

**STATE INFORMATION COMMISSION, KERALA
THIRUVANANTHAPURAM**

ANNUAL REPORT FOR THE YEAR 2010-11

“...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”

(Preamble to RTI Act, 2005)

I. Introduction

The concept of an open government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a) of the Constitution of India. No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the Government. It was in this context that the Indian Parliament enacted the landmark Right to Information Act, 2005.

The Right to Information Act, 2005 (Central Act No.22 /2005) was notified in the Official Gazette of India on 21st of June, 2005. Sections 4(1), 5(1), 5(2), 12, 13, 15, 16, 24, 27 and 28 of the Act came into force with effect from the date of notification and the remaining provisions came into force on the 12th of October, 2005. The Act extends to the whole of India except Jammu and Kashmir. It is applicable to all Constitutional Authorities, bodies established or constituted by an Act of the Parliament or the State Legislature, or by order or notification of the Central/State Governments. It also applies to bodies owned, controlled or substantially financed by the Government directly or indirectly.

The main objective of the Right to Information Act, 2005 is to ensure transparency and accountability in the working of every Public Authority in the country

and to eliminate the scourge of corruption. 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. This is a path-breaking legislation that enables the country to break away from the colonial legacy of secrecy, which is anathema to a democratic system. Setting up of Information Commissions at the Central and State levels to ensure the effective implementation of the right to information regime in the country is one of the key provisions of the Act.

II. Constitution and composition of the Kerala State Information Commission

The Kerala State Information Commission was constituted under section 15(1) of the Right to Information Act 2005, consisting of the State Chief Information Commissioner and four State Information Commissioners. Under section 15(3) of the Act, the Government of Kerala appointed Dr. Siby Mathews IPS(Rtd) as the State Chief Information Commissioner and Dr. K. Rajagopal, Shri. M N Gunavardhanan IAS (Rtd), Shri. Soni Thengamom, Shri. K. Natarajan IPS (Rtd) as State Information Commissioners and, they assumed charge of office on the dates given below:

State Chief Information Commissioner

Dr. Siby Mathews IPS (Rtd) : 23-04-2011

State Information Commissioners

Dr. K. Rajagopal : 24-07-2008

Shri M N Gunavardhanan IAS (Rtd) : 10-08-2010

Shri Soni Thengamom : 10-08-2010

Shri K. Natarajan IPS (Rtd) : 23-04-2011

Shri. Palat Mohandas, IAS (Rtd.), State Chief Information Commissioner and Shri.V.V Giry, State Information Commissioner demitted office on 01-10-2010 and 20-12-2010 respectively, on completion of their tenures.

III. Functioning of the Commission

The office of the State Information Commission is situated in building No.TC.XXVI/298, Punnen Road, Thiruvananthapuram - 695 001. Official telephone numbers of the State Chief Information Commissioner and State Information Commissioners and other officers of the Commission are at **Annexure-I**.

Government have sanctioned only a skeleton staff for the functioning of the Commission, details of which are at **Annexure-II**. There was steep increase in the number of complaints/appeals and general papers received by the Commission. The skeleton staff provided was found inadequate to process the receipts by the Commission, resulting in heavy backlog in their disposal. The Commission had proposed to the Government to provide additional staff for the effective functioning of the Commission. But no fruitful steps have been taken by the Government so far to provide the additional staff, in spite of several requests made by the Commission.

An amount of Rs.274.79 lakh was provided in the State budget (Non-Plan) to meet the expenses of the State Information Commission during the year 2010-11 and, the expenditure incurred was Rs.265.44 lakh.

IV. Administration of the Act

1. Pro-active disclosure of information

Section 4 of the Right to Information Act, 2005 provides for mandatory / pro-active disclosure of information by the public authorities. The information required to be disclosed under this section includes particulars of the organization including, functions and duties, rules, regulations, instructions,

manuals and records followed for the discharge of functions, directory of officers and employees, including their monthly remuneration, its annual budget, details of subsidy programmes and concessions, and its beneficiaries, particulars of State Public Information Officer/s etc. The time limit for publishing the information under section 4(1) (b) was one hundred and twenty days from 15 June 2005 - the date of enactment of the Act. It is unfortunate that most of the public authorities are yet to take effective action as contemplated under section 4 of the RTI Act.

2. Disclosure of information against requests

A citizen, who desires to obtain an information under the Act, is required to make an application before the Public Information Officer as provided in Section 6 of the Act. Where the request is for information, which is held by another public authority or the subject matter of the application is more closely connected with the functioning of another public authority, the application shall be transferred to the other public authority within 5 days of the date of receipt of the application, under intimation to the applicant. In many cases, the applications were not seen transferred to the public authority concerned within 5 days or intimation given to the applicant as provided in Section 6(3) of the Act. Section 7 of the Act provides for disclosure of information against requests made under section 6. When the request is rejected for any of the reasons u/s 8(1) or 9, it is mandatory to provide the reason/s for rejection, the period within which an appeal could be preferred and the particulars of the appellate authority etc. to the applicant. Here also, in a number of cases, where the requests were rejected, the above details were not communicated to the applicants. Another area where the provisions of the Act were not strictly followed by the SPIOs was in making a demand for the cost of providing the information. The cost should be demanded in accordance with the provisions of Section 7(3) (a) giving the

calculation made to arrive at the amount, and the particulars of the appellate authority. Very often, the SPIOs send notices to the applicants calling them to his/her office to remit the cost, without intimating the exact amount. In respect of cases wherein information had to be provided by post, the postage charge also had to be realized along with the cost for providing the information. It had not been followed in almost all the cases. The above are a few areas where the SPIOs require adequate training on how to deal with applications for information.

The right to information was often seen employed by the citizens as a means to redress their grievances. The information seeker after the successful completion of the proceedings before the Commission was still insisting on issuance of specific orders for redressal by the Commission on his/her grievance, which had led to his/her seeking information in the first instance. The Commission had been at pains to explain to the appellants / complainants during the hearings that this was not the role envisaged for the Commission under the Act and they had to seek redressal elsewhere, before an appropriate forum based on among other things, the information furnished to them. In many cases, citizens had difficulty in understanding the position and, were seen dissatisfied with the proceedings, even though the necessary information required by them had been furnished to them. However, it had been noticed in many cases that the act of the Commission to ensure supply of information, had indirectly effected redressal of the grievances at the hands of the public authorities. In many cases, the desired relief was extended to the citizens, even before the completion of the proceedings before the Commission.

3. Monitoring and reporting

Section 25(2) of the Act provides that each Ministry or Department shall in relation to the public authorities within their jurisdiction collect and provide to the

Information Commission such information as is required, to prepare the Annual Report by the Commission. Accordingly, the Commission had, in the third week of March 2011, written to the Secretaries of all the administrative departments of the Government Secretariat to collect the required details from the public authorities under them and forward the same to the Commission for preparation of the Annual Report for the year 2010-11. All autonomous bodies and heads of departments were also similarly addressed by the Commission to furnish materials for inclusion in the Annual Report. Statistical analysis of the administration of the Act based on the data received by the Commission from the Government and the public authorities is given in **Annexure-III (a) to III (e)**.

As per available information, the public authorities in the State had designated 30596 State Public Information Officers, 18416 Assistant State Public Information Officers and 4216 Appellate Authorities, for implementation of the Act. The public authorities had received a total number of 177546 requests, out of which 162645 were disposed off. The fee and cost collected by the public authorities under various provisions of the Act was Rs.29,67,299.

4. Notification of Intelligence and Security Organisations

Section 24(4) provides for notification, by the State Government, of intelligence and security organisations to which the provisions of the Act shall not apply. Accordingly, the Government of Kerala *vide* SRO No.127/06 dated 07.02.2006 had notified a list of 8 intelligence and security organisations to which the provisions of the Act shall not apply. List of the eight State organisations so excluded is placed at **Annexure-IV**. However, these organizations are not excluded from the purview of the RTI Act as far as disclosure of information pertaining to allegations of corruption and human rights violations are concerned.

5. Complaints and appeals to the Commission

The Information Commission has the original jurisdiction to receive and inquire into complaints under section 18 and second appellate jurisdiction under section 19 (3) to receive appeals against the decisions of public authorities. During the year under report, the Commission had received 13057 currents/references, out of which 1293 were registered as complaints, 1484 as second appeals and the remaining as miscellaneous papers. Besides, at the commencement of the year there was a pendency of 603 complaints, 1667 appeals and 197 miscellaneous papers and as such total number of cases due for consideration by the Commission during the year under report was 1896 complaints and 3151 appeals. When complaints on non-disposal of requests for information by the State Public Information Officers (SPIOs) were received, the procedure adopted by the Commission was to instruct the concerned SPIO to dispose of the request for information in accordance with Section 7 of the Right to Information Act at once and to report compliance to the Commission. The State Public Information Officer concerned is summoned for a hearing when satisfactory action is not taken on the request. In the case of complaints of other nature and appeals u/s 19(3), copies of the complaint/appeal are sent to the public authorities for their reports. Prompt action had been taken on all the complaints and appeals received by the Commission. The Commission held hearings on almost all days of the week with a view to dispose of the complaints/appeal. During the period of report 1115 complaints , 730 appeals and 10290 miscellaneous papers were finally disposed off, which is placed at **Annexure-V.**

6. Lapses on the part of Public Information Officers

Section 20 of the RTI Act empowers the Central and State Information Commissions to impose penalty and for recommending disciplinary action against the PIO for the following lapses:

- (i) refusing to receive an application or not furnishing information within the prescribed time limit, without reasonable cause;
- (ii) malafidely denying the information;
- (iii) knowingly giving incorrect, incomplete or misleading information;
- (iv) destroying the information, which was the subject of the request;
- (v) obstructing in any manner in furnishing the information.

During the year of report, the Commission had initiated and completed action u/s 20(1) of the RTI Act, 2005 and, had imposed penalty amounting to Rs.4,82,250/- in 56 cases. Statement showing details of cases where in the Commission had imposed penalty from 01-04-2010 till 31-3-2011 is at **Annexure-VI**. The Commission had awarded a total amount of Rs.79,885/- as compensation u/s 19(8) (b) of the Act during 2010-11, details of which are at **Annexure-VI A**. Statement showing details of cases in which Departmental action has been recommended u/s Section 20(2) of RTI Act,2005 is at **Annexure-VI B**.

7. Cost and Fee rules under the RTI Act.

Section 27 and 28 read with sections 6(1), 7(1) and 7(5) of the RTI Act provide for prescribing fee for submission of application and the cost for providing the information. Accordingly, Government had notified the Kerala Right to Information (Regulation of Fee and Cost Rules) 2006 vide S.R.O. No.385/2006 dated 9-5-2006. Copy of the rules is appended at **Annexure-VII**. These rules had made payment of application fee payable under the Act simple and convenient by providing for acceptance of court fee stamp, demand draft, bankers cheque, pay order, remittance in Government Treasury and cash payment against proper receipt. These rules were amended vide S.R.O. No.1074/2007 dated 18-12-2007 whereby the fee for providing information u/s 7(1) and 7(5) in the case of public authorities other than Government

departments could be remitted by cash or by DD/Bankers Cheque/Pay Order payable to the SPIO/ASPIO only. Copy of the amended Rules is at **Annexure-VIIA**. The Government had also issued Erratum No.29950/Cdn.5/2008/GAD dated 28-05-2008 by which the application fee in respect of applications filed before public authorities other than the Government Departments shall be remitted in the form of Demand Draft/Bankers' Cheque/Pay Order payable to the State Public Information Officer/ State Assistant Public Information Officer or by cash payment against proper receipt in the office of the State Public Information Officer/State Assistant Public Information Officer. Copy of erratum is at **Annexure-VII B**.

Proviso to Sub-section (5) of Section 7 of the RTI Act provides that, no fee shall be charged from the persons who are of below the poverty line as may be determined by the appropriate Government. Accordingly, Government had issued G.O.(MS) No.198/2007/LSGD dated 16-8-2007 by which the Block Development Officers in the respective areas have been authorized to issue certificates to BPL category citizens for seeking exemption from payment of fee and cost under the RTI Act, 2005. Copy of the order is at **Annexure-VII C**. The Government had also issued G.O.(MS) No.41/2008/LSGD dated 14-2-2008 whereby the Secretary of the Municipality/Corporation has been authorized to issue certificates to BPL category citizens residing in the respective Municipality/Corporation area, for seeking exemption from payment of fee and cost under the RTI Act, 2005. Copy of order is at **Annexure-VIID**.

On considering the difficulties faced by the public authorities in accounting the expenditure related to the cost of providing information as well as refunding the cost remitted by the applicants in certain cases, the Finance Department, Government of Kerala have issued a circular No.61/2008/Fin. dated

15-10-2008, authorizing the public authorities on the action to be taken in such instances. Copy of the circular is at **Annexure-VIIE**.

8. Appeal Procedure Rules

In exercise of powers conferred under section 27 read with sub-section (10) of section 19 of the RTI Act, the Government had notified the Kerala State Information Commission (Procedure for Appeal) Rules, 2006 vide S.R.O. No.412/2006 dated 31-5-2006, copy of which is appended at **Annexure-VIII**.

9. Guidelines for handling of applications under the RTI Act

The Government had issued 2 circulars No.77000/CDN.5/06/GAD dated 30-10-2006 containing detailed guidelines on the appointment of Assistant Public Information Officer (APIO), Public Information Officer (PIO) and Appellate Authorities in the offices of the Public Authorities, and the procedure for disposing of applications and 1st appeals received by the public authorities under the Act. These circulars were reported to be very useful by the public authorities for receiving and disposing of applications and 1st appeals under the Act. Copies of the circulars are at **Annexure-IX & IXA**. Subsequently, the Government had issued circulars No.54876/CDN.5/07/GAD dated 03-12-2007 and No.58266/CDN.5/08/GAD dated 14-08-2008 on the same subject. Copies are at **Annexure-IXB & IXC**. The Government have issued certain guidelines for the smooth implementation of RTI Act, 2005. They are appended as **Annexure-IXD to IXG**.

10. Commission's sittings at District headquarters

The State Information Commission is headquartered at Thiruvananthapuram and it does not have any other office in the State. As a people friendly measure, the Commission had conducted sittings in other districts of the State, as far as possible. During the year of report, 4 such sittings were held by the Commission at Kannur(1) and Thrissur(3).

11. Training Programme

Section 26(1) of the Right to Information Act provides that the Government may develop and organize educational programmes to improve the understanding of the public and also train public information officers of public authorities and produce relevant training materials. The Institute of Management in Government (IMG) had been identified by the State Government as the nodal institution to train officers in the Government, PSUs and other autonomous organisations. The IMG, as reported, had conducted **53** programmes to train **1359** officials on the RTI Act during the year under report.

The Commission had taken active participation in the training and educational programmes. The Chief Information Commissioner and the Information Commissioners had associated themselves with a number of educational and awareness programmes on RTI Act conducted by the IMG and other NGOs. The Commission had also lent services of resource persons to various organisations to conduct classes on the RTI Act.

12. Internship

As a proactive measure, the Commission encourages students to do internship in the Commission on various aspects concerning the RTI Act. Twenty-five students of Law from universities all over India had done internship in the Commission during the period under report. The internees were allowed to take part in the Commission's sittings and study case files. They were also required to submit reports on their internship.

13. Participation in the Annual Convention organised by the Central Information Commission

Shri M.N Gunavardhanan and Sri.Soni Thengamom, State Information Commissioners had participated in the Annual Convention of Central and State

Information Commissioners organised by the Central Information Commission at New Delhi on 13-14 September, 2010.

14. Malayalam translation of the Right to Information Act

In order that people are properly educated on the provisions of the Act, it was found necessary to have a Malayalam translation of the Act. The matter was taken up with the Government, and the Malayalam translation of the Right to Information Act, 2005 was published in the Extra Ordinary Gazette of India on 8-2-2007.

15. Computerisation of the Commission

The Commission is fully computerized with LAN facility. The Commission's website www.keralasic.gov.in gives a wide range of information on its functions and activities.

16. Videoconferencing

The Commission began its sittings through videoconferencing from 22-01-2010. Videoconferencing was held between the State Information Commission headquarters and the concerned District Collectorate/s, where the complainants/appellants and the Respondent/s were asked to appear. The Kerala State IT Mission facilitated the connectivity and, all the Fridays except third Fridays of the month were reserved for the Commission. Videoconferences on 258 appeals/complaints were held during the current year at the District Collectorates at Kollam, Alappuzha, Pathanamthitta, Kottayam, Idukki, Ernakulam, Thrissur, Palakkad, Kozhikode, Wayanad and Kasaragod. It is proposed to gradually enhance the frequency of videoconferencing, depending upon the availability of network service and evaluating the success of the facility.

17. Court Cases

Some co-operative institutions had filed writ petitions in the Hon'ble High Court of Kerala challenging the circular No.23/06 issued by the Registrar of Co-operative Societies, taking the view that all co-operative societies registered under the Kerala Co-operative Societies Act, 1969 would be 'public authorities' under the RTI Act. The Hon'ble High Court in its judgment dated 03-04-2009 in WP(c) No.20154/2006 disposed off a batch of similar petitions holding that co-operative institutions would be 'public authorities' under the RTI Act. This was challenged before the Hon'ble High Court in Writ Appeals. Writ Appeal No.1417/2009 along with 24 similar appeals were disposed off by the Hon'ble High Court as per judgment dated 28-08-2009 holding that all co-operative institutions would indeed come under the purview of the RTI Act. The only issue to be decided was whether a particular co-operative would be covered by the definition of 'public authority' u/s 2(h) of the RTI Act or information in respect of the institution should be accessed as per Section 2(f) of the RTI Act. It was held that the appropriate authority under the RTI Act would decide whether the society concerned is a 'public authority' or not, on a case to case basis.

The Kerala Co-operative Societies Act 1969(21 of 1969) was amended by the Kerala Co-operative Societies (Amendment)Act 2010(Act 7 of 2010)whereby a proviso has been added to section 9 of the said Act vesting the Government also with the power to regulate and control the working of Society for the economic and social betterment of its members and the general public. Since the amendment all Co-operative Societies can be deemed as Public authority vide section 2(h) for the condition setforth in Item

(i) "body owned, controlled or substantially financed", is satisfied.

However this aspect has now been referred to a full bench of the Hon'ble High Court in Writ Appeal 1688/2009.

The Kerala Public Service Commission filed Writ Petition(C) No.33718 of 2010(L) on 9-3-2011 before the Hon'ble High Court of Kerala challenging the order dated 17-7-2010 of the Kerala State Information Commission in AP No.528(2)/2010/SIC in File No.2840/SIC-Gen2/2010.In the above AP, the Kerala Public Service Commission contended that it is exempted from disclosing information under Section 8 of Right to Information Act 2005. The Hon'ble High Court of Kerala dismissed the Writ Petition on the ground that the KPSC,as a constitutional authority,is not immune from the obligation,liabilities and exposure of information held by it. Section 8 of the Right to Information Act does not classify any information as eligible from disclosure.

In SLP (C) No.13760-61 of 2010 the SN College, Nattika contended that the aided private colleges are not 'public authorities' as defined under Section 2 of the Right to Information Act and as such they are not bound to provide information to an information seeker vide the Act. The State Information Commission observed that the SN College, Nattika is a 'public authority' under Section 2(h) (a) to (d) of the Right to Information Act.The State Information Commission intimated them vide letter No.3915/SIC_Gen/2006 that they should designate Officers as Assistant Public Information Officer,State Public Information Officer and Appellate Authority as per the Right to Information Act and notify the same and report compliance to the Commission since the aided colleges are controlled and substantially financed by the Government of Kerala and therefore they are 'public authorities' as defined under Section 2(h)(d)(i) of the RTI Act. Aggrieved by this order of the State Information Commission, the College authorities filed Writ Petition(C) No.9592/2007 before the Hon'ble High Court of Kerala. In the mean while ,a number of other Writ Petitions were filed under similar sets of facts. All the Writ Petitions were heard together and the learned Single Judge of Kerala High Court vide a common

judgement and order dated 4-7-2007 dismissed all the writ petitions. Against the Judgement of the learned Single Judge dismissing the Writ Petitions, the Petitioner Colleges filed Writ Appeals before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala vide a Common Final Judgement and Order in Writ Appeal Nos. 2012 and 2091 of 2007(E) dated 22-1-2010 also upheld the decision and judgement of the learned Single Judge. Challenging this common judgement and order dated 22-1-2010, the College authorities moved the Hon'ble Supreme Court of India by filing Special Leave to Appeal Invoking its Civil Appellate Jurisdiction. The Supreme Court took the matter on file as SLP (C) No. 13760-61 of 2010 for adjudication. The matter is still pending before the Hon'ble Supreme Court of India.

18. Decisions of general importance by the State Information Commission

- I) Domestic inquiries connected with departmental disciplinary proceedings could not be considered as 'investigation' and hence information related to domestic inquiries connected with disciplinary proceedings could not be rejected u/s 8(1)(h) of the RTI Act.

- II) The question of rejecting the personal information of the requestor u/s 8(1)(j), on the ground that the disclosure of the information had no relationship with any public activity or interest was considered. The Commission held that, in order that the disclosure of the information would cause unwarranted invasion on the privacy of the individual, it should be information related to an individual other than the requestor. What was exempted from disclosure u/s 8(1)(j) was the personal information of an individual other than the requestor and the personal information of the requestor was not covered u/s 8(1)(j).

III) Some public authorities had complained that certain citizens were making repeated requests under the RTI Act on the same issue, thereby affecting the day-to-day functioning of the public authority/s. The Commission clarified that Section 2(f) read with Section 2(j) of the RTI Act gives the citizen the right to obtain information as held by or under the control of a public authority. Seeking explanation, clarification, interpretation, redressal of grievance, questionnaires etc. was not contemplated under the Act. Since no official was appointed exclusively for the implementation of the Act and, the Act has to be implemented without affecting the normal functioning of the public authorities. If a request is so exhaustive that it would divert the resources of the public authority, the public authority may make arrangements to allow the applicant to inspect the documents/records and to take down notes and copies, as required by him, u/s 7(9) of the RTI Act.

IV. Recommendations

(i) Pro-active Disclosure by Public Authorities

Even though pro-active disclosure was mandatory under section 4(1), it was noticed that pro-active disclosure was not done in a satisfactory manner by many public authorities. The public authorities should realize the importance of pro-active disclosure as, in the long run, such disclosure would reduce the number of requests for information. Hence it is recommended that Government may suitably instruct the public authorities to disclose as much information as possible under section 4(1) of the Right to Information Act. Keeping in view of the cost and time elements involved in publishing and updating the information

as per section 4 of the Act, by print media, it is advisable to immediately publish the information by internet through the official website/s of the Government of Kerala and the organizations concerned. Organisations may be encouraged to develop their own websites and provide the information through them. Funds available under e-governance may be utilized for the purpose. Services of NIC can also be utilised. A definite time frame may be set for this.

It is suggested that strict directions be issued by the Government, that all the public authorities should fulfill their obligations laid down under Section 4 of the RTI Act, 2005, and instance/s of failure to comply with the directions should be viewed seriously and departmental disciplinary proceedings should be initiated against such delinquents.

(ii) Identification of Public Authorities

As defined in Section 2(h) of the RTI Act, public authorities include institutions and non-governmental organisations, which are controlled or substantially financed by the Government. But some institutions like cooperative banks, aided schools and colleges, managements of religious institutions and places of worship, libraries etc., which are either controlled or substantially financed by the Government are under the impression that provisions of the Right to Information Act are not applicable to them. Hence, in order to avoid any ambiguity in the matter, it is recommended that each administrative department of the Government may be requested to examine the issue, publish the list of public authorities under them and also instruct such public authorities to comply with the provisions of the Right to Information Act, 2005.

(iii) Appointment of Public Information Officers

Government had issued instructions and guidelines to all public authorities on the designation of State Assistant Public Information Officers, State Public

Information Officers and the Appellate Authorities in all administrative units/offices. These instructions have been complied with to a great extent by most of the public authorities. But there are still some public authorities who have not yet designated the State Assistant Public Information Officers, State Public Information Officers and the Appellate Authorities. This is especially so in the case of non-governmental organizations, financed by the Government like the private aided colleges and schools, cooperative societies etc. Hence it is recommended that all administrative departments of the Government may be directed to review the progress of implementation of the RTI Act starting from the designation of SAPIO/SPIO/AAs at different levels in the administrative units/ offices. It is also suggested that in the case of major offices, there should be more than one State Public Information Officer as contemplated under Section 5(1) of the Act to receive and dispose of requests under section 6(1) of the RTI Act. Hence, it is recommended that in major offices, adequate number of State Public Information Officers may be designated.

It is also found necessary that the State Assistant Public Information Officers/ State Public Information Officers/Appellate Authorities should display appropriate name boards for easy identification by the citizens. It is recommended that all public authorities may be given instructions to exhibit name boards of SAPIOs, SPIOs and AAs at conspicuous places in the office premises.

(iv) Inadequacy of office Contingency Fund and Office Equipments

State Public Information Officers of some government offices have reported that they were finding it difficult to meet the expenditure for providing information for want of sufficient fund allocation. The Commission has been harping on this issue in the previous reports also. There are many offices which are still not provided with photocopiers to take photocopies of documents. Hence, it is

suggested that all government offices may be provided with adequate funds to meet the cost of providing information under the RTI Act. It is also recommended that action may be taken to provide computers and photocopiers in all government offices in a phased and time bound manner.

(v) Dissemination of Information

It is the statutory duty of the State Public Information Officers to provide the information or reject the requests for information, as provided in Section 7(1). If the applicant is not satisfied with the reply given by the public information officer, the applicant has the right to appeal before the appellate authority of the public authority under section 19(1) of the Right to Information Act, 2005. It is necessary that the reasons for not providing the information, the period within which the appeal may be preferred and the particulars of appellate authority be clearly indicated while responding to the requests for information. It is recommended that all officers of public authorities may be given adequate training on the dissemination of information as envisaged under the Act.

(vi) Disposal of First appeals

Section 19(1) of the Act provides for taking up a matter on first appeal before the first Appellate Authority in the public authority, when the requester is not satisfied with the information provided by the SPIO of the public authority. The first appellate authority is to dispose off the appeal within a maximum period of 45 days. In many cases, it is seen that the first appellate authority either deal with the appeal late or does not dispose it off at all. This inevitably results in the delayed receipt of information and/or the requester is compelled to take up the matter on 2nd appeal before the State Information Commission, with its concomitant delay, additional expenditure and avoidable agony. Even in the case of timely disposal of first appeals, it is often noticed that the First Appellate Authorities do not meticulously and judiciously examine the complaints raised in

the first appeal or hear the parties before taking the decision. They either agree with the decision of the SPIO blatantly or issue hasty and ambiguous directions to the SPIO. This, in practice, makes the first appeals a farce. Here again, the Commission would stress on providing training to the concerned officials to improve their perception of and performance under the Act.

(vii) Harassment of Applicants

There have been instances where the applicants faced harassment and oral threats from officers/employees of certain public authorities. This might have probably happened due to the ignorance of the officers/employees of the public authorities about the provisions of the Right to Information Act. Not only the appellate authorities, public information officers and assistant public information officers but other employees of the public authorities also may be given adequate training on the provisions of the Right to Information Act.

(viii) Strengthening of the Nodal Department

The Commission had proposed to strengthen the General Administration (Coordination) Department, which is the nodal department of the Government for implementing the Right to Information Act with adequate number of staff and facilities ear-marked for dealing with the Right to Information Act. It is reiterated that the above proposal may be considered with due importance.

(ix) Ambiguities/inconsistencies in the implementation of certain provisions of the RTI Act.

During the discharge of its functions, it had come to the notice of the Commission that certain ambiguities/inconsistencies have crept in some of the provisions of the Act like definition of 'Public Authority'; competent authority in the case of Subordinate Courts; section 8(1)(d) & (e); section 8(1)(g); section 8(1)(j); section 8(2); section 8(3); section 11(3); section 13(2) & 16(2); section 18 and section 19(9). These were brought to the notice of the State

Government from time to time for taking up the matter with the Department of Personnel & Training (DoPT), Government of India, which is the nodal Department in respect of the RTI Act. It is recommended that the matter may be followed up with the DoPT, Government of India.

(x) Maintenance and retrieval of records

In many cases of disposal of requests asking for copies of documents, it was noted that the Public Information Officers fail to retrieve the documents requested because of absence of a proper system of record keeping. Section 4(1)(a) of the RTI Act requires that the public authorities shall maintain all its records duly cataloged and indexed in a manner and form which facilitates the right to information. Record keeping is an area neglected in most of the offices of Government and Public Sector Undertakings. Government may make a special drive in this direction so that the records available in the offices of the public authorities are properly catalogued, indexed and stored in a manner that facilitate easy retrieval of information.

(xi) Inclusion of RTI Act in the School Syllabi

Information is indispensable for the functioning of true democracy. People have to be kept informed of the functioning of the public authorities in the government at large. Right to Information Act, 2005 is a cardinal legislation having its base in the democratic principles, especially the freedom of speech and expression guaranteed under the Constitution to each and every citizen of India. Hence, it is recommended that a chapter on the Right to Information Act, 2005 is incorporated in the school syllabi at high school level.

(xii) Intelligence and Security Organisations

Section 24 of the Act provides that the Intelligence and security Organisations specified in the second schedule being organizations established by the Central

Govt or any information furnished by such organizations to that Govt in tune with this provision 8 organisations have been included in the notification issued under SRO.No.127/06 dated 07/02/2006.It is true that Crime Branch(CID) and District Crime Records Bureau are inclusive of this but this Commission would like to draw the attention of the Govt to the fact that these two organisations are the Departments dealing with intelligence and Security. The direction of the Director General of Police, issued under Order No.T41869/07 dated 27/01/2009 advices that complaint regarding Service Conditions, Corruption, human rights violation need not be excluded from the purview of RTI Act,2005.This makes clear that police department itself admit that certain information are to be divulged.

(xiii) Display of names of Assistant Public Information Officers and Public Information Officers.

It usually happens that people are not properly advised of the procedure to submit requests for information. Section 5(3) of the Act provides that the public information officer shall render reasonable assistance to the persons who makes request for information. For easy identification and use, the names of assistant public information officers and public information officers of all offices have to be displayed in a conspicuous place of the office. Commission has already attempted to intimate all the concerned through a press advertisement. Government in the General Administration Department may take further appropriate action for its implementation.

(xiv) Central Assistance

Right to Information Act being a Central Act, the State Government have requested for central assistance for its effective implementation. The assistance

requested for is Rs.50 crore. Since implementation of the Act, as envisaged would entail substantial financial expenditure, it is recommended that Government may pursue action for getting the above central aid at an early date.

(xv) Remittance of Fees by money order and postal order

As per letter dated 20/07/2009 Commission had sought the views of the State Government on the Feasibility and Appropriateness of receiving the application fee under RTI Act by Money order/Postal order. We have not received any reply and the same is pending with Government.

V. Conclusion

The vehicles now attached with the Commission are old and frequent repairs are required. This is not economical. Hence Commission decided to approach Government for new vehicles.

For facility of service, convenience, economy of effort and exchange of informations, State Information Commission, Kerala utilizes information technology. The ultimate aim of the Right to Information Act is to have a well informed citizenry, which is aware of its rights, and well trained officers of public authorities, who are aware of their duties and functions under the Act. The Commission appreciates the facts that Public Authorities of the Government had not rejected the requests of the citizens for information as the basic objective of the Act is to promote transparency and accountability in the working of every Public Authority.
