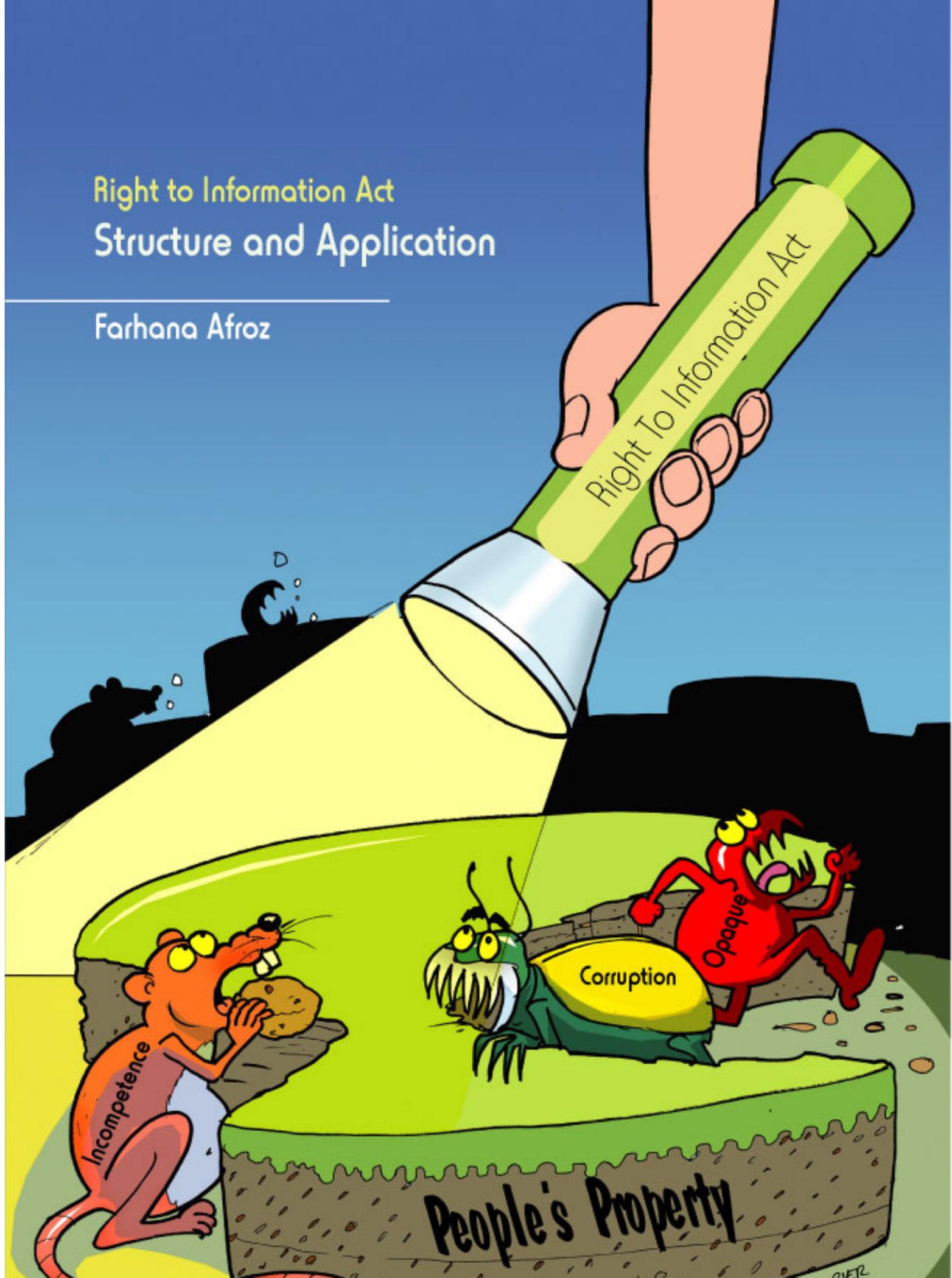


Right to Information Act Structure and Application

Farhana Afroz



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Introduction

The Right to Information Act, 2009 shines as a milestone in the path of Bangladesh's democracy. This was enacted to empower the people and to ensure transparency and accountability in the government, autonomous and non-government and foreign aided organizations. This law recognizes the people's right to obtain information. It also asks the authorities to preserve all kinds of information. A healthy practice of this law is expected to ensure good governance in the society.

The law creates legal space for voluntary disclosure of information, a position of a responsible officer to provide information, the scope for appeal and creation of an independent information commission to ensure implementation of the law.

To implement the law, some non-government organizations (NGOs) and the press play very important roles. For the last three years, the Management and Resources Development Initiative (MRDI) and USAID PROGATI have been providing training to NGO workers and journalists on RTI and how to utilize the act.

The foreign aided organizations act as both information provider and information seeker, as they represent the civil society. Assisting PROGATI, these organizations have been reviewing the public service delivery at local levels through citizen monitoring, service commitments and social audit. The NGOs can utilize the RTI law to review the service sector and also to build public awareness in their working areas.

The journalists can utilize the law to collect adequate information on public-private revenue and expenditure, decisions and projects in the interest of the public and publish them.

This project had aimed at providing the media and NGOs both theoretical knowledge on the RTI and technical assistance at application level. In the three years after the law was passed, some experiences have been gathered. This book mainly reviews some important parts of the act along with relevant examples. The trainers who assisted the journalists and NGO shared some of their experience, learning and recommendations. Both information providers and seekers will get some conceptual direction based on real experience from this book.

The book was prepared in consultation with Mr Nepal Chandra Sarkar first ever secretary of the Information Commission who retired very recently and Farid Hossain Bureau Chief of Associated Press.

We express our gratitude to the USAID PROGATI for supporting the publication of this book and the implementation of related activities.

Chapter One

Right to Information Law is the people's law

A government's job revolves around improvement and welfare of the people using the resources belonging to the people. If the people do not have access to information helpful to the political, economic and social rights, they can not fully participate in the state's decision making process. The right to access to such information is defined as the right to information. According to article 4 of the Right to Information law (RTI), subject to the provisions of this law, every citizen shall have the right to information from the authority, and the authority shall, on demand from a citizen, be bound to provide him with the information.

The foundation of democracy is citizen participation. The Bangladesh Constitution's Article 39 terms the freedom of thought, conscience and speech as one of the basic rights of the citizens. Clause Article 7 (a) of the constitution states: the people are the owners of all the powers of the state. Therefore, the information vested with the government is owned by the people. Information is not the property of the government only. The RTI law thus properly reflects the principles and basic rights given to the people in the constitution.

Side by side with the government, different NGOs have devoted themselves to the welfare of the marginalized and deprived people. These organizations are implementing various projects for peoples' welfare with funds from the government and donors. The people have the right to know about money that is spent for their welfare.

The RTI law ensures the Bangladeshi citizen his or her right to get the information on all activities, policy, decisions, expenditure and revenue of the government, autonomous, and NGOs using government and foreign donations.

Following are the principles of right to information, which are accommodated in the RTI law:

1. Maximum information disclosure
2. Proactive disclosure of information
3. Ensuring transparency and accountability
4. Limiting the exemption
5. Easing access to information
6. Providing information free or at a rational cost

Some special aspects of RTI law that need to be highlighted are:

Firstly, the RTI law itself is not a solution. It is a step. For instance, one cannot get a new electricity or water supply connection using the RTI law. But one can learn who the persons responsible to provide such connections are. Or what is the progress after one has applied for electricity connection? When does one get the connection? So on.

Secondly, the RTI law may be a medium to find solution to a problem. For instance, an individual may seek information on the number of doctors and nurses required in a public hospital and how many have been recruited. He or she may seek information on the regular presence of teachers at a public school and so on.

Thirdly, the RTI law may protect interest of all. It may not be possible for all citizens to seek public information and they may turn to others for help. The marginalized people of the country may obtain public information with help from the NGOs or the civil societies. For instance, the country's Dalit and Harizon communities are most rights deprived people. Their children often do not get the scope to get admission into schools. These communities may utilize the RTI law with help from the civil societies to ask the authorities why their children cannot get admission into schools? Who or what are preventing them?

The power of RTI law:

- Under RTI, a citizen enjoys the right to get the same information that a parliament can obtain. Whatever information is placed at the parliament, can be availed to the public. If the information on the corruption of Padma Bridge Project is placed in the parliament, the people will get it too.
- There is a provision for supplying information free of cost. According to the Article 8(5), in consultation with the Information Commission, the government may exempt an individual or a class of individuals or any other class from paying a fee.
- A citizen needs not to explain why he is asking for the information.
- No application can be fully rejected. Article 7 demands that if one requests information that is related to non-publishable ones, the authorities would have to provide the parts which are publishable.

Under these considerations, the RTI law is actually the peoples' law.

Chapter Two
**The applied aspects
of the RTI law**

A. Owner and carrier of information is the Authority.

All government, autonomous and statutory bodies and government and foreign funded NGOs are under the purview of this law.

The Authority defined by the act is:

- i) Any organization constituted in accordance with the Constitution of the People's Republic of Bangladesh;
- ii) Any ministry, division or office established under the Rules of Business made under article 55(6) of the Constitution of the People's Republic of Bangladesh;
- iii) Any statutory body or institution established by or under any Act;
- iv) Any private organization or institution run by government financing or with aid in grant from the government fund;
- v) Any organization or institution that undertakes public functions in accordance with any contract made on behalf of the government or made with any public organization or institution; or
- vi) Any organization or institution as may be notified in the official Gazette from time to time by the Government;

The law practically puts all types of organization using public funds in the definition of Authority. This enables anyone asking for information from the ministries, departments, district administration, upazila administration, schools receiving public fund, government educational institutions, project offices or NGOs.

There is also a scope for getting information from private organizations.

Although the law exempts private bodies, one can seek information of a private organization that is registered with a government body. For instance, the Bangladesh Audit and Comptroller General's Office audits all government expenditure, including that of Bangladesh Telecom Regulatory Authority (BTRC). The private telecommunication companies are registered with the BTRC. While an individual would not be able to seek information from these companies, he or she can obtain audit reports on the BTRC from the Bangladesh Audit and Comptroller General's Office where information on the telecom companies are available.

Similarly at the rural level various private multipurpose societies are operating lending activities—the information of which would be available with the Microcredit Regulatory Authority or the Rural Development and Cooperatives Welfare Ministry.

Some organizations exempted under the law

There are certain organizations dealing with national security and intelligence which are exempted under the act. However if there are cases of corruption and human rights violation in these bodies, one can seek information on these subjects from them. These bodies are instructed to supply the information within 30 days upon approval of the Information Commission.

The exempted organizations are:

1. National Security Intelligence (NSI)
2. Directorate General of Forces Intelligence (DGFI)
3. Defense Intelligence Units
4. Criminal Investigation Department (CID), Bangladesh Police
5. Special Security Force (SSF)
6. Intelligence Cell of the National Board of Revenue
7. Special Branch, Bangladesh Police
8. Intelligence Cell of Rapid Action Battalion (RAB)

Ensuring right to information is the responsibility of the Authority:

- Information has to be properly preserved in the form of catalog and index
- Develop policy and system to preserve information
- Prepare citizens' charter to ensure transparency
- Gradually ensure maximum use of information and communication technology
- Each authority must have their own website
- Preserve and maintain copies of priority wise information
- All authorities would computerize all information within a rational time limit and create a country-wide network to ensure access of the people
- All authorities would follow directives of the Information Commission in preserving and managing information

The USAID PROGATI and MRDI in 2012 provided technical assistance to 39 NGOs in framing information disclosure policy in line with the RTI Act to ensure highest information disclosure, transparency and accountability.

B. Information and Right to Information

Right to information: Subject to the provision of the law, every citizen shall have the right to information from the authority, and the authority shall, on demand from a citizen, be bound to provide him with the information.

The RTI law has ensured the people's right to have information from the authority in wider context and through various mediums. For instance, an authority may keep its information on structure and activities in books, pamphlets, design, map, agreement, data, log book, order, advertisement, documents, photographs, audio, video, machine readable documents etc.

According to RTI, a citizen has:

The right to see information at field level, if necessary. For instance a citizen may want to see the condition of the Sirajganj town protection dam at the site or through the files of the executive engineer. He or she may even obtain photocopies of the documents.

The right to get authorized copies of the information. People may get information about corruption or irregularities from different sources which may not always be provable. Under the RTI law, one can obtain copies of such information with written approval of the authority on it. For instance, one can obtain the Zila Parishad's approved copy of food allocation for different upazilas under the Ministry of Hill Tracts Affairs and check back with the real situation.

The right to get a design or a map of any project. For instance, one can obtain the Khas Land map of his/her area to see the status of people enjoying rights to their land alongside the Khas Land.

The right to access machine readable documents. This provision was created considering the modernization of information technology. A citizen may obtain the list of beneficiaries of a project and copies of design in a CD or DVD etc.

Even a disabled person can obtain information in the form suitable for him/her. The law keeps the provision of cooperating with disabled persons to provide them information in the form that they would understand.

Information that needs to be open

The law also ensures that the authority proactively discloses information. This is the most important aspect of the law as in reality there are many information important for the citizens for which nobody needs to apply to obtain as they will be kept open.

The law allows publication of following information which is necessary for participation of the citizens and supervision of public services:

The authorities shall index all information on decisions and completed and ongoing activities, make them easily available and publish and publicize them.

In releasing the information, the authorities shall not classify or limit access to any part of it.

All authorities shall publish the following information in an annual report:

- The authority shall describe its organizational structure, activities and responsibilities of the officials and staffs and decision making process;
- Laws, regulations, circulars, instructions and guides related with the authority;
- Classification of information;
- How the citizens may obtain license, permit, assistance, allocation, approval or any other service from the authority and what are the pre-conditions for getting them;
- The officer responsible for providing information, his/her designation, contact details and if necessary, mobile number, fax or e-mail address;
- Arrangement to ensure that the people can get to see the prepared report for free and preserving them for sales at a nominal price;
- Any important policy or decision should be published and if necessary there should be an explanation in support of the decision or the policy;
- Important issues must be publicized through press release or any other means.

In preserving information, the information preservation and management regulations must be followed.

The authorities are not obligated to disclose information in certain situations under clause 7 of the law:

1. Information on state security, foreign policy and issues that may harm friendly relationship with another country including military arsenal power; special training of the border security force.
2. Information protected in financial, commercial and strategic interest including income tax, vat law or advance information on budget or changes in the tax rates; advance information on changes in currency exchange rate or interest rate; advance information on management and supervision of financial institutions including banks.

3. An individual's security and legal or judicial investigation may be compromised.
4. Privacy and security of an individual. For instance, a patient's information with the doctor or a client's information with his/her lawyer or a tax-file of an individual.
5. Information related to public interest like a question paper or advance mark sheet.

However, none of these situations described in clause 7 are final because, according to clause 9 (9): Notwithstanding anything contained in clause 7, no request for information may be totally rejected on the ground that it is associated with information that is not mandatory for publication, and the portion of the requested information which is not mandatory for publication and is reasonably separable from the portion shall be provided to the applicant.

For instance, an individual's right to know about national security or integrity may be restricted, but he/she has the right to know with which organization the state is signing an agreement with, what kind of procurement has taken place or the maritime boundary of the nation and so on. In the highest interest of the people, no information is ultimately secret.

Note: there should be a clear explanation on non-mandatory information for both the public and authority. All participants under this project have recommended that the Information Commission should take steps in this regard.

C. Designated Officer

The RTI law places a designated officer who would ensure a citizen's right to receive information. Each authority will have to appoint one such officer within 60 days after the enactment of the law for each information dispatch unit at different tiers of the government. The law does not talk about a new appointment, but asks the authority to designate an existing official as the focal point. Each authority upon designating such an officer will inform the Information Commission in 15 days along with contact details.

Information Dispatch Unit: as per the law, each information providing organization is an information dispatch unit. But there may be more than one office of such an organization. In such a case, each office will serve as an information unit.

Responsibility of the designated officer

- receiving and accepting application for information in written and e-mail forms
- Within 20 days upon receiving request, provide the applicant with information
- If there are costs associated with the information, inform the applicant within 5 working days
- If it is not possible to provide the information, inform the applicant within 10 working days
- If the information is related to a third party and if that is classified, then the officer will seek the opinion from the third party within five working days
- If the other party is related to information, the information will be provided within 30 working days
- Provide information within 24 hours if it is related to life, death or release from prison
- Disabled persons be assisted to provide information appropriately
- While giving out information, certify with a departmental seal on it stating "the information was provided as per the Right to Information Act 2009"

Negligence of duties by the Designated Officer are defined when

- irrationally refuses to accept information application or appeal
- fails to provide information or decision as per the legal deadline
- refuses to accept request or appeal with an ill motive
- provides wrong, incomplete or confusing or distorted information
- creates obstacle in access to information

In such a case, the designated officer will be fined at the rate of Tk 50 per day from the day of such activities. But the fine will not exceed Tk 5000. In addition to this fine, such activities will be considered as an indiscipline act and there will be recommendation for departmental punishment against the officer.

D. Appellate Authority

The Appellate Authority means a. in case of and information providing unit, the administrative head of its immediate superior office; or b. if there is no superior officer of such unit, the administrative head of that unit.

The provision of the appellate authority was created so that a citizen having complaints about not getting cooperation on information request can turn to an appellate body for remedy. A citizen may appeal to this authority when:

- He/she is not getting information even after expiry of legal deadline
- If he/she is not happy with the information provided or the decision of the Designated Officer
- If Designated Officer does not inform in due time that the information will not be given
- If information that must be given within 24 hours are not provided

The aggrieved citizen may file the appeal within 30 days of such situations. The important issue in practicing the RTI law is to request for information to the right authority and when aggrieved, appeal to the right appellate body.

It was found that in some cases, one had to go to the Appellate Authority and obtain positive response. But the Designated Officer failed to provide information again.

Responsibility of Appellate Authority

The Appellate Authority within 15 days of receiving application and before issuing any directive would:

- collect verbal or written sworn statements from individuals related to the matter
- review documents, public records and if necessary make a visit
- investigate into the incident
- take statements of Designated Officer and other related officers
- instruct Designated Officer to provide the information, or relinquish it if the appeal application is unacceptable

E: Information Commission

Under this law, the government set up a commission in July 2009. This is a statutory independent organization. This commission usually takes complaints from citizens on not receiving information. It also has to mandate to ensure implementation of the rules under the RTI law.

The Information Commission has a Designated Officer and its chief executive is the Chief Information Commissioner.

When will a citizen file a complaint with the Information Commission?

- When an authority has not assigned a Designated Officer
- When information request application is not accepted
- When information request is refused
- If the Authority does not answer or provide information within legal deadline
- When an illogical cost for information is demanded or an individual is compelled to pay that price
- When information supplied is incomplete, wrong and confusing
-

Powers of Information Commission

- Quasi judicial
- Taking complaints, investigating and resolving
- Commission can omit, upon scrutiny, if someone is wrongly accused
- In some cases, it would be able to apply power like a **judicial court** - summon someone to be present at the Commission, investigate to verify information, gather information of any office, etc.

Activities of Information Commission

The commission's work revolves around information providing authority, applicant citizen, government and civil society.

- When dealing with information providing authority, it would approve suspension of information to be given under clause 7.
- Direct authority to preserve information, its management, publication, and making that available
- Determine how to obtain information from authority
- Fixing appropriate price for information
- Provide technical and other assistance to the authority to ensure right to information
- When dealing with applicant citizens, the commission will frame and publish directives and policy protecting citizens right to information and its implementation
- It would identify obstacles to protection and implementation of the citizens right to information

Advising the government on issues of information

- Reviewing the system under any law in accordance with Bangladesh Constitution to protect the right to information
- Identifying problems of implementation and recommend the government the measures to resolve them or recommend the government to resolve them
- Research on agreements and international documents related to right to information and recommend to the government on their implementation
- Examine similarities and dissimilarities between the RTI law and international documents and prescribe necessary recommendations
- Guiding the government in ratifying and signing international documents on information rights
- Guide and advise the government on legal and administrative directives to protect and implement right to information

Assisting educational and professional organizations on RTI

Assisting research works on RTI protection and implementation in educational and professional organizations and publishing research results
Campaigning, publishing and raising public awareness on RTI protection and implementation

Other important tasks

Establishing a web portal for Bangladesh to ensure RTI
Review arrangements in any other laws regarding RTI protection and implementation

Complaint resolution

- Upon receiving a complaint, the commission pens down in its complaint registry the name, address and short description of the issue
- The Chief Information Commissioner would investigate the complaint himself or give the responsibility to Information Commissioners
- A working paper is prepared on the basis of investigation and placed in a meeting of Information Commissioners from where a decision is taken
- Concerned persons will be summoned to give their versions
- The Commission will arrange hearing
- If complaint is proven, the guilty will be penalized and punishment will be recommended
- The Information Commission will resolve a complaint usually within 45 days and maximum 75 days.

Annual Report

As per the law, the Information Commission will place a report to the President by March 31 describing activities of the previous year. The report will talk about the implementation condition, the number of applications and release of information, appeal and resolution, collected price for providing information, complaints and their results, proposals on reforming issues related to RTI of the citizens.

The press and the civil societies may obtain this report to get an idea about the level of implementation of RTI in the country. The Commission has so far published two annual reports available at its website www.infocom.gov.bd.

The RTI Law in Practice

a. Application for information

Before the citizens ask for information, they must be sure at first what information they want. Because at times we do not know which information should we ask to get the correct answer. A citizen is not required to answer why he/she is asking for the information.

Some examples of information request

1. Copy of the listing and gradation policy of Bangladesh Radio; Copy of the resolution of the approval committee meeting;
2. The list of names, address and contact details of committee members to resist sexual harassment in secondary schools in Barisal district, formed in line with the High Court's May 4, 2009 directives to stop sexual harassment;
3. Under the government's 100 days job creation programme during the 2010-11 fiscal year, how many men and women were supposed to be included in Shamnagar Upazila of Munshiganj Upazila;
4. What is the process to be enlisted to obtain the government's old age and widow fund?

Information request process

- written application
- submitting the request to the Designated Officer in written or electronic form or through e-mails.
- Applications must be filed in a certain form (form A): the first part of the form deals with identification and contacts and the second part deals with specific information request. If this part is unclear, the response may be unspecific or even meaningless as well. For instance:

Information Request	DO response	The right question to ask
What kind of works will take place in the project to protect works will be done various areas of Kamarpara union under Gaibandha district from under erosion of Katakhal river of Katakhal river Gaibandha district	Riverbank protection	Copy of the project proposal and work order on the project to protect various areas of Kamarpara union under erosion of Katakhal river Gaibandha district from erosion of Katakhal river
Under what decision and policy bids were taken and work orders were issued?	They were done following the PPR 2008	Copies of policy guideline, invitation of project's tender, decision on tender notice, received bids and work orders

- In point number 3, the applicant should also write in what form he/she wants the information. Whether it is printed, written or photocopy. In one instance, a citizen wanted to see files and obtain photocopies of dredging spending and withdrawn bills and outstanding bills of the pilot dredging of Jamuna River near Sirajganj. The issue went up to the Appellate Authority that asked the designated officer to provide the applicant with the files. However the files were not in the order the applicant sought, therefore, he could not get his answer.

- In point 4, the applicant will give name and description of the person who would receive the information. It may be the applicant self or someone he/she is representing.
- In point 5, the applicant will name assisting individuals. This helps marginalized persons apply with help from others.
- In point 6, the applicant will name and describe the information provider. In such a case, one would name the Designated Officer, if it is known to him/her. This name can be alternatively collected from Information Commission website. But in many offices the Designated Officers have not been named. Its best to visit these offices to obtain the name to whom the information may be sought.

According to the Information Commission report of 2011, several complaints could not be entertained only because the citizens did not file their application to the appropriate authorities. For instance, one applied for information on e-voting in the national parliament elections seeking information from the parliament secretariat instead of the Election Commission. Another applied for information on procurement under the Kishoreganj Municipality from Dhaka City Corporation instead of Kishoreganj Municipality.

- One must mention the date of filing application with his/her signature, file it and get a received copy
- One must keep in mind that he/she might have to pay for the information. However if the asking price seems irrational, he/she may resort to the Information Commission.

Schedule
Form A
(See regulation 3)
Request for Information

1. Applicant's name	Anwara Begum
Father's name	Abdul Hye
Mother's name	Ambia Khatun
Present address	Sheikh Russel Road, Laxmipur
Permanent address	Sheikh Russel Road, Laxmipur
Fax, e-mail, telephone and	mobile: 00000000000 e-mail- xxxxxxx@yahoo.com
Profession	Human rights worker
2. What kind of information	I want to obtain the following information as per the RTI Act 2009's Article 8(1): a. How much khas land exists in Laxmipur? b. In allotting khas land, what is the process to select a family? c. The list of names with description of persons who were allotted Khas land during 2010-11 fiscal year in Sadar upazila of Laxmipur district
3. How do you want information	Photocopy
4. Name, address of information	Anwara Begum, Assistant Teacher, `A' Primary School, Laxmipur
5. Information recipient	Same
6. if applicable, name of assisting	Not applicable
7. Information providing authority name and address	Designated officer, Assistant Commissioner (Land), Sadar Upazila, Laxmipur
10. Application date	29/2/2012

Signature of the applicant

B. Appeal Process

During the appeal, one must remember that:

- The law does not support filing of a complaint before completion of an appeal process for not getting requested information;
- Appeal must be filed in a certain form: form C of Right to Information (receiving information) regulation, 2009;
- One has to appeal to the head of administration of the office from where he/she had requested information, otherwise it will be unacceptable;
- The appeal form does not have a room to mention the Appellate Authority. In this case, use a forwarding letter and attach it with the form.

Sample of forwarding letter with appeal request

Divisional Director, Health Directorate
Khulna

Subject: Regarding appeal application related to Right to Information Act, 2009

Dear Sir,

I have filed an information request under Article 8(1) of the Right to Information Act, 2009 to the Designated Officer of the 250-bed General Hospital, Jessore on the basis of the attached application. As he has not given me any information as per Article 9(1) of the RTI Act, 2009, I am not filing my appeal to you. I have attached the appeal application.

I would therefore hope that you would take necessary steps as per the Article 9(1) of the RTI Act 2009 upon acceptance of my application.

Signature

- The number 1 and 2 points of the form deal with identity and dates
- The number 3 point asks you to attach the reply order, if you have received any. If not, mention it.
- The number 4 point asks you to name the Designated Officer.
- Number 5 asks you to mention the subject of the information request and what remedy you are now seeing.
- Number 6 asks you to explain why you are aggrieved—like not getting information or non-acceptance of application or incomplete or wrong information given.
- Under number 7 you may mention clauses and sub-clauses 24(1), (2), (3) and (4) of RTI law.
- Under number 8, you have to undertake that all information given by you above is correct.
- Under number 9, you may attach copies of request application, order or incomplete information.

Schedule
Form C
(see regulation 6)
Appeal Application

1. Applicant's name and Address : Zahirul Islam
MM Ali Road, Samabay Union Building, Jessore
2. Date of appeal : -----/---/-----
3. Copy of order against which the appeal is being filed (if available) : No order was given
4. name of the person against whom the appeal is being filed : Designated Officer, 250 bed General Hospital, Jessore
5. Appeal in brief : I, Zahirul Islam, on <Date> filed an information request under RTI Act, 2009 Article 8(1) sought the following request
(Copy of request application attached):
- a. List of names of physicians absent for more than three months and reason for absence
 - b. List of out of order equipment in the operation theatre, pediatric ward and x-ray division and names of technicians concerned
 - c. photocopy of the latest report sent to the higher authority on repairing the equipment
 - d. list of excess staffs employed by the hospital's own management and the government approved organogram
 - e. Latest information on opening the coronary care unit
6. Reasons to be aggrieved about the order (in brief) : I was not given any information. I am compelled to file for the appeal under article 24(1), (2), (3) and (4) of the act. I am seeking remedy as the Designated Officer did not provide me with the information and did not explain why
7. Rationale for remedy sought : The Articles and sub-articles 8(1), 9(1) and 24(1), (2), (3) and (4) are the basis of my appeal application
8. Appeal applicant's undertaking : I Zahirul Islam, father M Kinu Morol, mother-Aleyatunnessa, hereby undertake that all the information above is true
9. Any other information that the applicant wants to present before the Appellate Authority : copy of the information request

Signature of the Appeal Applicant

C. Complaint process

If a citizen is denied information as per the RTI law, he/she can lodge a complaint with the Information Commission. The complaint will have to be filed as per the form mentioned in the 2001 Right to Information (complaint filing and resolution). This form is similar to the appeal form.

- The Information Commission is situated in Dhaka. The complaint can be filed through mail.
- The complaint form will have a forwarding letter to the Chief Information Commissioner

<p>Date:</p> <p>To</p> <p>Chief Information Commissioner Information Commission F-4/A Agargaon Administrative Area Sher-e-Bangla Nagar, Dhaka-1207</p> <p>Subject: Complaint under RTI Act 2009</p> <p>Dear Sir,</p> <p>As per RTI Act 2009, Article 8(1), I had filed an information request to the Designated Officer of Assistant Engineer, Executive Engineer's Office, Bangladesh Water Development Board, Gaibandha in the attached form on 7/2/2012. He did not provide me information as per RTI Act 2009 Article 9(1) and gave me incomplete information ignoring number 3 subject of my application. Later on--/2012, I appealed to the Executive Engineer, Bangladesh Water Development Board, Gaibandha. But till date, I did not receive any reply. Therefore, I hope you would accept my application and give the necessary directive to provide me with information as per RTI Act 2009. I have attached herewith the complaint form.</p> <p>Sincerely Signature</p>

- The commission will, at first, write down the complaint number
- You have to describe like you did in the appeal form. If you have received an order in the appeal process, clearly mention that
- Copies of all related papers
- Finally you give your undertaking and date
-

If you violate the following issues, your complaint may be unacceptable

- if you do not properly fill up the form
- if you skip the appeal process and directly complain after not getting information
- if you do not attach copies of information request and appeal application
- If you had not applied to the appropriate authority
- If you had not appealed to the appropriate authority
- If the application lacks your signature

According to the 2011 Information Commission annual report, several complaints could not be entertained as these did not file appeal to the appropriate authority. Followings are some example:

Requested to	Appealed to	Right appellate authority
Kustia Zilla School	District Administrator	District Secondary Education office
Kustia Sugar Mills	Industries Ministry	Chairman, Sugar and Food Industries Corporation
Dhaka Residential Model College	Jt Secretary, National Parliament Secretariat	In that case the application need to be addressed to DO, and appeal to the Principle

Form A
[See regulation 3(1)]
Complaint Form

Complaint number:

1. Name and address of complainant : Sarwar Hossain. Address:
2. Date of complaint : 12/2/12
3. Name, address of person against whom you want to complain : Name, Designated Officer and Assistant Engineer, Chief Engineer's Office, Bangladesh Water Development Board. Reference no I-2/518, date: 26/2/2012 copy of supplied information attached
4. Brief complaint : I Sawrwar Hossain on February 7, 2012, under RTI Act 2009, Article 8(1) filed information request to Main Uddin, Designated Officer and Assistant Engineer, Chief Engineer's Office, Bangladesh Water Development Board, Gaibandha to seeking photocopies related to following information.
a. What sort of work shall be taken under the Bangladesh Water Development Board, Gaibandha, tender number 01-G/2011-2012 on "Project to protect different areas of Kamalerpara Union of Gaibandha District from Katakhal river erosion"? I sought copies of estimates
b. under what policy and decision was the tender for the project was floated, bid accepted and work order issued? Copies of that decision.
c. photocopy of the comparative statement of the contractors who participated in the bid (which were opened in presence of the bidders and which were signed by them). What is the procurement cost of the work order of each group. Copies of the work order
On these subjects I was given incomplete information and number 3 demand of my application was completely ignored. Later on... I filed an appeal to the Executive Engineer, Water Development Board, Gaibandha. But till date I did not receive any reply.
5. Reasons to be aggrieved : incomplete information and neglecting number 3 subject of my application. I seek complete information and remedy as per RTI Act Article 25(1) and (2).
6. Rationale for remedy sought : RTI Act 2009 Article 8(1), 9(1) and 24 and 25 are the rationale of my seeking the remedy
7. Any other information that the applicant wants to present before the Appellate Authority : Copy of information request, copy of appeal application, copies of information supplied by the Designated Officer of the Executive Engineer's Office
- Undertaking: I Ferdous Jewel, father- Md Badiazzam, hereby undertake that the complaint in the application are true as per my belief and knowledge

Signature of Complainant

Chapter Three
Application of RTI Act

RTI in Journalism

Around the world, the countries that have a Right to Information Law now have a powerful journalistic tool to serve the public with information and ensure transparency and accountability. In Bangladesh, the journalist community has made great contribution in framing of the RTI law.

Journalists in our country mainly depend on sources. Politicians or bureaucrats are well versed with this technique. Accordingly they maintain their own way to maintain communication with the journalists. High dependency on sources on many occasions destroys diversity of news while the readers are interested to get deeper into the news.

Sometimes when a reporter has enough documents in hand may become uncertain if the persons against whom the documents were collected would admit their fault or not.

In the era of media competition, owners have special expectation from the journalists. To survive in the era of “breaking news” the journalists resort to various strategies. In the context of expansion of television journalists, the print journalists face bigger challenge. Right to information has taken the journalism profession a step ahead and it has proven itself to be an effective tool for investigative works.

In this context, what new things can a journalist expect from the RTI law?

Documentary evidence: because the information collected by using RTI law has the seal of the authorities concerned. For instance, Rangamati journalist Himel Chakma sought from the district administration the information on what policy guidelines’ basis was the brick kilns given approval. The written reply was there was no brick kiln in Rangamati. If there is one, that is illegal. This kind of written response can be obtained only by using the RTI law. Otherwise, one would have to attribute this information to an anonymous source.

Scope to see information: Recipient of Best Information Rights Award journalist Saikat Dutta of the Outlook Magazine of India found out information on Rs 2500 crore corruption in rice exports. During his investigations, he saw files of different departments. His report led to resignation of a minister.

A big news can pop up even if information is not given. Journalist Emran Hossain sought information from seven organizations on the children’s death upon consumption of spurious paracetamol in 1992. He did not get any information and he found out that the Drug Administration had not kept any information on such a big incident. His report’s tagline was “all records ‘lost’ from drug office’.

While following the RTI law, many journalists faced questions from their own sources that why they were not taking the information in the traditional way and why they were filing application for it?

A journalist should know the following before filing an information request-

1. Fill up the particular form (Form A) as there is a format for the request.
2. In number 2 point, mention that you have applied on the basis of Article 8(1) of the RTI Act 2009.
3. Ask for particular record or document, and not for opinion or advise.
4. If you want to see a file, in that case mention on the basis of which question of your application you want to see it.
5. There is no word limit for application. But it should not be long and give maximum five questions
6. Mention the period of information, e.g., between the 2010-11 fiscal year or between March and December of 2010.

7. If you want any information regarding some life, death or release from prison, then mention in your application that you want it within 24 hours.
8. You must obtain a received copy of your written application.
9. Be prepared to pay a price for the information.

Tips

- Keep a clear idea about the rules and regulations of the RTI law—particularly the scope of non-mandatory information disclosure.
- Be clear in advance about which department or ministry deals with the information, otherwise you might face unnecessary delay.
- Sometimes you will get information in fragments. You will have to resist the temptation of writing several small stories as you are actually waiting to run a bigger story.
- Have a clear idea about your story. Most of the information from applications is incomplete and misleading. You should aim at writing the true story.
- Keep your application short and simple. Otherwise it may become a burden for the Designated officer—which may affect your purpose.
- Keep a boundary of your information. You may not get very old information easily.
- Prepare your question in a way that the Designated Officer do not get the idea what you are planning.
- Use the opportunity to view files when you are uncertain about what part of a file you want to obtain.
- Be strategic about seeking sensitive information. When you are investigating some sensitive issue, always take a friend in the process to file two separate application, seeking slightly different information. This is an extra precaution against getting fabricated information from the bureaucracy.
- Do not seek information under this law that is published voluntarily.
- Avoid vague requests like demanding all information related to project implementation.
- Do not seek information that your common sense is saying not possible to get.
- Do not request for a lot of information in the same application.
- If information is available with multiple authorities, apply for it with an alternative authority as well.
- When the authority responds, you should collect it even if your need is no longer there, otherwise it will create a negative impression among the information givers.
- Refrain from considering the information provider as a rival. Create an understanding with the Designated Officer in the same way you create source in different officers.
- Create a source in the Information Commission.

Hurdles in using the RTI Act for a journalist

- personal ethics and values
- policy of the media
- non-cooperation of the newsroom supervisors
- social influence
- possibilities to become involved in conflicts with the source, chances of losing source
- Time, money and patience

Policy stance of the media is a big issue for journalists

A journalist requested for information on appointments in a city corporation. He discussed the matter with a high official. He declined to provide the information in writing. When he was shown the gazetted RTI law, he agreed to cooperate. On the next day, the journalist was instructed from the office that the higher authorities do not want to report against the city corporation now. Therefore he may stop further collection of information. The journalist felt that the people do not have such professional hindrance and therefore, the law is more the people's law than one for journalists.

But a journalist's area of work can actually be much wider:

<p>Monitoring implementation of the law</p>	<p>The government's role</p> <ul style="list-style-type: none"> - What mechanisms have been developed by the ministry to implement the law? - What initiative has been taken to train and motivate government officials, public representatives and local government? - Initiatives for public awareness? - What initiatives taken at the government offices in accordance of the law? <p>Authorities' role</p> <ul style="list-style-type: none"> - Has the designated officer and appellate authority been made visible? - Is information that must be disclosed proactively being disclosed properly? - Are annual reports easily available? - Are proper steps taken to protect and manage information? - Use of information technology - Steps taken for public awareness - Are information requests being processed and information given in due time? - Are rejections of information request rational? <p>Observing Information Commission</p> <ul style="list-style-type: none"> - Timely disposal of complaint through proper analysis; - Case study of appeal and complaints; - Directives for implementing regulation and state of implementation; - Analyzing fines and departmental punishments; - Recommendations given to the government; - Analyzing the annual report of the commission.
<p>Investigating the effectiveness of government's service sector</p>	<p>Finding information on the use of government fund</p> <ul style="list-style-type: none"> - Whether annual budgetary allocation is being given in conformity with the mid-term budget structure; - Whether parts of budget speech contradict with the government's declared policy; - Whether the budget has given special emphasis on certain programmes; - Whether there is any policy guideline for taking projects under the annual development programme; - Timely release of funds for approved projects; - Whether the PPR is followed in procurement; - Whether revenue collection and expenditure meet the expectations of the budget;

	<ul style="list-style-type: none"> - If there is any irregular spending over fiscal year ending in June; - Observations by IMED and internal reviews over budget implementation; - If there is special change in the policy evaluation. <p>You have to ask for the right information For instance- if you want to review the Public Works Department, you like to see:</p> <ul style="list-style-type: none"> - tender notices, comparative description - copy of work order - scopes of monitoring the work order - copy of the decision for the work order - report of supervision of the work - design or map of work - sample of work <p>Land management</p> <ul style="list-style-type: none"> - record, design and map of all khas land - design and map of all government, agricultural and forest land - allotment for individuals and organizations
Bringing up public complaints	<ul style="list-style-type: none"> - keeping self updated about citizens' information request from time to time - compiling and collecting copies of all complaints of citizens - keeping an eye on what steps are being taken against these complaints through Information Commission sources
Examples of good works; creating public awareness	<ul style="list-style-type: none"> - report on people receiving information - report on successful complaint resolution at the Information Commission - Editorial - Writing regularly about RTI law to raise public awareness

RTI Act for social audit of NGOs:

According to the law, one can access information from NGOs receiving government or foreign donor funds. By definitions such NGOs are information authority.

The demand for the RTI law did not come from the mass people in our country. Except for participating in election, the people's participation in the political process is negligible. In India, the demand came for the first time in Rajasthan from an organization Majdur- Kishan Sakti Sangathan (MKSS). The MKSS exercised the information right to see copies of bill vouchers of local development works and master roll. They obtained the information by sticking to the demand for a year. The information placed in a public hearing before a public representative and administration showed that there were names in the master roll who were not alive or who don't exist. This hearing spread across the country—and triggered enactment of the law.

Since independence, side by side with the government the NGOs have played an important role in poverty reduction, creating awareness, disaster management and improvement of lifestyle. Till the eighties, their focus was primarily service sector. After the nineties, they tilted more to a rights based approach.

The RTI law is a milestone to make such organizations accountable. The people have the right to know if these organizations are spending the money of the government or donors for the public is being used properly or not.

Another context is that the RTI law will function as a tool for these organizations. By letting citizens access the NGOs, these NGOs would popularize demand for information.

NGO role in implementing RTI law

- The NGOs are capable of creating public awareness on various issues. They can create awareness to encourage people to practice their right to information. The Research Initiative has been encouraging marginal people to ask for information and the first hearing of complaint at the Information Commission was that of a Bede (nomad) chief Soud Khan.
- They can enlighten the people with information on local services, government revenue and expenditure or implementation of policies—collected through applying the RTI law.
- They can help local people in applying the law.
- NGOs observe how the local authority is interpreting the act and how the people responding to that.
- NGOs inform people of important decisions of the Information Commission.
- NGOs set examples by voluntary disclosure of their information.
- NGOs make use forms in accordance with RTI law.

What new things can the RTI law offer?

- Those involved in development works will have increased acceptability.
- One can set an example before the local administration.
- Professional excellence may improve.
- One's organization will get special attention and wider public support while working on greater public interest.

RTI in social audit

The RTI law is a significant medium to investigate into any public service delivery sector and programme policy. Certain information is required for social review and that can be availed only by applying the RTI law. Because this law has given the people to access all kinds of documents related to public interest and expenditure.

Social safety programmes like VGD, VGF, food for work programme, widow or senior citizens' scheme often come under question over transparency of their activities. The common complaints include illegal benefits given to relatives of politically influential people, young people receiving senior citizens' benefits etc. A social review would address these complaints through collection of official documents using the law.

Following is an example of such a social audit

Result of a social audit of VGD

- Around 97 percent of selected VGD card holders eat thrice a day (the rule is that the card holder gets to eat less than twice).
- Half of them married and live with husband though the rule is that the woman must be the bread earner.
- The VGD aims at development of each group. But the VGD group in the research has not opened any savings account. The members received no training to increase income.

source: BITA, Chittagong

Health

The rural communities rely on Health and Family Welfare Centre at the upazila level. The information that should be collected from this sector are:

- Number of doctors, nurses and staff deployed vs. how many should be deployed
- Medicine and its distribution register
- Procurement process of surgical equipment at local level
- Allocation for food of patients
-

Primary education

The government has set indicators for all sectors and it evaluates the budget at mid-term. To prevent dropouts of students, the government has taken special programmes like stipend. Guardians commonly complain about absence of teachers, same teacher conducting classes of different subjects and arbitrary behavior of the school management committee. The teachers tend to be absent at the meetings of the guardians. There are certain high court rulings against eve teasing or corporal punishments which may serve as subjects of social review. The RTI law can be a useful tool in this regard.

- teachers attendance register
- students attendance register
- drop out rates of recent years
- rules and regulations to award stipend and list of stipend providers
- teachers qualification and recruitment process
- meeting resolution of the management committee
-

Information on projects

If adequate information is available with the public on any project in an area, the implementing authority would remain alert in its activity. Many donor agencies now stress importance on third party scrutiny. Using the RTI, the following information may be collected:

- project proposal
- work order
- tender process
- name and address of the selected bidder
- total and sector wise budget

- project design
- specification
- measurement book

Roads repairs and maintenance

The roads are repaired and maintained usually by the Roads and Highways Department, City Corporations or the engineering department, while authorities like the Wasa or telecom companies dig up the roads in different times.

Suggestions

- Develop efficiency: those who are working for self or others' interest, give them ideas about the act and regulations;
- When applying information right for marginal communities, enlighten the communities about the whole issue so that they do not become cornered;
- Set up a network;
- Provide advocacy;
- Effectively use the mass media;
- Involve others with you as many local influential people are involved with the information you are seeking.

Problems in applying the RTI law

It is necessary to look into the problems in applying the act after three years of its enactment. The common issues are non-appointment of Designated Officer, lack of self-disclosure of information, lack in the practice of the law, lack of knowledge about the law among educated and illiterate people, lack of media interest, etc. These issues are being discussed by the Information Commission and some NGOs with the aim of finding solutions.

Some of the problems are discussed below:

- A. **Union Parishad:** As per the RTI law's definition, the unions should be considered as authorities. But the act mentions Upazila as the last tier of information providing unit. When one such complaint landed at the Information Commission, it was confused. The Commission sought the Law Ministry's opinion whether the Union Parishad can work as information provider. Till now, the commission has suggested taking information not below the Upazila level. This leaves a question. How can anyone ensure complete accountability if the Unions are kept out of the law's purview?
- B. **Appellate authority agree with decisions of the Designated Officers (DO):** Based on the experience of this project it is found that the Appellate Authorities stick to the decisions of the Designated Officers. The Information Commission report of 2011 shows that in majority cases of 104 complaints in two years, the Appellate bodies upheld the decisions of DOs in refusing information.
- C. **Empowering the Designated Officers:** In some cases the DOs verbally said that they cannot provide the information without informing their supervisors. Many suggested disclosing information secretly instead of giving it through application.
- D. **Asking why information is sought:** On many occasions, the citizens are asked why they needed copies of decisions, meeting resolution or master roll.
- E. **Mismanagement in preserving information:** It was found that after an Appellate Authority has allowed a citizen to see files, some authorities are not maintaining information in any order. Such offices could not show bill vouchers, for instance.
- F. **Referring to old relationship:** Often the DOs would tell the applicants that they had old terms and therefore why turn to the RTI law for obtaining information.
- G. **Praising the law, but has little regards to it:** Many authorities praise the law as a good initiative. But when it comes to providing information, they do not demonstrate respect for it. In many cases they believe that there is no need to give the people the information.
- H. **Tendency to pass the buck to others:** When one goes to the social welfare office, the chief executive is suggesting that he/she should go to the Upazila office. In obtaining health related information, there are confusions whether the information would be given by the health official or family planning official.
- I. **Not providing information in the medium sought in the application.** A citizen is allowed to ask for the medium of getting information. But the DOs do not follow it—and the citizen is denied of his/her purpose. For instance, when a citizen sought photocopies of tender opening sheet and work order from a district Public Works office, the DO has provided him with a computer print out—which the applicant finds as not reliable.
- J. **Being influenced by the DO:** Under the influence of the DOs many have applied to the top official of that office—which was later rejected by the Information Commission at complaint level for faulty application.

- K. **Specifying Appellate Authority:** As many authorities lacked higher offices at local level, their Appellate Authorities were specified at the ministries or divisions. For a local applicant, this appeared to be an extra burden.
- L. **Complaint scrutiny by the Information Commission:** From 2009, 104 complaints were filed with the commission. Of them 41 were resolved of by December 2011, and 60 complaints were dismissed for faulty application. According to the 2011 annual report of the commission, out of the resolved complaints, seven belonged to one Utpal Khisha. The commission may consider not selecting too many complaints of a single person.

Recommendations and comments

To the Information Commission

- The information commission should give directives to remove confusion over Appellate Authority
- The DOs dependency on their supervisors can be reduced if there is a guidebook with the concerned offices on implementing the act and also by framing a policy of information disclosure
- One of the basic principles of the law is proactive disclosure. Each authority must monitor regularly the status of such disclosure. The Information Commission may conduct an audit in this regard.
- There should be guidelines for framing citizen charter where the authorities would commit their services in real sense.
- Guidebooks would be helpful for DOs and Appellate Authorities describing their responsibilities.
- A minimum qualification and service status for DOs need to be fixed.
- Each ministry, division or department should send a pre-budget recommendation seeking separate budget for preserving information at the information providing units.
- There is no public awareness about the act at the Upazila level, side by side with the NGOs, the Commission should play a role here.
- There should be rewards for good DOs and the good information providing units to encourage others.

For the authority

- Information seekers are not rivals. One can use the scope to disclose information.
- By giving information in accordance with the applicants, the information management of the unit is improving. This should encourage you.
- Extend cooperation to the DO as per the law.
- Proactive disclosure of information will relieve the extra burden from the DO as the demand for information will go down.
- If there is an information disclosure policy, the DO will not need extra time for supervision.
- Take training whenever there is opportunity as one might have to go up to the Commission due to conceptual shortcomings.

For information applicants

- The RTI law is meant for people's welfare, not for any ulterior motive.
- If you pick a subject that matters to living the most, many will stand by your side.
- Do not consider the DO or the information providing organization as your rival.
- Be flexible if they offer you information after the expiry of the deadline as it shows their good gesture.
- The information provider is a human being having limitations. Consider him using your common sense. If needed make your application easier.

Chapter Four

Whistleblower (protection) Act, 2011

The ninth parliament in its first session approved the RTI law to establish good governance and reduce corruption. This is a gesture that the government is sincere and brave about establishing good governance. Another brave step of the government is the Disclosure of public interest information (providing protection) act 2011. This law gives a government authority both power and protection and creates a scope for officials to open up information of public interest on their own.

While transparency, accountability and rule of law reduce corruption in one way, improvement of moral standard of employees, officials and people is another way to do the same. If there is protection for whistleblowers of corruption in the organization, corrupt practices will reduce.

Article 31 of the RTI talks about protection of information giver- but it is not clear. This observation came up in various discussions of the civic society. The NGO communities had demanded protection of whistleblowers in the RTI act.

Whistleblowers are given legal protection in this law along with relevant articles. The described organizations in this law refer to the same organizations mentioned in the RTI law.

What is public interest information?

- irregularities and unauthorized spending of government fund
- mismanagement of government properties
- misappropriation and wastage of public assets
- misuse of power and failure of administration
- criminal offence or illegal activities
- any work that threatens public health, security or environment

Disclosure of public interest information- The following information can be disclosed for the consideration to the appropriate authority.

What kind of protection will the law provide?

1. The identity of the whistleblower shall not be disclosed without his/her permission.
2. No civil or criminal case or departmental case can be filed against the individual.
3. If he/she is serving, he/she will not be demoted, posted elsewhere as punishment or given forced retirement that would affect his mental, financial or social status.
4. No discrimination against him/her will be allowed.
5. He/she cannot be used as a witness in any civil or criminal case.
6. If the identity of that individual is mentioned in any book or document in an evidence of a case, the court shall not allow display of that evidence.
7. That individual will cooperate with the police or any investigating authority—but he cannot be forced to do anything that affects his physical or mental security.

If the whistleblower's allegation is proved correct, he/she will be rewarded and honored.

The law also keeps punishment provision for giving untrue information. This was kept as a safeguard against government's loss of credibility and reliability due to false and harassing information. One can be put behind bars for two to five years if found guilty of giving false information.

Chapter Five

Journalists' experiences

Information cost is Tk 4.88 lakh!

Asad Asaduzzaman, Executive Editor, Grameen Kagoj, Jessore

The Jessore district administration had demanded Tk 4.88 lakh as cost of two information. Editor Mobinul Haq of our paper Grameen Kagoj was surprised upon hearing this and commented, “we need to sell our publishing house to buy that information.” When I told this to MRDI Executive director Hasibur Rahman Mukur over the cell phone, he said, “maybe they don’t want to give you this information. Tell them to ask the price from you in writing. Let’s see what they’ve got to say.” They did not give it in writing. But I got the same information for just Tk 1300. Let me explain.

In July 2011, the MRDI and USAID PROGATI jointly conducted an in-house training programme in Grameen Kagoj in Jessore. The training was not just helpful, but also remarkable. To utilize the training personally, I got into action. During the training, we received copies of the Information Commission annual report. One small information struck me. That was, “after the RTI Act was passed, 4501 information services were given in Jessore.” I wondered how did the people of Jessore become so much aware about RTI Act and what kind of services did the administration provide to these people. Out of curiosity, on July 19, 2011 I filed an information request to Jessore District Information Centre asking for an account of these 4501 information services. On the same day I also filed for a list of works under Food for Work, Money for Work, TR etc. While submitting the applications, e-service employee Mrs Elora Martin refused to accept my applications. She said, “you have to address the applications to district administration.” I humbly showed her the sample form from the RTI Act’s gazette. Finally at one point, Elora Martin received the application when Designated Officer Magistrate Nahidul Mostaq intervened.

The next chapter involves running from pillars to posts. After 10 working days, I contacted Elora Martin. She said, my information will be available in the information providing centre in the next room. An employee in that room Asaduzzaman told me, “your file is on the desk of ADC General.” I met ADC General Babu Sanjay Kumar Banik, introduced myself and showed him the received copies of my application. He became somewhat angry, “what would you do with this information?” I answered, “I will use it for my professional works.” He again angrily said, “meet me after you get a letter in your name.” I started waiting for the letter.

On the 18th working day, magistrate Sharif Nazrul Islam called me over the phone and asked me to meet him at his office. When I went there, he said it would cost me a few lakh taka to get the information. A letter is being issued in this regard. He then said, how can a journalist arrange so much money and asked me to talk to the ADC General before issuance of the letter. Scared, I went into ADC General Babu Sanjay Kumar Banik’s room. I noticed that my file has now become thicker. Magistrate Nahidul Mostak was standing by the table with that file. He was trying to convince the ADC General, a journalist did not have so much money to buy the information. The ADC General became angry seeing me. He said, “since you need the information so much, issue him the letter. Take the letter. Come back tomorrow with Tk 488,004 and take your information. Nahidul Mostak accompanied me out of the room. I argued why would such a simple list cost me so much money? He said, “only the list would do?” I said yes. He said, “okay come back tomorrow. I will see what I can do.”

I returned to my office feeling down and talked to my editor Mr. Mobin and then he suggested me to talk to Mukur of MRDI. Mukur gave me several suggestions and said, “whether you’d take the information or not we will see later. Firstly take the letter asking for Tk 488,004.”

I returned to magistrate Nahidul Mostak next day. I asked him to give me the letter. But he did not give it to me. He nicely said, “what would you do with the letter. This would cause unnecessary problems. It’s better that you take the manual list. It’s not going to cost much.” I tried to persuade him to give me the letter, but he did not agree. So I took the photocopy of the manual list for Tk 1300.

But I utilized an advice of Mukur. I wanted to see the file. In my file I saw the Tk 4.88 lakh cost breakdown signed by the magistrate. It said, “Following is the upazila wise cost for collecting through telephone information from DRR and offices.” It adds, Sadar upazila- Tk 1.60 lakh, Avoy Nagar Tk 30,000, Bagharpara Tk 50,000, Chowgachha Tk 35,000, Jhikargachha Tk 35,000, Keshabpur tk 30,000, Monirampur Tk 70,000, Sharsha Tk 60,000, e-service Tk 4X4501= Tk 180,004. Total Tk 488, 004.

As I looked into the information that I got, I saw what I had suspected from the beginning. All the information services were actually e-services. The list talks about who got which land, which are the personal land markers etc. This was done either without understanding what information means in the RTI Act or to get a fake credit to bag some national level award. I wanted to run a nice story. But my editor said, forget it. It’s no use making the administration unhappy.

I did not stop making good reports using the RTI. In addition I had to teach officials the law. Working with this law is fun. But there are problems too. People who knew me well and greeted me with a smile now pretend they do not know me. They do not receive my calls like before. When they come face to face, they would say with an embarrassed smile- are you well Mr Asad?

Some will become friends, some rivals if you use the RTI

**If RTI is used, it would ensure transparency,
accountability and good governance in the country**

Himel Chakma, Rangamati Correspondent, Dainik Shokaler Khabor

Some will become friends, some rivals if you use the RTI. But if it is widely used, then it would ensure transparency, accountability and good governance in the country. This is my realization after applying the law upon receiving training from the MRDI.

How I learnt about RTI

At 10 pm June 21, 2011, I got a call from the Shokaler Khobor office. It was National Editor Tarikul Islam. He asked me to attend a two-day workshop in Dhaka. I took part there. There were 22 others from different districts to learn about the RTI. I returned to Rangamati and

prepared an information request application with my newly acquired knowledge. To check my flaws, I e-mailed my form to MRDI's responsible officer Farhana Afroze. She corrected a few things. I was hesitant about filing the application as I am a junior and new in journalism. I also saw that the person to whom I would file the application had good terms with my seniors. This stopped me from filing the application.

Six months later I got another call from my office on January 15, 2012 asking me to join yet another two-day workshop in Dhaka on January 18-19. I attended it and committed to apply the RTI act.

The adventure

On January 24, I filed my application asking the following information: a. how many metric tons of food was allocated for the Rangamati Zila Parishad under a special programme as per the Chittagong Hill Tracts Affairs Ministry allocation letter no 29.223.020.00.00.013.2010-309 on 15/09/2011? B. as per the letter, what kind of project expenditure was the food allocated? Name these projects. C. whether the Zila Parishad members were given responsibilities to distribute the food? I need the list of the upazila wise members and names of the projects. I received the information on the 13th day. It was carefully prepared.

I noticed that some important issues were avoided in the information. Although this was not useful for my report, I filed another application based on it seeking details on February 15 to the Zila Parishad.

My question was: a. Among how many project were 1300 metric tons rice and 400 mt wheat allocated through Chittagong Hill Tract Affairs Ministry's letter on 29.223.020.020.00.00.013.2010-309 dated 15/09/2011 distributed? B. as per the allocation letter, mention the names of zila Parishad members who received upazila wise allocation and how much rice and wheat each of them received? C. who are the final recipient and how much they got? What is the process of giving them the food? Contacts of project directors and beneficiaries.

I had to file for an appeal for this information. There was no response till one day before the appeal hearing date. I prepared myself to file a complaint with the Information Commission. As I had good terms with the Designated Officer, I contacted him to learn about the progress of the matter. He was happy to hear me and asked me, on behalf of the chairman, whether I would give them a week's time. I agreed. Just a week later, the information officer told me that the information was ready. I collected them. Now I can go to the field with it and make a great report.

Some become friends, some rivals when you use RTI

I filed another application later to the Rangamati DC Office asking for information on brick kilns. I also filed for information from two more organizations—which are now under the process. During this exercise, I realized using the RTI earns you some friends and some enemies. I had good relations with the Assistant Commissioner and Designated Officer Shafiqul Islam at the DC Office. After filing my application, he became distant. On the other hand, the DO of Zila Parishad Public Relations Officer Arnmlanendu Tripura did not have good terms with me before. After going through the RTI exercise, he became one of my favourite persons. He became one who was ready to give me more information than I asked for. But due to administrative complexities, that matter went up to the appellate authority. He never seemed reluctant to share information. he talks about his own grievance and says, "come to me to know whatever want to know. Make a news when you find something bad about our organization. If the chairman asks me to write a rejoinder about it, I will do that. But our terms would not be bad."

Its necessary to have own primary conception and primary research before filing for information

Previously I thought of filing for information on Rubber Plantation Project of the Chittagong Hill Tracts Development Board. As I had no basic knowledge on this matter, I believed there were some secrecy in this project. I had prepared some questions. I went to talk to some people who made losses in such rubber plantation and those who had research works on this subject to cross check whether my questions were appropriate or not. I got my answers from them. I did not have to apply the RTI Act. I found that my assumptions were not correct. My suspicions were correct, but those apply to people a long time back. They have now either retired or have expired. After this episode, I went to file my application with the Zila Parishad.

Applying RTI Act will get you information

From my personal experience, I have learnt that if one follows the rule in filing information request—the information has to be given by any organization. But one must have a clear concept about the law. I am saying this on the basis of my experience with the DC office over brick kiln. I filed my application on March 28, 2012 asking for on what legal and policy basis the brick kilns were allowed to operate in 10 upazila of Rangamati district and its associated details.

Designated Officer Shafiqul Islam did not want to give most part of the information that I wanted. He gave me this message 10 days later. He said that he could tell where these brick kilns are—but my asking for other information was tantamount to harassing him. I told him that as per the law, he should give it in writing what information he would not give to me. This made him somewhat angry. He said, because of the good terms with me, he was offering me information against my first question—which I was refusing. After saying this, he called a peon and asked him to bring the RTI Act book. The peon brought in two books. After flipping through some pages, his voice became frustrated, “the government makes law just like that. What’s the point of making a law if it is not implemented.” Afterwards I told him that if he refused to give me the information, I will file for an appeal. This saddened him.

On April 23, I finally got my information. the answer was: there is no brick kiln in Rangamati. If there is any, it is illegal. This answer addresses all other questions.

Through this experience, I learnt that if you do not have ideas about the act, officials like Shafiqul Islam will get away denying your rights—although they themselves do not know much about the law.

If you did not get your information after you applied and sat back, negative attitude does not help

As I have seen, if you wait for things to happen after application, you will not get information. And if you develop a negative view about the authority in such a situation, it does not help. Its because often your application can get buried under other official works. A negative attitude will be a mistake. It happened to me. When I did not get information 15 days after I applied for the third time at the Zila Parishad, I thought the Information Officer is ignoring me. Later I thought of contacting the DO and found out that I was wrong all along.

I had to give extra time after filing an appeal

I had to remind the Appellate Authority after filing my appeal and the Appellate Authority, which was the Rangamati Zila Parishad Chairman, sought one week’s time and had given me the information. I could have lodged a complaint with the Information Commission after expiry of my deadline. That would have taken longer time for me to get my information.

Transparency, accountability and good governance have to be ensured:

I, Himel Chakma, am an individual. Applying the RTI Act just by myself is not enough. My experience says that if hundreds of Himels apply this law, then it would ensure transparency, accountability and good governance. People want to know many things. This wish to know is not enough if it is confined within their thoughts. I believe the RTI Act is not just for the journalists to apply, but for all to exercise in order to make it a tool to ensure good governance. Otherwise it will remain as a law only.

Close to a legal battle in search of information

Motahar Hossain, Senior Staff Reporter, Dainik Gramer Kagoj, Jessore

Twenty five years into my journalism career, the RTI Act gave me the opportunity to sharpen my profession as well as become a teacher. I become a teacher of the RTI Act for people coming to me with various problems. From 2009, the MRDI created the scope for me to become an apprentice teacher.

Once I faced many rejections in getting information from different offices due to government's secrecy law or instructions of the higher authorities. I joined Dainik Gramer Kagoj in 1999 and worked with various strategies and professional instructions given by my editor Mobinul Islam Mobin to gather information. Once I turned to late education minister ASHK Sedeque's senior information officer Dr Mohammad Hannan when I was denied information from the Water Development Board. Back then he said that there should be a law for professional journalists to get information.

When I first met MRDI executive director Hasibur Rahman Mukur at a two-day workshop at Gramer Kagok on "Election and Political Reporting" November 2008, I had no idea that the MRDI would be a major facilitator in solving a major problem. Eleven days before that on October 20 the caretaker government published the RTI Ordinance in a gazette. Later the elected government modified the ordinance and had it approved at the parliament on March 29, 2009. I read about the law in the newspaper, but could not yet understand it.

On July 1 that year, when the law was made effective, I discussed about newspaper articles on the RTI Act with Mr. Mobin. After a few days, Mobin told me that the MRDI will provide training to Gramer Kagoj journalists on the RTI Act. On 5 and 6 September, 2009 the MRDI gave us a 272-page in-house training module on the use of RTI Act in investigating journalism on corruption. That was the first time when I saw RTI Act. Although it was difficult for me to understand from reading that module, I made some small reports with guidance from Executive Editor Asad Asaduzzaman. In another workshop in 2010, Mukur of MRDI came and gave me a special award for my reports on the RTI Act. Finally I got further opportunity to sharpen my knowledge by attending another two- day training by the MRDI in Dhaka on January 18 and 19.

Thoughts on the subject

There had been a lot of complaints over recruitment of teachers after politicians were appointed head of management committee of educational institutions. Most of the heads of education institutions and teacher- representatives of Keshabpur upazila in Jessore district were aggrieved and helpless. But they were reluctant to raise the allegation directly to avoid becoming victims of conflicts with the politicians. I gathered that although different peoples

were involved in bribery in different recruitment boards, there was a common participant who controlled all the boards. That was Keshabpur Upazila secondary education officer Shekh Firoze Ahmed. Whenever I went to him with letters of allegations over recruitment, he has always pointed his finger to the heads of educational institutions or committee chairmen and avoided his responsibility. It was very difficult to find him during office hours. But all files related to recruitments are in his control. I learnt from my sources that others are in the dark on this matter. He is usually found in the office after the office hours and during that time he is usually surrounded by certain teachers. In addition to dealing with recruitment, he is busy with elections in different education institutions. He had the full blessings of the MPs and top ruling party men in all the areas. He acts on their orders. Therefore I gave up hopes of getting information from him and instead I gathered information on complaints from another department to make separate reports. I also decided to file an information request under the RTI Act at the secondary education office.

Legal battle for information

I went to see the Keshabpur Upazila Secondary Education officer for three days in February this year with my application but he was not there. As he was not available I went to the DO of the office, Office Assistant Ruhul Amin on February 6. As I requested him to take my application, he became busy typing in a computer. After waiting for 10 minutes, I requested him again. He took it, looked at it and put it down. I forwarded another copy asking him to sign it as a received copy. He wanted to know what organization did I represent. He said he heard about human rights organizations, but never anything about information rights organization. Therefore he would not sign to receive any letter without any reference number on it. I gave him my identity and talked about the RTI Act. I told him that this letter is on a form prescribed by a government gazette. He gave it back saying, give it to the boss when he returns.

I told him that I came to meet his boss for the last three days. He said he was busy with the SSC examinations. At that time, others present at the office requested him to receive my copy. He signed it, but he could not find his seal. A staff named Hazrat Ali put a circular seal on the signature and advised me to contact their boss.

But I could not find the boss for the next 10 days. Then I learnt from that office that my application has been given to the boss in a file. The information that I sought is available only with their boss, they said. As the boss did not receive calls from my cell phone, I finally got him using another mobile phone and told him about my application. After 18 working days, I met him near the Social Welfare office at Upazila Parishad building. I reminded Shekh Firoze Ahmed about the obligation as per Article 9 of the RTI Act to provide me with the information within 20 working days. He casually said, okay, okay and left the place quickly.

As I did not get any information, I filed an appeal on March 28 at the Jessore Secondary Education Office. The district education officer received the appeal sincerely and instantly gave the application to his office assistant asking him to send it to Keshabpur Upazila Secondary Education Office so that they provide the information. By then I learnt that Shekh Firoze Ahmed has been given a stand release. A new official has replaced him and when I contacted him he said his office received no such letter. It compelled me to lodge a complaint on April 25 to the Information Commission.

Aftermath

Three years after the enactment of the RTI Act only a handful journalists have developed some primary idea about it. To use it efficiently, a professional journalist must know the law better. It is possible for a journalist to get the maximum information using it. The law has not yet gained recognition among general people. The government needs to widely publicise about it and make the information providing officials aware of it.

But you're bound to give the information

Monirul Islam, District Correspondent, Prothom Alo, Jessore

“Cannot give you photocopies of government letters, if you want you can see them.” These were the typical let downs for me till two years back at different government offices.

After the RTI Act 2009, officials tell me to apply in accordance with the law. Then after applying, that official with little knowledge on the law start to act weird. This is creating bitter experience for journalists.

In December 2011, MRDI Executive Director Hasibur Rahman Mukur contacted me over the phone informing me about a two-day training on RTI to be held in Dhaka on January 18 and 19 and that Prothom Alo had nominated me. This two-day training opened up a new horizon of experience for me.

I got some detailed ideas about the RTI Act at the training. I also fixed a subject for investigation at the training using the act.

With help from MRDI's Manager, Programme and Communication Farhana Afroz, I applied to the relevant DO to get some information on the Jessore 250-bed General Hospital. My bitter experience begins right from the day I went to the hospital to submit my application.

It was February 8. To submit my application, I sent my visiting card to the personal assistant of Dr Salah Uddin Ahmed, superintendent in charge of the hospital. After a while, I was told to come later as the superintendent was busy.

Nobody could tell me who is the DO of the hospital. Later I submitted the application to the administrative officer Abdul Hamid.

I sought five information as the followings: A. list of doctors absent for more than three months and reasons for their absence. B. List of non-functional equipment in operation theatre, pediatric ward and X-Ray department and names of concerned technicians. C. photocopy of the latest report sent to the higher authorities to repair these equipment. D. list of excess staffs employed by the hospital's own management and the government approved organogram. E. Latest written information on opening the coronary care unit.

Twenty days passed without any response from the hospital. On March 22, I filed an appeal to Khulna Divisional Director (Health) AKM Abdus Samad Miah. On March 25, the director's office sent a letter to the hospital superintendent to provide the information. A copy of this letter was given to the applicant.

The letter signed by Abdus Samad Miah stated that Prothom Alo Jessore Correspondent Monirul Islam filed an application to the hospital's DO but he was not supplied with the information. You are requested to take necessary steps as per the RTI Act 2009.

Fifteen days passed but I did not get my information. I discussed the matter with Farhana of MRDI and she suggested me to lodge a complaint with the Information Commission. Before that, she suggested me to talk to the Superintendent.

I talked to Salah Uddin Ahmed and he claimed that he had sent the information. I said I did not get it. He then hurriedly sent some information through a peon. The information on recruiting additional hospital staff and on coronary unit was kept secret.

When I called him again on April 15 asking why I was not given the complete information, he suggested me to reapply. But as per the RTI Act, I had already resorted to the Appellate Authority.

“You are giving me a wrong suggestion,” I told him. An angry Salah Uddin replied, do I have to learn the law from you? I hung up the phone.

I verbally told the Khulna Divisional Director Abdus Samad Miah about what has happened. He assured me of taking steps.

On the next day, a partial latest report on the Coronary Unit was sent to the Prothom Alo office.

Meanwhile on March 25 I verbally asked for a photocopy of the letter on progress report on three road repair works in Dhaka-Khulna, Jessore-Narail and local levels to Jessore roads and highways executive engineer Ziaul Haider. He said, as usual, that he could not give me copies of a government office and that I could go and see.

“If I apply under the RTI Act, you would be bound to give me the photocopy of the letter,” I told him. The executive engineer said, show me under which article of the act I would be bound to.

On the next day I went to his office and showed him the law. And instantly I also filed an application.

I got my information after five days. After a few days, I made a spot visit and saw that the road repairs were in progress.

An official of the road contractor said, now you seek information showing the law. Till now we delayed with our work. After you filed your application, we became careful and started working.

The journalists do not have a lot of time to wait for information for so long a time as stipulated in the RTI Act. This is why journalists are reluctant to use the law. But the positive thing is, whether we use it or not—we now have a weapon. With this weapon, we can now tell the bureaucrats, “but you are bound to give me the information.”

Where is rights to information

Sirajganj town protection dam erosion, dredging in Jamuna, repairs and construction of roads in the district

Golam Mostafa Jibon, Staff Correspondent, The Independent
Drik News and Radio Today, Editor and publisher Weekly Jibon Barta

Why I sought information

The incremental erosion of the Sirajganj town embankment during the rainy seasons of 2009, 2010 and 2011 created a panic among the people. Everyone was asking, why would a Tk 350 crore embankment with 100 years of guarantee start to wash away within less than 10 years of its existence. Besides where is the fat annual allocation for embankment repairs is going? How is it being spent? Several investigation committees were formed to look into this matter. These committees identified the following causes: lack of necessary maintenance, neglect of the Water Development Board (WDB), unplanned sand collection from the river bed, movement of heavy vehicle over the embankment, and lack of river training through dredging. Based on these findings, a pilot dredging project was undertaken in the name of river training and saving the town from erosion. A lot of money was allocated for the job. But many questioned the effectiveness of the pilot dredging, how much was dredged, who drew the allocated money and how and on what policy decisions acted behind the pilot capital dredging project.

On the other hand, there were lots of complaints of corruption and nepotism against a newly joined executive engineer of Roads and Highways Department KM Nur-e-Alam Babul.

I was interested to learn about both the cases.

My introduction to the RTI Act

I participated in a MRDI training on the RTI Act when I was working for The Daily Star. I joined the Independent later. Luckily Mukur of MRDI did not forget me.

In the next installment, Mukur talked to the chief reporter of The Independent Mir Mostafizur Rahman and I was selected further training. There I learnt how to file an information request, appeal or a complaint at the Information Commission.

Professional duties compel me to remain involved with current events most of the times and I could naturally access most information. But I always thought I would never get certain information as the country was not free of corruption and officials and politicians were not completely transparent. This is why I turned to apply for information on the two subjects. I wanted to be sure whether the RTI Act could really be effective.

My experience

February 13, 2012. First I went to the Roads and Highways office and found that the executive engineer had gone to a site. I enquired who was the DO in the office to whom I could submit my application. This surprised everyone in the office. What is that and why? I realized they were unaware of the law. So I talked about it and the purpose of my application. They suggested me to talk to the executive engineer.

I called up the executive engineer over the cell phone. It seemed that upon receiving my call, he felt troubled. He told me that he received no such instructions from the higher authorities. There was no DO and he was never asked to appoint a DO.

I told him about my application and he wryly said leave the application at the reception. He would look at it.

I left the application at the reception and had my copy received and left for the Water Development Board office in Ranigram area of the town. I was glad to learn that there was a DO in this office. But the trouble started when I submitted my application.

The DO of this office was Deputy Assistant Engineer Anwar Sadat. When I went to him to submit the application, he sought my forgiveness and literally tried to run away from the office. He said he can not do anything without discussing the matter with the executive engineer. He can not even receive the application.

I called up the executive engineer and tried to convince him that there was no harm in receiving my application. He is free to give me the information or deny it. At one point, he instructed his subordinate over the mobile phone to take my application.

As expected I did not get any feedback from the two offices as the deadline expired. On March 28, I filed two separate appeals to the executive engineers of the two offices. In response, on April 3, I received a letter from executive engineer of roads and highways KM Nur-e-Alam Babul asking me to collect my information from the Deputy Assistant Engineer at his office.

Before going there, I called up the relevant official and he gave me an appointment. But when I went there, he did not turn up or receive my phone calls. Then I got him through the mobile phone of another official. This compelled him to come to the office and gave me a fantastic excuse for his delay.

When I asked him to give me the information, he offered me tea and cigarette. He started saying that he did not have the information and he was not capable of giving it all. He promised me that he would gather them all and send it via a peon.

But till date (May 14), he did not send me anything. The Water Development Board also did not give me explanation.

On May 2, I lodged a complaint with the Information Commission.

Frustration and Expectation

As a journalist I did not get timely information using the RTI Act. Rather I faced some harassment. I have doubts over how the general people would fare if they apply the law.

But I have respect and expectation of the law. If it is properly followed, it would make availability of information easy. If the relevant people do not develop an honest attitude, it would not be possible to create a corruption free society. For this every citizen should become more conscious and sincere.

Attachment

Some reports using the RTI

The followings are examples of some press reports that was generated by applying the RTI law by journalists themselves or by citizens or development workers in India. As there are contextual similarities between India and Bangladesh, we present these examples:

1. Indian Express Report: the helicopter travel cost of the Karnataka chief minister is unbelievably lower than his motor travel cost. The Indian Express sought the minister's travel costs using the RTI law and the information it got was so misleading and faulty. It showed that between 2008 and 2010, the minister's official travel cost was Rs 41,20,459 in which he used 138 helicopter, 224 aircraft, 135 motor car and 33 train rides.
According to the vouchers, where as he used Rs 100 for a car rental to one destination, he spent just Rs 35 for using helicopter for the return journey. Then again, he paid Rs 800 to travel 35 km road. There were many such inconsistencies. The Deccan Aviation said that the minimum landing charge is Rs 8000.
Similar information can be availed from various audit reports of Bangladesh's Comptroller and Auditor General which can be collected by using the RTI Act.
2. Indian Express Report: In New Delhi, a woman undergoing treatment at a mental hospital applied to the hospital asking for information on her medical test and reason for her admission there. Like in Bangladesh, the Indian RTI law also dictates that a patient's information to a doctor is a secret. Later the woman lodged a complaint with the Information Commission. The chief Information Commissioner directed to provide the information upon a full investigation. It came out that the husband of that woman admitted her in the hospital as a mental patient although she is not so. That woman was released four days later. Her husband then filed an application why the hospital released her without his permission. The hospital authority ignored directive of the Information Commission to answer any of them and filed a writ with the High Court. The court gave a verdict in favour of the hospital.
3. Times of India report: a woman underwent abortion six times due to directives from her in laws. During her last round through a local news agency using the RTI, she wanted to see the list of abortion patients in the health care centre where she underwent abortion and two other such centres. In the records, she found out her name was not there and even the bond that she signed before abortion did not have her signature. As per the Indian Pre-Conception and Pre-Natal Diagnostic Techniques Act, abortion and sex identification of fetus are illegal. Although the law demands, her name was not recorded anywhere. But she had the doctor's bill as a proof. After a case was filed, two accused doctors were stripped off their licenses.

4. NDTV, Economic Times (Mar 25, 2012): the foreign travel cost of Indian President Pratibha Patel has exceeded Rs 205, according to various news media which gathered the information by filing more than one RTI applications in the last three years. This expenditure was made by 12 travels to 22 countries from July 2007. The information authorities were reluctant to share this information, for which it took three years for the media to collect it.

5. Daily News and Analysis (a news agency of Bangalore): this sad report was based on information obtained from a juvenile correction centre in Bangalore using the RTI. Many girl children were kept in the boys home unmonitored. Many children under 14 got lost from here and nobody knows their whereabouts. As there was no proper monitoring, many faced repression and some children committed suicide.

6. Times of India: any engineer who has failed in a semester will not get a job in the government colleges. This decision was taken at Jaipur after one person applied through RTI seeking the policy of seven engineering colleges. It was found that many students who failed in the first semester was giving the same exams in the fourth semester and getting more marks. This is inflicting injustice on other students who are studying hard to pass in all semesters. After this was exposed, this decision was taken.