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RIGHT TO INFORMATION ACT

A new breed of truth seekers



Shamsul Bari and Ruhi Naz

There is a new breed of fans in South Asia: fans of the Right to Information (RTI) laws in our region. These are passionate, almost fanatical, RTI activists. They live, breathe and dream of the potential of the law to change the way governments work for them, and they have made it a habit to send one or more RTI demands a day to public authorities in the country.

One such fan is Subhas Chandra Agarwal of India, who has filed so many thousands of RTI applications over the years that his name has entered the Guinness Book of World Records. Another, journalist Shyamlal Yadav, has filed more than 6,000 RTI applications, mostly to government ministries. Still another, Wing Commander Sanjeev Sharma, filed more than 5,000 RTI applications to different units of one authority alone, the Indian Navy.

When such applications arrive in government offices, they enhance awareness of the law and its requirements among a very large number of public officials. Few of these officials can now claim ignorance of the law, as many of their counterparts in Bangladesh do, almost eight years after the law was enacted.

Applications from these activists have also led to systemic changes in the work of the government. Shyamlal Yadav's RTI queries on trips made by Central Government ministers and their senior colleagues every year on public cost led to a government directive, which require such trips to be publicly monitored and recorded on open websites.

Applications like these also contributed to increasing experience and expertise of the Information Commissions (IC). The applications raised pertinent issues on interpretation of the law. The reasons provided in their decisions have enriched jurisprudence in the field.

Unfortunately, no such trend is in sight yet in Bangladesh.

The emergence of such passionate RTI fans in Bangladesh has been slow. In our efforts to seek them out, we found that many of them had given up in the face of difficulties they encountered. Not only were the concerned officials unhelpful, and sometimes even threatening, but the Information Commission itself, whose interventions they sought to resolve their difficulties, was not very encouraging.

One person who faced them valiantly and continues to fight them indefatigably is Biplob Kumar Karmakar of Comilla. Biplob claims to have filed over 150 RTI applications to different public authorities in Bangladesh. His experience tells us not only about his travails and frustrations, encountered at different stages of the RTI process, but also his unbounded joy and satisfaction whenever his efforts were able to puncture, however slightly, the wheels of corruption in our country.

Biplob had appeared in the 29th Bangladesh Civil Service (BCS) examination. The results disappointed him very much. He felt that he was a victim of grave injustice of the examiners, but could not think of anything he could do about it.

A year later, after the results of the 30th BCS examination were published, Biplob read in the newspapers that a group of aggrieved BCS examinees had attacked the residence of a university professor, who was also a member of the Public Service Commission (PSC), which conducts the BCS examinations. Apparently, the professor had taken large bribes from them to ensure better results.

Biplob immediately connected this with other news he had recently read about rampant corruption in employment and postings in public offices. He was determined to do something about it. His first mission would be to find out if he was discriminated against in his BCS exam the year before.

Around this time, he came to know about the RTI Act and its immense power to find out how public officials go about their work. He immediately filed an RTI application to the PSC asking to see the marks he was given for his written and viva tests.

He received no response to his queries from the PSC within the stipulated period, nor any for his appeal. So, he filed a complaint to the Information Commission (IC) which promptly rejected it – on the grounds that he had addressed both the applications to wrongly named persons.

Where others in his position may have given up, Biplob persisted and applied again after obtaining the correct particulars. This time too he received no response from any, which made him complain to the IC again. The complaint was accepted this time.

Several months had already passed since Biplob's first application in December 2012. The law required that the entire process be over in 75 days; in this case, more than 750 days have passed, and the information has still not been provided.

In a nutshell, the main reason for this protracted process is that the PSC is unwilling to divulge the information on the marking process, particularly for the viva and how candidates are graded for different postings. They think that the matter belongs to an exempted category of the law.

The saga of Biplob's RTI efforts is indicative of the fate many RTI users encounter in Bangladesh, when the information sought is of a sensitive nature and the IC is unwilling to pressurise a powerful authority.

At four hearings at the IC during this period, six different PSC officials testified, some contradicting the others, some saying the information was sent, some saying it could not be divulged and so on. In between, Biplob intervened several times, claiming he received no response and challenging arguments justifying delay in responding.

To its credit, the IC, had decided that the results sought by Biplob were disclosable under the law and not exempt. The PSC disagreed. Finally, after much back-and-forth, the latter went to the High Court with a writ petition challenging the directive of the IC to provide the information. The matter still lies there, as neither the IC nor the government are keen to resolve it. Biplob feels that as an ordinary citizen, he is only a cog in the wheel.

Biplob is convinced the PSC refuses to divulge his marks because it wants to hide the facts. If he had succeeded in unearthing the truth, he would have helped to reduce corruption in the country's most important public examination system. Only the combined efforts of citizens can ameliorate the situation, he thinks. And the RTI law can be a big help in this regard.

The long process he has endured in pursuit of his efforts has revealed to Biplob the many shortcomings of the system. The most important of these, he thinks, are the unwillingness of public officials to respond to RTI queries in the first place and the reluctance of the IC to penalise them for their disregard of the law. He cites an earlier verdict of the High Court which had ruled that such sanctions are mandatory.

Despite his seeming failure, Biplob is not disheartened and considers his efforts immensely worthwhile. The lengthy process resulted in a lot of publicity; many prospective RTI users

approached him for advice. So, not only did he continue to make use of the law regularly, he also helped many others to do so.

Of the more than 150 RTI applications submitted by Biplob to various authorities in the country, most relate to transparency and accountability issues. They range from corruption in the selection process of candidates for government jobs, to postings, from irregularities in the management of pension funds, to unfair charges levied upon students in schools or corruption in land registration.

Biplob claims several successes stemming from his efforts. The primary school scholarship programme, at least in his area, is now relatively fairer; the harassment of people at land record offices has reduced; and people can obtain rail tickets during festival seasons at fixed price.

Another significant achievement, Biplob claims, is that all courts, tribunals, the Supreme Court and 54 district judge courts in the country have seen the appointment of DOs and Appellate officials to cater to RTI queries, which did not exist before. He feels proud that even the Prime Minister's Office has duly responded to his RTI application.

Some disturbing developments, however, bother Biplob. Among those he helped to lodge RTI applications, some have faced physical threats from irate recipients. One was physically assaulted recently, and Biplob himself faces threats for encouraging people to use the law.

That the country is going through a transition period vis a vis RTI is obvious. Unless great care is taken to deal with the negative developments, the consequences for the system could be grave. Concerned citizens and enlightened government authorities must work together for the RTI regime to thrive. Biplobs must be seen as friends of the system, not adversaries. For RTI is essential for good governance.

The writers are Chairman, and Programme Coordinator (RTI), respectively, of Research Initiatives, Bangladesh (RIB). Email: rib@citech-bd.com