

## Cause for underperformance of Information Commissions

I have realised that a key reason for the underperformance of the Information Commissions is lack of adequate staff. The Government has decided that each Commissioner needs a staff of seven and this is completely inadequate. I have taken about five interns (on whom I spend around 70% of my post-tax salary) and managed to clear 1179 cases in the last two months. I had written to the Prime Minister in November 2008 to draw his attention to the serious implications of the Commission being starved of necessary resources. I again wrote to Mr. Prithviraj Chavan Minister of DOPT on 15 February and 23 February pointing out how this neglect could lead to the implementation of the RTI act suffering seriously.

I have received only a letter from DOPT implying that a staff of only seven persons can be provided to the Commissioners to carry out all the functions.

I am putting my letters before Citizens who might be able to persuade the Government to do discharge its minimum duty to safeguard the Right to Information Act, and refrain from appointing fresh Commissioners;- for which there is no need.

Giving the letters below.

23 February 2009

Shri Prithviraj Chavan,  
Minister of State for Personnel, PG & Pensions  
Department of Personnel and Training,  
North Block, New Delhi 110 011.

Dear Shri Chavan,

I had written to the Prime Minister,- with a copy marked to you,- on 22 November 2008 about the absence of adequate staff with the Central Information Commissioners. I had pointed out that this was resulting in the Commissioners not being able to fulfil the requirements of implementing the RTI act satisfactorily. I had mentioned that if adequate staff was provided the average annual disposal of cases per Commissioner could be over 4000 cases compared to less than 2000 so far.

Subsequently I also wrote to you on 15 February 2009 reiterating the same issues of underperformance by the Commissioners. I had described how important functions of compliance of orders, Section 4 disclosures by the Public authorities, monitoring their performance and getting them to improve their delivery of information to the Citizens were languishing. I had explained that while a staff of seven was given to me, I am using the services of 5 interns,- whom I am taking care of personally,- to deliver a disposal of 1179 in the last two months. This proves that if there is adequate staff, Commissioners can ensure that there would be no pendency of cases. With a total staff of 16 persons it would also be possible to fulfil the important functions of compliance of orders, Section 4 compliance and improving the RTI delivery performance of the Public authorities.

On 16th February I received a letter from your ministry supposedly in response to my letter of 22 November saying that a staff of seven persons per Commissioner has been finalized in consultation with the Department of Expenditure, Ministry of Finance! An Information Commissioner needs a staff of at least 16 people to deliver on all counts, and it is apparent that no systematic evaluation has been done in the last few years. If the Department of Expenditure is going to decide the number of staff required by a Commissioner, it could only mean that the sole criterion is the availability of money. If this be case, it would still be prudent to have less Information Commissioners and give them adequate staff.

Your Government has the credit of giving the Right to Information Act to Citizens. But there is a criticism that after this, the Government has not done much to popularise it or create greater awareness amongst Citizens. This neglect has been very effectively made up by Citizens across the Nation. However by not fulfilling its duty of providing adequate staff and resources to the Information Commissions, the Government is displaying a lack of commitment towards the Right to Information. This refusal to provide needed inputs to the Information Commission can cause a serious setback to RTI and the RTI delivery system can be rendered dysfunctional. If the lack of money is the only constraint, we could raise the money from Citizens who will gladly contribute to safeguard their Right to Information.

To summarise:

1. Each Commissioner requires a staff of over 16 and a space for the staff and working of about 150 sq.mtrs.
  2. If this is given the average disposal of the Commissioners could be over 4000 per year, instead of less than 2000 per year. With the present seven Commissioners there is no need to appoint fresh Commissioners.
- I will place this and my earlier communications in Public domain by 24 February, and once again request you to provide adequate and appropriate staff and place to the Information Commissioners.

Best regards

Yours truly

shailesh gandhi

Information Commissioner  
Enclosed: Earlier letters

15 February 2009

Shri Prithviraj Chavan,  
Minister of State for Personnel, PG & Pensions  
Department of Personnel and Training,  
North Block, New Delhi 110 011.

Dear Shri Chavan,

I had written a letter to the Prime Minister,- with a copy to you,- regarding the need to provide adequate staff, resources and space to the Information Commissioners about three months back. I had also outlined the problem of Information Commissioners not being able to function effectively to deliver the Right to Information Act in the absence of these inputs. So far none of these has been addressed, whereas there are reports of new Commissioners being added, which would be only be a burden on the exchequer.

Whereas I have so far focused on clearing the pendency of appeals and complaints and have been able to clear 1179 appeals and complaints in the last two months, there are important functions which are being neglected. These relate to ensuring compliance of orders, Section 4 disclosures by the Public authorities and monitoring their performance and getting them to improve their delivery of information to the Citizens. To fulfil these needs an Information Commissioner requires a staff of about 16 people, whereas presently I have been given a staff of seven. I am using about 5 interns whom I am taking care of personally. The Government by its act of not providing adequate staff, resources and space to the Commissioners is doing a great disservice to the Right to Information Act. The RTI act is the greatest contribution of your Government to democracy, and you cannot allow it to wither away by your neglect.

I am sure you have realized that there is no need to appoint more Information Commissioners and burden the Nation. Seven Commissioners are adequate to service the Citizens if they are given the necessary inputs. I once again request you to please spend some time to provide the needed inputs to the Information Commission, so that it can deliver the potential of this great Act to the Nation. If there is no response from the Government I will be constrained to raise this issue before the people.

Requesting you once again to address this issue urgently

Yours truly

shailesh gandhi  
9717534141  
Enclosed: Earlier letter

22 November, 2008.

To,  
Dr. Manmohan Singh,  
The Prime Minister,  
South Block,  
New Delhi 110 011.

Dear Mr. Prime Minister,

I am writing this letter to you to get your personal attention to an important matter affecting the performance of the Right to Information Act. A significant stumbling block in the implementation of this great Citizen-empowerment Act has been the problem of mounting pendencies at the Information Commissions. One of the main jobs of the Commission is to adjudicate on matters in second appeals and complaints by Citizens. A total of 25174 second appeals and complaints reached the Central Information Commission in the last three years, and there is a pendency of 8962 cases. At the Centre and in various States, Citizens are waiting for 8 months to 18 months to get a decision on their appeals and complaints. The pendencies are slowly mounting. At this rate a Citizen will have to wait for years before the matter is adjudicated, as the wait gets longer. When this happens, the law will have failed the common Citizen, for whom it was made. This would be a monumental and avoidable failure of this great Act.

I thank you and the selection Committee for giving me the opportunity to serve the Nation as a Central Information Commissioner. Since coming here, I have been able to see the real reason for the failure of the Commissions to dispose of the cases before them. In September of this year, four Commissioners were appointed, increasing the strength of the Central Information Commissioners to nine. There was no provision for

staff, space or infrastructure for the four new Commissioners. The Secretariat at the Commission stated that they had no knowledge about these appointments, and it is apparent nobody knew why these Commissioners were appointed. After two months I have realized that even the Commissioners who were appointed three years back do not think they have adequate staff to be able to deliver what they are capable of. After two months of being in office, I still lack adequate office space, staff and computers. My present performance is at a level of about 50% of what I can deliver. It is possible for a Commissioner to dispose over 4000 cases per year, provided adequate staff and infrastructure is provided. The present disposal average is much less than 2000 per Commissioner per year. Out of the nine Commissioners presently in the Central Information Commission, two are retiring and it is certainly possible for the seven Commissioners to dispose over 28000 cases in a year, which would be quite adequate. This can happen if adequate staff and infrastructure is provided for the Commissioners to function.

The Government might like to soon fill up vacancies created by the retirement of some Commissioners. Before launching into the exercise of identifying new Commissioners I would urge you to ensure that the existing Commissioners get adequate and appropriate staff and infrastructure to deliver on their mandate. One Central Information Commissioner costs the nation over Rs. 25 lakh annually. Providing additional staff to the serving Commissioners will not cost more than Rs. 10 lakh per annum but can increase their output to more than double. The sheer economics is strongly in favour of providing more qualified staff to the existing Commissioners. Appointing new Commissioners would be like sending Generals to do battle without soldiers. Appointing additional Information Commissioners will be a futile exercise increasing expenses without any benefit. I urge you to take the more economical course of action to make the working of the Central Information Commission more effective and credible in people's eyes, by providing the necessary staff and infrastructure. The overall delivery and the work norms of the Information Commission have a very significant impact on the ability of the Right to Information Act's ability to deliver to the Common Citizen.

To summarise:

There is a grave threat to the healthy continuance of the Right to Information Act caused by the increasing delays at the Information Commissions. The 30 day information provision becomes stretched to over 400 days if the matter comes before the Commissions.

The present strength of the Central Information Commissioners is more than adequate to provide justice within 90 days. This is not happening because of lack of a small required input of staff and infrastructure. Adding Information Commissioners will be a cost burden without any gain for the Right to Information.

Requesting you to please address this serious issue,

Yours truly,

shailesh gandhi  
Central Information Commissioner

cc.

Shri Prithviraj Chavan,  
Minister of State for Personnel, PG & Pensions  
Department of Personnel and Training,  
North Block, New Delhi 110 011.