



## The role of right information act in Karnataka: Tumkur Municipal Corporation

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**Abstract:** The Karnataka Government took steps to make information available to the public as far back as 1997. For that time many Government departments issued Executive Orders to provide access to information on developmental projects undertaken by their departments and to keep relevant records open for inspection or available for copying for a nominal fee. On 25 August 2000, the Executive Orders were supplemented by the Right to Information Ordinance. The Ordinance was brought in because the Karnataka Government recognised it was necessary to enact a comprehensive law to ensure openness, transparency and accountability in government administration as a matter of priority. As the State Assembly was not in session at the time this policy decision was made, the Governor passed an Ordinance on the matter as a first step. The Karnataka Right to Information Act 2000 was enacted soon after by the State Assembly on 10 December 2000. Section 13 of the Karnataka Right to Information Act, 2000. Explicitly repeals the Karnataka Right to Information Ordinance 2000 although it saves all actions taken under the Ordinance. Unfortunately, the Act was not properly operationalized until July 2002, when the Government of Karnataka notified the Karnataka Right to Information Rules.

**Keywords:** Government, Karnataka, Right, Information, Act Transparency.

### Introduction :

September 28 is celebrated internationally as Right to Know Day, highlighting the critical importance of people's right to access information held by their governments. In India, following a nationwide campaign led by grassroots and civil society organizations, the government passed a landmark Right to Information Act in 2005. Since then, social activists, civil society organizations, and ordinary citizens have effectively used the Act to tackle corruption and

bring greater transparency and accountability in the government. Social activist Aruna Roy has described India's RTI Act as "the most fundamental law this country has seen as it can be used from the local *panchayat* (a unit of local government) to parliament, from a nondescript village to posh Delhi, and from ration shops to the 2G scam."

In 2011, thousands of Indians remained glued to their television sets as veteran social activist and anti-corruption



crusader Anna Hazare ended his 12-day fast. A stalwart of the RTI movement, the 74-year-old Gandhian's campaign for a strong anti-corruption agency in the country, or *Jan Lok Pal*, galvanized tremendous public support with citizens coming out on the streets of Delhi, Tumkur, and other cities to voice their anger and discontent over mounting corruption in the country. While the debate on corruption in the country rages on, the RTI Act is fast emerging as an effective anti-corruption tool.

#### **Right to Information in Karnataka: An Effective Tool to Tackle Corruption**

Right to Information laws, or "sunshine" laws as they are commonly called, grant citizens the legal right to access information held by their governments, bringing much-needed transparency in the otherwise opaque functioning of government. Globally, more than 80 countries have now enacted such laws, with the list growing each year. India's RTI Act is internationally recognized as a strong and effective law. Over the last six years, the RTI has been used extensively by ordinary Indian citizens to demand a vast range of information from their government.

Unlike many countries where RTI laws have been used primarily by journalists and the media, in India the law has a broad base of users. A 2009 study estimates that in the Act's first three years alone, close to two million RTI requests were filed in different parts of the country. Case studies and media reports show that RTI is being used to redress individual grievances, access entitlements such as ration cards and pensions, investigate government policies and decisions, and expose corruption and misuse of government resources.

For many, particularly India's poor and disadvantaged; the simple act of filing an RTI application is empowering, and often leads to tangible results. In 2010, K.S. Sagaria, a resident of Kushmal village in rural Orissa, filed an RTI application seeking information on the number of ponds constructed in his village under the government's national wage employment scheme. The information he received was revealing: the ponds had never been constructed even though money had been allocated and spent. Following complaints from villagers, the local administration was forced to take action and suspend the officials involved in the pond scam. In addition, a recent experiment by students at Yale University found that India's RTI Act can be as effective as bribery in helping the poor access their entitlements. As part of the experiment, slum dwellers in Delhi were divided into four groups and asked to submit applications for ration cards. While the first group submitted their application and did not follow up, the second group attached a recommendation letter from an NGO to their application, the third group paid a bribe and the fourth group filed an RTI request to follow up on their application. Yale Ph.D. students Leonid Peisakhin and Paul Pinto found that while the group that paid a bribe was the most successful, those that filed RTIs had their applications processed nearly as fast. According to Peisakhin: "Access to information appears to empower the poor to the point where they receive almost the same treatment as middle-class individuals at the hands of civil servants. This is something that payment of a bribe cannot do."

Civil society organizations here have played an important role in raising public awareness about RTI and assisting



citizens in filing requests for information. For example, Delhi-based NGO Satark Nagarik Sangathan (SNS) runs an information center in South Delhi to assist local residents and slum dwellers to file RTI applications. Using RTI, SNS has successfully campaigned for improvements in the quality of public services including water, sanitation, the public distribution system, and even the performance of local elected representatives. In addition to such initiatives, the law is increasingly being used to tackle high profile corruption. Much of the information regarding corruption in the allocation of tenders and contracts for last year's Commonwealth Games was unearthed using RTI. In 2010, a series of RTI applications filed by the Housing and Land Rights Network, a Delhi-based NGO, revealed that the Delhi government had diverted funds from its social welfare programs for infrastructure development under the Commonwealth Games.

Using India's RTI is not without its risks, however. RTI activists have increasingly come under threat and attack, with many suffering fatal injuries. Over the last year, a number of RTI activists were murdered in different parts of the country, causing widespread alarm among civil society groups. Most of those killed were investigating irregularities in sectors such as mining, land, and local elections where corruption is rampant. Civil society organizations are now demanding that the government take concrete measures to protect the lives of such individuals. Despite these risks, the RTI Act has continued to grow in popularity among citizens and activists alike.

While activists are split on whether the RTI has led to a reduction in

corruption in India, most agree that the law is a critical step in the right direction. Speaking to *The New York Times*, RTI activist Shekhar Singh said that the main objective of India's RTI movement was to empower people, concluding that "this law has done that – given the people the power to challenge their government. That is no small thing.

### Objectives

1. How does one file an Right to Information application ? How can it help ? in Tumkur Municipal Corporation.
2. If the power of the sunshine law is anything to go by, it's time for more widespread use, especially in Tumkur.

### The Role of Right Information Act in Tumkur Municipal Corporation

Citizen matters Unhygienic drinking water. Moon-cratered roads. Uncollected, stinking garbage pile-ups. Power thefts. Statue-like Tumkur Municipal Corporation officers. Land grabs. Unauthorised structures. Residential plots converted to Commercial properties. Bribe-hankering government staff. This list can go on and on. Tumkur is down in the dumps and its leaders and administrators seem to have abandoned their virtues and lost their will along with their sense of right. Looking at the current state of affairs, there appears to be no hope in sight unless the average citizen picks up the gauntlet. If the power of the Right to Information law is anything to go by, it is time for the common citizen to wake up and smell the kaapi. It may even be that the average Joe Tumkur can redeem himself of the mess our leaders have created, and perhaps even turn into an everyday superman.

### Using the Right to Information Law



### Corruption

As a citizen, you have the right to know about how the government is going about improving your living conditions. The RTI Act entitles you to receive all the information you need from government departments and this is how you should get it:

1. Figure out what your ward number is. This information is there in the BMP website, and sometimes it's written on the yellow colour streetname signs. Your residents' association or apartment owners' association head will usually know this. You can also find out by calling the Corporation office.
2. Find out who the Executive Engineer is for your ward. Get his or her name, telephone and mobile number.
3. Now find out who the Assistant Executive Engineer (AEE) is for your area. Remember this: Mostly, the AEE doubles up as a PIO (Public Information Officer) under the RTI Act, and he is liable to give you information. In some cases the EE (Executive Engineer and in some cases the JD (Joint Director) is designated as the PIO, and there is an appellate authority who supersedes him.
4. Now it's time to get into action mode - fill out an RTI form and submit it to the AEE (or PIO) and ask for a list of all the development works that have been executed in your area during a certain period. For example, ask for a list of works executed for the last 6 months, or for the last financial year. Also, ask for a list of the contractors and the corporation officials who were involved with the work, the total amount spent, the budgeted amount and what is the balance left, if any.
5. The PIO has to furnish this information within 30 days. Be ready for a delay as sometimes PIOs are not cooperative, and if their non-cooperation

continues, you may approach the appellant authority that presides over the PIO and sits in the same department as him. If the appellate authority too does not act, you can approach the CIC (Chief Information Commissioner), who sits at MS Building, Gate No. 2, 3rd Floor, Dr. Ambedkar Veedhi, Bangalore-560001. The Chief Information Officer (CIC) will then take up the matter with the PIO. You must ask for a penalty of Rs. 250/- per day for every day starting from the 31st day of your original request.

6. Once you receive the information from the TUMKUR, you must check to see if the work has been done as per the estimate. Check the list of development works against the actual work done. It's as easy as that. In many cases it will not be, and that is why Tumkur is where it's at today. This then becomes the basis to seek remedies.
7. Note, in some cases, you should also examine tender documents to remove any doubt you may have.

### Remedies

From the documentation you have gathered, when you are convinced that something's amiss, you can formally complain to the Commissioner of the Corporation or to the chief of the government department as the case may be, enclosing the evidence you have assembled using the RTI Act. Tell the official, in writing, to take action and rectify the damage done and take a time-commitment from him. Wait for him to rectify the shoddy work and to penalise the guilty officers.

If the top officials do not act, there are two steps you can take - approach the media. Along with unleashing the media, let us also add that it makes sense to tackle corruption in a group. You can form a group of like-



minded citizens, and sure enough you will find many who are fed up with the civic infrastructure and amenities. With the evidence collected, you can complain to the top officials as a group.

Another option is to team up with city-based organisations that are active in the RTI arena - their list is provided in a box on this page. Whichever way, your goal is to ask the administration, using your evidence to take action.

As a final resort, you can also file a court case. Yes, this can mean even more precious time spent, in addition to all the time you may have spent in unearthing the evidence. Sometimes, this method works if the issue itself is broad and is impacting thousands of residents. Remember if a few residents welfare associations had not filed litigation against the Sakrama law's penalty clauses (which were holding citizens culpable and letting officials go scot free), the High Court may not have suspended the implementation of the penalties at all. Citizen action does help.

The RTI Act can really work wonders because government officials are aware that if their record of indulging in corruption is made public, then the past can prove to be their nemesis and come back to haunt them even after they retire. Consequently, in some cases, it has been observed that a mere filing of an RTI application has sets things right.

We have spoken mainly about the city corporation in this feature as it the major local body in the city dealing with citizens' matters. However, you may use the RTI Act to obtain information from any government department - just refer the RTI Act online - with some exceptions in the area of Security and Intelligence operations.

### **Unearthing corruption**

Beyond the type of probing described in part 1, if you still would like to know how to go about figuring cases of corruption, here are a few pointers:

1. **Roads:** There's a science behind how potholes have to be filled, but in reality they are just stuffed with tar and patchily covered up. Similarly, there is a method behind building speed humps, which is not followed. The same goes for asphaltting broken-down roads. Ask for documents relating to road repairs and you are sure to find inflated estimates, high-quality materials requisitioned but low quality materials used, thickness of asphaltting will not tally with that in the contract, unscientific methods used, etc. You will be able to unearth collusion between contractors and the TUMKUR officials, when it exists.
2. **Parks:** You will see substandard kiddies' play equipment purchased at astronomical rates, uneven pathways, gazebos and artificial plants constructed at monstrous costs, and of course, you may come across small structures that will most likely be used for a purpose other than the one they were constructed for. You can ferret out all this information and act accordingly.
3. **Garbage:** Garbage cleaning is yet another scam. Most contractors do not pay the minimum wages to the cleaning staff and neither do they contribute to their PF or ESI. The minimum wages claimed by contractors from the corporation are 2,075/- per month per staff and they have to contribute to PF and ESI from the first month of employment. In reality, the wages paid range between 1,500 and 1,800, and PF/ESI contributions are not made. Check this with any garbage collector in your area. Additionally, contractors must provide safety equipment (boots, gloves, masks,



full uniform, etc.) for the staff - but in many cases, what is actually provided just a coat and an ID card without a number.

4. **Land Scams:** Government land in area can be allotted for cultural activities, parks, educational institutes, and for sites to be distributed to specified people. In every area, there will be a few stray cases involving misuse of government land. Either the purpose for which the land is allotted will not be served or fictitious claimants will usurp sites. You will also come across residential property okayed for commercial purposes without any valid reasons and documentation.

These are some areas where you are sure to sniff out corruption and defects with ease.

#### **Conclusion**

In conclusion, you, the citizen, can become a catalyst of change by using the RTI law and working with other like-minded groups, and using the media to press your case. In the end, remember, our leaders are mere public servants - we have elected them so that can serve us.

The success of democracy depends on the degree of citizens' participation in governance: participation not only in elections but also when decisions on policy, laws and schemes are being made, implemented or evaluated for impact. Such involvement not only enhances the quality of governance but also results in transparency and accountability in government functioning.

But how can a citizen take part in his/her own government? How can citizens understand how decisions are being made? How can we know how our tax money is being spent or if public schemes are being properly implemented

or whether the government is acting honestly and fairly? How can we make government servants answer our questions?

One way of participating in our own democracy and development is by exercising our right to ask for government-held information. In Karnataka, anyone can use the Karnataka Right to Information Act 2000 (KRIA) to get government held information. Such legislation recognises that in a democracy like ours, all information lying with government belongs to the people. It is collected, organised and stored, using public money, by public servants in the course of their public duty and making it available to citizens is part of a citizen's right to know how the government is working on his/her behalf.

The Karnataka Government has also initiated a number of other projects and schemes to bring governance closer to the people. For example, the "Bhoomi" project has enabled citizens to get access to land records via government internet kiosks within minutes. The Treasury's transactions are also being computerised under the "Khajane" scheme, with consequent benefits in terms of transparency in government financial dealings. The Government is also in the process of implementing a scheme to computerise all transactions relating to registration of property.

Unfortunately though, there still remains a lot of work to be done. An implementation audit conducted by CHRI and the Public Affairs Centre of Bangalore (an NGO) found in 2003 that over 80% of the applications for information did not receive any response from the departments. In cases where information was provided it was only after repeated follow up by citizens and





after the expiration of the 30-day time limit stipulated by the law. The audit exposed the lack of awareness among officials about the right to information law, as well as the lack of systems to deal with information requests from citizens. Experience has also shown that Appellate Authorities and the Karnataka Administrative Tribunal have also been slow to enforce bureaucratic compliance with the KRIA.

One of the surest ways of ensuring that the KRIA is properly implemented and serves its purpose of making the government more responsive to us, the people, is for more of us to use it – and use it effectively. It is with this aim in mind that CHRI has developed this User's Guide. We hope that it helps you to use the KRIA and to make the government more accountable, efficient and effective.

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