

How to get good governance by using Act 21 of 2006

Most citizens find that when they file an application, representation or complaint with any government department, there is no response. If they want to pursue the matter they keep sending reminders. Alternately they grovel before the officers swallowing their self respect. This is a humiliating experience and often leads to a bribe being offered. The other tool used often is to file a RTI application seeking the status or progress of their missive, hoping to draw attention or shame the official. There is a more powerful tool than RTI available to citizens in Maharashtra when dealing with the State Government departments who do not respond and respect the individual citizen. If citizens use this tool consistently, they can change the face of governance in Maharashtra. Just as widespread usage of RTI by citizens made it effective, it is necessary that citizens use this law to get response within 45 days.

The full name of this law is “Government Servants Regulation Of Transfers and Prevention Of Delay In Discharge Of Official Duties.” The law was passed as Act 21 of 2006 and is also known as “Transfers, Charters and Delays Act’. Since officials were not too keen about this law, the rules were notified only in November 2013. Thus the law came into effect seven years after it was passed in the legislature! This was a gross contempt of the legislature.

Section 10 of this act mandates that ‘decision and necessary action’ on all files should be taken within 45 days. If more

than one department is involved, the 'decision and necessary action' must be taken within 90 days. Thus in most cases a decision on a file must be taken within 45 days. It also mandates that most decisions must be taken by only three officers and no officer can keep a file pending for more than seven working days. If there is a failure to meet these deadlines is brought to the attention of the head of the department, rule 3 (6) mandates that he must enquire and fix responsibility for violation of the law within fifteen working days of the delay being brought to his notice. The law provides for disciplinary action to be taken against officers guilty of 'dereliction of duty' by 'any willful or intentional delay or negligence'. This is a very powerful provision, since government servants fear disciplinary action more than financial penalties. The RTI Act works because citizens use it and it has provision for financial penalties. In the RTI Act an Information Commissioner can impose a financial penalty of 25000 rupees but can only recommend disciplinary action against the officer who has violated the law.

This law provides for disciplinary action against delinquent officers who violate the law. However, since most citizens are unaware about this law it has not been used much. For BMC there is a similar provision in Section 64C of the Mumbai Municipal Corporation Act. Other Municipal Corporations in the State have an identical provision in Section 72C of 'The Maharashtra Municipal Corporations Act'.

The normal approach to an application, representation or complaint is one of neglect. Usually a perfectly legitimate application or complaint cannot be rejected. If it has to be rejected reasons have to be given in writing. If the missive is not defective it is difficult to reject it. Even if there is a flawed application and the defects are pointed out, the citizen can correct them. Similarly for a complaint or representation when a response has to be given in writing it has to be based on legitimate reasons. The most common

technique is not giving any response. Sometimes it is due to carelessness or incompetence. At other times it is because of corruption. There are many instances where a citizen with an aversion for bribes is forced to offer a bribe to a public servant to get his legitimate work done. Most citizen interactions with their government result in a feeling humiliation, anger and frustration.

To activate this law, a citizen only needs to send a simple complaint to the head of the department, pointing out the violation of this law. For convenience a simple format for this is given below. If this law is implemented properly, it could bring a great change in our governance. Government is not implementing it, and citizens are barely aware of it. A sustained campaign could change this, and bring a very significant change in citizen empowerment. It would also empower the citizen and bring respect back to her.

Another aspect is that many officers procrastinate even on proposals and files from other departments within the government. One such example is the way protection of corruption is practised by not responding to proposals of sanction for prosecution by Anti Corruption Bureau. There are many such instances which together result in laziness, carelessness and corruption not being curbed. Citizens can influence this working as well.

The RTI Act has been effective since citizens have used it extensively and media has popularised it. This law can empower citizens to get responses from the government and lead to better governance if they write to the head of a department about violation of the law and insist on an enquiry being conducted. Most importantly, it would bring self respect to the individual citizen. Maharashtra could become the model of democracy and better governance for the entire nation. Stop giving bribes and use this law.

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If any citizen has filed a complaint/application/representation with a government department, and received no response for over 45 days they should send the following complaint to the head of the department or Secretary of the department. In case of Municipal Corporations it could be addressed to the Municipal Commissioners.

Use the format given below and report this at www.satyamevjayte.info

I had given my application/complaint/representation for
.....

on (copy enclosed). Since then I have received no communication. I would like to draw your attention to Section 10 of the Transfers Charters and Delays Act 21 of 2006 which mandates that no decision can be kept pending for over 45 days. In the instant case, no decision has been communicated to me despite the lapse of..... days. I request you to conduct a preliminary enquiry within 15 days to fix responsibility on the officers responsible for this delay and take appropriate disciplinary action against them. I request that the report of the enquiry may please be sent to me.