



**WORKING TITLE:**

**Implementing the Right to Information Act 2005 in  
Bhubaneswar Municipal Corporation (BMC): Challenges  
of Accountability**

**Presented By:  
Manorama Dei  
(I N D I A)**

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**MEMBERS OF THE EXAMINING COMMITTEE  
Ms. Helen Hintjens  
Mr. Joop de Wit**

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## **Outline of Chapters and Sections**

### **Dedication**

In honour of those who are seeking information for the sake of a better life, livelihood and safety through an open and transparent governance system.

### **Acknowledgements**

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### **List of Acronyms**

<b>APIO</b>	Additional Public Information Officer
<b>BMC</b>	Bhubaneswar Municipal Corporation
<b>BPL</b>	Below Poverty Line
<b>CSOs</b>	Civil Society Organisations
<b>IC</b>	Information Commissioner
<b>DAB</b>	Drive Against Bribe
<b>OSA</b>	Official Secrecy Act
<b>OLS</b>	Open Learning Systems
<b>OSIC</b>	Orissa State Information Commission
<b>OGP</b>	Orissa Gana Parishad
<b>MKSS</b>	Majdoor Kisan Shakti Sangathan
<b>NGOs</b>	Non Governmental Organisations
<b>PDS</b>	Public Distribution Systems
<b>PIO</b>	Public Information Officer
<b>RTI</b>	Right to Information
<b>SIC</b>	State Information Commission/Commissioner
<b>SIO</b>	Slum Improvement Officer

## **Abstract**

Access to information and freedom of expression are integral aspects of democratic process of governance. Citizens right to access and inspect public documents promotes openness, transparency, accountability in administration. This consequently promotes better controls over corruption and mismanagement, the bane of Indian democracy. India has evolved from a new nation, protective about its industry, culture and identity, to a nation welcoming globalization, privatisation and liberalization in early 1990s. From Official Secrecy Act, India has moved on to the Right to Information Act, 2005 (RTI). The RTI aims to empower the citizens and to enforce accountability of the duty bearers so that the money spent and actions taken were in accordance with the provisions of law. But to make it work, people's awareness, the willingness to struggle to exercise their rights and the duty bearers' commitment to greater is necessary. Bhubaneswar Municipal Corporation (BMC) is the local self-governing body that looks after the development of Bhubaneswar, the capital of Orissa. It serves as an interesting study. Every construction work undertaken carries official disclosures about the amount spent and work done. But the people's perception of high corruption and lack of openness has not changed substantially since 2005. This study revealed the workings and the different stakeholders' perspectives. There has been greater openness at the higher level, but, there is greater need for improvement at the lower level of the municipal corporation. The study suggests to the duty bearers must take the responsibility of providing free access to information seriously.

## **Relevance for Development Studies**

The post 1990s' World scenario, the spurt of global economy activity and concerns has landed India in a situation where it had to accelerate the quality of not only its products but also the services being given at different levels. Terrorism, pollution, global warming are some the major concerns which has made each country feel part of the World in sharing the concern and developing a strategy to counter them. In this context, the word 'development' started acquiring the concepts of greater public accountability and greater inclusiveness. This would require greater openness where no group would feel they are excluded from the process of development. The Right to Information Act has been the thrust, the move towards greater openness and accountability needed. The economic development had started the process, but the enactment has given people the legal wherewithal to ensure openness, which would in term ensure quality of services in the government offices.

**Key Words** –BMC, RTI, information, public administration, governance, bureaucracy, administrative transparency, public accountability & free access to information.



## **Chapter 1**

### **Introduction**

#### **1.1 The nature of the problem**

This research paper will study the implementation of the Right to Information Act, 2005 enacted by the Indian Parliament in Bhubaneswar Municipal Corporation (BMC), Orissa. Municipal Corporations remain at the lowest level of the three-tier system of government in India and it operates at the grass-root level more closely to the people ( Sharma & Sadana, 2006, p.832). This level is commonly known as local self-government. The Right to Information (RTI) is a potentially powerful democratic tool in any democratic governance system. Yet no Act by virtue of being based on democratic values and targeting common welfare will bring in a change. There is a big role of the authorities to enforce and implement this Act in true spirit. “In India the political process is reformed by the struggle between carrying through the democratic process in its fullness and the elite processes emanating from technocratic drives that militate against popular aspirations” (Kothari, 2005, p.91). According to Gaventa (2004a, p.25) peoples’ participation, especially the participation of the poor, in public administration and the institutions which affect their lives, especially the government, will promote proper implementation of pro-people laws like this one. Along similar lines, Hickey and Mohan (2004, p.13) believe that citizens participation in public administration can transform development practice, social relations, institutional practices and fill critical capacity gaps. Local self government serves as the training ground for creation and cultivation of civic duties and responsibilities among citizens and thus more competent to solve local problems with greater participation of local people (Dhaliwali,1999, p.3, Sharma & Sadana, 2006, p. 836). The starting point for this study is the struggle between citizens right to know and the public authority’s tendency to withhold information under various pretexts. As this struggle is played out, the result can

be greater transparency in public institutions. Stiglitz opines in the foreword for the book “The Right to Know” (Stiglitz, 2007, p.viii) constant citizens demands for information are vital in realising the right to information in practice. Therefore, every information carries some benefits for the citizens to help them avail the facilities given by the government to its people as a matter of legal-constitutional rights.

The researcher selected BMC as the most accessible level of the public bureaucracy for most citizens, the municipal level. This is in many ways the least powerful level of the Indian state authorities, therefore, may potentially be a powerful level for the citizens, being area-specific and having a limited range of activities. The BMC structure provides the ideal setting for a study on the process of the Right to Information Act’s implementation.

## **1.2 Background of the topic**

The state of Orissa is located on the eastern coast of India created as a separate state in 1936. Bhubaneswar is the capital of the state and has been declared as a Municipal Corporation in 2003. For further information on BMC, its evolution, demographic profile, population and decadal growth etc. see Appendix-3, 4, 5 and 6.

The local government operates in a specific area with limited functions to supply basic civic amenities to its citizens living in that particular area (Sharma & Sadana, 2006, p. 832). The attraction of city life and faster growing urbanisation as a global trend worsens daily living day by day (Dhaliwal, 1999, p.1). The accomplishment of various developmental projects in the city depends on the association of the local inhabitants with the functioning of local government (Sharma & Sadana, 2006, p.832). The local self-government is supposed to provide the basic amenities in the city. Since all these directly affect the day to day living, there is a need for greater accountability on the part of BMC administration to its citizens (ibid, 2006, p.834). Since it was founded, BMC has taken the responsibility for handling the increasing challenge of urbanization through substantial spending of public money. Yet, like at national



government level, the use of such monies is less than transparent. Focusing on the BMC makes it easier to assess, the impact of the RTI Act on public perception and to get a status report of the reality and the citizens views on the Act within a short period of time in a specific location.

Social movements, groups and individuals collectively bring in transformation in society (Kaldor, 2003, p.82). Here the trigger for the such activities is provided by RTI. This study relates to the wider context of similar processes of change taking place elsewhere in response to the implementation of the RTI Act across India. The Act was a culmination of a long battle for greater supremacy of the citizens over the persons in power, more openness and more accountability. MKSS, a civil society organisation headed by Ms. Aruna Roy, a former civil servant spearheaded the social movement. For further information see Appendix-12, case study-1.

### **1.3 Right to Information in Brief**

The RTI Act came into effect on 12th October 2005, which covers central, state and local governments and all bodies owned, controlled or substantially financed by the respective governments; non-government organization substantially financed directly or indirectly by funds provided by the appropriate government. It also covers executive, judiciary and legislature and information relating to private body which can be accessed by any other law for the time being in force (RTI Act, 2005).

Information covers any records, documents, memos, opinions & advices, press releases, circulars, orders & logbooks, contracts, reports, papers samples and models. Under Section 2 (j) one has the right under RTI Act to inspect works, documents and records, take notes, extracts or certified copies of documents or records from any public offices. Not only this, one can take certified samples of material, obtain information in the form of printouts, diskettes, floppies, tapes and video cassettes.

Every public authority shall maintain all its records duly catalogued, indexed, computerised and facilitate information under this Act. The authority must ensure that all records are appropriately computerized within a reasonable time, subject to availability of resources (Section 4(1), RTI Act, 2005). The RTI Act gives free access to the poor as it prescribes no fee for BPL<sup>1</sup> category. For others there is a small charge. To enable illiterate and disabled persons to get required information from public authorities the Act makes specific provisions. More importantly, Section (4) of the Act specifies the process of giving information completely free of charges without any delay. A lot therefore depends on the authorities themselves for proper implementation.

This piece of research will therefore look into the ways the Act is changing the prolonged feudal-bureaucratic attitude of the public authorities. This paper will study whether they are becoming just a little more transparent, accountable and responsive to demands to access public information now that this right has been conferred on the citizens of BMC. Another important part of the study is to understand some of the strategies local civil society organisations have used in relation to the Right to Information Act, 2005. In particular, how do they hold the public authorities at BMC more accountable? More importantly, the position of public officials, used to the protective environment provided by a long-standing Official Secrecy Act, will be observed to know their response to the Right to Information Act. The study also attempt to get a feel of the general awareness about the RTI Act in different cross-sections of the society. It was expected that most poor and illiterate people would have few sources of information about the Act, except possibly for word of mouth.

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<sup>1</sup> To view the condition of BPL category in Orissa, the role of Bureaucracy, the notion public accountability and transparency in administration the following website can be referred. [http://www.youtube.com/watch?v=NK\\_XC\\_IYX6Y](http://www.youtube.com/watch?v=NK_XC_IYX6Y) – visited on 8th October' 2008.

#### **1.4 Research Objectives and Questions**

To understand how the Right to Information Act, 2005 has started to be implemented in practice in BMC area. More specifically, the study will explore whether the Right to Information Act is meeting its main objective of providing citizens with the right to access information. Finally a wider objective is to consider how far this Act can go in making urban local government more accountable to the public. The main questions will be:

- 1) Has the introduction of the Right to Information Act 2005 enhanced the accountability of public officials in the BMC to local citizens?
- 2) How is it changing the relationship between the public and BMC officials?

In order to answer these questions, a number of sub-questions were addressed in the fieldwork and readings:

- (i) What have been the main achievements and obstacles of the Right to Information Act, 2005 since its inception?
- (ii) By what means do citizens and local groups try to hold duty bearers accountable for meeting their obligations under the RTI Act?
- (iii) How are applications dealt with on a daily basis?

The guiding proposition of this study is that laws like Right to Information Act are restricted or twisted by bureaucrats when it comes to implementation. Only through a mix of citizens action and legal actions accountability among public officials is likely to be improved in BMC in relation to RTI Act.

### **1.5 Research Methodology, Scope and Limitations**

As the Act is a new one, there is no recorded statistics of a substantial duration to show it as a proof of the effectiveness of the implementation. This research therefore depended more on primary data more than secondary data. Wherever possible, both primary and secondary data sources are used. The process of primary data collection includes semi-structured interviews, focus group discussions, questionnaires and observation. Appendix-8, 9, 10 and 12 can be referred for further information. The Commissioner, the Mayor, some People's Representatives, the Public Information Officer (PIO) of BMC, and the State Information Commissioner (SIC) of the were the main respondents to open-ended interviews conducted.

The opinion of different people who came to collect information from the BMC area about different aspects was collected through direct interaction. The respondents belong to all strata of the society requiring widely varying information starting from political representatives to slum dwellers. Among the senior public officials, the PIO of BMC was the key informant, a source of insight into the implementation process, and problems with that process by virtue of the position he holds as provided in the RTI. While the opinion of the Commissioner and Mayor (BMC) were sought in different times, there time schedule did not allow that. Whose opinion would hold greater significance was not available for greater interaction on different issues. In addition to interviews, focus group discussions were organised, covering:

- a) journalists, working lawyers and social activists
- b) slum dwellers, many of them recently arrived
- c) permanent local villagers.

The first group constituted the so called intellectuals, that part of the civil society which spearheads the change process through writings, public demonstrations and debates especially in the change

circumstances where such activities are playing a great role. The other two groups, however form the bulwark of the real change because they are the persons who vote, take active part in selecting leaders and are usually at the receiving end of the lack of RTI Act. Alongside these, other individual interviews were conducted with locals and slum dwellers about their experiences in and use of RTI. The register in BMC office was consulted to find out the addresses of such stakeholders. Although the higher authorities refused permission for photocopying the records, a trust of social relationship was developed with the PIO that enabled the researcher was able to take digital photographs of the records.

Apart from this, applicants at the office of BMC were observed for a period of a fortnight. Informal discussions were held with them to find out more about how they see the processes BMC has adapted in implementing the RTI Act 2005. They responded to open-ended questions and their opinions, perceptions and suggestions for better implementation of the Act were collected. The slum dwellers and locals were also visited and their questions about the Act were dealt with by the researcher. The aim of these discussions was to understand better how they as citizens perceived the Act. Having been active in a previous campaign 'Drive against Bribe', the researcher was in a position to gain the trust of people she spoke to. The fact that the researcher was identified as such and not a government agent allowed for greater freeness in the expression with the slum dwellers and local villagers.

The main written primary source is The RTI Act itself and the Orissa Rules, which are both reviewed in this paper. Apart from this, different books, journals and articles published online and newspapers are reviewed. Unpublished NGO reports and training modules are also used as a supplementary data source. The details of the instruments used to collect data are given in Appendix 1 and Appendix 2.

The researcher used contacts established whilst she was working with NGOs within the BMC area and contacts at the SIC to serve the purposes of this study. These informal contacts were vital in helping gain access to 'insider' data and resources, to supplement the views on the RTI Act's implementation as seen by slum dwellers and other locals. With the help of some social activists, the researcher also visited what had previously been for her an inaccessible area; the red light area of BMC. The aim was to know the views of sex workers and the destitutes about the RTI Act. Since the study was designed to identify the gaps in implementation of the Act in BMC, it was important to speak to such excluded, socially stigmatised groups. The biggest limitation to the study is time constraint, which did not allow the researcher to explore other availing and other larger interaction. Still the data collected through the above mentioned process is strong enough to suggest getting an indication the way RTI is functioning.

The communal riots that took place in Orissa during the research posed risks for anyone trying to collect data. This prevented any fieldwork from taking place for more than one week. Although attacks were taking place elsewhere, all communication and transport was suspended in Bhubaneswar during the communal riots. Violent demonstrations, road blockades and strikes made it difficult to meet people during this time, or collect any further detailed information on the Act's implementation in BMC (Dharitri, Pragatibadi, Samay August, 2008). Fortunately, by the time attacks had started, most of the fieldwork had been completed.

### **1.6 Setting the Research Agenda**

The research paper consists of six chapters. This chapter has served as introduction, including the background and justification of the research work as well as a brief explanation of the methodology and sources. Chapter 2 will cover the Right to Know and Citizens Access to Information. Chapter 3 then deals with the legal and political context

of the RTI Act and presents data from the field study. Chapter 4 analyses the main factors behind the apparent non-accessibility of information for most BMC residents. It refers back to central concepts outlined Chapter 2. Finally, Chapter 6 is the conclusion, which identifies the overall findings of the research and makes a few modest recommendations.

### **1.7 Conclusion**

As a whole, the aim of this chapter is therefore to find out firstly, what people know about the Right to Information Act, 2005 and secondly, what the main problems of implementation the Act have been in BMC. These are the main starting points of this research. The detailed provisions of the RTI Act are considered further in Chapter 3. First the basic principle of the right to information, and the challenge of the RTI Act to bureaucratic attitudes and practices will briefly be considered in Chapter 2.

## **Chapter 2**

### **The Right to Know and Citizens Access to Information**

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 (Introduction to The RTI Act, 2005).

#### **2.1 Introduction**

In this chapter some key concepts will briefly be introduced, centering on the right of citizens to have access to information. The first part of the chapter will cover the historical background to the Act in brief. We then look at the notion of the right to information. The final part of the chapter outlines some approaches to citizens access to information, and analyses the overall context of implementation in the BMC.

#### **2.2 The Historical Background**

In many ways, the annals of citizens access to information parallels India's freedom struggles over prolonged period of time. British colonisation completely paralysed citizens access to information and encouraged a culture of secrecy in public administration. The Official Secrecy Act (OSA), enacted in 1889 and amended in 1923, is followed by public officials even after 65 years of independence in India. Section 5 of the OSA, 1923<sup>2</sup> forbids disclosure of any information likely to affect the sovereignty and integrity, the security of the State or friendly relations with foreign States. A person prosecuted under this Act can be sentenced to three to fourteen years of imprisonment. The Act encourages public officials to handle all official information as top secrets. This Act's influence can help to explain why officials may

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<sup>2</sup> For more information see website.

[http://demotemp286.nic.in/LAW%20Codes/acxt\\_2%5COfficial%20Secret%20Act,1923.htm](http://demotemp286.nic.in/LAW%20Codes/acxt_2%5COfficial%20Secret%20Act,1923.htm) – Accessed on 19-09-2008.



not be keen to supply information when asked to do so under the relatively new RTI Act, 2005.

Another historical legacy of colonial rule is the 'separation of powers' between the three branches of government: legislature, executive and judiciary. The Indian democracy rests on the idea that these three branches of Government work separately in terms of personnel and Constitutional powers. Yet each of the three branches of government get exemption from their accountability through instruments of: "Privileges of the House", "the Official Secrecy Act" and "Contempt of Court". In a parliamentary form of government, the executive is drawn from the legislature and made responsible for its acts of omissions and commissions. However, this is a 'grey area' in Indian politics, where politicians and officials always go together and can never be separated from each other (Sharma & Sadana, 2006, p.87).

Within the Indian system of government, the fusion of powers is at least as important as the separation of powers. In such a system, a formal representative democracy, the media can be considered – besides the executive -legislature and the judiciary, as the fourth pillar of democracy.<sup>3</sup> Although it is outside of the scope of the study, the role and importance of media can not be denied. The information in order to be powerful must be published. Unless the media has access to information, the role of media can be severely cut off. In India, in many cases, media highlighting the plight of the people often brings the remedy. This is not be possible if information is stopped. The flow of information can be stopped through the OSA and other similar provisions. This can stop the media from providing accurate and full information to the public. The relative inaccessibility of public information for the common man in India has long served to continue the subjugation of a nation.

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<sup>3</sup> For further information refer- <http://www.30gigs.com/2008/01/role-of-media-in-society/> - Accessed on 28-10-08.

### **2.3 Importance of the Right to Information**

Citizens in a democratic set-up can be considered to be the main source of political power. According to Lukes, it may be exercised by collective groups or institutions (1974, p.93). Therefore, given their key role in democratic governance, citizens should be guaranteed access to information as a political right (Martin & Feldman, 1998). These authors distinguish two roles for the right to information. First is to make those in government more accountable and the second is to protect freedom of (informed) expression for citizens (ibid, p.1). In the words of Cornwall, democratic reforms geared new space for citizens participation in public administration as older settings are renewed to set new developmental agendas (2007, p.1).

In a similar way, an early text on the right to information explains that this right is: "...unique among contemporary human rights, in that it represents both a substantive rule and a method of implementation" (Pechota, 1983, p.5). For some, the role of information is considered as important to a functioning democracy as oxygen is to a living being (Puddephatt, 1999, p. 1).

The Indian Constitution recognises this right under Part-III, where it is included among the fundamental rights of citizens. Article 19 (1a) of the Indian Constitution protects certain rights regarding free speech and expression. It states: "All citizens shall have the right to (a) freedom of speech and expression" (Rout & Mohapatra, 1983, p. 45). This has been argued that citizens access to information is a part of this right. The study analyses how the Act is being implemented in its initial stage and how the government officials are performing their duties towards implementing the Act.

### **2.4 Upholding the Right to Know**

On a daily basis, getting information from the public authorities in India can involve what seems like a never-ending series of obstacles. For example in BMC, one hardly encounters a public officer who is willing to supply official information freely or at once, as provided for

under Article 4 of the RTI Act (which will be discussed further in Chapter 4). Frequent visits to Government offices for getting information irritate officials who tend to reply “*go and do whatever you like*”, and refuse to provide the information. The reaction of person seeking information is well described by Narayan (2000,) as lack of information about planned government action often leaves people angry, further deprived and confused. When the Right to Information Act 2005 was enacted, it was hoped that this attitude would change and the process of giving information would improved.

According to the Act, India as an “established democratic Republic” is a “democracy [which] requires an informed citizenry and transparency in information” (Introduction to the RTI Act, 2005). The provisions of the Act guide citizens on the occasion of failures in obtaining information from public authorities.

There is a provision for direct penalty being inflicted on the erring officials which is far quicker process than the justice sought through judiciary. No Government employee can easily accept such a fine (see Box-1) as it not only affects them financially but also poses a risk to their career prospects. Such penalising measures have been introduced through the RTI Act in an effort to oblige public servants to open up access for the citizens to official information. The idea behind this aspect of the Act is that if citizens are to take a stand for better implementation of governmental programs and activities, they need to be fully informed about what is happening in public offices.

It is recognised that citizens need to know how public money is being spent and what actions they are entitled to take if they are to play an active role in ensuring the accountability of public services and administration (Behera, 2005). One question that will be explored later, in Chapter 4, is whether the RTI penalisation policy is working in this sense.

### **Box 1: The first penalisation case (BMC, Orissa)**

In 2006, Shri Manoj Kumar Pattnaik, Secretary of (BMC), was penalised by the SIC and fined fifteen thousand five hundred rupees. The complaints against him were brought by Shri Akshya Kumar Biswal & Miss Rita Biswal (Case No C.C.128/06)<sup>4</sup>. When asked what this case was about, the PIO could not elaborate. From the point of view of most public officials, who are accustomed to a strong OSA, the principle and practice of an official being penalised for not furnishing official information is seen as creating chaos. However, the provision under Section 20 for fines does make a potential difference; it gives some force to citizens right to be provided with information under the Act.

**Source: Fact Finding Mission, Orissa Diary**

### **2.5 Citizens access to information**

According to Godbole (2003, p.162) the construction in Section 3 of the RTI Bill (presently RTI Act) which specifies that all citizens shall have freedom of information is “clumsy and meaningless”. To him, there is no need to guarantee freedom of information as a separate right from right to free speech and expression as guaranteed under Article 19 of the Indian Constitution. Therefore, he suggests that “the bill instead of recognis[ing]...the Constitutional sanctity of the right to information... should state that it is meant to operationalise that right” (ibid, 2003, p.162). Yet his view is not sufficiently appreciative of the point that even when people have free speech and expression, they may not have access to information. While the former gives the right to exercise something, the later (RTI) provides the content for the credibility of such rights. This can give citizens a greater influence on bureaucracy and peoples’ representatives. Even the World Bank acknowledges that: “Citizens voice in society and participation in politics connect them to the people who represent the state - politicians and policy makers” (WDR, 2004, p. 78; see also Mohanty, 2006).

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<sup>4</sup> (official website of Information Commission-  
[http://www.orissasoochanacommission.nic.in/penalty\\_imposed.htm](http://www.orissasoochanacommission.nic.in/penalty_imposed.htm)- visited on 11th Sept’ 2008) –  
visited on 13<sup>th</sup> July 2008

It is important that people are aware of those provisions to benefit from the Act. In this sense, there have been initiatives at state level to try and ensure wide publishing of the RTI Act. Even so, according to one expert on the subject, there are still “significant misconceptions and rumours” around the Act (Behera, 2005). This researcher suggests that greater clarification about the Act and Rules are needed. There has been lop sided efforts to give publicity to some parts of the Act which have been widely explained, while other parts have been ignored in publicity campaigns and public information through the media. In Chapter 4 the need for more illustrative information about the provisions of the Act will become clear.

An important issue analysed in more detail in Chapter 4 is that the Information Commission in Orissa has so far not allowed wide publication of the most ‘transparent’ part of the Act, namely Section 4. This provides for free and immediate disclosure of 17 key types of public information. Encouraging a narrow interpretation of the Act’s provision for ‘free and timely’ access to official information, and failing to let people know about Section 4, will serve as the public officials’ ‘blocking’ devices. This will be explored in some detail later in this study. This study takes place in the context of proposals to make this section of the Act much more widely known.

## **2.6 Citizens Right to Demand Information**

Pechota (1983, p.3) in the foreword to his book “The Right to Know One’s Human Right” observed “the individuals’ knowledge of his rights is the wellspring of his strength, courage, and freedom”. Thus, RTI is a means; a statutory right can only be strengthened by asking questions to promote more openness, accountability, transparency and responsiveness among bureaucrats, politicians corporate and NGOs towards their responsibilities to serve people. If the people keep asking questions, the strength of the Act can be ensured; otherwise it will die down. The World Bank while describing six aggregate indicators of the quality of governance emphasised “voice and accountability” as key

indicator ...” the extent ...a country’s citizens ...participate in selecting government, as well as freedom of expression and freedom of association...”(2006, p.2). In addition to looking at such obstacles to proper implementation of the RTI Act, this study will also explore alternatives and look at approaches that work well (not just in Orissa). In Chapter 4 the more successful case of Rajasthan is briefly outlined. A few important and appropriate lessons for a more strategic pro-people approach are drawn. Knowledge of the full provisions of the RTI Act and Rules is vital to enabling people to demand information under it.

As officials are obliged to account for delays in providing information under RTI, and to give reasons for the delays, the hope has been that RTI would speed up government officials’ work and that people can benefit from this. Even if good politicians and bureaucrats can change the destiny of poor and marginalised rather, change can also come when the people start demanding accountability and the government is forced to respond. One of the starting points of this study, therefore, was the possibility that the gradual involvement of people in asking for information could become a means for promoting their participation in the process of development. Furthermore, RTI may even create opportunities for empowerment once people gain the ability to undertake activities and set their own agendas, with the information they acquire (Guijit et al, 1998 p.26).

Whatever the problems of implementation, it needs to be said that the RTI Act, 2005 has several promising features that could be used by citizens more pro-actively to hold public decision makers more accountable, and to combat the lack of accountability. Since the Act has made officials personally responsible and subject to the payment of penalties, there are some important ‘disciplining’ mechanisms in the Act that can be used by citizens. As one study noted: “both answerability and enforceability are achieved through on-going engagement through citizens and institutions” (Newell & Wheeler, 2006, p.13).

Perhaps after 1990, with the opening up of the Indian economy, following government acceptance of liberalisation, privatisation and globalisation, the ethos of India's featured development has undergone a substantial paradigm shift. Schonberger (2000, p.330) observed "the increasing availability of information ...will affect the creation, availability, dissemination, and use of information in global information systems". This ethos expected to help make the Indian government more open and move towards greater transparency and accountability, whether at local, national or international level. Since 1990, India has passed a lot of pro-people and pro-democracy enactments, which are potentially useful instruments for citizens to use to defend their rights. The RTI Act could be one such Act, particularly likely to have a major impact if some of the most openly pro-people provisions (e.g. free and immediate disclosure of information under Section 4) were widely known so that they could be used by the citizens and have a practical impact.

## **2.7 The Framework of Implementation: RTI in BMC**

The main responsibilities of BMC are to improve education, health and basic services and infrastructural facilities in Bhubaneswar. Moreover, BMC is also responsible for the maintenance of the local roads, collection of municipal taxes. Thus, it plays a great role in relation to economic development as programs related to social assistance and human development.

Shah has rightly argued that local governance as a collective endeavour at local level consists "citizen-citizen and citizen-state interactions" for better service delivery (2006, p.2). If the RTI Act has been introduced and implemented properly, it should help to curb mismanagement through building closer relations of accountability where public officials feel themselves bound to provide details of their programs and services to the public, and where the elected

representatives (or the PIO, in our study) feel obliged to practice and encourage free disclosure to the public of official information.

## **2.8 Conclusion**

In conclusion, this chapter has looked at the 'right to know' and also the duty of the officers to supply information as a basic constitutional-legal right of the citizenry in a democracy. The right to know and access to official information in public administration should further the fundamental rights of an Indian citizen, as enshrined in Article (19) of Indian Constitution. The RTI Act attempts to end secrecy in public administration and tries to legislate for more open administration with greater transparency and improved public accountability. The provision for penalties to be imposed on erring officials is an added advantage of the Act in holding officials more accountable to citizens for furnishing information sought by the latter. In the next chapter, the main focus will be on the overall RTI implementation process in BMC.



## **Chapter 3**

### **The Legal and Political Context of the RTI Act**

“A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power knowledge gives”. – James Madison, letter to W.T Barry, 4<sup>th</sup> August, 1822.

#### **3.1 Introduction**

In the last chapter, we highlighted some of the key concepts that have been used to organise this study; especially public accountability and citizens right to know. The observation of Madison above is still valid in the 21st century, 200 years later. Citizens access to information and the right to know is important, and so are the legal and political provisions that accompany a new Act of this kind. This chapter will look at the context in which the RTI Act was introduced in 2005. If, as Madison claimed, “knowledge is power and those who possess it have the power to rule”, then the question in this chapter is to understand better how the RTI Act came into being, and what its legal and political underpinnings are.

#### **3.2 RTI and Citizens Access to Information**

In a democratic set-up citizens are the key source of power and authority. Citizens access to information on government programs and activities reinforces greater transparency and accountability in administration. Zeno-Zencovich argues in the introduction of his Book “Freedom of Expression” that freedom of expression is a political freedom and individuals have every right to claim against the authorities that prohibit and obstruct its exercise. To live together in a group and to communicate with each other is a legitimate right; they deserve the right to access to information and the right to be informed (Zeno-Zencovich, 2008, pp. 3, 115, 116). Information is oxygen of

democracy and serves as the greatest tool kit of power (Puddephatt, 1999, p.1). A change in the political will and bureaucratic attitude are highly essential to promote a democratic way of life.

Right to Information is closely linked with right to life, livelihood and survival (Prabha, 2003, p.210). Prabha outlined that though RTI is not the ultimate panacea for diseases like corruption, abuse of discretionary power, nepotism and favouritism, however it protects civil liberties, enhances citizen's participation in administration and aware the people about existing laws and policies relating to them (ibid, 2003, pp.210-211).

The Westminster model of parliamentary democracy proclaims that public officials, through political representatives, are accountable to the citizens. This is the weakest area in India as redress of public grievances is neglected in most government offices. Access to information and communication between duty-bearers and citizens together encompass the core principles of democratic governance like participation, transparency, accountability, protection and promotion of access to information. Flow of information between different bodies of Government, Constitution, Civil Society Organisations (CSOs), Community Based Organisations (CBOs) and the private sector are of equal importance (UNDP)<sup>5</sup>. Thus, the success of RTI could make the notion of 'Good Governance' meaningful; otherwise it may all be a distant dream. Gradual involvement and participation in Government programs and activities can help in promoting citizens participation in administration. The cornerstone of good governance can be seen as being informed and organised with enough scope for freedom of association and expression (Dixit, 2003 p. 81).

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<sup>5</sup> United Nations Development Program UNDP(2007), 'Mutual Accountability Mechanisms', [Internet], Also see - [www.capacity.undp.org](http://www.capacity.undp.org) - accessed on May 13<sup>th</sup> June 2008.

### **3.3 RTI: International Standards and Covenants**

Article 19 (2) of the 'International Covenant on Civil and Political Rights' (ICCPR), a United Nations General Assembly Resolution 2200A(XXI) of 1966 states:

“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

The World Conference on Human Rights, held in Vienna in 1993 has declared that the Right to Development adopted by United Nations General Assembly in 1986 is a universal and inalienable right and an integral part of fundamental human rights. Right to freedom of expression is regarded as closely linked to the right to development. Article 10 of the UN Convention against corruption 2005 states:

“...to combat corruption, each (Member State) shall, in accordance with fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration”.

The World Bank has charged that in Indian administrative system data is always channelled as states' secrets and 'access to existing data remains highly restricted' (Godbole, 2003, p.157). As per the United Nation's Development Program (UNDP) and its definition, accountability challenges power and vested interests, because it primarily rests on transparency to empower people only if they aware of the existence of laws having an access to salient information.

### **3.4 RTI: Indian Constitution and Judiciary**

The Right to Information Act, 2005 aims at setting out a practical regime with enormous power at the hand of the citizens to hold their public authorities accountable and make the system of administration more transparent. The Constitution of India established a Democratic

Republic. Any democracy requires an informed citizenry and transparency in information to make Government efficient. Efficient Government preserves, protects and maintains public fund and remain accountable to the public through furnishing certain information to citizens who desire to have it. Article 19(1)(a) of the Indian Constitution, the law of the land guarantees the Indian citizens the right to freedom of speech and expression. The Supreme Court of India, the guardian of Indian Constitution and the Protector of Fundamental Rights of the citizens, has recognized this right as implying a full right to information. In *Bennett Coleman vs. Union of India*, AIR 1973 SC 60<sup>6</sup>, the Supreme Court ruled that the right to freedom of speech and expression guaranteed by Art. 19(1) (a) included the right to information. The guardian of the Constitution, the apex court of India has expressed this opinion from time to time through its decisions. In *Bennett Coleman vs. Union of India* (1973), the court favoured right to write and right to read. In the case of *State of UP vs. Raj Narain* (1975) the Supreme Court acknowledged in the judgement that although the right to know was not written in the Constitution explicitly, it is included in the Right to Freedom of Speech and Expression (article 19). In *Sakal Newspaper(P) Ltd. Vs. Union of India* (1996),<sup>7</sup> the final ruling emphasised freedom of press. Again in 1982 in *S.P. Gupta vs. Union of India* the Supreme Court advocated for right to know (Prabha, 2003, p.212).

However, even the President of India, who is treated as the first citizen of India, has been denied official information in the past. Mr. Giani Zail Singh, the then president of India was forbidden access to certain information after the assassination of Indira Gandhi. The serving Prime Minister at the time justified this action (Godbole, 2003,

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<sup>6</sup> For further information visit - <http://www.manupatrainternational.in/supremecourt/1950-1979/sc1972/s720038.htm> - Accessed on 28-10-08.

<sup>7</sup> For more information visit- <http://www.manupatrainternational.in/supremecourt/1950-1979/sc1972/s720038.htm> - Accessed on 28-10-08.

p.157).<sup>8</sup> The practice of secrecy has ‘afflicted even the private sector in this country’ (ibid, 2003,p.159).<sup>9</sup>

### **3.5 RTI: Transparency and Accountability Issues in Government**

In a democracy citizens expect public authorities to be responsive to their requests and demands, particularly when they ask for something under a legitimate source (Sharma & Sadana, 2006, p.790). Often this responsiveness interchangeably used with accountability and transparency issues. In order to supply the asked information, two things need to be promoted; a) proper maintenance of records and, b) a favourable official will and attitude towards public. In order to promote administrative accountability in administration, Prof. Finer observed that official actions and punishment for guilty of maladministration is the best way to ensure accountability (Sharma & Sadana, 2006, p.792). The RTI serves the same purpose by imposing penalty for erring PIOs.

To promote efficiency and accountability, the Government of India’s Department of Administrative Reforms organised a conference on 24<sup>th</sup> May 1997 which produced an action plan of three positive solutions. They are: (i) to make the Government more citizen-friendly and accountable, (ii) to protect citizens right to information and transparency, and (iii) to improve integrity, honesty and better performance of civil services (Jain, 2001, p.32). Follow-up steps were taken to establish proper machinery for redress of public grievances

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<sup>8</sup> Extracts from “*Memirs of Giani Zail Singh, The Seventh President of India*”, Har-Anand Publications Pvt. Ltd., New Delhi, 1997 taken by Godbole. He writes ‘ it is strange that after the evening of 1 November (the date of incidence), I did not receive any call from the victims, nor could I contact anyone. The telephone lines had been doctored by the authorities. I cam to know later that there was a spate of calls from persons under attack, but they could not reach me. Their desperate cries for help were falling in wilderness (pp. 208-209)...when I told the Prime Minister that I wanted certain reports of the Commissions in the discharge of the obligations cast on me by the Constitution....No action was taken by anyone in the government to send me the reports...I often thought if they could treat the President in such a manner, what would be the fate of a common citizen. It caused me hurt when the Prime Minister said that my request was being examined (pp. 232-233).

<sup>9</sup> The Cricket Control Board of India kept the Chandrachud Committee report on match-fixing a secret. Also see- <http://www.hinduonnet.com/thehindu/2000/04/19/stories/01190004.htm> Visited on 02-09-2008.

by publishing identities of officials handling grievances and monitoring computerisation of information. As observed in many developing countries, citizens lack the capacity to demand greater public accountability because of denial of access to information and lack of political will to make public officials accountable (Paul, 1991, p.2). This struggle towards promoting transparency in administration and accountability in public services is still under construction and the RTI act legally enforces these activities.

The perception of poor people changed World Bank's strategy in implementing developmental projects as rightly observed by Wolfensohn, the president of World Bank in a foreword in the book "Voices of the poor crying out for change"... "from the perspective of poor people, corruption, irrelevance and abusive behaviour often mar the formal institutions of the state" (2000,p.xv). Though India follows a system of governance where bureaucrats and politicians supposed to answerable to public, however, the activism and counter activism nature of public officials and quasi-judicial pronouncements have made the parliamentary system almost unworkable (Jain, 2001, p.184). Because of a lack of time and knowledge, politicians are unable to supervise all the activities undertaken in their department, even within smaller public offices (ibid, 2001, p. 184). This is why the presence of senior bureaucrats is always sought in every departmental decision. Willingness to serve people and to fulfil their demands and needs is an essential attitude that needs to be developed among bureaucrats. Their role in formulating pro-people policies and implementing them is vital. A sense of responsibility to the population in general, and the poor in particular, is considered in this study to be an important ingredient in what is known as 'public accountability'. In the words of Paul, public accountability generally refers to the "achievement of the targets through desired approaches' and this concept is equally important for all the three levels of government" (1991, p.2).

### **3.6 The Limits of Bureaucracy**

“Government and Bureaucracy are two sides of the coin... functions ... to serve the interests of the people at large” (Rao and Mathur, 1999, p.v). The permanent nature of bureaucracy makes the bureaucrats experts in their specialised fields, whereas the politicians remain laymen and have more involvement with party activities. Both work closely and politicians left almost every responsibility of formulation of bills and implementation of acts in the hands of Bureaucracy (Paul, 2004, p11). Furthermore, “(t)he role of bureaucracy both in policy formulation and implementation is equally important” and the political representatives mostly get influenced by senior most bureaucrats” (Weber in Sharma, 2004, p.10). Thus, bureaucracy becomes all powerful as Ramsay Muir observed in his book “How Britain is Governed” says “Bureaucracy thrives under the cloak of Ministerial Responsibility...It is ruinous when it becomes the masters” (Ramsay Muir, cited in Johari, 2007, p.242).

In the report titled “*To make services work for the Poor People*”, World Bank rightly observed that poor people as citizens have less influence on politicians, weak hold on public services, and in many cases they hardly ‘informed’ of all those (WDR, 2004, p. 6 & 7). In general, it seems that Indian bureaucracy is:

“...mostly uncommitted, unresponsive, unprofessional and unaccountable...with behavioural pathology in relation to the people they are supposed to serve... they become thoroughly dysfunctional, unproductive and incapable of delivering goods” (Barthwal, 2003, p.13).

The permanent nature of bureaucracy makes bureaucrats more powerful and corrupt as observed in the well-known statement of Lord Acton, British statesman, that: “Power tends to corrupt; absolute power corrupts absolutely”. Rajiv Gandhi, former prime minister of India once opined that out of one rupee spent for developmental projects, only 17% actually reached the poor (Roy, 2002 p.28 ). This happens not just because of the illiteracy and ignorance of poor people,

but mainly because of a lack of strong instrumental mechanisms to deal with to deal with such problems. RTI may be seen as an instrument in this respect, since potentially it can deal with such problems. The give and take practices along with criminalisation of politics are major disadvantages on the way of openness and transparency in Indian administration (Barthwal, 2003, p.17).

In the case of the RTI Act, the responsiveness and accountability of public officials in supplying information are generally a matter of concern. Designing an Act properly matters as much as its execution. Any Act passed by the Parliament or State Legislature needs to be designed to be of benefit to its people (Puddephatt, 1999, p.1). In the case of the BMC, the Mayor and Corporators are the political representatives who most closely work with the administrative wing. The bureaucracy puts laws into practice, by implementing them. More specifically, it is the job of the PIO to respond to applications for information. The attitude and willingness to serve people free of cost without any exploitation is important.

Many studies from across the world suggest that bureaucracy is mostly unresponsive and hardly meets the needs of citizens, especially the poor (Weber in Sharma, 2004 p. 298). The question is whether this is also true of officials in BMC in relation to implementation of the RTI Act. Responsiveness can be promoted for example, when there is a positive shift in attitudes which makes bureaucrats more willing to serve the public, responding to their needs and in time with formal rules. To encourage this kind of change of behaviour is one of the key aims of the RTI Act.

### **3.7 Conclusion**

This chapter has explained how the broader international and Indian institutional and politico-legal context has contributed to the introduction of the RTI Act. The formulation, design and enactment of the RTI provisions have arisen in a specific context, which has been outlined. This has already shown up some inherent weaknesses of



the administrative systems that have had the task of implementing RTI Act in BMC. Finally we stressed the importance of specific provisions in the Act for enhancing accountability of public officials to citizens in general.

## **Chapter Four**

### **Citizens Access to Information and BMC Bottlenecks**

#### **4.1 Introduction**

The primary target of this chapter will be to show how the provisions of Section 4 have been largely ignored, in favour of the selective use of Section 6 only. This chapter takes an analysis of the current mechanisms used in BMC to supply information to the people. It begins with the elaboration of data collected from the field visit. As “there is a growing consensus that the way forward is to focus on both a more active and engaged citizenry and a more responsive and effective state that can deliver needed public services” (Gaventa, 2004b, p.17). This chapter also reflects on challenges involved in the practices of implementing the RTI Act in Orissa’s capital municipality since 2005. In particular, it will consider the challenges of accountability, and the right of citizens to access information. The chapter uses findings gathered during the study visit, including analysis of records maintained by the PIO at the BMC offices. The following sections give a brief indication of some of the signs that full implementation of the RTI in Orissa was not going to be a simple matter.

#### **4.2 Contravening the Spirit of the Act: Warning Signs**

In the very preamble of the Act, it is stated that it has to be interpreted in a manner ‘consistent with public interest’. However during fieldwork it emerged that even in framing the Orissa RTI Rules there are a number of critical departures from this principle. The findings from the field suggest these discrepancies can be categorised as follows:

- (i) **First Step towards Violation** According to the RTI Act under 4 (1c) the State Government while framing the state rules should seek the views and opinions of the public at large for its implementation. In case of RTI rules, it seems that a few

bureaucrats sitting in the air-conditioned rooms of Secretariat, having little practical knowledge about what is going on outside and how people perceive the RTI Act, bypassed the course of seeking at public opinion on it (Behera, 2005).

- (ii) **Below Poverty Line (BPL) category and the Rule.** The parent Act proclaims BPL category (the minimum level of income deemed necessary to achieve an adequate standard of living in a given country) is supposed to get free information because of their poor back ground and other liabilities. However, they are seriously restricted under the Orissa RTI Rules. According to the Rule, application for BPL category is free; however they have to pay for information. In an informal discussion with the PIO it was explored that the intention of such provision is to refrain others to use BPL category to get information at free of cost (field notes, July' 2008). When the records observed in BMC, interesting stories of BPL related applications found. People are applying for information to know whether they are enlisted for BPL categories and paying the application fee and information fee, because they are not covered in BPL categories (Field Notes, July-August 2008).
- (iii) **Two modes of Payment:** The present age is flourishing because of IT revolution in means of communication and transportation. RTI helpline through toll-free telephone is established recently in 2008 with joint venture of Orissa SIC and Regional Institute of Public Administration in Bhubaneswar.

#### Telephone Helpline in Bihar

One of the neighbour states in India known as Bihar established telephone helpline for RTI inquiry and submission of application. When one dials to the helpline with a particular number the amount for application fee is added to their telephone bill; so also the case with 1<sup>st</sup> appeal and 2<sup>nd</sup> appeal. In this way, people benefit more as they do not have to run behind officials to get information personally or to bear travel cost or post cost.

However, in Orissa one can not apply for information by calling to the helpline directly. The Orissa rule under Section-6 (see Appendix-15) made it clear for two ways of submission of application and payment, either personally or through post.

- (iv) **One Way Traffic.** There is a provision in the RTI Act under section 6(1) to apply and get information from concerned authorities through e-mails. However, the Orissa RTI Rules twisted this provision by making it only one-way traffic. This means that while one can apply for information through emails, there will be no response (or advice will be given to visit the BMC website). BMC records do not show any evidence of sending information through emails. Since BMC launched its own official website on 11.05.2005, the website has provided some information about activities and programmes undertaken by BMC in Bhubaneswar. However, during fieldwork, it was observed that “please check the BMC official website” had become a way to divert, rather than satisfy, requests for information that arrived by e-mail.
- (v) **Penalty Provision for Citizens:** The Act is silent in penalising the citizens in any case. On the contrary, under the Rules the damage of cost of any construction during sample collection by PIO is to be recovered from the person applied for information. Not only this, under section 13 the damage cost needed to be deposited within 30 days of the penalisation, otherwise it will be forcefully recovered from his/her property. Therefore, looking at the present status of RTI Rules with such penalty provisions for citizens Behera argues that the present Orissa Rule is a new way of exploitation and violation in series as it creates lots of stumbling blocks on the smooth process of getting information from public officials. This matter comes under public interest to open up corruption during construction work. If such damage cost will be forcefully recovered from the applicants, no one will bother to ask for information at the cost of personal belongings. Maintenance and preservation of public records is an important aspect with regard to citizens access to information and any damage to public records is a criminal offence (Puddephatt, 1999, p.2). Hence, it is the duty of the public authorities to collect the sample carefully and citizens should not charge anything for it.
- (vi) **Identity Issues:** The Act clearly states that in order to get any information under section-6, a person has to use Form-A (see Appendix-11 (4)) and give his communication address where he supposed to receive the information, however, the Orissa Rules proceeds a step further by asking the identity proof of a person apply for information. The public authority need to be satisfied with identity proof to proceed before the application can be registered. For instance, as per the record maintained by the coordinating PIO in BMC shows that the personal information about the applicant is collected eagerly

as per the Orissa Right to Information Rule, 2005, whereas some of the columns in the form-F (to supply information) for instance column 13 reasons in brief for not supplying information, is fully left in blank in the whole record. It shows as if no applications has rejected till date. In addition, only a voter identity card or passport is considered as valid documents for identity proof. In Orissa, hardly a poor person under BPL category owns a passport and even all do not have a voter identity card. In the same line, it also excludes students for asking information as they are unlikely to own either a passport or a voter identity card.

(vii) **No Record Register for Visitors**

Both the Act and the Orissa Rules says for maintenance of register for persons visiting to inspect records at different public offices. The objective of this record maintenance is to realise that people are inspecting public records under free disclosure (Pradhan, Interview, July 2008). Even after completion of two years, BMC is still lacks a record to maintain for visitors, those who are coming to inspect its records (Field Notes, July-August' 2008). The researcher was asked to submit her identity proof and other information in a plain paper to get information on the records in BMC relating to Right to Information. This shows the negligence of BMC authorities towards implementing more pro-people provisions enshrined under the Act.

(viii) **Selection of Chief Information Commissioner in Orissa:**  
Chapter IV of the Act under sub section (5) reads-

"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 office of profit or connected with any political party or carrying on any business or pursuing any profession".

In the case of selection of the Orissa Chief Information Commissioner, a 3-member Committee including the Chief Minister, Leader of Opposition and Minister of *Panchayati Raj* nominated a working bureaucrat. If the selection criteria as mentioned above will be analysed, a working bureaucrat can not qualify to hold the post of Chief Information Commissioner at all. This is a clear violation of the spirit of the parent Act. Mr. Mohapatra, president of Orissa Gana

Parishad (OGP) alleged this decision and called on the Governor to intervene immediately. He added to it by saying that “a bureaucrat is rehabilitated by the Government of Orissa to mask transparency, rather than to maintain it”. – Statesman, October 24, 2005.<sup>10</sup>

- (ix) **Free Disclosure; the crux of the Act Undermined** While describing the principles of Freedom of Information Legislation under Article 19 of the Universal Declaration of Human Rights, Puddephatt observed citizens deserve to get information from public authorities under free disclosure as a basic right. In addition, each citizen has the right to receive information of the country where s/he lives in. If a public official denies for information, they need to give clear reasons for such denial (1999, p.2). This implies that citizens have a right to get access to information without much intervention of public authorities in supplying those. During the study in July-August, a daily local newspaper namely Dharitri in Oriya published that BMC is going to implement the provision of free (*suo-motu*) disclosure soon on dated 5<sup>th</sup> August 2008. This is a critical issue which will be dealt with in more detail when we look at the question of free disclosure in Chapter 5.

A number of more general issues arise in the BMC context, from this detailed review of some of the signs that RTI implementation is not being conducted in the spirit of the Act. Other issues will be discussed as follows in the rest of this chapter: (1) discrepancies in the use of Sections 4 and 6. This is also the subject of Chapter 5; (2) the PIO’s record of applications, and what this shows; (3) the question of support for staff required to provide information under the Act, and finally (4) the potentially important role of the Information Commission in implementation.

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<sup>10</sup> See published version of the above mentioned article, which is published in one of a mother tongue can views in the website- [www.orissarti.com](http://www.orissarti.com)

### **4.3 The Key Sections: 4 and 6**

A key purpose of the RTI Act 2005 has been to promote positive attitudinal changes among public officials and political representatives towards fulfilling their duties to citizens in BMC. In this part of the chapter the inter-relationship between political and bureaucratic regimes will be outlined in the light of the provisions of the Act.

In Chapter II of the RTI Act 2005, under “Rights to Information and Obligations of Public Authorities”, Section-3 says that all citizens have the right to information. Under Section 4 (1) every public authority should maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information, further information is provided in chapter 4. Section 6 (1)( See Appendix-15) “A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means”. The main difference between section 4 and section 6 is that one can get information free of cost and immediately with Section 4, whereas under Section 6 one has to pay fee for application, fee for information and along with this 30 days wait for getting information with the latter (i.e. Section 6). Because this issue is considered so critical, it is the subject of Chapter 5.

### **4.4 The Record of Applications under the RTI in BMC**

After prolonged discussions with the immediate higher authorities of the PIO, about the purposes of this study and its use in practice, the researcher was eventually allowed to access some figures relating to the number of applications filed in BMC, but strictly denied to take any photocopies. In spite of such difficulties of access, observation of the records in BMC has given a basic idea about (i) the number of applications filed per day, (ii) the nature of information asked for, (iii) the consecutive days taken to supply the asked information and (iv) the date of rejection for information if any. Most importantly the specific reasons for not supplying information carefully looked at. As per the Act, there should be free availability of information (*suo motu*)

and “direct accessibility to those who will be affected by such decisions and their enforcement” (Dixit, 2003 p 81).

Responsiveness requires a reasonable timeline, within which the institutions will provide information to their stakeholders (ibid, 2003 p.81) and the Right to Information Act supplies a potential enforcement to check the responsiveness of public officials at BMC. Public accountability, transparency and responsiveness ‘must take note of three vital institutions’ (Judiciary, Media and Civil Society), which are crucial in any democracy (Godbole, 2003 p. 323).

The BMC comes under local government and hence, is assumed to be closer to the people than state or national government. The number of wards will increase in the coming elections of early 2009, implying greater closeness to the people. However it is hard to imagine how poverty alleviation programs<sup>11</sup> undertaken by BMC can be better accessed unless The RTI Act is properly implemented. In order to see whether the Act is being used as intended, the researcher gained access to the record of applications filed by the public, within the BMC municipal office building. Access to this record was provided by the PIO, but no copies could be made. However, from records (and photos taken) a number of important findings arose.

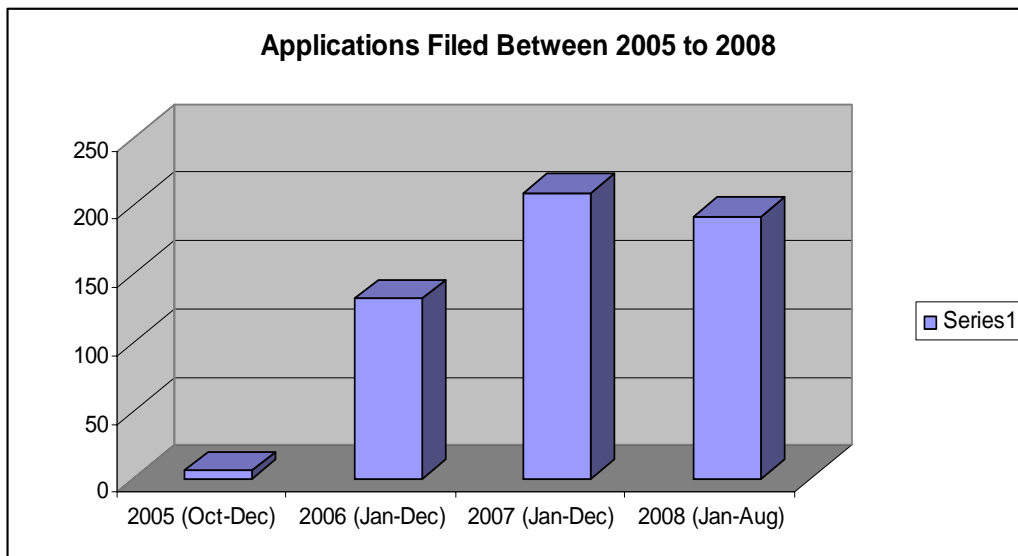
It is interesting to note that the record maintained by the coordinating PIO shows that the first application filed under RTI was dated 20<sup>th</sup> October 2005. The first application was submitted by Chita Ranjan Das, a resident of Bhubaneswar, to get a copy of a letter relating to a health officer in BMC (Field Notes, 23<sup>rd</sup> July’ 2008). When the researcher contacted the individual, to follow up whether the application was handled, he confirmed that he obtained the information within 30 days. He filed the request for information under

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<sup>11</sup> The programs undertaken by BMC are Swarna Jayanti Sahari Rojgar Yojana (SJSRY) Balika Samrudhi Yojana (BSY) , Old Age Pension and Orissa Disability Pension (OAP/ODP) , Below Poverty Line(BPL) , Antodaya Arna Yojana(AAY) and primary health facilities are functioning in most slums providing health care to slum dwellers. As per Below Poverty Line (BPL) Survey conducted during 2004, there were 69, 874 families living under BPL in Bhubaneswar Municipal area (Field Notes, July-August’ 2008).



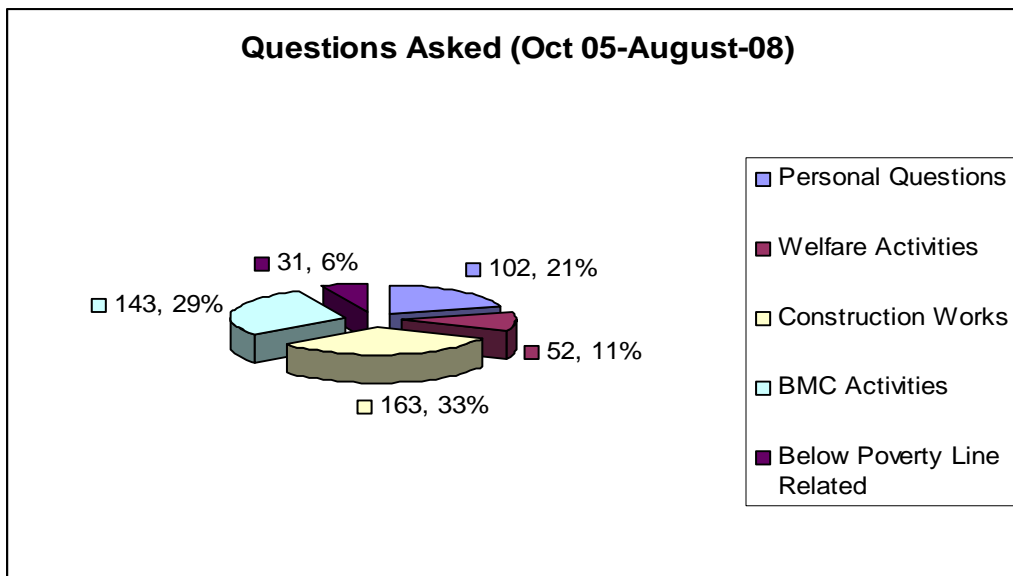
Section 6 (Field Notes, 28<sup>th</sup> July' 2008). In another instance, Kokila Nayak, who filed application under RTI and successful in getting her benefits from BMC after 14 years. For further information Appendix-12, case study-3 can be reviewed. There are only six applications filed in 2005 in the three months from October to December (Field Notes, 8<sup>th</sup> July' 2008). However, there are no applications filed during financial year ending i.e March-April 2006 can be reviewed in Appendix -13.



The bar graph of year-wise questions shows the fact that the number of questions asked by citizens is increasing gradually. In 2005, there were only 6 questions asked within three (3) months, whereas it increased substantially in 2006 and reached 132. It shows that slowly but surely people are becoming aware of the RTI Act and have started using it for collecting information from BMC. The figure in 2007 is all most doubled and reached 209. The comparison of the number of applications in 2007 and 2008 is also interesting as it is almost similar, although the data collected for 2008 is up to August only. The applications filed at BMC for information come only under Section-6 of the Act, which specifies for a payment of a fee and 30 days wait to get the information. The fee is specified to be 10 rupees, which again has

been decreased from original fee of Rs. 20 under public pressure is considerable for a large majority of Indians living below poverty line. For quite a large number of Indians, rupees 10 can mean a whole days earning. The object of the Act is definitely to empower these persons, but the fee in fact, works against such empowerment. It is a matter of choice between a square meal or getting information from public authorities. This scenario forces us to consider the provision of Section-4, i.e free disclosure to information.

In order to establish a better quality life with all civic amenities to its citizens city authorities like BMC in Orissa, operates a number of activities within a limited area (Dhaliwali, 1999, p.3). The questions asked by the citizens under RTI shows that gradually the citizens in Bhubaneswar are getting involved into the activities undertaken by BMC in Orissa although they have to pay and wait for 30 days. The strength of citizens motivation towards asking questions can be analysed by the following chart which describes the categories of information delivered by BMC to its citizens.



Sources : BMC Record Register, Bhubaneswar

The pie chart shows the type of questions broadly asked to BMC by the residents. The highest numbers of questions asked are on construction works, which involve 33% of the total questions related to tender copy of road works, building plan and construction, construction and repair of vending zones and most importantly the budget allotment and its expenditure. The interesting fact is that BMC has put up concrete billboards by the side of the road and construction works specifying the name of the contractor, amount spent, the work done. People are also asking for the sample of different construction material like sand, cement and rod for any construction work. Even questions are asked on the number of days within which a particular construction work will be finished. The second highest questions asked are on BMC activities. These questions involve plan and functioning of BMC, budget per projects, allotment of funds, council resolution, vending zones, tax collection, health, education, sanitation, drainage system, public parking, and market rent etc. The number of personal questions (21%) to know service matter, pension, holding tax, leave matter and arrear claims etc. The least number of questions (only 6%) asked were related to matters affecting people belonging to BPL categories. It indicates that people from the lower 'level' of the society are aware of the RTI Act and asking questions to the public authorities, which can be referred in Appendix-14. It has to be remembered that these categories can not get their right because of the provision of fee under Section-6 as the choice is between a square meal a day or information from public authorities. The least use of the provision of Section-6 is, therefore understandable, though definitely not acceptable. Hence, there is a need for greater thrust on Section-4 which would give rise more public accountability for those whom it matters the most.

#### **4.5 Support for Staff Supplying Information**

The study shows that BMC has taken the initiative in distributing the task of supplying information among the eight branches with eight PIOs. As mentioned in Chapter 2 prior to January 2008, there was

only one PIO responsible for receiving all applications and supplying all information; an impossible task. However, it was observed that “no training program on the Act or the Rules has not arranged for staff working in BMC to supply information under RTI Act” (PIO, BMC, 31<sup>st</sup> July’ 2008).

It was observed that due to lack of knowledge and competency, the PIO follows (a) the formats given in the Act for maintenance of daily record under RTI Act or (b) the instructions given by higher authorities (interview with PIO, BMC, on 7<sup>th</sup> June, 2008). On the other hand, some of the slum dwellers in *Salih Sahi* (See Appendix - 8) in a focus group discussion opined that it is not only training how to do things in a better way, rather development of an attitude to implement laws on the part of officials is the more important requirement. The slum dwellers complained strongly that if the public authorities feel, they can not supply the asked information; they simply deny receiving application.

During a campaign in Bhubaneswar from 1st July 2006 to 15th July 2006 known as “Drive Against Bribe through Right to Information”, volunteers helped the slum dwellers to file RTI to know the status of their BPL card. More than 30 applications were drafted by the volunteers and they went in group to file their application (see Appendix-14 (a) & (b). The PIO asked them to submit 20 rupees each as they are not covered yet under BPL category. Some of them did not register RTI application feeling that it is a waste of money and time as they have to wait for another thirty days to get the information (Field Notes, July-August’ 2008). A group consisting of seven members were advised by the PIO to send their applications through registered post. The World Bank rightly observed the same...“state institutions whether represented by central or local government...neither responsible nor accountable to the poor...the arrogance and the disdain with which poor people are treated (Narayan, 2000, p.196). This implies how officials tend to neglect public needs in supplying information.

Taking into consideration the infrastructure development, the PIO expressed that whilst BMC has invested in new constructions over the past few years, there has been no investment in improving the condition of the record room, or in resources needed to maintain proper records. The same room has been used for the past five years without any changes or investment in facilities or staff. There is no initiative yet taken, for example, to computerise the records or documents. The number of files is increasing yearly, and the lack of space in the record room was apparent during fieldwork. This itself hinders the proper maintenance of the record room and reduces accessibility of information to the public through creating a filing and record system where things are more likely to get lost (Field Notes, July-August' 2008).

So far, the BMC has not arranged a separate office for applications under the RTI, or even a separate desk for the PIOs who receives such applications from the public. The coordinating PIO is accommodated within an administrative officer behind a closed door with a peon outside. Generally, it is difficult for a common person to enter such an office to meet him the PIO in order to submit an application. Even the researcher could not meet him easily because official meetings would be taking place inside the same office where applications were to be made.

It was observed that the PIO does not have a name plate on his door so that he can be recognised as the PIO by members of the public (Field Notes, BMC, 22<sup>nd</sup> July 2008). Interestingly, it is noticed that PIO has the task of supplying information alongside all the other day-to-day routine work that he is responsible for. Hence, the PIO has no strong incentive to make public that he is the PIO since it simply adds to his work burden, bringing him no rewards. It is not a task that adds value to his job. Rather he takes this task on as an additional burden. He also takes on the risk of being penalised for not supplying information. It is quite a thankless task, and one that has not been made very attractive to bureaucrats in BMC.

#### **4.6 The Role of the Information Commission**

The Orissa Information Commission was constituted under Section 15(1) of the Right to Information Act, 2005 (Act 22 of 2005) vide the Orissa Gazette Notification dated Oct 11, 2005. Section 15(4) of the RTI Act, 2005 stipulates;

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

Presently, the SIC is headed by the Chief Information Commissioner who is assisted by one Information Commissioner at present. The SIC receives complaints if the PIO does not provide correct and timely information. The Commissioner is the Appellate Authority for hearing appeals from erring persons who have been denied requested information. The Commission also inquires 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. Training programs are organised at district, block and *gram panchayat* level. Besides, ten awareness-cum-assistance programs have been undertaken in all revenue districts and in six different towns including Bhubaneswar. The media, All India Radio is involved in the awareness campaign to popularise the Right to Information Act, 2005 and its benefit to the citizens. Folk form (performing art) are organised all over Orissa as a major initiative for the illiterate people to know the usability of the Right to Information Act, 2005 (Interview, IC, July 22<sup>nd</sup> August’ 2008).

A toll-free helpline has been established with funding to regional branch of Indian Institute of Public Administration, Bhubaneswar. Anyone can call it free of cost to know on the Right to Information Act and Orissa Rules or to know any other related provisions. The Act and Orissa Rule is translated to other local languages to make it easier and understandable for the different Schedule Tribes in Orissa. An appreciation module mentioning the importance and need of on the Right to Information Act, 2005 in a democracy has included in the training program courses in different training institutes meant for administrative officials and police personnel. There is a reference library established in the State Commission to serve the purpose of implementing the Right to Information Act, 2005 and its related subjects and issues. The website was also launched on 20<sup>th</sup> Dec' 2005 and is regularly updated with new additions. The State Commission is serving court proceedings for speed disposal of the Right to Information complaints in four days a week and Public Information Officers penalised for delay or negligence in supplying information. The cash penalty is also recovered from the Public Information Officers under the supervision and control of the Secretary of the SIC (Field Notes, July-August' 2008).

#### **4.7 Conclusion**

This chapter has focused on some key challenges to implementation of the RTI Act 2005, observed in the BMC context. The central findings presented in this chapter support the view that provisions for free disclosure have been neglected (Section 4). This key finding is developed in the following chapter. A number of bottlenecks to implementation of RTI in the BMC context have also been identified. These include a lack of will shown in the absence of investment in resources, in computerisation of record maintenance, and in staff training and rewards for acting as PIO. Above all, the root problem of over-bureaucratic attitudes remains. Many signs of problem have been highlighted. If this problem were handled better, BMC might be

able to improve citizens access to public information in future. This is the key challenge to implementing the RTI Act. Before overall conclusions and recommendations in the final chapter, Chapter 5 explores free disclosure of information, and the role citizens and civil society organisation can play in ensuring that progress is made in this direction.



## **Chapter 5**

### **Citizens Right to Free Disclosure**

The present Prime Minister in his speech on the importance and legacy of the Right to Information Act, 2005 in India cited M.K Gandhi's view on independence as follows;<sup>12</sup>

*“The real Swaraj (independence) will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused”.*

– Mahatma Gandhi

#### **5.1 Introduction**

The recognition of the right of access to information is a central pillar of any democracy in the world. Freedom of information, particularly the right to access information held by public authorities free of cost, is a very controversial issue on the public agenda in many countries. Increasingly it is recognised that unless there are very good reasons for withholding information, citizens should be able to access it, and public information should be held in accessible forms. According to Sharma (2000,p.168) public opinion is undermined because of two reasons. Firstly a vast number of people are uneducated and unaware of the happenings as the system of English education restricted to middle class in India. Secondly, these uneducated dominant powerful groups are enjoying power and positions without noteworthy responsiveness to the general public in a stratified Indian society. However, the main objective of the Right to Information Act, 2005 is this:

“to promote openness, transparency and accountability in administration but also to ensure participation of people in all matters related to governance”(Orissa Review, 2006, p. 102).<sup>13</sup>

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<sup>12</sup> For further information visit - <http://www.pmindia.nic.in/speech/content.asp?id=428> visited on 1<sup>st</sup> October' 2008.

<sup>13</sup> Mentioned in Orissa Review, November 2006 with a title “*Record Management and Freedom of Information*” – <http://www.orissa.gov.in/e-magazine/Orissareview/nov-2006/engpdf/102-107.pdf>- Visited on 250908

Citizens fundamental right to know is further strengthened by Article 21 of the Indian Constitution which proclaims for right to life and personal liberty, the obligation of the state to provide a decent standard of life (Ghosh, 1991, p.15), whereas Article 19 says for right speech and expression as observed in Chapter-1. In the same line, Article 14 of the Indian Constitution (guarantees the right to equality, which means all the stakeholders should have an equal access to information which affects their life and livelihood in any way. The process will be better when free disclosure will be given priority in government offices. The role of civil society organisations, social movements, groups and individuals to demand free disclosure is highly essential to bring transformation in the society. Kaldor calls it as 'contentious politics' – used by those who are excluded because of lack of accessibility to public institutions and authorities. It poses challenges and claims against authorities to be responsive to public demands (2003,p.82).

Knowing the Act in detail does not necessarily help the citizens get access to information. Citizens may benefit, when they obtain authentic information, and are able to use it to promote their own participation in the process of governance. But the relationship between citizens participation in public administration and access to information is still a new topic in development, and there is not yet much research on this issue. It forms part of a broader view that people should become actors and agents (makers and shapers) in broader processes of governance rather than passive 'electorates' (Cornwall and Gaventa, 2001, pp. 2-4). This chapter focuses on how citizens get demand free disclosure under the RTI Act and so enjoy its benefits without paying. What are the main measures taken so far by BMC and the Information Commission to make the people aware of the provision for free disclosure? Moreover, what is the role of civil society and social movements in promoting awareness among citizens and thus influencing the Government to provide free disclosure of information, as provided for under RTI? More importantly, the success

of social movements, though it rises and fall, depends on their own ability to mobilise people on the one hand and to force the authorities to be responsive to the public (Kaldor, 2003, p.83).

## **5.2 The Importance of Free Disclosure**

As mentioned in chapter 1, the public authorities are obliged to maintain, catalogue, indexed and computerise available resources and facilitate access to records. This should be completed within one hundred and twenty days from the enactment of RTI. The Act covers 17 items under free disclosure (see Appendix 15). The Act not only mentioned the subjects under free disclosure, but also is very clear on the issues that do not fall under free disclosure – these are listed under section 8 (1) (See Appendix- 15) .

Section 4 covers most government schemes and programs that generally people would want to know about. For these kinds of information, there is no need to submit a written application or pay a fee or to wait for 30 days to obtain information (Behera, 2007).<sup>14</sup> Therefore, Mr. Behera suggests conducting training programs on the implications of RTI for the PIOs in Orissa.

During the focus group discussions in different parts of Bhubaneswar, with illiterate slum dwellers and locals, hardly anyone was aware that the PIO could even help them in drafting their applications as enshrined in the Act. The hope has been that if people know more about the Act and its provisions they will insist on their right to demand free access to information held by the public authorities. Citizens can thus start to ensure the better implementation of the RTI, but also of a range of other schemes, programs and projects that BMC is responsible for. The same principle should apply at both National and State Government level (Behera, 2007).

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<sup>14</sup> In a workshop in the name “Operationalising Right to Information Act, 2005” organised with support of HIVOS, Bangalore from 20<sup>th</sup> to 22<sup>nd</sup> Aug’ 2005.

### **5.3 The Act and Free Disclosure**

The Right to Information Act not only accepts and serves all citizens equally, but also seeks to serve the poorest through positive discrimination. For example, BPL categories are in principle allowed information free of cost. Whether this is applicable in Orissa is debatable because of discrepancies between the parent Act and the Rules as mentioned in chapter 4. As mandated by the Act, each citizen is legally entitled to get information from the office of any public authority. The basic objective of such provisions under Section 4 is to enable the citizen to receive information immediately without facing any hassles involved in application-writing, payment of application fees or waiting for 30 days as required under Section 6 of the Act. Again Section-4 says:

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

The spirit of the provision is that the citizens will not have to make a formal application or wait for 30 days to get the information as required under Sections 6 and 7 of the Act. They can straightaway walk into any public office, get their names entered into the concerned register and ask for inspecting any file (vide Rule 2-2 of Orissa RTI Amended Rules 2006) or taking a copy thereof and that instantly, and at the prevailing cost price. When the citizens are visiting the offices and demanding the information under Section-4, the officials express their helplessness and ignorance about this provision. Again, when the citizens demand inspection of records under Section 4, the concerned PIOs ask them to submit an application under Section-6, which is blatantly illegal.

#### **5.4 State Information Commission and Free Disclosure**

During an interview, the Information Commission in SIC said that much initiative has been taken for wide publication of the Act.<sup>15</sup> On the other hand, according to an interviewee, it is strange but true that the SIC had distributed a grant @ Rs. 35,000/- to the NGOs, one each in every district participated in awareness campaign on RTI Act. In the concerned letter issued by the Commission, the NGOs were instructed to conduct their *Soochana Shibirs* (Information camps) for Section -6 only. This fact clearly indicates that the Commission has deliberately tried to hush up any discussion about the accountability of public authorities including the Commission itself for making free disclosure. A glaring proof of this betrayal by the Commission towards the Section 4 of the Act is the fact that they themselves had calculatedly abstained from making any free disclosure of 17 categories of information about themselves on their website for more than a year. “After a lot of protests by the activists, the Commission made their *suo moto* disclosure in last March of 2007, and that too in a mechanical manner” Pradhan added. He stated that a massive campaign was required from the civil society groups across the State to exert more pressure on the public authorities to make proper and adequate disclosure of *suo motu* information under Section-4 of the RTI Act. Next, the members of the public should visit offices of the public authorities and ask the respective PIOs to allow them to instantly inspect the *suo motu* information and collect copies of the needed information at a cost price. If these requests were denied by the PIOs, the citizens should either bring the matter to the notice of the concerned 1st Appellate Officer or straight away lodge a complaint with the SIC under Section 18 of the Act. Then, if the Commission fails in its duty to serve the acknowledgement receipt to the complainant after duly registering the complaints so lodged, and again

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<sup>15</sup> Mr. Jagadananda, Information Commissioner interviewed in SICon 19-06-08.

if the Commission on receipt of such complaints fails in its duty to call for the hearing of all the concerned parties within a reasonable time. The aggrieved citizens can resort to the patent remedy provided under the Act. The matter can be taken to the notice of Governor of the State. As the Governor has the power to dismiss any Information Commissioner from his post on the grounds of misdemeanour or inefficiency after holding an enquiry by a Judge of Supreme Court as required under Section 17(1) of RTI Act (Pradhan, Interviewed on 22<sup>nd</sup> July 2008).

At the end of the interview, Pradhan recommended that a writ petition could be filed before the High Court of Orissa against both the State Government and the SIC to bring them to book on account of their wilful negligence and persistent violation of Section 4 of the RTI Act 2005.

### **5.5 Civil Society campaigns in Orissa**

There are instances of civil society organisations playing key role between BMC authorities and the citizens in implementing different welfare activities for a better civic life in Bhubaneswar. Studies show that;

“social movements also need a minimum organisational coherence if they want to negotiate or strike alliances with others. This can greatly enhance mass protests and other non-institutional forms of action” (Schonwalder, 2002, p.14).

For implementation of the RTI Act in its true sense, members from civil society organisations staged a long Dharana and burnt copies of Orissa Right to Information Rules in front of the State Legislative Assembly alleging that they are not pro-people and violating the spirit of original Act. The capacity to organise people also addresses the existence of “processes of information sharing and communication that can enable and support a culture of accountability and transparency” (Gaventa, 2004b, p.21).

### **“Drive Against Bribe through use of Right to Information”**

An awareness-cum-assistance campaign was organised in forty eight cities all over India called the “*Drive Against Bribe through use of Right to Information*” from 1st July 2006 to 15th July 2006. In Orissa, Bhubaneswar was one among those cities to run the campaign actively. A number of NGOs including the one the researcher was working with were participated in the campaign by supporting volunteers and finance. Volunteers helped people in drafting their applications for information. “There is no provision called free disclosure in Orissa, hence the volunteers draft all applications under section-6 during the campaign. A rally was conducted and addressed at the end by the Chief State Information Commissioner and the present Commissioner who was holding the position of Secretary of a renowned Non-Government Organisation called CYSD by that time. An interesting story came up during the campaign, the PIO at BMC, Mr. Patnaik demanded a sum of Rs. 20/- as the application fee irrespective of people belonging to the BPL list. He said that their office has not received any circular regarding the revised fee structure even though the fee structure has been revised vide IPR department letter no.-S.R.O. No. 251/2006 dated 29th May 2006.

Copies of memorandum submitted to the Speaker, Governor, Chief Minister and Chief Information Commission with a demand of complete withdrawal of the Orissa RTI Rules. By doing so, the activists hoped for people-friendly rules in conformity with the parent law- the Right to Information Act, 2005. (‘Protest Dharana against Orissa RTI Rules on 20th Oct. 05 before the Raj Bhavan’).<sup>16</sup> These types of efforts by civil society organisations can oblige the government, SIC and BMC to be pro-people in their activities. Perhaps therefore the situation in BMC is not that unusual.

### **5.6 Civil Society and Free Disclosure**

What these cases suggest is that the involvement of civil society in the process of implementing the RTI act can potentially widen the letter and spirit of democracy. According to Godbole (2003, p.162) Non Governmental Organisations (NGOs) and trade unions need themselves to be accountable to citizens as well. They need to furnish

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<sup>16</sup> published in Statesman- <http://www.thestatesman.net/page.arcview.php?date=2005-11-23>. – Visited on 11th Sept’ 2008.

their own records like government. Civil society can then better contribute to promoting a spirit of greater transparency and reinforcing accountability of Government (Ghaus-pasha, 2004, p. 3).<sup>17</sup> According to Ghaus-pasha the civil society actively participates in policy analysis and advocacy issues, monitoring different state run projects and performances of the public officials with regard to their action becomes possible. Thus, they can further the process by generating awareness programs and by mobilising citizens to participate in public affairs. Ghaus-pasha summarised the action of civil society as an agent in making transparency and accountability operational in public administration.

Raising citizens awareness thus involves creating a sense of their own right to claim rights or express their views (Gaventa, 2004a, p. 37) as well as a broader-based awareness of the opportunities of participatory citizenship (2004b, p. 21). These processes can bring changes as “citizens and governments are coming together in new ways to participate, deliberate, and develop solutions to pressing social, economic, and community development issues” (Gaventa, 2004b, p. 16). Civil society organisations being suppose play the role of a bridge between citizens and the state and let the voices heard at authorities (Kaldor, 2003, p.95).

According to Barthwal (2003, p.15) outward help motivates citizens to participate actively in administrative process, which can never be expected from the public officials because of their attitudinal problems as bureaucrats. In the opinion of Barthwal, NGOs can play the role of helping hand for citizens in organising other people as a facilitator between local administration and local people by generating awareness among the locals. MKSS in Rajsthan is a role-model fosters the technique about how can civil society organisations generate

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<sup>17</sup> 6th Global Forum on Reinventing Government Towards Participatory and Transparent Governance 24 – 27 May 2005, Seoul, Republic of Korea ROLE OF CIVIL SOCIETY ORGANIZATIONS IN GOVERNANCE Dr. Aisha Ghaus-Pasha December 2004  
The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations or its Member States.



awareness among citizens at grass-root level. The – *Jan Sunwai's* – ‘public hearings’ are the means used by MKSS in rural Rajasthan to generate public awareness on the malpractices and corruption in public administration. Further information on MKSS can be reviewed in Appendix-14 case study-1.

Civil society organisations, as key developmental actors can play a role. They can use methods like “protests, petitioning, and direct action” to enforce the rights of citizens in a democracy (Cornwall and Gaventa 2001, Goetz and Gaventa, 2001, cited in Cornwall, 2007, p. 2). In the same line the case-study on Ansari can be reviewed as given in Appendix-12, case-study-2. In Orissa, Mr. Ansari has taken a front in the history RTI revolution, who has nominated for *Shoochana Shree* Award for his outstanding work in RTI. Though this case is not in any way related to the study area, still cited as what individuals can do to restore transparency and accountability in public administration. Thus, Cornwall emphasised on “reconfiguration of state-society relations” for a better democratic set-up (2007, p.6).

## **5.7 Conclusion**

To sum up, free disclosure is among the most important mechanisms of the RTI Act. The more the disclosure of information is provided without delay and free of cost, the greater will be the exposure of corruption and mismanagement, so also transparency and accountability in public administration. Kaldor pointed out that the function of the state is heavy, rigid and slow and Godbole expressed how Indian administration restricts information. Therefore, the ultimate solution is that if government, civil society organisations and citizens work hand in hand, the flexibility and fluid nature of the latter could help firmly in implementing different governmental programs and projects and the serve the purpose it meant for. Thus, collective effort should be strengthened to make the provision of free

disclosure under RTI Act to be functional and more active in implanting other developmental projects in BMC.

## **Chapter 6**

### **Conclusion**

#### **6.1 Introduction**

The central focus of this chapter is to return to the key research questions and review them in the light of the evidence and insights contained in previous chapters. Therefore, the main research question and sub-questions will be reviewed on the basis of field observation and the key findings.

#### **6.2 The main research questions**

*(1) Has the introduction of the Right to Information Act 2005 enhanced the accountability of public officials in the Bhubaneswar Municipal Corporation to local citizens?*

The field work showed that the introduction of the RTI Act brought few positive changes in public servants responsiveness to peoples' need for free disclosure of information. But at least, there was the hope expressed from various sides that applicants might get information under Section 6 within 30 days. The potential strength of the Act is that the PIO is bound to follow a timeline to serve information. Information or a satisfactory reason for not supplying information has to be provided. Otherwise the applicant has every right to go to the appellate authorities for an appeal. Case Study 2 in Appendix 12 is an example of how citizens can take initiative to promote transparency in public administration. In one positive example presented in Chapter 4, the SIC after hearing the case of Kokila Nayak ordered BMC to furnish the information immediately. Within a couple of days the order was actually carried out and Nayak's grievance was redressed. A judicial process of redress would have taken years and would have involved an expenditure of a large some of money. Nayak's rehabilitation is a case study of success and can be taken as an achievement under the new RTI regime in Orissa.

These are illustrative cases showing direction for future implementation of the Act in BMC.

*(2) How is the RTI Act changing the relationship between the public and BMC officials?*

Although the PIO is the direct contact person for supplying information, all BMC officials are accountable for supplying information. The PIO can only supply information after it had been provided by branches of BMC. It does seem that more emphasis is being given to proper maintenance of public records than in 2005 or before the RTI Act. The official website is updated from time to time. It is interesting to note that early signs were found of initiatives to materialise the provision of free disclosure under Section-4. This will soon be advertised in local newspapers and told by the PIO during field visit. There is no single evidence shown from the records on non-supply or rejection of applications.

The tendency to ignore the public or supply false, half-furnished information is also subject to penalisation (Nagraj, 2008, p.2). Penalty imposition because of failure to supply information can affect someone's career prospects. Thus, the RTI forces officials to change their attitude towards the public and become more accountable in performing their duties. The role of SIC with subject of penalisation serves an instrumental in forcing the authorities to supply information largely to people. Apart from the penalisation process, one thing should be in the mind of every person in a democratic system whether he is a government official or politician or a slum dweller. In the words of John Donne "No man is an island entire of itself; every man is a piece of the continent, a part of the main", the duty bearer who feels inconvenienced by the responsibility of giving access to information in his/her own office greatly gains in every other aspect of his/her life by gaining access to information in those fields. The information would not have been normally available to him inspite of the fact that it affects his life adversely.

### **6.3 Sub-questions**

*(i) What have been some of the main achievements and challenges of the RTI Act, 2005 since its inception?*

The events and the case studies that can be taken as the main achievements are such as (a) the establishment of official website by BMC, (b) people like Chita Ranjan Dash and Kokila Nayak getting their information from BMC, and (c) penalisation of the then Secretary of BMC for not furnishing information in time. The announcement to implement free disclosure soon is another achievement going to be happening for the first time in the history of BMC.

In the same line, the established obstacles are; (a) improper maintenance of records in BMC, (b) lack of training to the officials dealing with RTI, (c) lack of infrastructural facilities as the PIO does not have a room or desk to sit in BMC.

*(ii) By what means do citizens and local groups try to hold duty bearers accountable for meeting their obligations under the RTI Act?*

The campaign “Drive against Bribe” is one of the glaring example how citizens and local groups hold duty bearers accountable to people. Submission of memorandums to Governor and Chief Minister towards bringing change in the Orissa Rule to make it more citizen friendly is another instance. The case of Mr. Ansari in Gop-Konark block, who has nominated for an award for his outstanding work in the field of RTI, is an example of what roles citizens can take in public administration.

*(iii) How are applications dealt with on a daily basis?*

During the field study in BMC, it was observed that people are coming directly to file their applications or applications received by PIO through registered post. After receiving the applications, the PIO registers them immediately and forwards them to the concerned branches on the same date for information. He puts two dates in the record; (i) the date of application received and (ii) the date information is supposed to be furnished. The PIO was regular in sending

reminders to the concerned branches after one fortnight. In most of the cases, information furnished within due dates. In case of delay in furnishing information, furnishing incorrect/half –mentioned information, citizens have taken the issue to the notice of 1<sup>st</sup> appellate and 2<sup>nd</sup> appellate authorities. When complains against them were proved, there are also instances of officials being penalised by the SIC.

#### **6.4 Tentative Recommendations**

This chapter now ends with some recommendations. Even it is extremely difficult to recommend full proof measures giving the shortness of the duration of the study for implementation of Right to Information Act, 2005 in BMC, the following measures could well be taken into consideration when designing a better system to meet the objectives of the Act:

##### **6.4.1 The case of the ‘Lost File’**

If any PIO says that information cannot be provided because the files are missing, the following action should be taken in all such cases<sup>18</sup>:

- Public authority should be asked to provide a list of officials who were supposed to be the custodians of that file before it went missing.
- An FIR should be registered against those officials by name
- Simultaneous departmental enquiry should be ordered by the Commission to fix responsibility within a week.
- Commission should direct the public authority to impose penalty on guilty officials within the next 7 days of fixing responsibility.
- The Commission should direct reconstruction of file and the information should be provided to the citizen.

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<sup>18</sup> Focus Group Discussion including journalists, lawyers and members from civil society organisations. On 12<sup>th</sup> August 2008

- For every case of loss of file, the Commission should also enquire whether it was some deficiency in record maintaining systems of the department which led to loss of files. If so, they should direct appropriate changes in systems under section 19 (8).

#### **6.4.2 Legal Measures**

Relevant amendments and changes required in the Orissa Rules to make it consistent with the parent law, the Right to Information Act, 2005. In case of missing files or lost of files, strong legal action should be taken against concerned officials.

#### **6.4.3 Positive Measures**

The public officials dealing with RTI Act needed to be trained particularly to deal with the issues relating to supply of information. Awareness generation programs could be undertaken to educate public on free access to information as mentioned under section-4 of the Act. Initiative can be taken to educate government officials to materialise the principles of the Right to Information Act, 2005. BMC should focus on investing in infrastructural facilities and computerisation of the records.

#### **6.4.4 Preventive Measures**

The Chief Information Commissioner and Information Commissioner needed to be nominated following the principles of the Act unlikely as happened in case of nomination of the Information Commission of ISIC. All measures should be taken impartially during hearings in State Information Commission's proceedings.

#### **6.4.5 Implementing Measures**

Maximum free disclosure needed to be strengthened through official websites, wall paintings and wide publication in newspapers. Civil Society Organisations required to be tied up to strengthen their mediator role between government and the public towards maximum free disclosure of the information.

## **6.5 Conclusion**

The study which consists of six chapters can be divided into two broad parts. In the first part of the paper, the importance of the Right to Information Act, 2005 in a democracy was emphasised. Related issues like bureaucracy, transparency, accountability and citizens access to information were explored to find out any gaps between theory and actual practice in BMC in implementing the RTI Act. International Standards and Covenants, the Indian Constitution and important judgements of The Supreme Court relating to freedom of expression were highlighted, and analysed. In the second half of the study has elaborated emphasising citizens access to information and importance of free disclosure of information. As a whole, the study emphasised the difficulties in bringing about change following legislation. As Godbole suggested, 'substantial changes are necessary' if the basic purpose of the...Act' is to be fulfilled (2003, p. 165). This was found to be the case with the RTI Act in BMC, where officials long habituated to an OSA were restricting or twisting implementation of the Act. Free access to information held by government was not being provided. Therefore, the study concluded that change in official attitudes and in the political will needed to materialise the objectives of the Act are essential ingredients for its successful implementation in future. The study also arrived at the secondary conclusion that civil society organisations can play a major role as a bridge between government/BMC and the citizens with regard to encouraging fuller implementation of the Act.

It has been observed that government officials dealing with the RTI, whether as PIOs or APIOs, are not trained to implement its full provisions. Nor are citizens educated about the full provisions of the Act. The principle of free and immediate disclosure of key types of information, arguably the essence of the Act for greater citizens access to public information, has been so far undermined at the level of State Government, SIC and BMC. For more clarity about the provisions of the Act, public officials and the public as whole need to know the



provisions and have access to training about the Act. Such training programs should help to remove artificial barriers to accessing information by the public, and most importantly it should start to ensure that provisions governing free disclosure of information are implemented. Investment in infrastructure and computerisation of records could also help to promote public accountability in public administration for implementation of the RTI Act, especially the free access to information enshrined under Section-4 and almost very easily forgotten.

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## Appendices

<b>Appendix - 1</b>			
<b>Research Questions and Methodologies for Primary Data Collection</b>			
<b>Main Question</b>	<b>Sub-Questions</b>	<b>Information (data) needed</b>	<b>Methodology Used</b>
<p>Has the introduction of the Right to Information Act 2005 enhanced the accountability of public officials in the Bhubaneswar Municipal Council to local citizens? How is it changing the relationship between the public and BMC officials?</p>	<p>What have been some of the main achievements and obstacles of Right to Information Act, 2005 since its inception?</p>	<p>Attitudes of Bureaucrats and political will.</p>	<p>(1) <b>Interviews</b> With duty bearers the Commissioner, the Mayor, Corporators and PIO in BMC.</p>
	<p>By what means do citizens and local groups try to hold duty bearers accountable for meeting their obligations under the RTI Act?</p>	<p>Whether any workshops, campaigns, training programs, public hearings organised in Bhubaneswar for better understanding and implementation of the Act.</p>	<p><b>Focus Group Discussion</b></p> <ul style="list-style-type: none"> <li>• With activists, lawyers and journalists.</li> <li>• With slum dwellers and locals</li> </ul>
	<p>How have people made use of the RTI Act in BMC since 2005?</p>	<p>No of applications filed, nature of information asked and more importantly use of such information in individual and civic life</p>	<p><b>Focuss Group Discussion</b></p> <p>(1) With activists, lawyers and journalists.</p> <p>(2) With slum dwellers and locals</p> <p><b>Observation</b></p> <p>(1) Inspection of record register at BMC</p> <p>(2) Informal discussion with applicants</p>
	<p>How are applications dealt with on a daily basis?</p>	<p>Main focus to observe the process maintained by PIO to supply information</p>	<p><b>Observation</b></p> <p>(1) Inspection of record register at BMC</p>

<b>Appendix - 2</b>		
<b>Questionnaire for Duty Bearers and Stakeholders</b>		
	<b>Duty Bearers/ Stake Holders</b>	<b>Questionnaire</b>
01	Public Information Officer	<ul style="list-style-type: none"> <li>• On average how many applications filed per day?</li> <li>• What type of information generally been asked?</li> <li>• Whether you are getting cooperation from colleagues?</li> <li>• Whether you have undertaken any training?</li> <li>• What do you do to avoid unnecessary information seekers?</li> <li>• Whether there has been any penalty in office? If yes, why?</li> <li>• What would you suggest to improve the RTI regime?</li> <li>• Do you have a visitors record? If not, why?</li> <li>• Whether people are getting benefit out of RTI?</li> <li>• Have you or any of your relatives used RTI as a citizen?</li> </ul>
02	Corporators and Mayor in Bhubaneswar Municipal Corporation.	<ul style="list-style-type: none"> <li>• Have you ever used Right to Information Act, 2005 to get any information from any other places?</li> <li>• How it helps the public?</li> <li>• What should be done to strengthen the Right to Information Regime?</li> <li>• Whether opposition party used it to put you in any unnecessary problem?</li> <li>• Does RTI put any impact on corruption?</li> <li>• Whether you are interested to know more about Right to Information Act, 2005?</li> <li>• Have you come across anyone benefited because of RTI?</li> </ul>
03	The Commissioner, SICand Bhubaneswar Municipal Corporation.	<ul style="list-style-type: none"> <li>• How you see the Right Information Act, 2005 and its usability?</li> <li>• What arrangements have been done in Bhubaneswar Municipal Corporation to materialise the provisions of Right to Information Act, 2005?</li> <li>• Whether any training program or any pro-active initiatives like campaign undertaken under Right to Information Act, 2005?</li> <li>• What steps have been taken for computerisation of information?</li> <li>• Whether information are/is provided</li> </ul>

		<p>timely in website?</p> <ul style="list-style-type: none"> <li>• What problems are you facing from demand side (public)?</li> <li>• Do you feel any amendment required to the RTI Act, 2005 or the RTI Rule, 2005?</li> </ul>
04	Slum Dwellers/ Local Villagers	<ul style="list-style-type: none"> <li>• Have you ever listened about RTI?</li> <li>• Where did you get information about RTI?</li> <li>• What do you know about the Act?</li> <li>• Have you ever filed RTI? If yes, When/Where?</li> <li>• Did you benefited out of it?</li> <li>• Whether anyone helped you in generating awareness/filing application etc?</li> </ul>

**Appendix - 3**  
**Map Locating Bhubaneswar, Orissa, India.**



**Appendix – 4**  
**Evolution of Bhubaneswar Municipal Corporation**

<b>1<sup>st</sup> Local Self Body constituted under provision of Bihar and Orissa Municipal Act, 1922.</b>	01.04.1948
<b>Constitution of Notified Area Council under the provisions of Orissa Municipal Act, 1950</b>	01.10.1952
<b>Constitution of Municipality</b>	29.03.1979
<b>Constitution of Municipal Corporation under Municipal Corporation Act, 2003</b>	01.10.2003 Area – 135.011 Sq. Km
<b>Estimated Population of 2007</b>	937879
<b>Estimated Households in 2007</b>	208418

**Source : Municipality Corporation, Bhubaneswar.**

**Appendix -5**  
**Demographic Profile of the Bhubaneswar City, (2001 Census)**

Total Population	648032
Males	360739
Females	287293
Present Population (2007)	900000 (approximately)
Sex Ratio	796 : 1000
SC Population	51675 (8%)
ST Population	28876 (4.5%)
Total Literate	505593 (87.50%)
Male Literate	296549 (91.60)
Female Literate	209044 (82.40%)
Total Workers	216033
Male Workers	186.121
Female Workers	29912
Total Households	144279
Average Size of Family	4.5

**Source: Municipality Corporation, Bhubaneswar.**



**Appendix - 6**  
**Population of the City**  
**Decadal Growth of the Population**

Year	Population	% of Growth	Density per Sq.KM
1951	16512	-	933
1961	38211	131.41	760
1971	105911	176.07	1622
1981	219211	107.80	2359
1991	411542	87.73	3300
2001	648032	57.30	4781

Source: Municipality Corporation, Bhubaneswar.

**Appendix-7**

Focus Group Discussion in Mali Sahi, Red Light Area in Bhubaneswar  
(On dated 27<sup>th</sup> July' 2008)

Sl. No	Name of the Participant	Father/Husband's Name	Age	Education	No. of Children	Occupation
01	Arunima	Guru Charan Chandani	30	illiterate	1	Sex Worker
02	Pratima	Ajahaar Rehman	32	illiterate	3	Sex Worker
03	Kumari Smita Das	Ghumur Das	23	Graduation	0	Teacher
04	Kumari Chandrika Das	Chandra Sekhar Bhuyan	25	10 <sup>th</sup> Pass	0	Teacher
05	Muralidhar Swain	Chandra Bhanu Swain	30	+2	2	Working in a Company

**Appendix -8**

Focus Group Discussion in Saliha Sahi, Bhubaneswar  
(On dated 16<sup>th</sup> July' 2008)

Sl. No	Name of the Participant	Age	Education	No. of Children	Occupation
01	Jhumuru Sahoo	35	5 <sup>th</sup> Pass	4	Daily Labourer
02	Bauria Khatoi	39	Illiterate	6	Daily Labourer
03	Chandrabhanu Subudhi	42	Illiterate	3	Daily Labourer
04	Himanshu Prusty	33	10 <sup>th</sup>	Unmarried	Taxi Driver
05	Sarat Bhuyan	38	Illiterate	4	Daily Labourer
06	Anadi Tarasia	36	Illiterate	3	Shoe-Maker
07	Mitu Mukunda Swain	51	Illiterate	2	Shoe-Maker
08	Patitapaban Bagh	43	Illiterate	5	Daily Labourer

### Appendix- 9

Focus Group Discussion Consisting Journalists, Lawyers and NGO Activists  
(On dated 12<sup>th</sup> August' 2008)

Sl. No	Name of the Participant	Age	Education	Occupation	Contact Number
01	Santosh Mallick	33	LLM	Lawyer in District Court	09937571849
02	Pradeep Baisakh	35	MA	Journalist & Activist	09437112061
03	Lipika Verma	30	LLM	Lawyer & NGO Activist	09861230112
04	Nishikant Mohapatra	33	Ph.D	Convener, RTI Campaign in Orissa	09861117243
05	Snehanjali Mohanty	34	MA, LLB	Social Activist	09861426013
06	Jnana Nayak	27	LLB	Employee, Orissa Secretariat	09937571060
07	Durga Prasad Nayak	22	+2	Student	09338476705

### Appendix-10

#### 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

Date Full Signature of the applicant

Address

**Office of the Public Information Officer**

**Source : Orissa RTI Rules, 2005.**

**Appendix- 11**  
**Interviews with Different Duty Bearers and Stakeholders**

Sl. No	Date of Interview	Name of the Person Interviewed	Occupation/ Designation	Contact Address	Remarks
01	04-07-08	Mr. Jagadananda	Information Commissioner		
02	12-07-08	Mihir Mohanty	Mayor		
03	12-07-08	Purna Chandra Jena	Corporator		
04	12-07-08	Mamata Mohanty	Corporator		
05	12-07-08		PIO		
06	12-07-08		SIO		
07	17-07-08	Mr. Nishikant Mohapatra	Social Activist	9861117243	
08	17-07-08	Mr. Pradeep Pradhan	Social Activist	9937843482	
09	18-07-08	Mr. Gadadhar Pradhna	Social Activist	9861079131	
10	25-07-08	Mr. Dharendra Panda	Social Activist	9338232536	
11	26-07-08	Mr. Pradeep Baisakh	Journalist	9437112061	
12	26-07-08	Mr. Kishore Pattanik	Lawyer		
13	26-07-08	Mr. Bibhu Prasad Tripathy	Lawyer	9861023282	

**Appendix- 12**  
**Case Studies**

**Case Study - 1**

The Rajasthan experience on demanding right to information was echoed in other States. Notwithstanding the Constitutional provisions and legal judgments given by Supreme Court from time to time, the real movements for right to information geared in India even prior to the formation of the Central Act. Majdoor Kishan Shakti Sangathan (MKSS) took an initiative to lead the people in a remote area of Rajasthan to assert their right to information. MKSS applied for information to get copies of bills and relevant documents, vouchers and names of persons shown in muster rolls in different construction works meant for schools, dispensaries, small dams and community centres. On paper, such development paper were all completed, but it was common knowledge of the villagers that there was gross misappropriation of funds with roofless school buildings, dispensaries and community centres without doors and windows and poor quality of cement being used for construction. After receiving photocopies of some relevant documents MKSS realised that there were clear misappropriation of funds, where the muster rolls contained names either dies long back or did never exist in that area. MKSS organised for public hearing inviting politicians, administrators, landless labourers, private contractors to listen, respond and if willing to defend themselves. This type of public hearings in rural areas make people aware about the impact of information the public officials withhold with secret.

(Source : Jenkins, 1999)

**Case Study-2**

The provision of penalisation as happened in case of Gop-Konark block office (Outside BMC), Mr Ansari only one person sincerely used RTI Act and

**Case Study- 3**

The case of Kokila Nayak in BMC is also an interesting one, an widow of a sweeper who got her grievances heard by the authorities after 14 years of her

because of him three PIO's are already get penalised and more seven are waiting for penalisation. Issues like this has direct and indirect impact on the officials towards their responsibilities for public. Also the public learn how can they make the officials work by asking them information of their duties and responsibilities.

Report of Fact Finding Team on Assault on RTI Activist Sri Ansari of Konark by BDO, Gop Block of Puri District, Orissa on 23.01.2008. Also visit- <http://orissarti.com/articles/index.htm> Visited on 9<sup>th</sup> October' 2008.

suffering. She applied under RTI to know the status of her file to get the official benefits after her husbands' death. In her application she asked to know who the officers are assigned to work in her file and what actions they have taken so far with regard to her file. If no action has taken, what are the reason for, and whether the concerned public servants for not taking proper action on her file will be penalised?

**Appendix-13**  
**No application During Financial Year Ending in 2006**

1	2	3	4	5	6	7	8	9	10	11	12	13	14
07	21-06-06	Govt. Niyogin Lata	Nil	Annual value of building for holding tax	yes	5.10	1.3.06	4.2.06	-	10.20	5.20	27.10	10.20
10	31-06-06	Govt. Niyogin Lata	Nil	Annual value of building for holding tax	yes	5.10	1.3.06	4.2.06	-	10.20	5.20	27.10	10.20
11	7-2-06	Govt. Niyogin Lata	Nil	Annual value of building for holding tax	yes	5.10	1.3.06	4.2.06	-	10.20	5.20	27.10	10.20
<b>March-2006</b>													
- Nil -													
<b>April-2006</b>													
Nil													
<b>May-2006</b>													
12	18-4-2006	Sri Chandra Das	Nil	Annual value of building for holding tax	yes	18.5	06	30-06-06	-	20.40	9.50	29.50	20.40

**Appendix -14**  
**Applications Enquiring BPL Cards during the Campaign in.....2006**

(a)

1	2	3	4	5	6	7	8	9	10	11	12	13	14
102	20.11.06	Resonant Achin s/o Sankar Achin Bumidene area BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
103	20.11.06	Prasad Laksh Bahan s/o Sapar Bahan Subah Nagar Bumidene area BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
104	20.11.06	Rabi Mahapatra s/o Hemulok Mahapatra Subah Nagar Bumidene area BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
105	20.11.06	Hemanta Nak s/o Nishab Nak Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
106	20.11.06	Jitendra Achari s/o Ramach Achari Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
107	20.11.06	Padmabati Achari s/o Ramach Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
108	20.11.06	Nu Achari Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
109	20.11.06	N. Madanta s/o N. Ananya Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh

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1	2	3	4	5	6	7	8	9	10	11	12	13	14
110	20.11.06	H. Jitendra s/o N. Jaganna Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
111	20.11.06	Sat A. Anu Rao s/o Anu Rao Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
112	20.11.06	S. Damodar Mahapatra s/o S. Ananta Gostanagar BASS BASS	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
113	20.11.06	S. Mahasuri Bahan s/o Sulamasi Bahan 145 Ashoknagar	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
114	20.11.06	Kedab. Mudali s/o Bhimanna Mudali 145 Ashoknagar	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
115	20.11.06	Bananta K. Suman s/o S. Ananta Suman 145 Ashoknagar	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
116	20.11.06	Uma Dutta s/o Ananta Dutta Bhimnagar BASS 145 Ashoknagar	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh
117	20.11.06	Sadasiva Pandan s/o Ananta Pandan Bhimnagar BASS Kala BASS Gostanagar	yes	yes	210	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	20.12.06	By Jitendra Singh

<b>Appendix-15</b>	
<b>Section- 4 says;</b>	<b>Section 6 (1) says;</b>
<p>i) the particulars of its organization, functions and duties;</p> <p>ii) the powers and duties of its officers and employees;</p> <p>iii) the procedure followed in the decision making process, including channels of supervision and accountability;</p> <p>iv) the norms set by it for the discharge of its functions;</p> <p>v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;</p> <p>vi) a statement of the categories of documents that are held by it or under its control;</p> <p>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;</p> <p>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;</p> <p>ix) a directory of its officers and employees;</p> <p>x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;</p> <p>xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;</p> <p>xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;</p> <p>xiii) particulars of recipients of concessions, permits or authorizations granted by it;</p> <p>xiv) details in respect of the information, available to or held by it, reduced in an electronic form;</p> <p>xv) the particulars of facilities available to citizens obtaining information, including the working hours of a library or reading room, if maintained for public use;</p> <p>xvi) the names, designations or other particulars of the Public Information Officers;</p> <p>xvii) such other information as may be prescribed and thereafter update these publications every year;</p> <p>c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;</p> <p>d) provide reasons for its administrative or quasi-judicial decisions to affected persons.</p> <p>Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-</p> <p>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</p>	<p>The full text reads: (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—</p> <p>(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;</p> <p>(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:</p> <p>Provided that where such request cannot 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.</p> <p>(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.</p> <p>(3) Where an application is made to a public authority requesting for an information,—</p> <p>(i) which is held by</p>

<p>of an offence;</p> <p>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;</p> <p>c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;</p> <p>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;</p> <p>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;</p> <p>f) information received in confidence from foreign government;</p> <p>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;</p> <p>h) information which would impede the process of investigation or apprehension or prosecution of offenders;</p> <p>i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other offices; and</p> <p>j) information which related 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 appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.</p> <p>In a workshop in the name "Operationalising Right to Information Act, 2005" organised with support of HIVOS, Bangalore from 20th to 22nd Aug' 2005.</p>	<p>another public authority; or</p> <p>(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:</p> <p>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- The Right to Information Act, 2005. For further Information please visit - <a href="http://righttoinformation.gov.in/rti-act.pdf">http://righttoinformation.gov.in/rti-act.pdf</a> - Visited on 7th October 2008.</p>
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**Section 8 (1) says for Exemption of Disclosure**

<p>Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-</p> <p>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;</p> <p>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;</p> <p>c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;</p> <p>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;</p> <p>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;</p> <p>f) information received in confidence from foreign government;</p> <p>g) information, the disclosure of which would endanger the life or physical</p>
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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 offices; and
- j) information which related 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 appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.