

'Misuse' of RTI

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As an Information Commissioner who dealt with over 20000 cases I had the opportunity of interacting with a large number of RTI users and Public Information Officers (PIOs).

Generally PIOs would refer to most applicants who file RTI applications regularly as blackmailers, harassers and those who were misusing RTI. I would broadly divide those who filed a large number of RTI applications in the following categories:

1. Those who filed RTI applications with the hope of exposing corruption or arbitrariness and hoped to improve and correct governance.
2. Those who filed RTI applications repetitively to correct a wrong which they perceived had been done to them. Their basic intention is to get justice for themselves.
3. Those who used RTI to blackmail people. This category largely targets illegal buildings, mining or some other activity which runs foul of the law.
4. Those who use this to harass a public official to get some undue favour.

All these categories together comprise around 20% of the total appeals and complaints before the Commission. These represent persistent users of RTI who are generally knowledgeable about appeals and procedures. Nobody will deny that the first category certainly deserves to be encouraged. In the second category there are some who have been able to get corrective action and some whose grievance may defy resolution. When faced with such applicants, PIOs should speak to the concerned officer to evaluate whether the grievance can be redressed. Generally most of us have a strong aversion for the third and fourth category who are making it a money-earning racket or

putting pressure to get an undue favour. The last two categories certainly does not exceed 10% of the total appeals and complaints. I would like to note that most of the average citizens who do not get information are unaware of the process of appeals. Over 40% of those who attempt filing appeals at CIC are discouraged with imperious returns. Thus it appears that the third and fourth category will be much smaller than 10% in terms of RTI applications.

I would argue that in the implementation of most laws some people will misuse its provisions. The police often misuse their powers to subvert the law, and so also criminals misuse our judicial system to prolong trials. The misuse of any laws is largely dependent on the kind of people in a society and whether the justice system has the capability of punishing wrongdoers. There are people who go to places of worship with the sole objective of committing theft or other crimes. But society does not define these as the main characteristic of temples. Is it reasonable to expect that only angels will use RTI?

To be able to blackmail an officer or someone who has indulged in an illegal activity, there are some illegal actions. Noticing and curbing these is the job of various government officers and the citizen is actually acting as a vigilance monitor. I have often questioned government officers how the blackmailers operate. They state that the RTI blackmailer threatens an illegal action with exposure and thereby extorts money. I have sometimes wondered why society has such touching empathy for the victims who have committed illegal acts. The fourth category must be discouraged and Information Commissioners can do this fairly easily. This can be done by either ordering an inspection of the files by the appellant.

Two simple tips to PIOs to handle repetitive RTI queries:

1. Ensuring that the information is provided in less than 10 days by taking applications from such applicants on

priority. Ensuring that letter asking for additional fees is sent well in time. I have found such an approach usually leading to reduction of such applications. If however this does not have any effect, then the matter should be highlighted before the Information Commissioner in second appeal.

2. Another good practice which could be adopted would be to upload all queries and the replies on the website. Where information has already been provided applicants may not ask for it. Even if they do ask, the PIO would find it easy to provide it. Besides in a few cases where an applicant is filing what appears to be frivolous or repetitive applications, this would be a restraint since it would expose such applicants.
3. If someone is indeed filing requests for the same information repetitively make him pay each time.

The constant refrain of some people to highlight 'misuse' of RTI is an attempt to muzzle the citizen's fundamental right. Freedom of speech and media which also are covered under Article 19 (1) (a) have been expanding with time. There is a national debate when a movie is subjected to cuts or people or media are muzzled by government, political class or ruffians. Yet the nation goes along with this big lie of RTI threatening the peace, harmony and integrity of India. If RTI is curbed the day is not far when we will have to give reasons to speak and establish our identity. A person can be defamed by speech or writing. Should we now have a demand to allow only those persons to speak who give reasons and established their identity ? On the other hand RTI can only seek information which exists on records.

One of the most problematic statements by the Supreme Court is quoted in many places: *"Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of*

corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. "

This needs to be contested. The statement "*should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens*" would be appropriate for terrorists, not citizens using their fundamental right to information. There is no evidence of RTI damaging the nation. As for the accusation of RTI taking up 75% of time, I did the following calculation: By all accounts the total number of RTI applications in India is less than 10 million annually. The total number of all government employees is over 20 million. Assuming a 6 hour working day for all employees for 250 working days it would be seen that there are 30000 million working hours. Even if an average of 3 hours is spent per RTI application (the average is likely to be less than two hours) 10 million applications would require 30 million hours, which is 0.1% of the total working hours. This means it would require 3.2% staff working for 3.2% of their time in furnishing information to citizens. This too could be reduced drastically if computerised working and automatic updating of information was done as specified in Section 4 of the RTI Act. It is unfortunate that the apex court has not thought it fit to castigate public authorities for their brazen flouting of their obligations under Section 4, but

upbraided the sovereign citizens using their fundamental right.

I would submit that the powerful find RTI upsetting their arrogance and hence try to discredit it by often talking about its misuse. There are many eminent persons in the country, who berate RTI and say there should be some limit to it. It is accepted widely that freedom of speech is often used to abuse or defame people. It is also used by small papers to resort to blackmail. The concept of paid news has been too well recorded. Despite all these there is never a demand to constrict freedom of speech. But there is a growing tendency from those with power to misinterpret the RTI Act almost to a point where it does not really represent what the law says. There is widespread acceptance of the idea that statements, books and works of literature and art are covered by Article 19 (1) (a) of the constitution, and any attempt to curb it meets with very stiff resistance. However, there is no murmur when users of RTI are being labelled deprecatingly, though it is covered by the same article of the constitution. Everyone with power appears to say: "I would risk my life for your right to express your views, but damn you if you use RTI to seek information which would expose my arbitrary or illegal actions." An information seeker can only seek information on records. We rate amongst the top five in the world in terms of provisions of the law and 66 in terms of implementation. Any amendments or obstructionist acts will push us closer to our low rank in implementation.

I would also submit that such frivolous attitude towards our fundamental right is leading to an impression that RTI needs to be curbed and its activists maybe deprecated, attacked or murdered.

Shailesh Gandhi

