

Dated 16.02.09

To,  
Shri Wajahat Habibullah  
Central Information Commissioner,  
306, 2<sup>nd</sup> Floor, August Kranti Bhavan,  
Bhikaji Cama Place,  
New Delhi- 110 066.

**Complaint under Section 18(f) of *Right to Information Act, 2005***

Dear Sir,

We, at Common Cause, a civil society organisation working on issues of common interest to citizens, have been concerned about pendency of nearly 3.2 crore cases in various courts in our country and have filed a PIL in the Supreme Court, seeking appropriate actions to reduce this huge pendency in district courts and High Courts in various Indian states. The petition is currently under hearing.

In order to better ascertain facts and problem areas, we sought information under RTI Act, 2005, from various High courts about pending cases in High Courts and lower courts under their jurisdiction. Specifically, we asked for copies of the pendency returns submitted by district courts to their respective High Courts.

While trying to obtain information on the RTI rules framed by various High Courts from their website for applying to them for information, we found that the High Courts at Calcutta, Chattisgarh, Gauhati, J & K, Karnataka, Orissa, and Rajasthan do not have any reference at all to RTI rules on their websites. The High Court at Mumbai has posted RTI rules on its website, which are called "Maharashtra District Courts, Right to Information Rules, 2006". Presumably, a separate set of rules are to be applicable for information from the High Court but they have not been posted on the website. Kerala High Court website has a button on RTI but the button does not function.

Madhya Pradesh High Court rules requires that the applicant applies in a prescribed form and paste a self-attested photograph on the application form. Rajasthan High Court has also, through a letter, asked for application in a prescribed form with a self-attested photograph pasted on the application form. Several other High Courts also insist on applications in prescribed form and some of the forms ask the applicant to give reason why the information is needed. Allahabad High Court demands a positive assertion that motive for seeking information is proper (whatever that may mean). All these requirements are in violation of Section 6(2) of the RTI Act.

Of the High Courts about whom we have information, High Courts of Andhra Pradesh, Bombay, Jharkhand, Madhya Pradesh, Punjab & Haryana and Rajasthan prescribe payment of fees by way of adhesive court fee stamps only. Patna High Court and Delhi High Court require that the fee be paid in cash only and at the prescribed counter in the Court, thereby demanding a personal visit to their Court. These stipulations make it vitually impossible for citizens who are not local to take recourse to the RTI Act, thus defeating the very objective of the Act. Bank Draft and IPO should be acceptable for payment of fees as is the case with the offices of the Central Govt. and their undertakings.

Delhi and Allahabad High Courts have set application fee at Rs.500/-. Additionally, Allahabad High Court states, "every application shall be made for one particular item of information only". Rajasthan High Court has specified an application fee of Rs. 100/ while Gujarat, Madras, Madhya Pradesh and Patna High Courts specify an application fee of Rs.50/-. All these fees are very high, and are designed to discourage citizens from using the RTI Act, and are inconsistent with Section 7(5) of the RTI Act. The Central Information Commission, in its order *NoCIC/OK/C/2006/00103 dated 4<sup>th</sup> October, 2006 in the matter of Shri Gopal Havelia vs. National Small Industries Corporation Limited* directed that the 'fee structure in Para 3 of the internal procedure for

processing requests made by public under the RTI Act 2005 should be modified on the lines of the Central Government Fee rules within 15 days of the issue of this order.....'

High Courts of Allahabad, Bombay, Himachal Pradesh, Jharkhand and Punjab & Haryana have specified photocopying charges of Rs.10/- or Rs.15/- per page. These charges are extortionate, to say the least. Delhi, Patna and Punjab & Haryana High Courts have also specified fees for appeal, which is not provided for in the RTI Act.

A number of High Courts have stated in their rules that if the application is filed with a person other than the person who hold the required information, the application shall be returned to the applicant and the application fee will be forfeited. For example, Delhi High Court rules state "Disposal of application by the authorized person-(i) if the requested information does not fall within the jurisdiction of the authorized person, it shall order return of the application to the applicant in Form C as soon as practicable, preferably within 15 days, and in any case not later than 30 days, from the date of receipt of the application, advising the applicant, wherever possible, about the authority concerned to whom the application should be made. The application fee deposited in such cases shall not be refunded." Such provisions violate Section 6(3) of the RTI Act, 2005 and are illegal in nature.

Allahabad High Court rules state that "Central Public Information Officer shall not be liable to provide any information, which can be obtained under the provision of the Allahabad High Court Rules, 1952 in case of High Court and under General Rule (Civil/Criminal) in case of subordinate Courts. Such information may be obtained by adhering to the prescribed procedure and payment of fees prescribed in the Allahabad High Court Rules, 1952, or General Rules (Civil/Criminal), as the case may be." Other High Courts also have similar rules. Such provisions violate Section 22 of the RTI Act, 2005 and are illegal in nature.

All rules made under the RTI Act must subserve the Act and aim to achieve its objective and not hinder it. It is a basic tenet of jurisprudence that the Acts of Parliament must be construed according to their object and intent'.

I am also enclosing copies of some of the responses received by us so far from various High Courts. These responses substantiate some of the foregoing complaints.

I request you to kindly have the RTI rules framed by various High Courts, examined with a view to rectifying the deviations from the letter and spirit of the RTI Act, 2005. You may also like to ensure that High Courts proactively provide information on matters of public interest such as mounting backlog of cases in the Courts. In this context, it is only reasonable to expect that listing and other relevant information about cases of different category, pending within the jurisdiction of a High Court is made available on its website. This is already provided by Section 4 (2) of the RTI Act, 2005, with the objective that public have minimum resort to the use of RTI Act to obtain information.

Yours sincerely,

(Sarvesh Sharma)  
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Common Cause,  
5, Institutional Area,  
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Vasant Kunj, New Delhi – 110 070  
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**Enclosures:**

- 1. Letter of Complaint to the CIC under Sec 18(f) of RTI Act, 2005 (Annexure A)**
- 2. Copies of original RTI Application filed before High Courts of Bombay, Gujarat, Delhi, Allahabad, Patna, Jabalpur, Calcutta, Jaipur, Orissa, Karnataka  
(Annexures A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10 respectively)**
- 3. Copies of the replies received from the High Courts of Bombay, Gujarat (Ahmedabad), Patna, Jabalpur, Jaipur, Orissa (Annexures B,C,D,E,F,G respectively)**
- 4. An index of the documents referred to in the complaint (Annexure H)**