known as the Decade of Destiny.

During the second term of Chief Ministership from 5.3.1990 to 15.3.1995 Panchayati Raj movement gained momentum under his dynamic leadership. He took a revolutionary step to reserve 33 percent of seats for women in the three tiers of the Panchayat Raj system and subsequently Orissa Zilla Parishad Act of 1991 and the Gram Panchayat Samiti Amendment Act of 1992 were passed by the Orissa Legislative Assembly, which provided for 33 percent of reservation for women including S.C. and S.T. women. Further provision was

made so that one third of the Zilla Parishad would have inclusively women Chairpersons. In the case of Panchayat Samities and the Gram Panchayats one of the two office-bearers, i.e. Chair Person or Vice-Chair Person in case of Samiti and Sarpanch or Naib-Sarpanch in case of Gram Panchayat must be a woman. As a mark of his profound love for Panchayati Raj institution the people of Orissa observe his birth day (March 5) as Panchayati Raj Divas.

Many of his dreams remained unfulfilled. He was rightly honoured by the Indonesian Government with the highest citizen award of that country *Bhumiputra*. The 'Son of the Soil' breathed his last on 17th April 1997 at the age of eighty-one. The whole country was stunned. Message condoling his death and eulogizing his contributions started pouring in from far and near. Manoj Das the eminent writer and thinker wrote on his sad demise, "Perhaps Biju Patnaik was having a developed inner-self which was known to a very few of his fellow beings. He seems to have achieved many things in one life which might be impossible to achieve in a number of lives".

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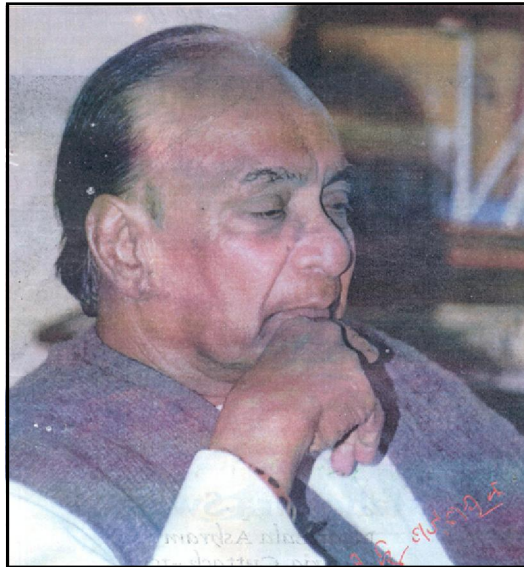
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## Biju Patnaik : An Illustrious Son of Orissa

*Hemanta Kumar Nayak*

Bijayananda Patnaik, popularly known as Biju Patnaik could become a legendary hero in his life time. He could prove that greatness does not descend to a man automatically, it is acquired by hard labour, perseverance and sacrifice. He distinguished himself as an Aeronautical Engineer, Navigator, Pilot, Industrialist, Freedom Fighter and above all a Statesman of National and International repute.

On 5th March, 1916, Orissa has given a great son to its soil by the parentage of Smt. Ashalata and Shri Lakshminarayan Patnaik at Cuttack. After receiving science education at Ravenshaw College, Cuttack, he entered into the Aeronautical Training Institute of India and Delhi Flying Club. Being an adventurous youth he captained University Team of hockey and football in his college career. He was trained to become a distinguished pilot and navigator. He joined Indian National Airways as an ace pilot and also served as the chief of the Air Transport Command in the years 1940-42.



Bijubabu joined the Quit India Movement in 1942 and became a leader of underground Congress Movement alongwith Jaya Prakash Narayan and Dr. Ram Manohar Lohia and underwent imprisonment during 1942-45. During his participation in the Indian Freedom Struggle Biju Patnaik came in contact with Pandit Jawaharlal Nehru and became his trusted friend. He maintained contact with Nehru and consulted him whenever required. He was also instrumental in signing the Linggadji Agreement on 25th March, 1947 which brought an end to the Dutch rule in Indonesia. Pt. Nehru entrusted the task to

Biju Patnaik to create international public opinion against the Dutch and also persuade the friendly countries to raise the issue before the U.N.O. Biju Patnaik sprang up to instant action. He braved all hazards and rendered his best of service to the people of Indonesia at their crucial hour of need. He flew to Java and brought Sultan Sjahrir aboard from Java islands on 22nd July, 1947 by his own Dakota and reached India via Singapore

on 24th July. It is reported that his wife Mrs. Gyan Patnaik also accompanied him in this perilous mission. This noble and heroic deed of Biju Patnaik was duly recognised by the Indonesian Government for his act of bravery at such crucial and critical juncture. He was awarded "BHOOMI PUTRA", the highest Indonesian award and a rare distinction ever granted to a foreigner.

Biju Patnaik also played a very significant role in the historic Jammu & Kashmir operation in 1947. At such critical juncture there appeared Biju, infuriated, yet committed to the cause of the nation. The prestige of motherland was his prime consideration rather than anything else. He always took up the task as a challenge and his efforts were successful. He was able to land the first platoon of troops at Srinagar Airport on 27th October, 1947 at 10.00 a.m.

Bijubabu became the Chief Minister of Orissa in 1961 and Union Cabinet Minister for Steel and Mines from 1977 to 1979 and Union Minister for Steel, Mines and Coal from July, 1979 to January, 1980. He was the member of the Lok Sabha from 1980-85. He became the Leader of the Opposition in the Orissa Legislative Assembly from 1985-89 and was sworn in as Chief Minister of Orissa for the second time on 5th March, 1990.

"International Kalinga Award" is the contribution of Late Biju Patnaik. He has

instituted this Prize for the popularisation of science among the common people, which is monitored by UNESCO. Bijubabu was quite conscious of holding the banner of Kalinga high. He named his airlines as Kalinga Airlines and all his industrial establishments are named after Kalinga. People of Orissa are really proud of Biju Patnaik for his endeavour to organise a voyage to the Indonesian island of Bali to commemorate the glorious sea-fare tradition of the people of Kalinga.

The people of Orissa mourned his death most grievously. The mortal becomes immortal for his undying legacy and he still lives in renewed vigour in the hearts of millions of people of his state as well as his country. Biju Patnaik departed on 17th April, 1997 in New Delhi and the normal activities stalled due to break down of the emotion of Oriya people in Orissa. Lakhs of people rushed spontaneously to take part in the funeral procession jamming the entire 59 km road from Bhubaneswar to Puri. That shows the greatness of a man, an illustrious son of Utkal Janani.

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## Panchayati Raj and Biju Babu

*Dr. Tushar Kanta Pattanaik*

Panchayati Raj in Orissa has a hoary past. Orissa had the tradition of community organization in different forms since very ancient times. The Moghul and the British administrations were mostly responsible for the deterioration of the traditional community organization in the State. After independence, the Constitution of India in the Directive Principles of State Policy declared "the state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government." In Orissa, village panchayat, District Boards, and Local Boards were formed as the first stage of democratic decentralization. The land Revenue Committee in their



report to the state government in 1948 recommended a scheme of "*Anchal Sasan*" as the process of democratic decentralization of administration after working of the Gram Panchayats Act. *Anchal Sasan* was the plan of

setting up a local authority at a higher level than the Gram Panchayats so that popular representatives would have a decisive voice in the activities in the different fields of development.

The Orissa Anchal Sasan Act was passed covering the recommendations of the Land Revenue and Land Tenure Committee in 1956. This Act provided to divide the entire state into certain administrative units called Anchals. Each with an Anchal Sabha as the administrative authority consisting of Anchal Sasan and Anchal Adhikari. During the Chief Ministership of Naba Krushna Choudhury, the Anchal Sasan Act was passed. He was very enthusiastic to implement this progressive scheme but to his bed luck in the same

year 1956, when the Anchal Sasan Act was passed, Mehta committee appointed by the Central Government submitted their report of a scheme of decentralization of administration. It was a three-tier scheme-Zilla Parishad, Panchayat

Samiti and Gram Panchayat and started working successfully in an auspicious note.

### **Arrival of Biju Babu**

When Biju Patnaik took over the reign of administration in sixties, he strived passionately for vitalizing the Panchayati Raj System, which according to him is the basis of Indian democracy. He described each Sarpanch as Chief Minister of his Panchayat. His policy had been to progressively delegate more and more functions and to fully assist the three tiers of the system of administration to develop into effective popular institutions for implementation of various development works, schemes and programmes. On November 20, 1961, Biju had given a historic speech in Orissa Legislative Assembly on Panchyati Raj which was highly applauded by Prime Minister Jawaharlal Nehru. In his monumental speech he said. ... "This is a movement of building up leaders of men from the lowest rung of our society and it is not going to be easy. It is almost a people's movement, we are only trying to give it some hope, some other direction or some authorities. But the movement can only succeed if we give that authority to the people right down from the bottom of our social ladder who can exercise effective leadership. It is a big question and we have in this house got to think with far greater sympathy and prospective looking at a distant future and planning from now how you want the future to be built."

Works started with feverish zeal and renewed vigour to restore Panchayati Raj in Orissa under dynamic leadership of Biju Patnaik. He made sincere efforts to vitalize Panchyati Raj. The implementation of the Community Development Programme was fully entrusted to the Panchayat Samitis in 210 blocks. The management of primary schools including sevashrams of the Tribal and Rural Welfare

Department was transferred to Panchayat Samitis. Other programmes entrusted to the samitis include grain golas, local development works, rural communications and drinking water supply. Even under loan scheme like "Pisciculture" and "other remunerative scheme" of the Gram Panchayat Department, the Parishads and Samitis had been associated for distribution of funds allotted under this scheme. First and second prizes of Rs.50,000 and Rs.25,000 respectively were awarded by the Government to 34 Gram Panchayats every year and the prize money was meant to be utilized as the share in the Industrial Co-Operative for starting Panchayat Industries. Shares had been given to the three-tiers of Panchayati Raj Administration for maintenance of their administration.

One of the most novel experiment introduced by Mr. Biju Patnaik was the concept of Panchayat Industry in 1962 for rural Industrialisation. The State Government initially started 48 Training-cum-Production centers which were being maintained under block programmes and converted them into Panchayat Industries. These industries include tile units and small crystal sugar units. It was related to the scheme known as Gram Panchayat Prize Competition, which was introduced by the State government in 1962. But unfortunately, after his exit, his vision on Panchayati Raj was not emulated by successors.

### **More Pragmatic in Second Tenure**

Biju in his second spell as Chief Minister of Orissa was more determined and exhibited sheer self confidence and unremitting zeal to streamline Panchayati Raj. Recalling his abortive bid for rejuvenating Panchayati Raj in sixties, he once said "32 years back, when I was the Chief Minister of the State, I got incredible support from them. At that time I tried to assimilate every people

of village into democratic ideals. For this numerous steps had been taken and various new laws were passed. Unfortunately the political storms of the sixties could not able to accomplish this noble mission. So when I am ruminating about the past I feel hapless and realized a lot has remained to be done".

In fact under his leadership Orissa became the first state to streamline the Panchayati Raj and Local-self Government Institutions to make democracy Participatory and not the aristocracy of a few nitpicking intellectual. For him "Let the people rule themselves, let them check out plans/schemes for the improvement of their respective areas and let them execute their plans" was the hallmarks of Panchayati Raj administration. According to Biju Babu the goals of Panchayati Raj cannot be fructified unless there is proper devolution of financial powers to Panchayats. His Government made concerted effort for appointment to a special finance commission to look after the domain of devolution of financial powers.

Biju was most emphatic about the participation of women in the Panchyati Raj system. He announced that for the first time in the history of independent India, women will be given 33% reservation in the three-tier Panchyati Raj institutions. And true to his word, he saw to it that the Orissa Zilla Parishad Act of 1991 and the Gram Panchyat Samiti Amendment Act of 1992 were passed by the Orissa Assmebly that provided for 33% of reservation for women including SC and ST women. So for the first time, more than 28 thousand women were elected to various Gram Panchayats, Panchayat Samities and Zilla Parishads. It was further provided that one third of Zilla Parishads would have exclusively women chairpersons. In the case of the Panchayat Samities and the Gram Panchayats, one of the

two office-bearers, i.e Chairpersons or Vice-Chairpersons must be woman. Biju also emphasised that all the elected representatives of the PRIs should receive adequate political and administrative training. It must be pointed out that Biju Patnaik's policies on reservation for women were followed by many other state governments in India that culminated in the 73rd and 74th Amendment Acts to the Constitution of India, which provided for similar provisions for rural and urban local bodies respectively. Under his leadership, the Orissa Gram Panchayat Act, 1964 and the Orissa Panchyat Samiti Act, 1959 were amended on 1991, 1992 and 1993. The Orissa Zilla Parishad Act was also enacted in 1991 to constitute Zilla-Parishads at the district level. This Act was extensively amended to bring it in conformity with the provision of the Constitution Amendment Act, 1992. It also adds to the credit of Mr. Patnaik that after a lapse of eight years, it conducted elections to Gram Panchayats in the year 1992 for 5264 Gram Panchayats in the State. Some salient features of Gram Panchayat Samities and Zilla Parishad deserve mention as these were the out come of the amendment made during Biju's Chief ministership. In case of Gram Panchayat three mentionable points are:

- a) 'The post of Naib Sarpanch is reserved for the women members, if the Sarpanch is a male'
- b) 'One third of the total wards are reserved for women candidates including S.C and S.T candidates.
- c) Gram Panchayats have been vested with the power of supervision of women and child welfare programme, social forestry, rural housing, small scale industries and public distribution system to other normal functions.

As regards Panchayat Samities the following feature deserves mention:

- a) One third of the total seats are reserved for women members including women members of S.C and S.T. category.
- b) Provision has been made to reserve the office of the Vice- Chairman for a woman in case the chairman is male.

The Zilla Parishad ceased to exist in the state with effect from 1968. The state government enacted the Orissa Zilla Parishad Act, 1991, in order to transfer the power of planning, control and supervision of developmental activities to Zilla Parishads at the district level. Obviously, credit is due to Biju Patnaik for reviving Zilla Parishads and endowing them with power in district level. After the enforcement of the Constitution Amendment Act, 1992, it became necessary to amend the Orissa Zilla Parishad Act, 1991. The following important necessary changes were made:-

- a) Reservation of seats for S.C and S.T members has to be done on the basis of their ratio to the total population of the districts.
- b) One third of the seats are to be reserved for women members including S.T and S.C. women.
- c) The post of Vice-President should be reserved for women if the president is not a woman.

The State Law has provided that no person having more than two children will be eligible to contest in the election to Zilla Parishad. Similarly persons having more than one spouse have been disqualified from contesting the election. The government headed by Biju Patnaik also set up quite a few commissions of finance for the Panchayati Raj institutions in order to offer methods and mechanisms for resources funding thus unleashing some genuine purpose to the decentralization of power.

Thus Orissa under Biju Patnaik made meteoric progress in the field of Panchayati Raj, whose contribution was prodigious. When his government held elections after a lapse of eight years, it shows Biju's commitment to restore status and dignity for this valuable unit of self-government at the grass-root level. Biju's inspiration, no doubt rejuvenated the Panchayati Raj and local self-government institutions to function as meaningful units of self-government by endowing them with power and authority in the process of development.

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## Grama Panchayat in Orissa

*Dr. Johani Xaxa*

"The State shall take steps to organise village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of Self-Government" -Article 40 of the Indian Constitution.

A democratic political system involves the decentralisation of power to the Local Government. Local Government is the representative political institution, which is concerned with the local conditions, local needs, local opinions. It is an essential part of the fabric of democratic Government. It is not possible on the part of the Central Government situated at Delhi or any State Government situated at State capital to understand seriously and properly the problem of rural areas. The decision makers should hand over power to solve local problems and implementation of the local developmental programmes in the hand of the elected leaders of the local area. Power must not be concentrated in the hands of a few persons in a democratic system. According to Lord Acton, "Power corrupts and absolute Power corrupts absolutely." Considering this statement the Government decided for the decentralisation of power. It implies the extension of democracy depends on the popular and active participation of its people in the process of administration.

The System of Local Administration through people's popular bodies especially Gram Panchayat is not new. It had its origin in the ancient times. In the ancient times, Village Panchayats were consisting of five elected elderly members

of the village. They were deciding the disputed issues and solving local problems in the villages. During Rig Vedic period "Grama" was formed by a number of families. It had popular bodies called the "Sabha" and "Samities". During later Vedic period there was also "Sabha" and "Samities". The presiding officer was known as "Sabhapati" and its members were known as "Sabhasad". People were ventilating their grievances through discussions in the Sabha and Samities. Kautilya has described the autonomy of the village communities in "Artha Sastra". The idea of Rural Local Self-Government was revived seriously by the Government after Independence. Gandhiji was strongly in favour of the revival of village Panchayats. He wanted for the establishment of democratic decentralization through devolution of power. During drafting of the Constitution, the members of the Constituent Assembly were in favour of the introduction of Panchayati Raj Institutions to make the dreams of Mahatma Gandhi fruitful.

According to the recommendations of the Balwant Rai Mehta Committee, the Government decided to delegate more power, responsibility and finance for planning and execution of the developmental programmes to the Grama Panchayats. The main objective of establishing rural local bodies like Grama Panchayat in India is based with the principle of democratic decentralization and direct participation of the people in administration. Grama Panchayat is at the bottom of the three tier Panchayati Raj



Institutions. It is situated at village level. The village is an integrated and viable economic, social, cultural and political unit. It is the only effective organ of people's power.

The Grama Panchayat in Orissa constitutes the basis of rural local government. 86.6% of people in Orissa live in rural areas. The Grama Panchayat was started in Orissa as per the Orissa Grama Panchayat Act, 1948. According to the recommendation of the Balwant Rai Mehta Committee, the Grama Panchayats in Orissa were re-designed and Orissa Gram Panchayat Act was passed in 1964. However, the Janata Government in 1991 brought a sea change in the working of Panchayati Raj in Orissa. The 73rd Amendment Act 1992 of the Indian Constitution is very remarkable. This Act empowers the State Legislature to make laws for the organization of village Panchayats. Article 243-G of the Indian Constitution states that, the legislature of a state by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein with respect to the preparation of plans and implementation of schemes for economic development and social justice and other matters listed in the Eleventh Schedule.

### **Structure**

Grama Panchayat is the bottom of three tier Panchayati Raj System in Orissa. It was constituted as per the Orissa Grama Panchayat Act, 1964. A Group of contiguous villages constitute one Grama. The population of a Grama is more than 2000 and less than 10,000 for each Grama there shall be a Grama Sasan. The Grama Sasan is a corporate body. The office and headquarters' of the Grama Sasan is situated within the limits of the Grama. Grama Sasan is otherwise

known as 'Grama Sabha' in Orissa. It meets at least two times, one in February and the other in June, every year. The quorum for the meetings is one-tenth of the total members of the Grama Sasan. There is one Grama Panchayat for each Grama Sasan. It is the executive authority of the Grama Sasan. After the constitution of a Grama the Collector of the District determines about the number of wards in accordance with Article 243(C) of the Constitution. Normally a village is composed of one or more than one ward. The total number of wards of a Grama Panchayat cannot be less than 11 and more than 25. Each Panchayat area is to be divided into different territorial constituencies (wards). It should be divided in such a manner that the ratio between the population of each constituency and the number of seats allotted to it shall be same throughout the Panchayat area. Grama Panchayat is constituted with one Sarpanch, one Naib-Sarpanch and Ward Members. Sarpanch is elected by the electors of whole Gram Panchayat. One Ward Member is elected from each ward by the electors of the ward from among themselves. Soon after the publication of election result of Sarpanch and Ward Members a special meeting is convened to elect one Naib-Sarpanch. Naib Sarpanch is elected from among the Ward members. If the post of Sarpanch of the Grama Panchayat is not reserved for woman then the post of Naib-Sarpanch shall be reserved for woman of that particular Panchayat. One-third seats (including the number of seats reserved from S.C. and S.T. Women) shall be reserved for woman. This reservation of seats shall be allotted by rotation of different wards of a Gram Panchayat. Besides these elected members, one Secretary is being appointed by the State Government for maintaining the records.

### **Qualification**

Any person to be eligible to contest for election of the Grama Panchayat must be: -

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>(a) a citizen of India,</li> <li>(b) an elector of that Grama Panchayat and ward,</li> <li>(c) Attained 21 years or above,</li> <li>(d) Able to read and write Oriya,</li> <li>(e) Not an unsound mind,</li> <li>(f) Not a deaf-mute or suffering from tuberculosis or leprosy,</li> <li>(g) Not holds any office of profit under Central or State Government,</li> <li>(h) Not a teacher in any School,</li> <li>(i) Not a defaulter from Co-operative Societies,</li> <li>(j) Not having more than one spouse living,</li> <li>(k) Not having more than two children,</li> <li>(l) Having any arrear dues payable by him to the Grama Panchayat.</li> <li>(m) Not disqualified by or under any law made by the State Legislature.</li> </ul> | <ul style="list-style-type: none"> <li>(e) Drainage tax,</li> <li>(f) Fees on private markets, cart sheds,</li> <li>(g) Fees on animals sold in a public market controlled by a Grama Panchayat,</li> <li>(h) Fees for regulating the movement of cattle for the protection of crops,</li> <li>(i) Fees for use of any building, shops, stalls, pens of stands in the market,</li> <li>(j) Rent from contractor's temporarily occupying open grounds or any building maintained by the Grama Panchayat.</li> <li>(k) Any other tax, fee as may be decided by the Grama Panchayat subject to the approval of the State Government.</li> </ul> |
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#### Sources of Revenue/ Finance

As per section 93 of the Orissa Grama Panchayat Act, for every Grama Panchayat there shall be a fund known as 'Grama Fund'. Grama fund is placed to the Grama Panchayat. All money received from the Government and income of the Grama Panchayat shall be deposited in the Grama Fund. The Grama fund shall be deposited in any Nationalised Savings Bank or nearest Post Office or Treasury. Following are the main sources of revenue of the Grama Panchayat. It raises money through taxes, fees and Government taxes.

- (a) Vehicles tax,
- (b) Latrine or conservancy tax,
- (c) Water- rate where water is supplied by the Gram Panchayat.
- (d) Lighting taxes, where the lighting of public streets are provided,

According to Article 243 H, the legislature of a State may authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees. Besides this the Grama Panchayat receives funds like Jawahar Rojgar Yojana, Kendu Leaf Grant for developmental works. The Sarpanch prepares a budget and place before the Grama Panchayat for consideration in the financial year. The Grama Panchayat after consideration submit the budget to each Palli Sabha and then to the Grama Sasan for recommendations. After this process of modification and recommendation the budget is being submitted to the concerned Panchayat Samiti for approval. If the Panchayat Samiti is not satisfied with the budget then it has power to modify the budget. As per 73rd Amendment Act, 1992 inserted in the Article 243-1 of the Constitution the Governor have to constitute a Finance Commission to review the financial position and to make recommendations for maintaining sound financial position of Grama Panchayat.

#### Control Over Grama Panchayat

The Grama Panchayat functions under the control and supervision of the Orissa Government. On behalf of the Government the Collector or



any officer authorised by the Collector has the power to inspect, supervise and control over the Grama Panchayat. They can inspect any book, register, record or document of the Grama Panchayat. Besides the M.L.A of the area, Chairman of the Panchayat Samiti and President of the Zilla Parishad have the power to inspect their respective Grama Panchayat. As per section 11 (i) of the Orissa Panchayat Act, the Grama Panchayat is bound to provide all registers, documents and records to the above mentioned personnel. The Panchayat Raj department through Collector, Sub-Collector and District Panchayat Officer controls the Grama Panchayat. If the State feels a Grama Panchayat is not working as per the Orissa Grama Panchayat Act and Rules, then by notification the State Government can dissolve it. If the Sarpanch or Naib-Sarpanch refuses to carry out or violates the provisions of the Orissa Grama Panchayat Act or rules or abuse the powers vested in him than the District Collector after inquiry have the power to suspend the Sarpanch or Naib-Sarpanch and send a report to the State Government. As per section 112 of the Orissa Grama Panchayat Act the Collector has the power to depute any Officer related with developmental work within the district to attend any meeting to advise and assist the Grama Panchayat.

### **Functions, Power and Duties of the Grama Panchayat**

The main objective of the Grama Panchayat is rural development. Section 44 and 45 of the Orissa Grama Panchayat Act specify the functions and power of Grama Panchayat. The functions of the Grama Panchayat have been divided into two, like obligatory or compulsory and optional or discretionary. The following are the obligatory or compulsory functions of the Grama Panchayat.

1. It constructs, repairs, maintains and improvises the public roads.
2. It makes provision for lighting and cleanse of public roads and other important public places.
3. It constructs, maintains and cleanse drains and public latrines, urinals etc.
4. For the purposes of supply and storage of drinking water, it constructs, repairs and maintains tanks, wells or tube wells etc.
5. It makes adequate arrangements for scavenging, removal and disposal of filth, rubbish and other obnoxious polluted matters.
6. It takes steps for preventing and checking the spread of epidemic or infected diseases.
7. It maintains records of birth, death and marriages.
8. It prepares the census reports of human being and animals and registration of animal sold.
9. It protects, maintains and develops all properties entrusted to the management of the Grama Panchayat.
10. It regulates and controls the movement of cattle for protection of crops.
11. It demolishes the stray and ownerless dogs.
12. It renders all reasonable assistance to the Panchayat Samiti for establishing and maintaining primary education.
13. It supervises and maintains social conservation work.
14. It regulates 'melas', fairs, and festivals and maintains markets, hats and cart stands.
15. It implements schemes for agricultural extension.
16. Minor forest produce.
17. It takes steps for Small Scale Industries, food-processing industries.

18. It takes measures for rural housing.
19. It undertakes poverty alleviation, women and child welfare programmes.
20. It takes steps for social welfare including welfare of the handicapped and mentally retarded persons and public distribution system.

#### **Optional or Discretionary Functions**

The main optional functions of the Grama Panchayats are as follows:

1. Maintenance and Planting of trees on both side of the public streets and maintenance of village forests.
2. Establishment and improvement of livestocks.
3. Construction, maintenance and regulation of slaughter houses.
4. Steps for assisting and advising farmers in reclaiming waste lands and cultivating fellow lands.
5. Management and development of different Co-operative Stores.
6. Relief from famine or other natural calamities.
7. Opening and maintenance of Libraries and Reading Rooms for villages.
8. Organisation of fire services and protection of life and property in case of fire.
9. Establishment of maternity and child welfare centers.
10. Establishment and maintenance of Akharas, clubs and other recreation centers.
11. Establishment and maintenance of works for providing employment in time of scarcity and establishment of Grainaries.
12. Promotion of cottage industries.
13. Maintenance and construction of Dharmasalas and rest houses.

14. Maintenance and organisation of agricultural industrial exhibitions.
15. Collecting statistics of unemployed.
16. Provisions for adult education, Establishment of Primary Schools with the prior approval of the concerned Panchayat Samities.
17. It can organize a body known as Grama Swechha Sevaka for assisting the Grama Panchayat during the time of emergency.
18. Prevention of gambling and implementation of the programme for prohibition.

Besides the above mentioned functions it has to perform such other functions, which are given on compulsory basis or optional basis by the State Government.

#### **Power, Functions and Duties of Sarpanch**

Section 19 of the Orissa Grama Panchayat Act deals with power, duties and functions of Grama Panchayat. The following are the functions of Sarpanch. All the executive powers of the Grama Panchayat are vested in him.

1. He convenes and presides over the meetings of the Grama Panchayat.
2. He is responsible for the proper maintenance of the record and proceedings of the meeting.
3. On behalf of the Grama Sasan, the Sarpanch execute documents relating to contracts.
4. He is responsible for all securities, properties, asset, records and documents of the Grama Sasan. He has control over it.
5. He is responsible for proper working of the Grama Panchayat.
6. He prepares all required statements and reports.

7. He exercises supervision and control over the acts, rules and proceedings of all officers and employees of the Grama Panchayat.
8. If the Sarpanch feels that any decision of the Grama Panchayat is subversive of peace and order in the area, he has to refer the matter to the concerned Sub-Collector.

Sarpanch have to exercise such other power, discharge such other duties and perform such other functions as may be assigned to by the Government from time to time.

#### **Power and Functions of the Naib-Sarpanch**

The Naib-Sarpanch shall exercise such powers, discharge such duties and perform such function as delegated by the Sarpanch from time to time. In the absence of the Sarpanch the Naib-Sarpanch presides over the meetings of the Grama Panchayat. If the post of Sarpanch falls vacant the Naib-Sarpanch performs the functions of the Sarpanch until a new Sarpanch is elected.

#### **Power of the Ward Members**

Every ward member of the Grama Panchayats have the following right. Those are right to (a) access to the records of the Grama Panchayat after giving due notice to the Sarpach during office hours, (b) right to move resolutions and question any office bearer about the administration of the Grama Panchayat, (c) right to inspect all works undertaken by the Grama Panchayat. The members have the right to inspect all the institutions, controlled, managed and directed by the Grama Panchayat and to brought to the notice of the Sarpanch about any irregularities. In the absence of Sarpanch and Naib-Sarpanch at a meeting, any other member of the Grama Panchayat present may be elected to preside over the meeting.

#### **Conclusion and Suggestions**

The establishment of Grama Panchayat at the bottom is a praise-worthy step to facilitate

decentralization of power. The system of participation of the people in solving their own problem makes democracy more democratic. Steps taken as per 73rd Amendment Act of 1992 like constitution of rural local bodies by directly elected representatives on identical pattern of rural local government, an uniform term of five years, elections in time, adequate representation of women, S.Cs, and S.Ts for constitution of Election Commission and Finance Commission are laudable. It brought a sea change in the structure and working of rural local bodies in Orissa. No doubt it has achieved a lot. Still more freedom, power and financial autonomy should be given to Grama Panchayats for greater efficiency and competence. That will be entirely in keeping with our professed goal of democratic decentralisation. The primary objective of the rural local government is to protect democratic values and ensure social justice to people.

Some suggestions may be forwarded for the successful working of Grama Panchayat.

1. The success of the Grama Panchayat depends on the good and harmonious relationship between the elected representatives and other office bearers. The office bearers like District Panchayat Officer, Grama Panchayat Officer, and the Secretary of the Grama Panchayat should render guidance and help for better implementation of the developmental programmes.
2. Control over the Grama Panchayat by the Government and Collector or Sub-Collector should not be excessive, as this will kill the zeal and initiative of the members.
3. Grama Panchayat should be entrusted with power to collect almost all taxes of the area to strengthen its financial position.
4. After getting elected and assuming office of Sarpanch, Naib-sarpanch and Ward

Members, they should be given special training about the proper implementation of different developmental programmes. Training should be given to both elected representatives and other office bearers related with the Grama Panchayat activities jointly.

5. Minimum standard of education is required for successful working of rural local Government. So Government should take steps to prescribe a minimum standard of educational qualification for Sarpanchs and Ward Members.
6. Government should provide all the Acts, Rules and directions in Oriya to the Sarpanchs and Ward Members for successful working and implementation of programmes.
7. The Sarpanch, Naib-Sarpanch, Ward members should work honestly and sincerely as they are the representatives of their own local people. They should not waste time for their respective party politics. They should be thorough about the rules, regulations, instructions, direction and Grama Panchayat manual for better participation in the meeting and supervision of developmental programmes.
8. As in several other States like Gujarat, Kerala and Tamil Nadu, Panchayats in Orissa should be endowed with more financial power. The Panchayats should be empowered to collect holding, rural water supply and other taxes.
9. The various developmental programmes, which are now being carried out through rural development department, like rural water scheme and sanitation programme and the center-sponsored Swajaladhara Yojana should be transferred to the

Panchayati Raj Department, to empower the local rural bodies.

The life of the people is very complex at present. Hence, there is necessity of rural local government to solve local problem/ complexity. Local people can know better about the problem and if entrusted it can be solved by them properly. As it is stated that "The wearer of the shoe know better where it pinches". Since Grama Panchayats work as grass-root of democracy at the rural level, they should be given proper care.

Here it can be concluded with the words of Jaya Prakash Narayan that " Unless people realize that they and not the Government can take the country forward, no matter what amounts are spent on plans, the goal will not be achieved".

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## NEWS

### **Silver Jubilee of Synapse-06 at S.C.B. Medical College and Hospital "BE CUSTODIANS OF HEALTH IN THE STATE" - GOVERNOR**

His Excellency the Governor of Orissa Shri Rameshwar Thakur exhorted on 21st January the would-be doctors of Orissa to be the custodians of health in the State and march ahead with the spirit of 'Service to Mankind is Service to God'. Inaugurating the silver jubilee celebration of SYNAPSE-06 at the S.C.B. Medical College and Hospital premises in which students of three medical colleges participated, Shri Thakur said that health care holds great importance in a State like Orissa where about 85% people live in villages with poor standard of living, low level of awareness and less accessibility to healthcare facilities. Expressing concern over the maternal and infant mortality rate in the State, Thakur said it is our top priority to ensure that quality health care facilities are available at the grassroots level.

The Governor said that today the health care provisions at different levels of health care delivery systems face newer challenges in the everchanging world of scientific advancements in medical sciences. So the future custodians of public health system are to be taught and trained in such a manner so that they boldly face these challenges and convert them into opportunities.

Health and Family Welfare Minister, Shri Bijayshree Routray said that very soon there will be a Vision Document-2035 in the State. This vision document will give direction to health facilities in the State. He added that very soon there will be a health university in the State. All Homoeopathic and Ayurvedic Colleges will come under this University's administration, thereby ensuring a uniform time schedule for examination and publication of results. He also said that many health problems in Orissa are either poverty driven or ignorance driven or both. Shri Routray appealed to the would be doctors to be sympathetic to the poor man's problems.

Principal of S.C.B. Medical College Dr. D.K. Ray, Superintendent Dr. N.K. Mohanty, Advisor of Students' Union Dr. Raghmani Mohanty and President of the Students' Union Rudrashis Samal also spoke.

### **FOURTH INDIAN MINING SUMMIT - 2006 INAUGURATED AT BHUBANESWAR**

Fourth Indian Mining Summit-2006 was inaugurated by Shri Padmanabha Behera, Hon'ble Minister for Steel and Mines and Parliamentary Affairs on 9th February at Bhubaneswar.

In his inaugural speech Minister Shri Behera thanked the Federation of Indian Mineral Industries (FIMI) for organising the Indian Mining Summit-2006 at Bhubaneswar, the Capital and temple city of Orissa. Orissa is not only famous for temples, beaches, waterfalls, wild life and colourful crafts but its vast mineral resources, abundant power at competitive tariff, skilled labour and harmonious industrial relations which make this eastern state India's treasure trove, he added. Geologically 2/3rd of Orissa is covered with pre-cambrian rocks comprising many metallic and non-metallic minerals. The main minerals of the State are coal, chromite, iron ore, bauxite, manganese ore, fire clay and nickel ore. This State produces about 98% of chromite, 63% of bauxite, 23% of manganese ore, 92% of nickel ore, 25% of coal



and 31% of iron ore resources of India. Shri Behera spoke that as against country's total capacity of about 36 million tonne of steel production, the state has meagre production capacity of two million tonnes which is about only 6% of the all India figure. The same is also the scenario of other minerals. By simple mining activities the State Government gets royalty, which is about 671.00 crores for 2004-05 which contributes about 27% of the state GDP. But the total area occupied by mining leases so far is approximately 0.7% of the State's area and it provides direct employment to more than one lakh persons. State Government is keen to sustain the growth of mining activities and is therefore formulating a mineral policy which will be transparent as well as investment friendly. He told that the State Govt. is taking all possible steps to utilise the mineral resources by encouraging mineral based industries in this State. In order to utilize the abundant iron ore and coal resources of the State, the Government of Orissa has signed 43 MOUs with private sectors having investment of Rs.1,36,156 (Rupees one lakh thirty six thousand one hundred fifty six) crores to produce about 58 million tonne of steel per annum. The State has also a strong geological database which provides ready to use information to investors. Lastly Shri Behera hoped that the deliberations in this mining summit will help the scholars, scientists, mining engineers, industrialists and all others associated with mining industries to chalk-out a path for future growth and development.

Shri D.K. Sahni, President, FIMI delivered the introductory speech and after that a documentary film on 'Orissa Mining' was shown to the delegates. Chief Secretary Government of Orissa, Dr. Subas Pani told in his speech that Orissa has been in the news for the last couple of years for the new mining industries. Mining industries has important role in overall development of the country. In this field, we have to follow the concept which is globally supported. There has to be a methodology to develop the mining area which is a single largest challenge Dr. Pani added in his speech. Steel and Mines Principal Secretary Shri Bhaskar Chatterjee gave his vote of thanks to the esteemed guests. Secretary General of FIMI Shri K.K. Sharma presented mementoes to the hon'ble guests.

This conference was co-organised by BHP Biliton, Essel Mining and Industries Ltd. Kolkata, IMFA Group, Bhubaneswar, MMTC Ltd., New Delhi, OMC Ltd., Red Horse Resources (H.K.) Ltd., Dalton, Rio Tinto Iron Ore, New Delhi, Rungta Mines Ltd., Chaibasa, Tata Steel, and Sandvik Asia Ltd., Gurgaon. More than 350 delegates from all over India and abroad including experts on mining attended the summit and 36 papers presentations were made in eight sessions of the Conference.

### **GOVERNMENT TO GIVE SUBSIDY ON ERIOPHYID MITE CONTROL OF COCONUT PLANTATION.**

To boost up coconut cultivation and production of healthy coconut in Orissa, Department of Agriculture, Govt. of Orissa has taken up a bold initiative and decided to lessen the burden of the farmers by increasing subsidy on eriophyid mite control of coconut, which is a great threat to coconut orchard at present.

In present situation, to control the eriophyid mite in coconut out of total cost involved for three applications of Neemazal for one palm, Coconut Development Board, Govt. of India bears Rs.8/- and rest amount is borne by the farmer.

But it is decided that Government of Orissa will give a subsidy of Rs.4/- per palm over and above the subsidy of Rs.8/- borne by the Coconut Development Board. As such farmer will get Rs.12/- subsidy for treatment of one coconut palm with Neemazal and rest amount will be borne by the farmer.

The Directorate of Horticulture, Orissa has advised the coconut growers of the state to take the opportunity of this initiative to control the pest and boost the production of healthy coconuts.

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## The Right to Information: The Task Ahead

*Satya Mohapatra*

Official Secrets Act was formulated in 1923, during the colonial rule, and continued to be in vogue in Independent India. Right to Information is a fundamental right and an integral component of a democratic country. Almost all democracies have similar Acts. However, governments form rules so that they do not allow its citizens to exercise their rights to the fullest.

During the tenure of late Prime Minister Rajiv Gandhi there was an attempt to amend the Act to suit the needs of the largest democratic country like India. However, in 1999 the then Union Urban Minister and legal luminary Ram Jethmalani took the first step towards implementing the changes in the Official Secrets Act. Jethmalani ordered public access to the Government files in his ministry without any hindrances. This was followed by formation of a Parliamentary Committee, which ultimately went on to formulate a bill on right to information.

In spite of criticism on various aspects of the Act, it was a bold step towards strengthening democracy in India. The Bill also helped to reduce corruption to some extent. After the formation of the Commission at the centre various state governments also took steps to form their own Information Commissions.

Orissa has formed the Commission and appointed an experienced bureaucrat as its chairman and a well known personality with a social standing as its member.

The state government has also formulated the rules which is necessary.

The Right to Information Act has provision for right to information and enables the citizens right to obtain data from the government or government owned organisations by paying a certain amount of fee. If the applicant is not given the information about life and security of a person within 48 hours, he can go to the Commission. However, the Act has clauses that protects important information that affects the sovereignty and security of the country. It says that under special circumstances the government may not provide the information asked for. It is, however, not clear that how the information can be kept under the secret category in the name of national security and can ever be obtained or not ? Although some of the provisions under the Act existed since India became independent. But the people were not taken into confidence under the pretext of public interest.

However, there are apprehensions that bytaking shelter under the Official Secrets Act many deals and contracts are being hidden from the public knowledge. Many irregularities regarding deals and contracts with private or international firms, amounting to hundreds and thousand of cores of rupees were kept from public knowledge as classified information. The main responsibility to make this Act effective was entrusted to bureaucracy, which gave rise to a possible nexus between bureaucrats and politicians. Though all members of bureaucracy are not responsible for this but they are comfortable within its fold.

As a reporter I have often observed that

majority of the questions asked by the members in the legislative assembly got one answer, "Information are being collected". The implementation of Right to Information Act might suffer from similar system failure and give rise to unnecessary delays. During Parliamentary and Assembly sessions the bureaucracy is usually busy collecting and compiling information. This exercise affects the official work of the government. On one hand the government is trying to reduce the number of staff and on the other hand assigning them more responsibilities. This is giving rise to apprehension regarding the implementation of the Right to Information Act, 2005. The petition to obtain certain information may give rise to friction and may result in clashes at certain places, labeling it as politically motivated.

It is found that both at national as well as state levels the chairman of the Information Commission are former bureaucrats. As the first step, eminent jurists, media personalities and educationists should be co-opted as the members of the Commission. It is the responsibility of the Information Commission to take path breaking steps and amend rules for effective implementation of this Act because the future of our democracy depends on this to a great extent.

There is no denying that modern governments use information as a means of propaganda. The tendency is to keep inconvenient information under wrap. Therefore, governments across the globe pass laws to keep their citizens in the dark about facts which provide the basis of decision making. These facts may relate to trade, commerce, cost of living index, nuclear pollution and environment.

But one must realise that information is the valuable asset of the society. In market economy it becomes a commodity with a price. Millions of people in developing countries do not play any part in this market where information is exchanged. This is because they are illiterate,

removed from the sources of information or too poor to pay for the access to the information.

In societies where state-run electronic media are co-existing with private television, radio and print-media compete with each other for information and ideas to attract readers, officially inspired leaks and engineered flows of information will become difficult, if availability of information becomes easy. The truth will be out and someone will surely point out that the emperor has not worn clothes.

Our own Atomic Energy Act restricts citizens access to information and right to communicate. That is how in many countries there is a divide and absence of communication between scientists working in government establishments and in independent organisations like universities. Such lack of openness is marked more between nations. But accidents in nuclear plants such as Chernovil in Ukraine (formerly of Soviet Union) is giving rise to public pressure in favour of free and balanced flow of information, which undermine Official Secrets Act and the flattering news coverage of multinationals. All these are now persuading Authorities to establish its legitimacy and credibility. This makes the right to information crucial for plural societies. A responsive, publicly accountable exercise of political, social and economic power should welcome this act.

In one such example of public pressure, when Taslima Nasreen's book '*Dwikhandita*' was banned by West Bengal government, one citizen filed a Public Interest Litigation in Calcutta High Court stating that the ban was illegal and violates his Constitutional rights, mentioned under Article 19, to know what is written in the book. The court upheld the petitioner's contention and declared that the decision of West Bengal government is not legal. The book is now openly available in bookshops. Article 19 of the Indian Constitution has this potential.

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## Sweet Potato: A Successful Crop in Nuapada District

*M. Nedunchezhiyan*

*S. Mahapatra*

*N. Sahoo*

*R. Acharya and N. Ranasingh*

Orissa is primarily an agrarian society and she is bestowed with divergent fertile lands and suitable climate for field and horticultural crops. In spite of this, rice is the predominant crop occupying 75% of gross-cropped area and producing just 1.93 tons per hectare. The major reasons attributed for low productivity in this part of the country are cultivation of rice in uplands under rainfed conditions, low moisture holding capacity of sandy/sandy loam soils, uneconomic size of land holdings, low use of fertilizer and unscientific way of cultivation. Low productivity coupled with inappropriate support price for paddy renders farmers to suffer starvation. Disparity in food availability and food accessibility especially due to lack of purchasing power of part of the population in other parts of the state also leads to starvation death.

A systematic planning in agriculture and horticulture sectors therefore becomes imperative to bring suitable food security to Orissa. Food security can be achieved through increased availability of the food and increased accessibility of nutritional foods to the poor people. In this context Watershed Mission, Orissa has initiated number of programmes to enhance livelihoods of rural poor in Western Orissa under Western Orissa Rural Livelihoods Programme (WORLP) in collaboration with different research institutions/farms. One such programme is crop



diversification. Introducing and expanding area under drought tolerant and nutritional rich crops which are easily adapted to edaphically and agro-climatic conditions of Orissa.

WORLP in collaboration with Regional Centre of Central Tuber Crops Research Institute, Bhubaneswar demonstration trials are laid out in Bolangir and Nuapada districts to assess the suitability of sweet potato.

Sweet potato is an important tropical food crop with versatile utility. The tubers are used as a subsidiary food after boiling, baking and frying. Tubers also form an industrial raw material for the production of starch, alcohol, pectin etc. and the surplus as well as culled tubers can be used fresh or dehydrated in rations for livestock. Sweet potato vine is a valuable source of green fodder and lasts throughout the off-season. Sweet potato is potentially capable of producing more edible

energy per unit area per unit time. Thus, with the cornucopia of uses, vast production potential and wide agro-climatic adaptability if sweet potato can fit into the cropping systems of rainfed areas it becomes most suitable answer to the dry land farmers.

In Nuapada district, Pandaripani village, a demonstration trial was conducted in Mr. Mahjis field. The high yielding sweet potato variety Samrat was planted in 200 square meter area in sandy loam soil on 11.7.2003. The field was prepared by making ridges and furrow at 60 cm interval. The height of the ridges was approximately 30 cm. 20 cm length of sweet potato vines were vertically planted on the ridges with 20 cm interval after treating the vines in the solution of 1.5 ml of Monocrotophos in one litre of water (as a preventive measure against insect pest). Sufficient compost and 1 kg urea, 3 kg super phosphate and 1 kg muriate of potash were applied immediately after planting. Weeding cum earthing up was carried out 30 and 60 days after planting. A fertilizer dose of 1 kg urea and 1 kg muriate of potash was given as top dressing 30 days after planting for 200 square meter areas. At 60 days after planting, monocrotophos 1.5 ml per one litre of water was sprayed against sweet potato weevil. A sex pheromone trap (supplied by Regional centre of CTCRI, Bhubaneswar) was installed in the centre of the field to trap sweet potato weevil. Every day the trapped sweet potato weevils were collected and killed and then buried in the soil. Every alternate day the soap solution in the pheromone trap was changed. The crop was harvested 120 days after planting on 11.11.2003 in presence of the villagers.

Each plant produced approximately 650 g and amounting 950kg from 200 square meter areas. The farmer's family consumed 50 kg of tubers and another 50 kg of tubers were distributed to their neighbours. The remaining 850 kg of tubers were sold in Nuapada market @ Rs.5/- per kg and got the returns of Rs.4250/-. The total expenditure involved is about Rs.500/-. The net profit is about Rs. 3750/-.

The villagers were given samples of sweet potato tubers for organoleptic evaluation for taste and other qualities. Villagers expressed that it is good in taste, sweet, boils quickly and non-fibres. Also evaluated sweet potato vines as green fodder by feeding the vines to cows and buffaloes to find out the palatability and animal acceptance in presence of village farmers. The harvested vines were fed to cows and buffaloes. The animals easily relished the vines and the farmers rightly convinced that sweet potato could be used as green fodder. Sweet potato vines can also be used as dry fodder.

Thus, sweet potato is a versatile crop and it can be successfully and profitably grown in sandy loam soil under rainfed conditions of Orissa.

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# PRELUDE

The system of governance has recently been juxtaposed with a phase of transition. There has been a shift in paradigm with the historic voyage from secrecy to transparency. The trend of Right to Information has already set in. Responsiveness, accountability and clean administration have become the order of the day. It is a matter of pride for all citizens of this great country to experience such significant change. To make the whole administrative machinery adaptable to this changing scenario certainly warrants a lot of efforts in planning and execution fronts. We in the Information & Public Relations Department have shouldered onerous responsibility to act as nodal agency for the implementation of this Right to Information Act, 2005 in Orissa. We have adopted a multi-pronged strategy for declaring public Information Officers and Appellate Authorities in government offices and other public authorities, accelerating the process of proactive disclosure, organising the training programme for target authorities and resource persons, devising appropriate formats for monitoring and report, opening a central cell at the reception counter of the secretariat for the convenience of information seekers, mounting multi-media campaign for awareness generation and putting in place the Orissa Information Commission. In utilising the Information Technology as a tool, we have made the progress faster even as forerunner on some areas in the whole country. While focusing this act in February-March issues of Utkal Prasanga and Orissa Review we consider it appropriate to express our sincere gratitude to all those who have been involved in such mega exercise.



**Digambar Mohanty**

Commissioner-cum-Secretary & Nodal Officer,  
Right to Information

VIEWS EXPRESSED AND SUGGESTIONS MADE  
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