

Part - I : Right to Information

Gattu Swetha is from Manakondur Mandal in Karimnagar District. She was a student of M.Sc at Kakatiya University. She had completed her B.Sc degree because of the Right to Information Act (RTI).

Swetha completed her B.Sc final year exams in March 2011. She scored high in all the subjects except Chemistry where she was awarded only 21 marks. She could not understand the reason why she scored low. She studied hard again and attended the “instant examination” in the month of June. This time she got only 9 marks. She could not understand why she was getting fewer marks despite her good efforts in the examination. She approached the Kakatiya University and applied for revaluation but they did not accept her request. In the meantime Swetha cleared her M.Sc. entrance examination. But the University would not admit her in to M.Sc. without her having cleared the Chemistry paper in the B.Sc. examination.

She then consulted the activists of Right to Information Act, and submitted an application requesting for the photocopy of her answer sheet. The officers at the university refused to give the copy of her answer sheet. As the admissions of M.Sc. were approaching, she went to the State Chief Information Officer and appealed against the refusal to give her answer sheet by the Public Information Officer (PIO) of the University. The State Information Commissioner ordered the University Officials to give her the copy of the answer sheet. They sent the marks memo to her after conducting revaluation. This time she got 51 marks and therefore passed her exams and therefore admitted to M.Sc.

Swetha could not have accessed the photocopy of her marks sheet without the RTI enabling Act. In the earlier days mark sheets were not given to students and only their marks were given at a university exam. Hence students would not be able to verify if each answer has been marked correctly.



In class VIII you have already studied that the Right to Information Act 2005 was passed by the Central Government. The Act was passed as a result of people's mobilisation as well as in recognition of the provisions in the Constitution that provides Rights to citizens. In this chapter we briefly look at the two roles that need to be played for getting the benefits of RTI to the people. The first one is the role of the government departments and the second is that of the citizens. In any democratic system, governments are responsible and accountable to the people. Earlier accountability of government departments and its functionaries were mostly limited to the elected representatives of the people. Disseminating information that is generated in government department to any citizen who may be interested, now becomes the responsibility of all government departments.

What is information?

Every government department functions on the basis of certain rules and regulations. There are rules and regulations that say how Health Department should select, appoint, transfer doctors and nurses in a hospital or how medicines should be procured, and distributed. In the Revenue Department the rules should be about land records. Or in the Education Department it would be about how schools procure books, distributes midday meals, arrange for hostel facilities, allows leave for teachers, collects money for building, playground etc. In each of these situations there are rules to be followed, records to be kept, and description of decisions taken. These generate various written documents in the system. It could be in different forms as described in the RTI as following:

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

What is it that a citizen can do with this information is crucial. Suppose, there is a suspicion about malpractices in the functioning of the department, individuals can collect the information and challenge the procedure followed. Prior to the RTI individual citizen could not have found out how the education department distributed uniforms or health department procured medicines. It was only the higher executives or the Minister of the Department that could access and verify them.

Enactment of the RTI effectively means that individual government departments now have a responsibility to maintain records and make them available to any citizen who may ask for it. Moreover, it is possible that even before being asked by citizen a department may voluntarily disclose its process to public. Hence, in some states, as the roads are built or repaired the Public Works Department (PWD) may put up

- Discuss what could be the reason information would not include oral instruction of a headmaster to a teacher.
- Imagine how government departments become more accountable when rules and regulations were followed within prescribed manner.

a notice board in the area saying how much money was spent or how many labourers were employed, the number of days that took to complete the work etc. All this ensures better transparency.

Who is responsible?

From the above description it may have become clear, that there is need for a structure in order to implement such a law. Hence, as we studied in class VIII, there are Public Information Officers (PIO) in every department, as well as an appellate authority in the same department including your government school. All PIOs of all departments and the appellate authority are answerable to the State Public Information Office (SIO) with a State Public Information Commissioner (SPIC). If a government department falls under Central Government, then PIOs are accountable to Central Information Office (CIO) with a Central Public Information Commissioner (CPIC). These departments are autonomous like the Chief Election Commission or Judiciary etc.

Let us try to understand this with a specific case. Suppose you live in a village. You want to know what was the expenditure on construction of a road in your village. You can file an RTI either at the mandal or the district department of the PWD. If you file this RTI at district headquarter of the PWD department they cannot reply that the answer will be made available from the mandal department. Or if you file this at the mandal department of PWD it cannot ask you to collect this information from district department. In case this information is not available with them, it becomes their responsibility to send it to the concerned authority who has the information and ask them to make it available to the citizen.

However, suppose both the PIOs refuse to reply to your application, what can be done? Here is where the role of SPIC and CPIC become important. The PIO at the PWD department are held accountable to these bodies. And SPIC and CPIC can impose fines on these PIOs.

It is important to remember that information officers are however not responsible to take action if there is a violation of laws in the functioning of these Departments. This power would still remain with the courts of the country. What the SPIC or CPIC can however do is to ensure that correct information is provided within specified time. In case some PIOs refuse to give information such officers can be penalised on the orders of SPIC or CPIC.

The Act identifies public authorities who are expected to follow the RTI Act as following: a) Institutions created under the Constitution; b) made under the laws

of Parliament or State Legislatures; c) created through a notification or order of the appropriate governments. It may include any body owned, controlled, or substantially financed or Non Governmental organisations substantially funded by governments either directly or indirectly through the funds.

Under the provisions of the 2005 Act public authorities are obliged to a) maintain all information in a computerised format; b) publish all detailed information pertaining to the organisation. Some of it is as follows:

- (1) Every public authority shall:
 - a) Maintain all its records duly catalogued and indexedso that access to such records is facilitated;
 - b) The authority shall publish
 - (i) The particulars of its organisation, functions and duties;
 - (ii) The powers and duties of its officers and employees;
 - (iii) The procedure followed in the decision making process, including channels of supervision and accountability;
 - (v) The rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions
....
 - (viii) A statement of the boards, councils, committees and other bodies consisting of two or more persons constituted ... for the purpose of its advice,
 - (ix) A directory of its officers and employees;
 - (x) The monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) The budget allocated to each of its agency,
 - (xii) The manner of execution of subsidy programmes, including the amounts allocated ...
 - (xiii) Particulars of recipients of concessions, permits or authorisations granted by it;
....
 - (xvi) The names, designations and other particulars of the Public Information Officer;
 - c) publish all relevant facts while formulating important policies or announcing decisions which affect the public

- d) provide reasons for its administrative or quasi-judicial decisions to affected person.
- 2) public authorities are required to disclose information on their own even without being asked for it.
- 3) it shall be done in a manner that is easily accessible to public
- 4) to be done in local language and given at a cost which is affordable
-

Exemptions for disclosure

All this does not mean that every aspect of the government department are under public scrutiny. The law permits the governments not to disclose certain information. Some of these include issues such as:

- Information that could affect the sovereignty and integrity of India, matters that could be of strategic economic or scientific interest of the state in the context of foreign powers.
- Information that could breach the privilege of Parliament or State Legislature
- Information received in confidence from foreign Government
- Information that could endanger the life or physical safety of a person
- Cabinet papers or records of Council of Ministers and Secretaries (before the final decision is taken)

This means that most of our armed forces and security agencies are outside the purview of Information Commissions.

Who can make changes in the Act? Since the inception of the law there have been many occasions when certain provisions of the Act were contested by many

- According to this Act, if any officer fails to give the specified information, she/he will have to pay the fine. Do you agree with this? Why?
- What type of information is not accessible to the citizens? What is the argument in favour of this?

departments. If the Parliament wishes it can change the law again, however this cannot be done in violation of the Fundamental Right to Information itself as understood and defined in the Constitution.

People and RTI

Now let us briefly discuss how and what role do people have in the context of RTI. Any citizen today can approach any department of the government and ask for any information that could be in the form of a record. It is not necessary that she or he gives an explanation as to why the information is required. This request can be sent through a handwritten letter or electronic mail. Information will be provided



Fig 22.1: A rally on RTI

in the official language of the State or in English or Hindi. Suppose an individual is not able to write the application, he or she can also access the information by orally dictating it at the SPIO or with PIOs. Individual who is collecting the information can remain anonymous, but will have to provide

a postal address so that records could be sent to him/her. There are different fees that the citizen has to pay to the department in the form of nominal fees of 5 or 10 rupees at different levels. If the person who is collecting the information belongs

Fig 22.2 : Read the following collage and discuss the use of RTI



Chennai: An RTI petition filed by DC with Chennai corporation reveals that Rs 175 crore, collected as education cess, is in the corporation's kitty unspent for the last eight years. DC Pramila Krishnan | 30th Jan 2014

to below poverty line the fee is exempted. Hence in many ways the law has enabled all people to access the information.

Democracy requires an informed citizenry and transparency of information. This can help to contain corruption and hold Governments accountable to individual citizens also. Unlike the earlier system where departments responded only to the elected representatives today they become answerable and therefore accountable to common citizens also.

Part - II : Legal Service Authority

- What sort of opportunities are existing in our country for free legal services to the poor people who cannot afford to pay court fees and other related expenses?
- What is the nature of cases and conflicts that can be addressed through free legal services?
- Is there any mechanism for alternate dispute resolution outside the courts?

There is a system in our country to provide free legal service to the people. Under the Legal Services Authority (amendment) Act, 2002 legal services authorities are constituted to provide free and legal services to the weaker sections of the society. This is to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and to organise Lok Adalats to ensure that the operation of the legal system promotes justice on equal opportunity basis.

In our country it is common that conflicts in the villages and in the communities are addressed by the village/ community elders in a peaceful and amicable way by discussing the various issues and concerns. The nature of conflict and disputes and their origin are mostly known to the local people and village elders. This facilitates for the discussion of the cases/ conflicts by the community members and find out an amicable solutions in a transparent way. Now, the Lok Adalats are constituted in every State under the Legal Services Authority Act, 1987 and amended in 1994 and 2002, to settle disputes/ cases in an amicable atmosphere by mutual consent in the presence of legal experts, officials and non official dignitaries. People are now using the Lok Adalat mechanism for expeditious and inexpensive justice. It is an opportunity to settle long pending court cases through Lok Adalat in short time and without any expenses. This also provides for getting refund of court fee, if already paid by the people. Therefore, Lok Adalat is an old form of dispute/ conflict resolution system, which prevailed in ancient India and its validity has not been taken away even in the modern days.

- Do you support the Lok Adalat? If so, why?

Objects of Legal Service Authority

- The LSA Act was enacted to constitute legal services authority for providing free and competent legal services to the weaker sections of the society.
- To ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities.
- To organise Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity.
- To develop an effective, alternative, innovative dispute resolution mechanism outside the courts.

Organisation of Legal Services

A nationwide network has been envisaged under the Act for providing legal aid and assistance. National Legal Services Authority (NALSA) is the apex body constituted to lay down policies and principles for making legal services available under the provisions of the Act and to frame most effective and economical schemes for legal services. It also disburses funds and grants to State Legal Services Authorities and NGOs for implementing legal aid schemes and programmes.

In every State a State Legal Services Authority is constituted to give effect to the policies and directions of the Central Authority (NALSA) and to give legal services to the people and conduct Lok Adalats in the State. State Legal Services Authority is headed by the Chief Justice of the State High Court who is its Patron-in-Chief. A serving or retired Judge of the High Court is nominated as its Executive Chairman.

District Legal Services Authority is constituted in every district to implement Legal Aid Programmes and Schemes in the district. The District Judge of the district is its Ex-Officio Chairman and the members are nominated by State Government.

Taluk Legal Services Committees are also constituted for each of the Taluk or Mandal or for group of Taluk or Mandals to coordinate the activities of legal services in the Taluk and to organise Lok Adalats. Every Taluk Legal Services Committee is headed by a senior Civil Judge operating within the jurisdiction of the Committee who is its ex-officio Chairman.

Functions of the Legal Service Authority

What legal aid facilities are available under Legal Service Authority?

The LSA through Lok Adalats settles long pending court cases in short time and without any expenses. Matrimonial disputes, maintenance cases, harassment cases by husband and in-laws, domestic violence cases, all types of civil cases, land disputes, compoundable criminal cases etc. This can be settled amicably and permanently by Lok Adalats without any fees and expenses.

The legal Service Authority shall perform following functions at various levels:

- Give legal services to persons who satisfy the criteria laid down under this Act.
- Conduct Lok Adalats.
- Undertake preventive and strategic legal aid programmes.
- Perform such other functions as the legal service authority fixes by regulations.

In cases pending before courts, both the parties or one of the parties has to make an application to the court for referring the case to Lok Adalat for settlement. If the court is *prima facie* satisfied that there are chances of such settlement, then those cases will be referred to Lok Adalat by the concerned courts.

Parties may also approach concerned District Legal Services Authority or State Level Services Authority for settlement of cases at pre-litigation state i.e. cases that have not yet gone to the courts.

Who are entitled to get benefit under Legal Service Authority?

Following are the persons entitled to get free legal support:

1. A member of a Schedule Caste or Schedule Tribe.
2. A victim of trafficking in human beings or beggars.
3. Women and children.
4. A mentally ill or otherwise disabled person.
5. Persons who are victims of mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake, industrial disaster.
6. Industrial workers.
7. Persons in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986, or in a psychiatric hospital or psychiatric nursing home

within the meaning of clause (g) of section 2 of the Mental health Act, 1987.

8. Persons with annual income of not more than Rs. 1.0 lakh.

Persons who satisfy any of the criteria specified above shall be entitled to receive legal services provided that the concerned authority is satisfied that such person has a *prima facie* case to prosecute or to defend.

Whom to approach and how?

Persons to settle their disputes, cases, long pending court cases may approach State or District Level Legal Service Authority with an affidavit which includes the details of case and required judgment duly enclosing the documents and their eligibility criteria for expeditious and inexpensive justice.

Persons can approach for justice at various levels as given here under:

At District Level – Secretary, District Legal Service Authority, District Court Complex.

At State Level – Member Secretary, State Legal Service Authority, Nyaya Seva Sadan, City Civil Court Buildings, Puranahaveli, Hyderabad-500 002 (or)

People who need legal assistance in the cases filed in the High Court shall apply to The Secretary, High Court Legal Service Committee, High Court Buildings, Hyderabad – 500 066.

Entertainment of disputes and benefits of Lok Adalat

1. There is no court fee and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat according to the rules.
2. The basic features of Lok Adalat are the procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws like Civil Procedure Code and the Evidence Act while assessing the claim by Lok Adalat.
3. The parties to the dispute can directly interact with the judge through their counsel which is not possible in regular courts of law.
4. The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appreciable, which does not cause the delay in the settlement of disputes finally.
5. Provide free legal advice from the advocates, appointing advocates to argue the cases in the courts, bear the court expenses pertaining to the case to the persons entitled for free legal services and support, providing photocopies of the judgments on free of cost.

Key words

Information	Appellate authority	Record	Public authority
Transparency	Legal service	Lok Adalat	
Domestic violence	Civil cases	Juvenile home	

Improve your learning

- 1) Using the following case study, explain the role of different Departments of the Government and citizens in the context of RTI. Also write how can the RTI make functioning of the governments more transparent.

Following incident occurred in Chinnashankarampet of Medak district. Members of the Self Help Groups joined in *Abhaya Hastham*, *Aam Aadmi* schemes of the Rural Welfare Ministry of the State Government. Under this scheme their children who were students of classes 9 to 12 were eligible for scholarship of Rs 1200. However for 3 years students have not been receiving the amount for the years during 2008-11. The students went to the (Indira Kranti Patham) IKP office and enquired about it but the officers ignored their requests.

This came to the notice of the local newspapers. Now they applied to the officers concerned for the information with regard to the scholarships sanctioned. They asked about the number of beneficiaries and the amount sanctioned during 2008-09, 09-10 and 10-11. They got reply in one week. The amount was seven lakh rupees. It became clear from the RTI records that even though the amount was sanctioned, it was not distributed. When it was published in the newspapers the amount was distributed to 1167 children within 15 days.

- 2) How do you think RTI would help in improving and monitoring the work of the governments.
- 3) What is identified as information? How is this generated in Government Departments? Would it include oral communication between senior and junior officers?
- 4) Why are the State and Central Information Offices given autonomy?
- 5) This Act resembles the true spirit of democracy. How do you justify?
- 6) What steps have been taken to ensure that any citizen can access information from the different government departments in the country?
- 7) How do you think the Legal services Authority would help the people in seeking legal aid?
- 8) What is the purpose of Lok Adalat?
- 9) What do you think on the eligible criteria for free legal services and nature of cases under this Act?
- 10) Compare and contrast the procedures of conflict / cases resolution by the Village community elders and by courts. Which do you prefer and why?