

This is not an ADB material. The views expressed in this document are the views of the author/s and/or their organizations and do not necessarily reflect the views or policies of the Asian Development Bank, or its Board of Governors, or the governments they represent. ADB does not guarantee the accuracy and/or completeness of the material's contents, and accepts no responsibility for any direct or indirect consequence of their use or reliance, whether wholly or partially. Please feel free to contact the authors directly should you have queries.



# Information Management & Pro-active Disclosure

Prof M Sridhar Acharyulu

Central Information Commissioner, India

5.12.2017



Right to Information



# Preparing for Access

- In the absence of law, there can be no practical regime. Judicial Declaration and Ethical duties can not guarantee access
- Legal Right to citizen and corresponding Legal Duty on public authority with specific definitions must.
- '*file notings*' shall be included in definition
- RTI Act should be given overriding effect.



# Who is public authority?

- To escape from access law, public authorities are contending that they are private bodies.
- Trying to litigate and delay using ambiguity of expression in legal provisions.
- In India AGI, SGI, Governor, Lt Gov and Office of Minister, Sports Bodies are claiming not public authorities.
- Law should be clear and specific. Govt should declare the list.
- Ambiguity will operate as unwritten exception



# Information Delivery: RTI Act

- Processing requests: 30 days time, no need for giving reasons/purpose, even identity need not be given.
- PIO's duty to give in 30 days, if not, deemed refusal- amounts to Breach
- Scope to Transfer within 5 days to other PA
- Oral request is also permitted, PIO has to assist to write it: sensory disabled should be helped.
- In Local language, in the form asked, as far as possible, Intimate cost,



# Easy way of payment

- Easy way of payment of fees/cost.
- PA cannot spend Rs 100 in demanding Rs 10.
- Demanding Rs 2 for one page is ridiculous
- Inspection for second hour Rs 5 per hour.
- Cost should be intimated soon.
- Rules should be uniform.



# Pro active disclosure

- At centre, there is Public Records Act, 1993 not effectively implemented
- At states, there is no such law at all.
- Section 4 (1)(a) shall **maintain all its records** duly catalogued and indexed. It has to be periodically updated. IC should have power to punish its non-compliance.
- It should give reasons for policy and decisions, administrative and quasi-judicial actions.



# Law should punish “Missing file”

- It's a major threat to RTI. Its an unwritten denial of RTI now.
- Neither Public Records Act, nor Rules, nor any where, issue of missing files not addressed.
- The law shall provide penalty for loosing files either negligently, or deliberately.
- Alternatives, shadow filings and fixing liability is important.
- Secrecy cannot be replaced by strategy.



# Access inequalities

- *When private bodies are performing public functions regulated by public authority, why not those bodies are considered as instrumentalities of state and be accountable?*
- Section 2(f) provides access to information of private bodies also but through regulatory offices. Still the law that provides such information access has several limitations beyond RTI Act. It is contrary to Section 22 of RTI Act,



Right to Information



# Information about Grievances

- RTI requests are being rejected if it reflects redressal of grievance. But citizen has a right to know information about redressal.
- Law should specify right to information about redressal.
- Right to Services, Citizens' charter is equally important. In India 11 states gave RtS. The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 is lapsed and not revived till now.



Right to Information



# RTI Needs other Supportive Acts

- **The Public Records Act**
- **Public Services Act**
- **Redressal of Grievances mechanism**
- **Lok Pal & Lok Ayukth Act** (Independent Authority to sanction prosecution of public servants involved in corruption)
- **Whistle Blower Protection Act** to secure citizens seeking information about corruption as they are threatened and killed.

