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### THE RIGHT TO INFORMATION ACT, 2005

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

This Act, known popularly as the RTI, is regarded as a momentous achievement for India and is generally hailed everywhere as a long overdue reform of the public authority system. Citizens welcomed the new move towards greater transparency in dealing with authority and there was a widespread mood of optimism when the Act was finally passed.

Key statements of the Act say that a “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” but also admit that “revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information”. However, “it is necessary to harmonize these conflicting interests while preserving the paramountcy of the democratic ideal” and it is therefore “expedient to provide for furnishing certain information to citizens who desire to have it.”

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

To enable this, every public authority has to “maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated.”

The Act goes on to outline the duties of public authority staff in ensuring ease of access to this information. PIOs (Public Information Officers) have a particular duty to provide information to the public and their responsibilities are detailed very clearly. In brief, the whole emphasis is on the PIOs following a specific procedure which, on paper, looks straightforward and likely to lead to a satisfactory conclusion, that is, the handing over of the requested information to the citizen who asked for it.

So how is the Act working out in practice?

Let's take just two examples from the district of Moradabad in the state of Uttar Pradesh.

There, the PIO is also the Additional District Magistrate (Executive). An application was made for a copy of a complaint and a copy of the decision regarding this complaint. The complaint had been made at the Janata Diwas, a weekly public day held in the Revenue Office in Bilari.

The ADM's clerk refused to accept the application but eventually, after a great deal of insistence, directed the applicant to go to the ADM himself. He simply told him to leave his application. He did not give any written acknowledgment or receipt. However, the mandatory fee of Rs 10/- was paid by postal order which was stamped with the date. Three months have now passed and there has been no response of any kind to the application.

In the second case, a complaint was made, again at the weekly Janata Diwas in Bilari. This time the complaint was lodged several times during November and December 2005. This complaint was made on behalf of aggrieved farmers whose crops

had been ruined by the effluence from two local paper mills.

An application for the decision regarding this complaint was made and the Rs 10/- fee was paid and submitted to the clerk attached to the Sub-Divisional Magistrate, Bilari who received it and dated it. That was more than a month ago and there has been no response of any kind.

This is merely the tip of the iceberg. Both these applications were made by a highly educated, well-known and highly regarded local citizen. If he was not able to succeed, what chance does the ordinary semi-literate villager have?

One major weakness in the implementation of the RTI is that the state government of U.P. has appointed as PIOs the same officers who head the department from which information is requested. This means that if there is a complaint against that department, it is dealt with by that same department. These officers have always been indifferent, negligent and unapproachable and the RTI hasn't changed that.

At the same time, there is no information about any appeal procedure or who the relevant appellate authorities are and seemingly, no way to find out.

The RTI is supposed to enable the public to get copies of decisions made about complaints. However, there is no redress for any decisions that have been wrongly made.

The whole aim of the RTI is to make public dealings with government authorities better, that is, more open, accessible and transparent. In the past, the public have found government officers very difficult to deal with; almost without exception, they have been secretive, unhelpful and obstructive.

In order to deal with this, the U.P. state government has appointed as PIOs those very same officers who caused the problem in the first place.

It would seem glaringly obvious that PIOs should not be from the same department as that against which complaints have been made. Not only should the PIO be from a different department but he or she should also be of a higher status. Only then, will

there be some chance of a balanced and fair outcome.

It is interesting to note that the most insensitive department of all has so far proved to be the Central Pollution Control Board. They give no response of any kind to any complaints.

Yet the intention behind the RTI is undoubtedly a good one and puts India right out in front of many other countries who still do not have any comparable legislation. With the passing of this forward-thinking and progressive bill, the doors to transparency in government's dealings with the public have finally been opened.

On the other hand, with regard to another kind of transparency, India's record is very poor. Transparency International, the organization that measures corruption in virtually every nation worldwide, puts India in 2006 at a shameful 70. Nor is this the only index on which India's performance is disgracefully low. In the Human Development Index, which looks at a country's record in converting income into education and health opportunities, India's ranking is very low, a mere 126, way below many other much poorer countries. It seems as though there is some indirect correlation between corruption and human development.

Even more surprising, however, is India's record on democracy. She has only been a democracy for 60 years and is now the largest one in the world. Moreover, the elections are strictly conducted and fairly run and the percentage of eligible people who vote is very high. The fact that a significant number of Indians are still illiterate or semi-literate is no deterrent. Almost everyone casts his or her vote. Indeed, the whole realm of politics is wide open to all and sundry. At least half of every paper, whether national or regional, is devoted to political news.

Thus there is a huge discrepancy between transparency in one major area of life and transparency in another. But that is modern India for you – a mind-boggling mass of contradictions.