

***ANDHRA PRADESH
STATE INFORMATION COMMISSION
- PERFORMANCE APPRAISAL***

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UNITED FORUM FOR RTI CAMPAIGN - AP

United Forum for RTI campaign - A.P. - the Umbrella Organization of nearly 100 Civil Society Organizations, with a common agenda to spread the awareness of RTI among citizens. CSOs such as mentioned in the *annexure 8*, which are working among people in various spheres of activities, are part of the Forum.

The Forum with all the participating CSOs has organized a statewide campaign for one week from 21st May to 26th May 2007 covering all the district head quarters and 550 Mandal head quarters simultaneously. During the week long campaign the activists assisted people in filing about 11,000 applications vis-à-vis 8,300 applications filed during the first one and half years of the implementation of the RTI Act. Smt Aruna Roy and Shri Sandeep Pandey have also participated in the campaign.

It is for the first time in the field of voluntarism that such a massive effort has taken place in the State of AP.

Due to the efforts of the Forum and constant persuasion, the Govt of AP has finally decided to include a lesson on RTI in 5th class curriculum from the current academic year.

United Forum for RTI campaign - A.P. is organizing workshops, training and awareness sessions on a continuous basis across the state.

United Forum for RTI campaign - A.P. in its endeavour to popularize the Act, will take up necessary activities and programmes with the active participation of all players - concerned citizens, CSOs, Educational institutions, Various Govt Departments etc.

The United Forum for RTI campaign - A.P. is bringing out this report in its endeavour to ensure better performance of all the functionaries under the Act viz the Public Authorities, PIOs, the 1st Appellate Authorities and the APSIC.

Authors Note:

The report is based on the decisions that were available on the APIC website (www.apic.gov.in) till 20th December 2007. Due care is taken to prepare the report, mistakes if any are unintentional.

Acknowledgements:

We are thankful to the state committee of the United Forum for RTI Campaign - AP, its conveners Sri B Ramakrishnam Raju and Sri N Nagendra Babu for their guidance and support. We thank Bhaskar Yella, David King, Harinath Mallepally, Prasanthi Uppalapati, Raghavendra Turaga, Santoshi Rani, Suresh Ediga, Shukti Das and Suman Panjala - dedicated volunteers who helped us in the research. We thank Prof. Madabhushi Sridhar -NALSAR University for his suggestions. We are grateful to all the people who encouraged in bringing out the report.

Foreword



The Indian Right to Information (RTI) law is undoubtedly a bold attempt to make governance citizen-centered. While drafting it, many of us - Aruna Roy and I in the National Advisory Council (NAC) in particular - took care to ensure the balance between the need for discretion in the interests of national security as well as demands of collective responsibility in the Cabinet system of government, and the imperatives of transparency in a democratic, citizen-centered polity. While no law is perfect, I believe that the RTI Act, 2005 is widely recognized as one of the most liberal pieces of legislation in the world.

But a law is only as good as it is implemented. Keeping that in mind, the NAC draft Bill provided for an independent Information Commission in each state, to be appointed by a collegium comprising of the Chief Minister, Leader of Opposition and Chief Justice of the High Court. In the law enacted, the Chief Justice was substituted by a minister nominated by the Chief Minister. The performance of the Commission is a key element in the efficacy of transparency law. Now that we have over two years' experience of the Commission, the people and law makers need to understand its functioning.

Umesh Varma Pakalapati and Rakesh Reddy Dubbudu have done a meticulous job of analyzing the AP Commission's working. Based on evidence and logic, they have given a list of practical recommendations to improve the Commission's functioning. To my knowledge, this is the first such serious attempt in India to analyse the working of a State Information Commission. The report is lucid, and the findings are unbiased. The Commissions all over the country, civil society, government, and law makers need to take this report seriously, and initiate corrective steps immediately.

The Second Administrative Reforms Commission (SARC) made significant recommendations on RTI Act. Strengthening the Commission's role in monitoring implementation of RTI Act and record keeping, creation of benches of the Commission in several cities to enhance access, revised classification of official documents, repeal of Official Secrets Act and appropriate additions to National Security Act to protect genuine state secrets are among the more important recommendations of SARC. It will be useful if the authors widen the scope of their study and examine the impact of these recommendations, if implemented, on State Information Commission's functioning.

On the whole, the AP Commission seems to be somewhat conservative, tardy, and less proactive than is desirable in promoting a culture of transparency. This once again proves the adage that an institution is only as effective as the functionaries entrusted with responsibilities. Therefore the appointment of the Commission must be rigorous, and media and civil society should be vigilant to promote transparency. As the experience of other democracies shows, it is these watch dogs which force public authorities to shed a culture of secrecy and suspicion.

The United Forum for RTI Campaign AP has done a signal service to the public by sponsoring this study, and they deserve our gratitude. I am sure future studies and investigations will build on this foundation, and make all branches of our government fully accountable to the true masters, the citizens.

Dr. Jayaprakash Narayan
Founder - Loksatta Movement
Previously Member - National Advisory Council (NAC)

GENESIS OF THE REPORT

The objective of the study is to assess the performance of the APSIC vis-à-vis the provisions and the spirit of the Act and other Information commissions. The need for this report was felt by the 'United Forum' to assess the performance of the APSIC.

Activists and applicants across the state directly encountered problems in the beginning as the implementation of the Act was in its nascent stage. Rejection of appeals due to non-attestation of photocopies of the original application, rejection on account of information being sought classified as belonging to third party without the third party ever objecting to it, long gap between appeal to the commission and the first hearing and longer gaps in final disposal were a common result. There were also many occasions when we felt that information was willfully denied/suppressed but the Commission was not ready to impose penalty on the errant PIOs. Though necessitated, the Commission even after 2 years of implementation of the Act is not flashing the whip effectively.

We decided that we needed to do an objective analysis of some of the aspects of functioning of APSIC to understand things better and arrive at a conclusion to be able to contribute for the effective implementation of the Act.

We tried to look into the trends and the effective disposal of appeals and complaints received by the commission. The most important aspect of the study is the time taken for disposal of a particular case since time is an important factor as the Act itself mandates to provide information to the seeker in a stipulated time. The report also gives an idea of the skewed work allocation at the APSIC.

The authors commend APSIC for broadening the scope of definition of 'information', by including the file notings. But the disposal of appeals by the commission both in terms of quality and time schedule is of immense concern.

INTRODUCTION

The year 2005 had been a momentous year for citizens of India on account of their getting an important right which is the "The Right to Information Act". The main objective of the Right to Information Act 2005 is to promote transparency and accountability in the working of every Public authority in the country and to curtail the scourge of corruption. *It is one of the major steps towards realizing the concept of Good Governance.* The Act mandates a legal institutional framework for setting out a practical regime of right to information for every citizen to secure access to information held by or under the control of public authorities. It prescribes mandatory disclosure of information to citizens as per the Act. The Act further enjoins the state to designate state public Information officers in all public Authorities to attend to the citizens who seek information, which shall be supplied within a specified time. It also mandates the central information Commission and the State Information Commission to be the watchdogs on the implementation of the Act. The Act came into effect on 12th October 2005.

Background of Implementation of the Act in AP:

The Andhra Pradesh State Information commission (APSIC) was constituted on 12.11.2005 with the following chief Commissioner and the three commissioners.

1. C D Arha(CIC) - CDA
2. A Subba Rao (IC) - ASR
3. R Dileep Reddy(IC) - RDR
4. K Sudhakar Rao(IC) - KSR

A Note on the Commissioners:

The most essential factor for an autonomous commission is its independence from various pressures and pulls like political, bureaucratic, media etc. As per provisions of the Act ¹ (*Sec 15(3) of the RTI Act 2005*) the selection committee for appointing the Information Commissioners comprises of the Chief Minister, Leader of Opposition in the Legislative Assembly and One Cabinet Minister from the council of ministers. During the selection of commissioners for APSIC, the leader of opposition accused the other two members from the ruling political party of acting unilaterally and in a partisan manner.² There is every need to make the process of selection more broad based and transparent by including the voice of civil society.

There was an incident in November 2006³ when the integrity of a Commissioner was brought under a Scanner. In this incident it was alleged that K.Sudhakar Rao (IC) was clandestinely taking part in the election campaign efforts of the Congress party by distributing Cricket kits. Such incidents have an affect on the reputation and image of Commission. Allegations on personal integrity of the commissioners need to be treated seriously by all the concerned and there should be a mechanism in place to deal with such issues.

¹ Section 15(3) of the RTI Act 2005 says,

The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—
(i) the Chief Minister, who shall be the Chairperson of the committee;
(ii) the Leader of Opposition in the Legislative Assembly; and
(iii) a Cabinet Minister to be nominated by the Chief Minister

² The Press report in “The Hindu” at the time of the appointment of the IC’s.
<http://www.hinduonnet.com/2005/11/01/stories/2005110110400400.htm>

³ The Press report in “The Hindu” at the time of the incident.
<http://www.hindu.com/2006/11/22/stories/2006112208190400.htm>

State-level scenario of RTI Act implementation

The CIC through circular dated- 22-12-2005 *has allocated adjudication of second appeals on departmental basis.*⁴ There is a need to re-organize the distribution for the reasons elaborated in this report. The total number of PIOs designated under RTI Act in the State stands at **1,79,726** for the year 2007⁵. The well designed website of the commission (www.apic.gov.in) is developed and maintained by the Centre for Good Governance, (CGG) Hyderabad.

The two most important provisions in the Act are

- i) The Public Information Officers to be designated by the Government to provide information
- ii) Mandatory disclosure of 17 items as per Section 4(1)(b) of the Act.

On the first aspect i.e., PIOs to be designated, APSIC succeeded in persuading the Government to designate requisite number of PIOs. On the later aspect a lot more still needs to be accomplished. Few departments at the secretariat level have put in the initial effort and displayed information on their respective web pages. The information put up on web does not throw light on the sub sections like the decision making process, the duties and responsibilities of the employees of the organization and *the most important of all- the list of beneficiaries of the various schemes and subsidies implemented by the respective departments* etc. The website information in certain cases hardly consists of 2-3 pages of disclosures where as it will be a minimum of 20-30 pages if the correct pro-forma were to be followed. Thus the information as provided at present is not of much use for a common man. If voluntary disclosure at village and ward level is not resorted to effectively, the Act itself might become redundant. APSIC must ensure voluntary disclosure by all the Departments at various levels.

The Act also specifies (Section 26) that the Government shall allocate resources for creating awareness to the citizens on RTI. Although commissioners participated in various meetings across the state on the implementation of the Act, more effort is required in educating the public on the Act. *The Government in the last 3 years has spent a mere 7.12 Lakh rupees on outdoor and Media Publicity of RTI Act, whereas the*

⁴ Details of the department allocation as is provided in the APSIC website is given in the report

⁵ Data from the Annual Reports Published by the AP State Information Commission

media and outdoor publicity expenditure on various Government initiatives was Rs 108.96 crores. Efforts after the initial hype/drive on the Act by the government on awareness have been sustained by various civil society groups - United Forum for RTI Campaign, Lok Satta, Forum for Better Visakhapatnam and others against many odds while the Government is spending negligible amounts for the purpose.

Details of the Publicity Expenditure of Govt of AP

The details below are from the official information given by Govt in response to an RTI application filed by Rakesh Dubbudu

a. Publicity Expenditure

THE TOTAL EXPENDITURE

- Outdoor Publicity - Rs 16,75,58,717 (Rs 16.76 Crore Rupees)
- Electronic Media - Rs 6,77,53,548 (Rs 6.78 Crore Rupees)
- Print Media - Rs 85,42,32,000 (Rs 85.42 Crore Rupees)

Total - Rs 108,95,44,265 (Rs 108.96 Crore Rupees)

The share of RTI promotion in these 108.96 crore rupees is Rs 7.12 Lakh Rupees. In percentage terms its 0.065%

b. The amount allocated by Govt of AP for conducting Trainings etc is as follows till 15th Feb-2008 ,

- Trainings and workshops: Rs 39.37 lakhs
- Printing and Publications: Rs 2.84 Lakhs
- Maintenance of the APIC website: Rs 15 Lakhs
- Booklets printing: Rs 11,99,753

Total Budgetary Expenditure: Rs 69,20,753/-

Supply side scenario:

The supply of information has to be primarily through the Mandatory disclosure of the 17 subjects each department/office has to display on its own and through the supply of information to the applicants/Citizens in a speedy manner. After two years of implementation, the mandatory disclosure curve has not risen perceptibly. It has reached a static stage with very few departments taking interest in displaying information on their own. On the other hand the demand from individuals has been

growing rapidly, as is evident from the number of applications pouring in as well as the complaints being received by APSIC. Compared to 2006 during 2007, the number of applications increased by almost 4 times where as the number of complaints to the APSIC increased by 6 times. ⁶

Year	Number of Applications across the state	Number of Appeals & Complaints to the APSIC
2006	8864	1263
2007	31964	7780

The above table indicates that almost 25% of the applicants are compelled to either complain or appeal to the commission, which indicates non-compliance of the Act by many PIOs.

The dismal performance of various public authorities in the area of mandatory disclosures is leading to a situation where number of citizens are compelled to seek information by filing number of applications.

Main reasons for mandatory disclosure side being inactive are as follows:

- Lack of sufficient awareness of the mandatory disclosures i.e., section 4(1)(b) among the PIOs whose number is **1,79,726** across the state
- PIOs are not taking the Act seriously and considering the same as an additional burden.
- The mandatory disclosures are incomplete in most of the Public offices.

Knowledge of the Act has to percolate to grassroots level to ensure informed citizenry. Agencies such as the Government, APSIC, Media, CSOs/NGOs etc should proactively campaign regarding the Act. The scenario of appeals and implementation in various states is discussed in Annexure6.⁷

⁶ Numbers from the Annual Reports Published by the AP State Information Commission

⁷ Details of appeals with different SICs in Annexure1

The number of appeals can be reduced considerably by proactively disclosing accurate information. This assumes greater importance in wide-spread welfare schemes like National Rural Employment Guarantee Scheme (NREGS), Indiramma Housing Scheme, Jawahar Lal Nehru National Urban Renewal Mission (JNNURM) etc.

The Study and the Findings:

The Study covers the following aspects:

- Department wise distribution of applications and appeals, during the first 2 years of implementation.
- Untenable rejections under Sec.19 in number of cases.
- Time taken for rejection and how this could be checked.
- Failure of the commission to use Sec 20(1) effectively - imposition of penalty

Brief description of the tables and graphs is given in annexure5

Allocation of Departments among the Information Commissioners (as provided on the APSIC website)

C D Arha - CDA

1. General Administration
2. Home
3. Finance and Planning
4. Energy
5. Revenue and Relief
6. Infrastructure and Investment
7. Industries and Commerce
8. Health Medical Family Welfare

A Subba Rao - ASR

1. Law Department
2. Agriculture, Cooperation and Marketing
3. Horticulture, Sericulture & Rain Shadow Area Development
4. Animal Husbandary, Dairy Development & Fisheries
5. Tourism, Culture, Sports & Youth Services
6. Mines & Geology
7. Education
8. Housing

R Dileep Reddy - RDR

1. Panchyathi Raj & Development
2. Information Technology
3. Social Welfare
4. Tribal Welfare
5. B.C.Welfare
6. Women Development, Child Welfare & Disabled Welfare
7. Food, Civil Supplies & Consumer Affairs
8. Rajiv Pallebata
9. Minorities Welfare

K Sudhakar Rao - KSR

1. Municipal Administration & Urban Development
2. Transport Roads and Buildings
3. Irrigation & Command Area Development
4. Forest
5. Environment, Science and Technology
6. Labour Employment, Training and Factories
7. Rajiv Nagara Bata

Department wise breakup and Case Distribution:

Observations & Findings: The distribution of departments and workload is skewed as can be seen from the number of cases each Commissioner handled. The trend of department wise distribution of appeals did not change significantly during the two years. Out of the top 10 departments in the descending order of appeals, C.D.Arha handles 5. He handled almost 50% of the cases whereas the other three commissioners collectively handled the balance 50%. A.Subba Rao handled more cases than the other two commissioners.

The top two departments handled by Arha constitute to 1/3rd of the total cases handled in these 2 years. Work allocation is not logical and rational. Major departments like endowments are not even shown in the list, whereas schemes like Rajiv Nagara Bata, Rajiv Palle Bata were shown as separate departments.

Inferences & Suggestions: C.D.Arha and A.Subba Rao are handling many Key Departments due to which the load is unevenly allocated within the commission. After analysing the number of appeals department wise, the Chief Information Commissioner could have reallocated the departments at the end of first year. All the key departments are with the Chief Information Commissioner and this skewed allocation

needs to be urgently corrected. The government has to appoint additional commissioners as envisaged by the Act and establish regional offices of the commission.

Number of Cases:

	2006	2007	Total
CDA	335	980	1315
ASR	242	512	754
KSR	135	241	376
RDR	118	136	254
Total	830	1869	2699

Table - 1

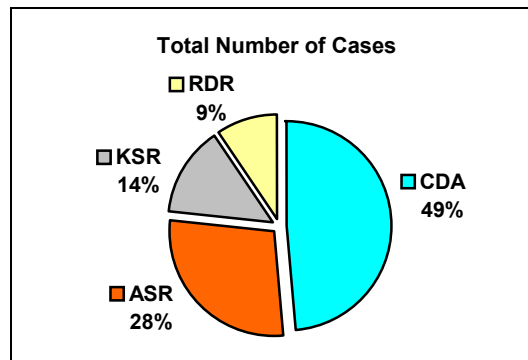


Figure - 1

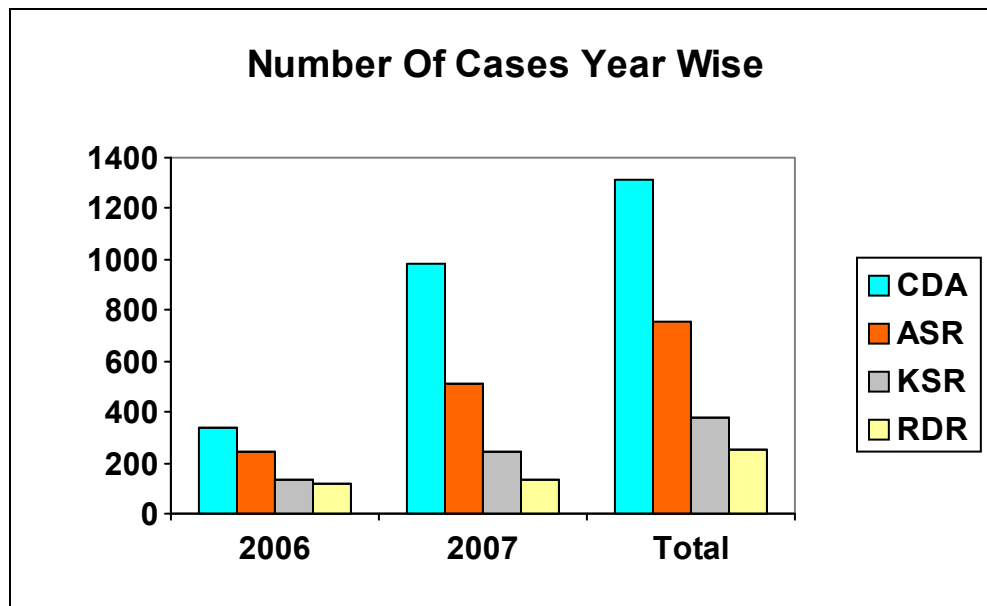


Figure - 2

Department wise breakup

IC	Dept	2006	2007	Total
CDA	Revenue and Relief	125	385	510
CDA	General Administration	87	387	474
ASR	Education	129	286	415
KSR	Municipal Administration & Urban Development	58	163	221
ASR	Agriculture, Cooperation and Marketing	53	97	150
RDR	Panchayat Raj & Rural Development	52	88	140
CDA	Health Medical Family Welfare	20	72	92
ASR	Housing	10	65	75
CDA	Finance and Planning	44	23	67
CDA	Industries and Commerce	22	42	64
CDA	Home	17	34	51
ASR	Tourism, Culture, Sports & Youth Services	19	32	51
KSR	Irrigation & Command Area Development	33	14	47
CDA	Energy	16	25	41
KSR	Transport Roads and Buildings	20	21	41
KSR	Forest	16	24	40
KSR	Labour Employment, Training and Factories	9	18	27
ASR	Law Department	16	10	26
RDR	Food, Civil Supplies & Consumer Affairs	11	9	20
RDR	Social Welfare	10	6	16
RDR	Minorities Welfare	3	11	14
ASR	Mines & Geology	8	5	13
ASR	Horticulture, Sericulture & Rain Shadow Area Development	3	9	12
CDA	Infrastructure and Investment	3	8	11
RDR	Education	0	10	10
ASR	Animal Husbandry, Dairy Development & Fisheries	3	4	7
RDR	Women Development, Child Welfare & Disabled Welfare	2	5	7
RDR	Tribal Welfare	6	1	7
RDR	B.C. Welfare	5	0	5
RDR	Information Technology	0	3	3
KSR	Environment, Science and Technology	1	0	1
KSR	Rajiv Nagara Bata	0	0	0
RDR	Rajiv Pallebata	0	0	0
RDR	Housing	0	7	7

Table 2

Top Departments which attracted most number of cases

IC	Dept	2006	2007	Total
CDA	Revenue and Relief	125	385	510
CDA	General Administration	87	387	474
ASR	Education	129	286	415
KSR	Municipal Administration & Urban Development	58	163	221
ASR	Agriculture, Cooperation and Marketing	53	97	150
RDR	Panchayat Raj & Rural Development	52	88	140
CDA	Health Medical Family Welfare	20	72	92
ASR	Housing	10	65	75
CDA	Finance and Planning	44	23	67
CDA	Industries and Commerce	22	42	64
CDA	Home	17	34	51

Table - 3

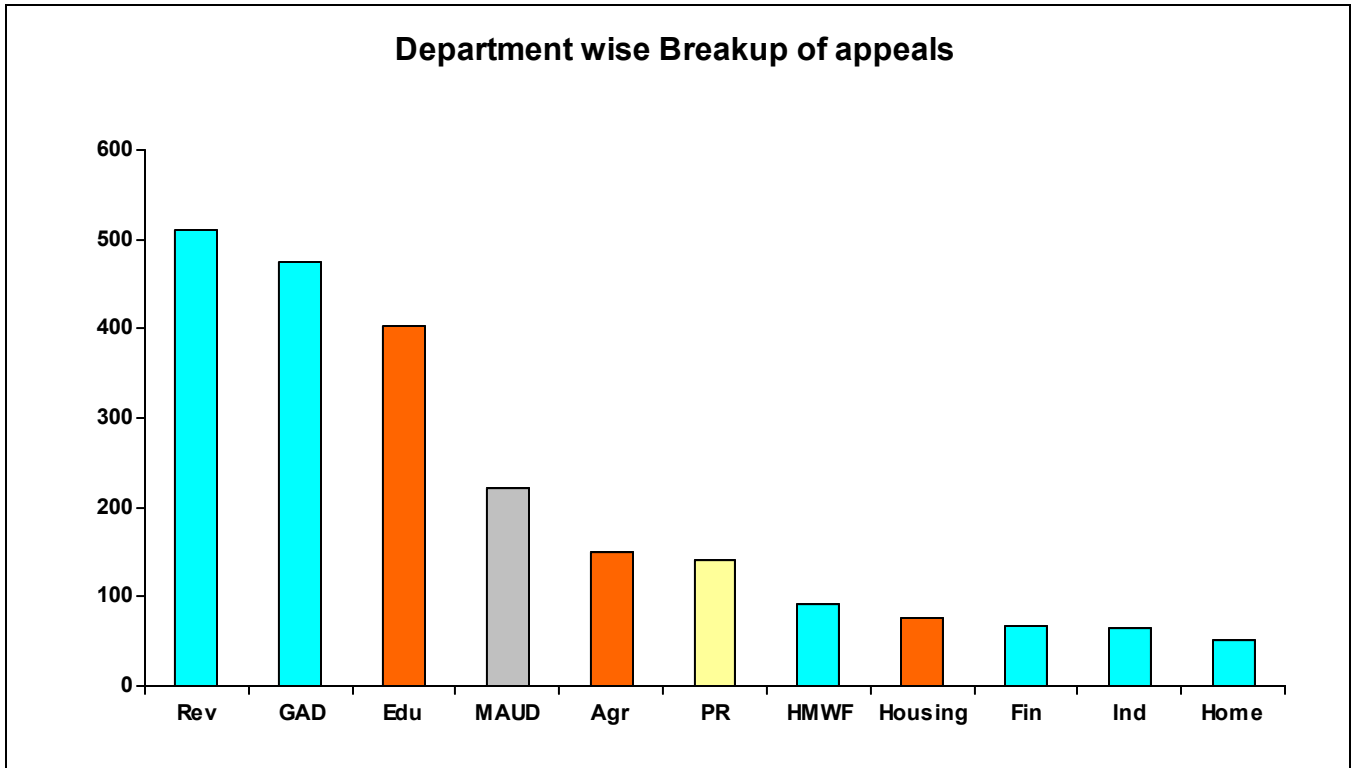


Figure 3

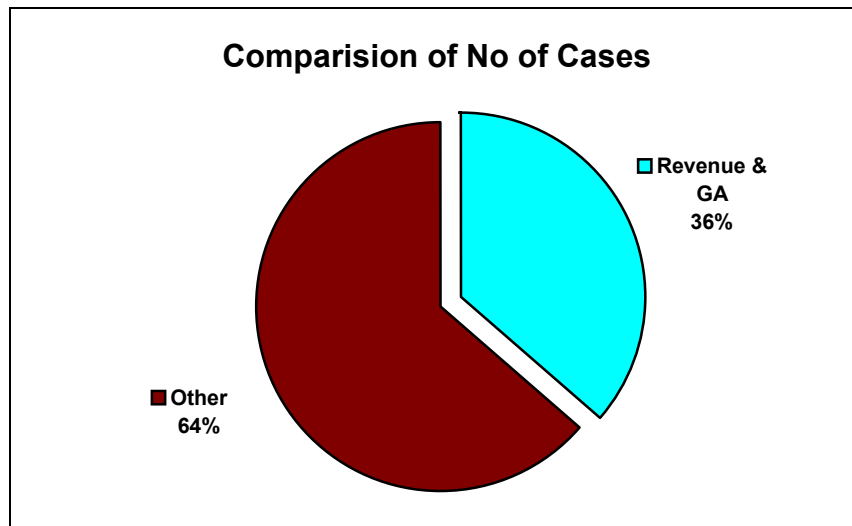


Figure 4

2. Sec 19 & Related cases:

Cases categorized under Sec 19 include the following,

- a. Cases rejected for not following procedures in Sec 6
- b. Cases rejected for not exhausting 1st appeal provision as per Sec 19(1)
- c. Cases rejected for not following procedures in Sec 19(3)
- d. Cases rejected for not following procedures in G.O.Ms.No. 66, General Administration (I&PR-II) Department dated 25-02-2006 regarding the State Information Commission (appeal procedure) Rules, 2006
- e. Cases rejected for not self attesting the appeal application
- f. Cases rejected for not attaching Xerox copies of relevant documents

Observations & Findings: Nearly 60% of the cases disposed off by the APSIC were rejected as per provisions of Sec 19, Sec 6, GO.M.S. 66 etc. In all these cases, the APSIC has dismissed the appeals on trivial grounds and even such rejections are after a long period of 45 to 60 days. The infirmities in those appeals are apparent and APSIC ought not to have taken such a long duration in dismissing those appeals, which denied the citizens to avail the provision of the first appeal within 30 days as per Sec 19(1). Thus forcing the citizens/applicants to start the process all over again, in order to seek information. In certain cases, APSIC took nearly 12 to 14 months to dispose those appeals. In those cases, APSIC could have at least exempted the applicants from the 30 days clause as per Sec 19(1) to pursue the case from the 1st Appellate Authority level.

Inferences & Suggestions: The commission ought to have evolved certain key procedures which are akin to Judiciary such as establishment of filing section, second put-up, Numbering etc which will avoid such rejections on flimsy grounds and also long delays. The APSIC should also exempt these applicants from the 30-day clause and allow them to pursue the case from the appellate authority stage. This will ensure that the interest of the applicant in the issue is alive. When 60% of the cases disposed are those that did not follow the right procedures, it reflects the complicated procedures in filing the appeals.

Sec 19 Vs Others- No Of Cases

	2006			2007			Total		
	Sec19 & Sec6 etc	Other	Total	Sec19 & Sec6 etc	Other	Total	Sec19 & Sec6 etc	Other	Total
CDA	236	99	335	542	438	980	778	537	1315
ASR	147	95	242	322	190	512	469	285	754
KSR	81	54	135	105	136	241	186	190	376
RDR	94	24	118	39	97	136	133	121	254
Total	558	272	830	1008	861	1869	1566	1133	2699

Table - 3

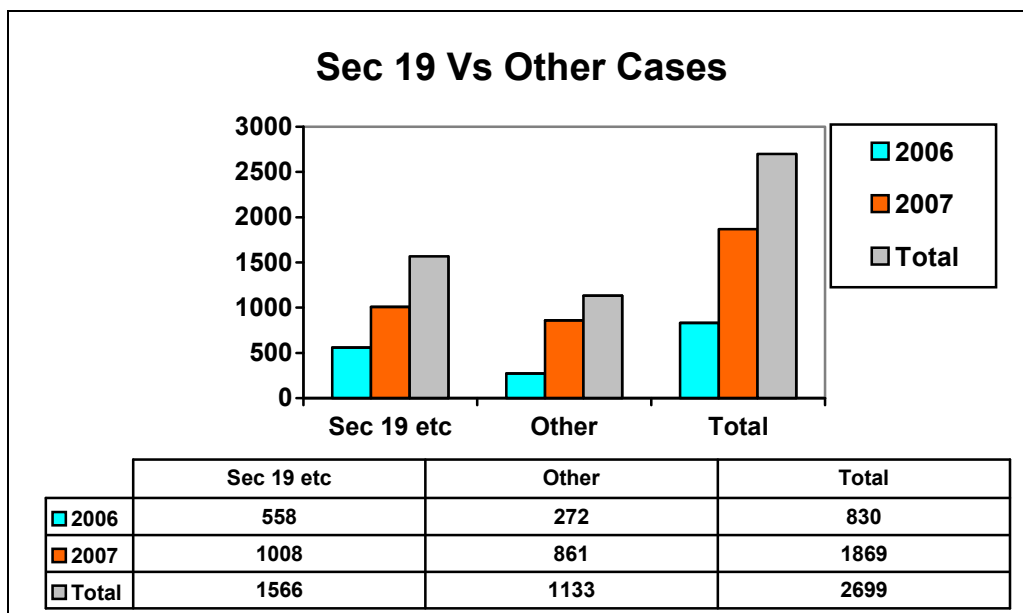


Figure 5

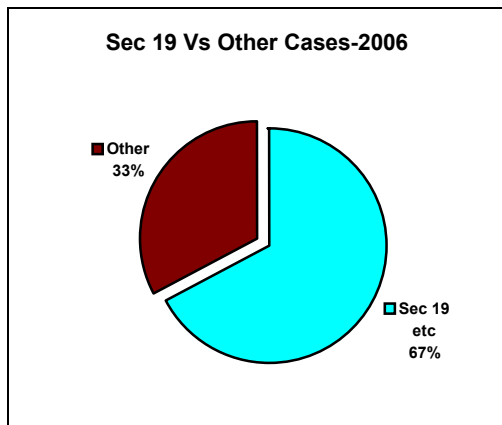


Figure 6

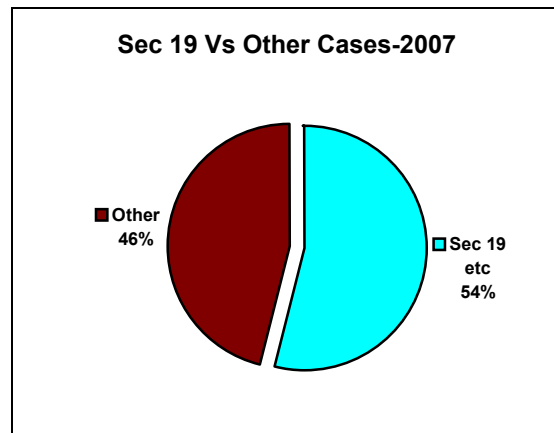


Figure 7

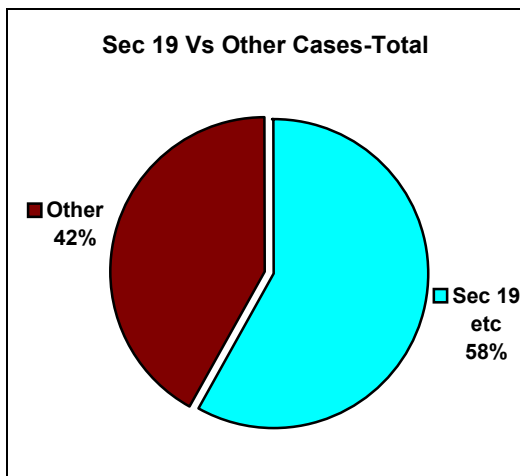


Figure 8

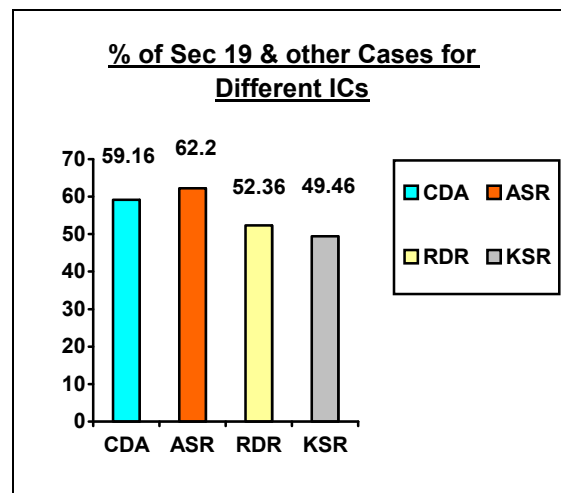


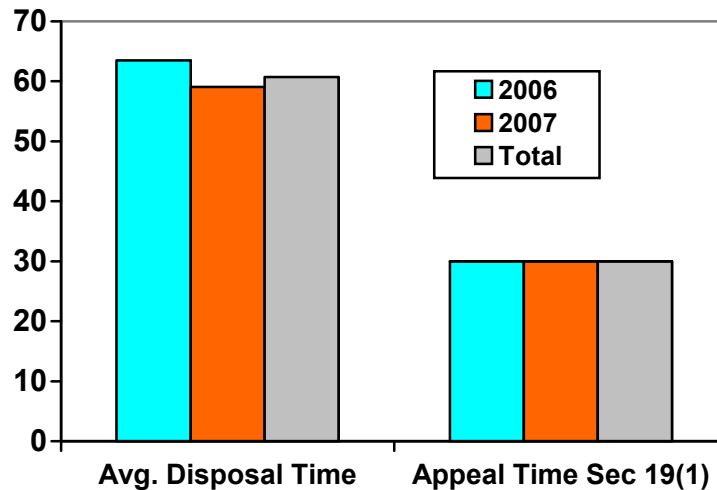
Figure 9

Average Disposal Time for Sec 19 etc Cases

	2006		2007		Total	
	Sec19 & Sec6 etc	Avg. Disposal Time (Days)	Sec19 & Sec6 etc	Avg. Disposal Time (Days)	Sec19 & Sec6 etc	Avg. Disposal Time (Days)
CDA	234	68.22	533	63.84	767	65.18
ASR	136	56.73	316	40.89	452	45.66
KSR	80	65.15	46	110.80	126	81.82
RDR	93	60.16	36	81.72	129	66.18
Total	543	63.51	931	59.06	1474	60.70

Table 5

Sec 19: Avg. Disposal Time (days)



	Avg. Disposal Time	Appeal Time Sec 19(1)
2006	63.5	30
2007	59.06	30
Total	60.7	30

Figure 10

3. Usage by Government Servants:

Observations & Findings: A large number of cases disposed off by the APSIC are filed by Government servants mostly relating to service matters.

Inferences & Suggestions: The high incidence of appeals in individual capacity from Government employees in service is enough proof as of the difficulty of how difficult accessing Information in general indicating lack of transparency in Governance. Thus for better delivery of the purposes of the Act and to ensure access of information to the common man, the underprivileged and the poorer sections of society, the commission and the Government must put best possible efforts. The citizens thus are in dire need of information from a system which is replete with corruption, nepotism and political interference.

4. Inordinate Delay in Disposal of appeals:

Observations & Findings: The average disposal time for the cases other than those under Sec 19 etc is nearly 120 days. The disposal time extends up to 12 to 14 months in certain cases depending on the number of hearings.

Inferences & Suggestions: The inordinate delay in disposing off appeals and dismissing the same on flimsy grounds after a very long duration has diluted the very purpose of the Act. The parliament in its wisdom though did not specify the time period for disposal of appeals by SICs, prescribing a definite time period for the PIOs and the first appellate authorities, amply indicate the intent of the legislature. Hence it is the bounden duty and responsibility of SICs to dispose off the complaints and appeals as expeditiously as possible. Sadly, at present citizens have to wait for long duration to access information which essentially is theirs and the same is collected by their monies and the government officials are mere custodians of information. Thus it is imperative to appoint more commissioners and hold monthly hearings at district head quarters rather than at Hyderabad alone. The situation is so alarming that the applicants/citizens are compelled to believe that the APSIC has become more like judicial machinery which is replete with inordinate delays.

Average Disposal Time for Normal Cases

	2006		2007		Total	
	Normal Cases	Avg. Disposal Time (Days)	Normal Cases	Avg. Disposal Time (Days)	Normal Cases	Avg. Disposal Time (Days)
CDA	88	75.23	433	110.34	521	104.41
ASR	87	79.64	185	98.52	272	92.48
KSR	51	86.67	131	186.93	182	158.84
RDR	19	124.79	82	178.42	101	168.33
Total	245	83.02	831	126.50	1076	116.60

Table 6

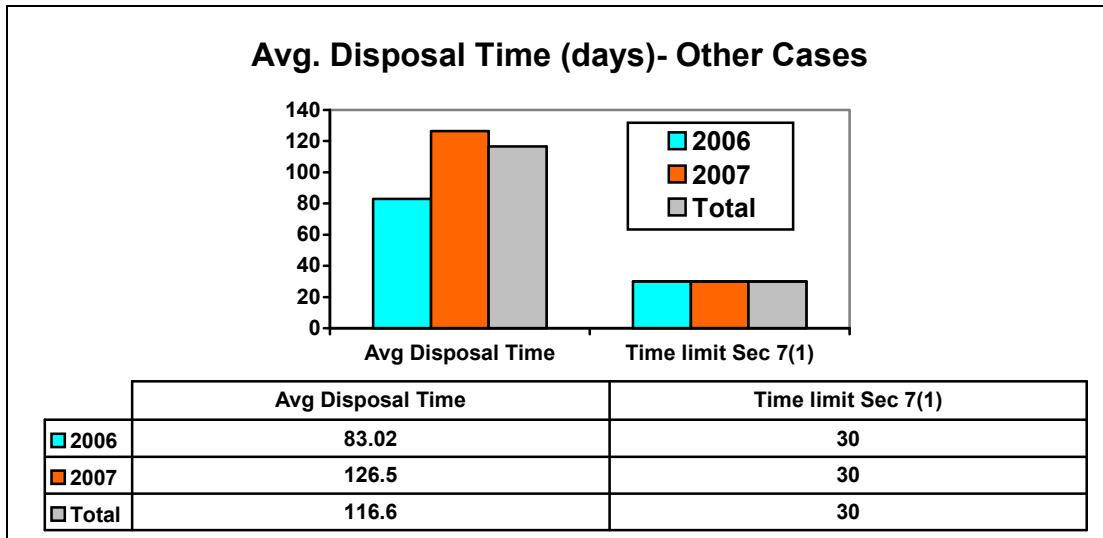


Figure 11

Average Disposal Time for All Cases

	2006		2007		Total	
	Number of Cases	Avg. Disposal Time (Days)	Number of Cases	Avg. Disposal Time (Days)	Number of Cases	Avg. Disposal Time (Days)
CDA	322	70.14	966	84.68	1288	81.05
ASR	223	65.67	501	62.17	724	63.25
KSR	131	73.53	177	167.15	308	127.33
RDR	112	71.12	118	178.41	230	126.17
Total	788	69.58	1762	92.84	2550	85.65

Table 7

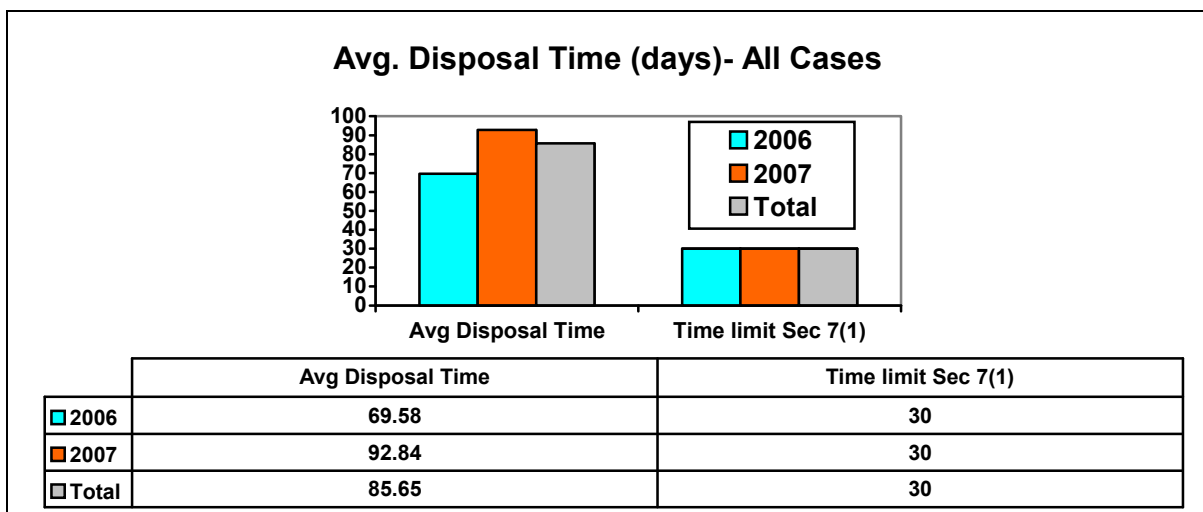


Figure 12

5. Non Imposition of penalty even for deliberate delay by the PIOs:

Observations & Findings: But for the sole exception, the APSIC chose not to impose even a paltry penalty on the erring PIOs though in certain cases the delay is deliberate and concerned PIOs fraudulently dealt with the whole issue of providing information. Rather the APSIC condoned the delays. During the course of this analysis, it was found that in at least 100 cases, there were enough grounds for imposition of penalty. The number of cases where punitive action was taken by the APSIC as per its Annual reports is given below⁸

Subject	2006	2007
No. of cases in which show-cause notices were issued	Nil	33
Number of warnings issued	7	9
No. of cases in which orders were issued for enquiry	Nil	3
No. of cases in which penalties were imposed	Nil	1

Inferences & Suggestions: Lack of imposition of penalty is a serious flaw, as otherwise PIOs across the state would have been more sensitized about the Act. This raises serious doubts about the credibility and commitment of APSIC. The culture of giving information will not percolate to PIOs at the grass roots when there is no deterrence of penalty. As of now the PIOs are under the impression that providing information itself is a favour extended to citizens even after extra ordinary delay.

For instance, Orissa SIC⁹ has imposed severe penalties on errant PIOs due to which the compliance levels have substantially improved. Further, the Orissa SIC has also awarded compensation to Appellants in certain cases. To further the interests of citizens, the APSIC ought to have set such standards.

⁸ Numbers from the Annual Reports Published by the AP State Information Commission

⁹ Details in Annexure I

6. Erroneous Petitions for Redressal of Grievances:

Observations & Findings: Certain grievance applications like the ones seeking pension and other welfare schemes were filed erroneously with the APSIC. In certain cases, the APSIC painstakingly forwarded the same to the respective authorities to take necessary action (eg. Appeal No.1071/SIC-ASR/2007)

Inferences & Suggestions: Though the commission has transgressed its jurisdiction while transferring such petitions, it can be understood in the context of humanitarian grounds. Citizens petitioning the commission is due to the fact that they are misconstruing the commission as a redressal forum. Hence the APSIC and the state Government have to redouble their efforts in spreading awareness about the Act as mandated by Sec 25,26 and 27 to take such initiatives.

Recommendations

The following are the recommendations for the key players for implementation of the Act.

With respect to the Andhra Pradesh State Information Commission (APSIC)

1. Allocation of departments on a logical and rational basis so as to ensure even allocation of the workload which will assure quality output both in terms of duration and effectivity.
2. Design systems like Filing section, second put-up and numbering etc and get them operational to ensure appeals with deficiencies are addressed quickly.
3. The commission instead of dismissing the appeals which were filed without exhausting the first appeal provision should pass orders allowing the applicants to file the first appeal even after lapse of the 30 days period as per Sec 19(1).
4. To ensure regular updation of the name boards of public authorities with latest details of the PIOs and Appellate Authorities(AAs).
5. To ensure that Non Government organizations which receive substantial Government aid display the names of PIOs and AAs , disclose information under

- Sec 4(1)(b). APSIC should publish a list of all such organizations including its website.
6. To ensure that Sec 4(1)(b) is implemented by all public authorities in true spirit by including the list of beneficiaries. APSIC should also ensure that such disclosures are updated periodically.
 7. To ensure that all public authorities accept cash along with other modes towards the application fee.
 8. Information Commissioners should regularly hold hearings and meetings in districts.

With respect to Government of Andhra Pradesh

1. To allocate special budgets for the publicity of RTI using hoardings, short films, advertisements in various media.
2. To increase the number of Information Commissioners as provided by the statute.
3. To involve the Civil society while appointing the Information commissioners.
4. To appoint officials exclusively for RTI as PIOs in those departments where the number of RTI applications is significantly high.

OPINIONS AND COMMENTS

First of all, I wish to congratulate United Forum for RTI Campaign for bringing out such a well-researched and balanced report on the functioning of AP State Information Commission. Many people across the country have earlier tried to do similar exercise. This is perhaps the most comprehensive exercise ever done.

I am shocked to learn that AP State Information Commission has merely imposed one penalty in the last two years. It clearly brings out their bias in favour of the bureaucracy and establishment. When RTI activists across the country are demanding strict implementation of penalty clause, it is not that the activists are against bureaucracy. It is important to understand the importance of the penalty clause. India is perhaps the only country in the world, which has such a penalty clause in its RTI Act. That is because in developed countries like US, you cannot even imagine a situation where the government officials would dare to violate a law, even if there were no specific penalty prescribed for its violation. However, in India most of the laws are observed in breach, especially by government officials. In such circumstances, the Parliament, in its wisdom decided that if RTI Act had to be made effective, there must be a penalty prescribed against officials who violate it. The Parliament also decided to make imposition of penalty mandatory by saying penalty "shall" be imposed. If they had used the words penalty "may" be imposed, there would have been discretion available with the Information Commissions. But with the use of the word "shall" they do not have any discretion. By not imposing penalties, the Commissioners seem to be violating the provisions of the Act themselves. And when they selectively impose penalty - they do it in one case but condone it in another - one could allege favouritism in one case and vindictiveness in another. If RTI Act has to be saved, this clause has to be implemented strictly.

I am also disturbed by the high rate of rejection of cases on technical grounds, like first appeal not filed, sufficient number of copies not attached, pages not self attested. It appears that the approach of the Commission is to somehow reject/dispose a case rather than dispense justice. In a country where so many people

are illiterate, if the Commissioners make filing of appeals so complicated, RTI would become the preserve of advocates.

The long time taken by the Commission to dispose off a case is also disturbing, especially when some Commissioners are disposing less than one case per day, against almost 50 cases heard by a High Court judge per day. When the Commissioners themselves would take such a long time in disposing off cases, they obviously would not have the moral authority to impose penalties on PIOs who fail to provide information within 30 days.

RTI is a historic opportunity for India. Unless something urgent were done, it would become a lost opportunity. And posterity would curse us for that.

Arvind Kejriwal

Founder - Parivartan

Ramon Magsaysay Award Winner in 2006

The study by Umesh and Rakesh is in the true spirit of RTI Act - an assessment by civil society of the performance of AP state information commission. It is an invaluable study and should be used by the information commission, the government as well as the general public for improving the implementation of the RTI Act. As the study shows the full potential of the Act is not being realized yet and there is a danger that the Act might be reduced to some formalities without any utility in checking corruption and irregularities rampant in the system. The Act has the potential of improving governance qualitatively and should be used towards this objective.

United Forum for RTI Campaign- AP deserves credit for giving a boost to the usage of this Act in the AP state. Hopefully, this report will provide a further fillip, much needed to inspire people's sagging confidence in this system. Ultimately, the Act must play the role of strengthening democracy at the grassroots.

Sandeep Pandey

Co Founder - Asha for Education

Ramon Magsaysay Award Winner in 2002

This is indeed a fairly meticulous and critical analysis of the working of the RTI act and also the Commissioners. This work by our Andhra colleagues is a landmark, and all of us will benefit by emulating. The use of RTI is likely to keep increasing and so also the second appeals and complaints. If we take the example of US on the growth of FOI (equivalent to our RTI usage): FOI was introduced in 1966. In 2002 there were 2 million applications, 3 million in 2003 and over 4 million in 2004.

This is an indicator of how the growth is likely to occur. Maharashtra has had a vibrant RTI culture since 2003, and it resulted in about 25000 RTI applications in 2004 -under the Maharashtra act. With the advent of the National Act, the figure was over 1 lakh in 2006 and over 3 lacs in 2007. Hence we must anticipate this growth and also remember that the Act presently does not permit more than 10 Commissioners. To put this in perspective, i am giving below a comparison of the performance of the Central Information Commissioners, and Maharashtra Commissioners with the Bombay High Court:

	Disposal	Expenditure	Commissioners	Cost/disp	Disp/comm.
Central Info. Com. 2007	7402	50000	5	6.8	1480
Mah Info. Comm. 2007	3597	20000	4	5.6	899
Bombay H.Court 2006	139163	323779	55	2.3	2530
		Thousands	Judges	Thousands	Disp/Judge

I would urge all activists to avoid the pitfall of asking for more non-performing Information Commissioners. As time goes all States will witness greater RTI usage, and if we allow them to continue in their current modes, the Commissions will become the graveyard of the RTI act and retired bureaucrats. The average complexity of a matter before the Commissioner is far less than a High Court and we must insist that the Commissioners must dispose over 5000 in a year at a cost not exceeding Rs. 1500 per case. Maharashtra is already facing the problem of a pendency of over 15000 and the cases of 2006 are being heard at present!

The banishing of penalty by the AP commissioners is a cause for concern, and is likely to cause a major jump in the cases before them. I expect they will have over 15000 cases in 2008. The other worrying revelation by this report is the extremely high efficiency and ruthlessness with which the appeals are being rejected for deficiencies by the Andhra Commission. I am sure the activists there will curtail this undesirable trend by sustained pressure.

I once again congratulate B. Ramakrishnam Raju, N.Nagendra Babau, Umesh Pakalpati and Rakesh Reddy Dubbudu for bringing out this report and giving us a glimpse of the working of the RTI act in Andhra Pradesh.

Shailesh Gandhi
Noted RTI Activist
Mumbai

The present report is the first-of-its-kind contribution on the functioning of the APSIC based on the information available in its website. The two young and promising activists, Umesh and Rakesh, and others who assisted them, deserve special appreciation by the social activist fraternity in AP. The analysis is crisp and is followed by suggestions which should be pursued in the coming days.

Certain things are brought out very clearly; the SIC has not done enough to force various government departments to comply with the mandatory disclosures; a lot is to be done by the SIC and the government for raising awareness levels in the government departments as well as the general public; the SIC has not been willing to penalize the PIOs even after two-and-a half years of the Act coming into force (only one PIO penalized in 2007); and about 60% of the cases disposed were rejections, some of them taking about two months! In the four-member Commission, the Chief alone disposing about 50% of the cases doesn't speak well about the work division in the SIC. What is more, the two Commissioners, who have handled less number of cases, are also taking more time for disposing of the cases. The SIC has to put its act together.

There is urgent need for raising the number of Commissioners by at least two by selecting persons with impeccable integrity from among the public spirited individuals rather than rehabilitate the ruling party supporters. The SIC needs to become proactive in implementing this Act and it can't offer excuses any more.

Dr. C. Ramachandraiah
Associate Professor and Social Activist
The Centre for Economic and Social Studies (CESS)

ANNEXURE 1

STATUS OF COMPLAINTS AND APPEALS WITH DIFFERENT SICs

PUNJAB INFORMATION COMMISSION

The status of Complaints and Appeals (cases) under the Right to Information Act, 2005 before the State Information Commission Punjab as on 31st March, 2008 is as under:

Dec 2005 To 31st Mar 2008

Instituted	4780
Disposed of/Direction Issued	4107 (86%)
Pending & Under Process	673 (14%)

RAJASTHAN INFORMATION COMMISSION

No. of Appeals

In 2006 - 297

In 2007 - 452

TAMIL NADU INFORMATION COMMISSION

(I) From 6.4.2006 to 31.12.06 petitions / appeals / general tappals received and which have been acted upon: 8550 cases

(II) 2008

Sl.No.	Nature	2 nd Appeal Cases	As on 31.12.2007
1	No. of petitions - appeals general tappals	31783	34951
2	No. of petitions / appeals / general tappals on which have been acted upon	1275	30877
3	Under examination		736
4	No. of cases posted for enquiry (Date to be notified)		170
	Total:		33058

(III) Cases in 2006 (8 months) 8550, Cases upto 26.11.2007 33058, **Total: 41608**

ORISSA SIC

- No. of Cases in which PIO's violated the provisions of RTI Act, and have been taken to task by imposing penalty on them - 59

- Total Penalty amount imposed in 59 cases - More than Rs. 6,50,000/-

- Number of Cases in which Compensation to appellants have been granted by the Orissa Information Commission - 6

- Total compensation amount in 6 cases - Rs 24,500

ANNEXURE 2

GROUPS WORKING ON RTI

UNITED FORUM FOR RTI CAMPAIGN - Contact Details

B. Ramakrishnam Raju, Convenor

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N. Nagendra Babu, Co Convenor

① 98480 29527

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e-mail: umesh_varma@yahoo.com

Rakesh Reddy Dubbudu

① 98854 19012

e-mail: rakesh.dubbudu@gmail.com

The following organizations are working with the Forum across the state,

Anantha Paryavarna Parirakshana Samithi (APPS) - Ananthapur	Human Rights Forum (HRF)- AP
ADDS - R.R. District	Human Rights Law Network (HRLN) -AP
Ankita, Nalgonda District	Jana Chaitanya Vedika - AP
Association for Promoting of Social Action (APSA)- Hyderabad	Jana Vignana Vedika (JVV) - AP
Anantha Shramika Jana Sangharshana Samithi(ASJSS) - Ananthapur	Kadali Network - Coastal AP
APDS - Kurnool	Lok Kalyan Trust
Adivasi Vimukthi Sanghatan (AVS)- Vizag	Loksatta - A.P
Andhra Pradesh Sampradaya Matsya Karula Samakhya (APSMS) - Visakhapartnam	Mission for Marginalised and Minorities (MMM)- Anantapur
Andhra Pradesh Vyavasaya Vruthidarula Union (APVVU)	National Fishworkers Forum (NFF) - Prakasam District
ARD - Nellore	Novok
Action in Rural Technology & Service (ARTS) - Srikakulam	PEARLS
Asha Parivar - Hyderabad	Pragathi
BHUMI - Hyderabad	Praja Alochana Vedika, Hyderabad
Centre for Media Studies (CMS) - New Delhi	Pragathi Seva Samithi (PSS) - Warangal
Campaign for Housing And Tenurial Rights (CHATRI) - Hyderabad	People's Union for Civic Action and Rights (PUCAAR) - Hyderabad
Commitments - Mahabubnagar	PWRF - Warangal
Confederation of Voluntary Associations (COVA) - AP	PWS - Hyderabad
Confederation of AP Consumer Organizations (CAPCO)	Raksha
CAMEL	RISE
Dalit Bahujan Front	Social Education and Economic Development Society (SEEDS)- Guntur

Dalit Bahujan Shramik Union (DBSU) - Nalgonda	SANNIHITHA - Hyderabad
DHWDS	Shanthi Sangham - Guntur
Federation of Andhra Pradesh Senior Citizens Organisation (FAPSCO)	Society for National Integration For Rural Development (SNIRD) -Ongole
Federation of Farmers Association (FFA)	SPACE - Vizag
Forum For Better Hyderabad - Hyderabad	Samudra Theera Matsya Karmikula Union (STMKU) - Prakasam
Forum For Better Visakapatnam	Sajjani
Fluorosis Vimukthi Porata Samithi (FVPS) - Nalgonda	United-Federation of Resident Welfare Associations (U-FERWAS)-Hyderabad
Gamana - East Godavari	VOICE - Mahabubnagar
Hyderabad Council of Human Welfare (HCHW) - Hyderabad	Young India Project, Ananthapur
Center for World Solidarity (CWS) - Hyderabad	Socio Economic Alternatives Research and Resource Community for Humanity - Bapatla
Center for Rural Development and Environmental Studies (CRDES)- Hyderabad	Yakshi - East Godavari
Agricultural Social Development Society (ASDS)- Khammam	Hyderabad Action Group
M V Foundation - AP	Grameena Swarajya Samithi (GSS) - Vizag
Youth for Development of People's Organization	