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## DISTRICT TRAINING PROGRAMMES UNDER RTI ACT, 2005

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To ensure wider outreach of RTI trainings conducted by Himachal Pradesh Institute of Public Administration, it was envisioned by the Principal Secretary (Training) to organize RTI trainings at District level also to disseminate the message of RTI to the grass-root level functionaries on one hand and to address the difficulties faced in the implementation of the RTI Act on the other. In pursuance of the above decision, one day RTI training programmes were organized at four district headquarters at Bilaspur, Mandi, Dharamshala and Hamirpur in the first phase as an activity of State Implementing Agency under UNDP-GOI sponsored project – Capacity Building for Access to Information. The Place & Date where one day RTI trainings were conducted are as follow:-

Sr. No.	District Headquarter	Date
1.	Bilaspur	20 <sup>th</sup> August, 2008
2.	Mandi	21 <sup>st</sup> August, 2008
3.	Dharamshala	22 <sup>nd</sup> August, 2008
4.	Hamirpur	23 <sup>rd</sup> August, 2008



Sh. V.C. Pharka, IAS, Principal Secretary (Training & Administrative Reforms) took personal interest in having these programme organized and led the HIPA faculty team to all the above places which comprised Dr. K.K. Handa, Core Faculty, & Sh. Rajeev Bansal, Research Officer. Sh. V.C. Pharka, Pr. Secy. (Trg. & AR) made it point to interact with the Participants on RTI issues in all these training programme. The highlights of these trainings as follows:

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- The programmes drew overwhelming response with participation ranging between 120-180 trainees at all the four locations. The participants included District Administration Officers viz. ADM/ADC, SDMs, AC to DC and other officers from different departments viz. Agriculture, Horticulture, Animal Husbandry, Fisheries, Cooperation, Rural Development, Panchayati Raj, Ayurveda, I & PR, Revenue, Food Civil Supplies & Consumer Affairs, Excise & Taxation, Home Guards, SE's & XEN's from IPH, PWD and HPSEB, , Principals from Colleges/Senior Secondary Schools, Block Elementary Education Officers, Deputy Directors of Education, DFOs, DTOs, CDPOs, Tehsildars, BDOs, CMO's etc.



- Each training programme was divided into four sessions to cover:
    - RTI Act 2005-Main Provisions
    - HP RTI Rules, 2006
    - Duties and Responsibilities of PIOs & APIOs.
    - Open Session/Panel Discussions
  - While apprising the participants of the main provisions of RTI Act and Rules, main focus was laid on the implementation related issues.
  - Participants were thoroughly explained the meaning of information, various rights of access to Information, and the roles & responsibilities of PIOs/APIOs as laid in the RTI Act,2005.
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- The clause of deemed PIO was also demystified and discussed in detail and various queries raised by the participants in this regard were answered to their total satisfaction. Other Officers whose assistance is sought by a Public Information Officer shall render all assistance to the Public Information Officer who sought his or her assistance - to be treated as **Deemed Public Information Officer** for the purpose of any contravention of the provisions of Section 5 (5) of the Act.
  - There were a large number of queries with regard to 'Third Party' information, as to how to identify Third Party & how to deal with a request of information relating to Third Party. They were told that "Third Party" is defined under the Act to mean a person other than the citizen making a request for information and the public authority to whom the request is made. It could be a private individual or a public authority [Section 2 (n)].
  - It was further added that Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.
  - If, however such above information is treated as 'confidential' by that third party, the following steps will have to be taken:
    - The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed or not.
    - The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation in writing or orally against the proposed disclosure and give written notice to the third party.
    - The PIO can, within 40 days after the receipt of application for information, if the third party has been given an opportunity to make representation, make a decision on disclosure and give a written notice to the third party.
    - The third party is entitled to prefer an appeal against the decision of the PIO. If the third party goes into an appeal, the PIO should not immediately disclose the information but should apply wisdom keeping in view the public interest, look for the course of action within the stipulated time limit of 30 days

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- Except in the case of “trade or commercial secrets protected by law”, disclosures involving third party information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8 (1) (j).
  - Time limits, as mentioned in the Act, to dispose the request for the information by citizens, were explained by giving practical examples. where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of 30 days
  - Various guidelines, as issued from time to time, by the Administrative Reforms Organisation on implementation of RTI ACT, 2005 in the State were also brought to the notice of participants and it was made clear that bias, if any, has to be in favour of giving information to the citizens.



- It was explicitly stated that the PIO is not supposed to create information, interpret information, solve the problems raised by the requesters of information nor he/she is expected to furnish replies to hypothetical questions, but to provide only the existing information.

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- The participants were also told that the Act does not require Public Authorities to retain records for indefinite periods and record needs to be maintained as per the retention schedule applicable to the Public Authority according to the rules of the office procedure.
  - The duties and responsibilities of PIO were discussed stepwise with regard to disposal of requests for information.
  - A Check List for the speedy disposal of requests by PIO was discussed in detail with adequate focus on the supplementary roles of PIO with regard to record management, to be alert about decisions of SIC/CIC, making use of web resources and writing speaking orders on rejection of requests.
  - The onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request. This burden of proof under Section 19 (5) of the Act has to be supported by documentary evidence in shape of well reasoned speaking orders.



- In case of rejection of requests as per the provisions of section 7 (8) of the Act, the PIO's were asked to write well reasoned and speaking orders wherein following must find mention:—

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- Reasons in detail for rejection of request for information quoting relevant provision of the Act.
  - Conveying time limits for preferring appeal under Section 19 of RTI Act, 2005.
  - Particulars of Appellate authority.
  - The details of authority who has made decision with his name and designation.
  - A suggestive template of writing a well reasoned order containing necessary ingredients was also exhibited and explained to the participants.
- Similarly, for the requests where information is provided on further payment of cost of information, PIO is required to intimate the amount of fees to be paid, the details of fees levied and also that the decision of levying a certain amount of fee can be appealed against, details of Appellate Authority and the period within which the appeal could be preferred.
  - All open session/panel discussions on RTI were chaired by Sh. V.C.Pharka, IAS, Principal Secretary (Training & AR) to the Government of Himachal Pradesh. He emphasized the importance of the Act in the changing governance scenario and impressed upon on the participants for making timely and correct disposal of requests. He also clarified various queries raised by the participants on RTI implementation. In this session, action taken by PIOs on different type of requests received was reviewed, the problems encountered and plan for the action on the issues requiring attention of the government were discussed at length. The various issues which came forth/raised by the PIOs/APIOs in these sessions revealed ground realities and some gaps in Act/rules are also brought to the notice of the Principal Secretary (Trg. & AR). The participants requested to sort out these issues at the level of Administrative Reforms Organisation.

The issues and concerns on implementation of RTI as raised by the participants are:

- There are cases when the cost of information is conveyed to the requesters and they do not respond. Such requests stand pending in the register for indefinite period. A mechanism may be developed to determine a time line for citizen to deposit additional fee.
  - There was a great demand of directory of APIOs/PIOs as designated in the State to facilitate the transfer of requests to the concerned public authority, if needed.
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- The list of PIOs/APIOs with regard to NGOs is not available and the participants requested to designate APIO/PIO for NGO's as requests for information is increasing especially with regards to works undertaken by Mahila Mandals/Yuvak Mandals etc.
  - Some practical problems in designating APIOs/PIOs in IPH, Health and Higher Education departments were reported and it was requested to designate APIOs/PIOs in these departments as per the RTI institutional mechanism prevailing in other departments in the state especially in the sub division/sub district level.



- The issue of ascertaining the citizenship of a requester was also raised and it was told that there is no mechanism available with PIO to determine the citizenship status of an application.
- There were certain APIOs who were providing information at their own level or doing so under the directions given by their respective Public Authorities. Principal Secretary (Trg. & AR) took a serious note of it and apprised them to provide information in consonance with the provisions of RTI Act, 2005 as only PIO can give information to the applicant whereas the role of APIO is to receive the request for information and application of appeal and transfer the same within five days to the concerned PIO/Appellate Authority or State Information Commission.

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- Principal Secretary (Trg & AR) also emphasized the importance of writing well-reasoned and speaking orders while rejecting the applications for seeking information. PIO should quote relevant sections and grounds and also convey time limit for appeal and the detail of appellate authority to the requester.
  - At Dharamshala, an issue was also raised as to how to refund the fee of a requester if the PIO has jumped the time limit and the information needs to be provided free to the applicant whereas the fee already stands deposited in the relevant head of that account.



- There was also a query on as to who appropriates the amount of penalty imposed on PIO.
- Some participants of Panchayati Raj Department reported that they have received a direction from their department to retain the fees/cost of supply of information in shape of a Nidhi (Fund).
- A similar query was raised in case of Rogi Kalyan Samities by a participant from Health Department and suggested that such a Nidhi (fund) may also be allowed retention by Rogi Kalyan Samities.
- Another issue came forth was the charge of the PIO in the Public Authority when designated PIO is on leave. Though it was clarified that the responsibility of PIO is an additional assignment to the officer so when he/she proceeds on leave, the onus of the PIO should be treated transferred to the officer holding his charge during the leave period.



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- In case of a request received through e-mail under RTI Act, how the issue of ascertaining the citizenship of the applicant and payment of fees is to be handled.
  - The information supplied to the Parliament or to the Vidhan Sabha is generally in the question-answer form and the Act stipulates that the information which cannot be denied to the Parliament or the Vidhan Sabha cannot be denied to a citizen, thus, the applications for supply of information in question-answer shape should also be entertained.



- At times, PIO's come across with a situation when an application for information has been accepted by him but nobody in the Public Authority accepts the ownership of having the information with him/her pertaining to the particular request. Ultimately, it results into failure to provide the sought information by PIO. In such a case, it needs to be looked at the recourse available with the PIO.
- At Mandi and Hamirpur Districts, Principal Secretary (Trg.& AR) also reviewed the progress of the CBAI Project.
  - *The progress of implementation of project in Hamirpur district was found satisfactory where adequate activities outlined in the project guidelines have been undertaken. The financial, as well as, physical progress found to be upto the mark. Principal Secretary (Trg.&AR) also suggested the DIA to avail of the services of*

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*Resource Persons trained by YASHADA to generate awareness among masses by organizing trainings at blocks/sub-division level.*

- *In Mandi, the progress of the CBAI Project was observed as slow in comparison to Hamirpur due to frequent administrative changes in the core team in district. The ADC/Nodal Officer, District RTI Cell apprised the Principal Secretary (Trg. & AR) that they have initiated ground work and will be able to meet the specified targets within the shortest possible time. It was also suggested to them to utilize the services of Resource Persons trained by YASHADA to train the people at block/sub-division level.*
- *It was also advised by Principal Secretary (Trg. & AR) to both the DIAs to report the physical and financial progress on quarterly basis in the prescribed proforma devised by NIA.*
- Principal Secretary (Trg. &AR) also held meetings with the Resource Persons from Mandi and Hamirpur Districts trained by YASHADA. These Resource Persons requested for a refresher course at HIPA since a considerable time gap has elapsed from the time they attended the ToT course at HIPA, Shimla. They also demanded that all the instructions, amendments etc. with reference to RTI Rules may also be supplied to them in normal course to keep them updated on the RTI front.

The conducted of RTI Trainings at four district headquarters turned out to be a great success in disseminating the knowledge about RTI at grass root Level. The number of participants in each district far exceeded the estimates of HIPA. District Administration in each district made all out efforts on their part to the success of these programmes by inviting participants and in arranging the requisite training infrastructure for conduct of these Courses. It will, therefore, be in fitness of things to replicate such training efforts to cover the remaining districts of the State.

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