

RTI: A law that can bring joy to citizens

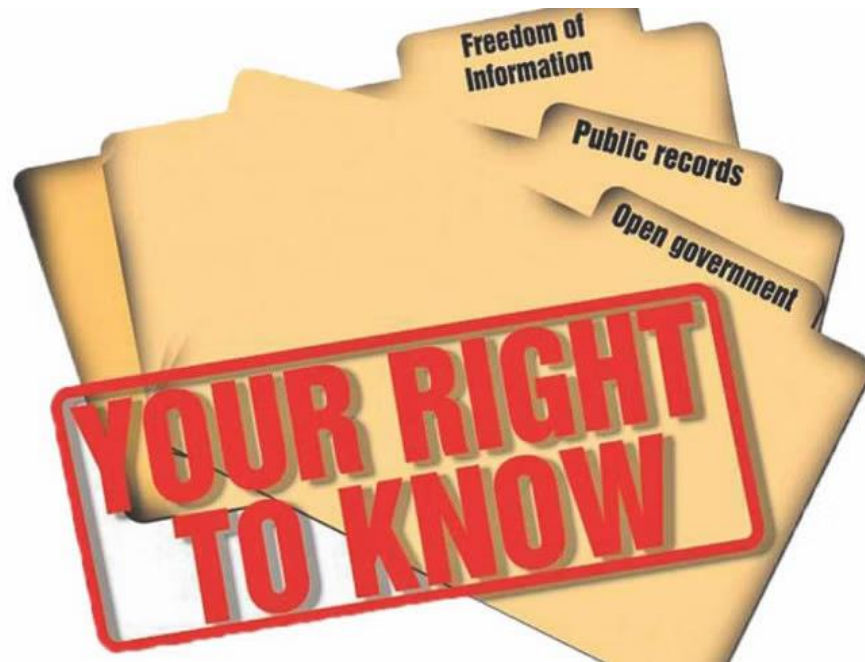


Photo: Collected

Today, we share some personal stories to show the power of law to warm the hearts of citizens who deign to use it. Often, we perceive law as something impersonal and removed from the individual, and we forget that at its heart, the law is human and personal.

Right to Information (RTI) activist Khairul Islam from Taraganj, Rangpur heard about some corrupt practices of the local Bangladesh Rural Development Board (BRDB) office from his wife who worked there. It was related to the fixed deposit accounts of employees managed by the office. He quickly dispatched an RTI application to the designated officer (DO) asking for information on the amount accrued so far in the accounts and some related matters. The DO refused to provide the information, citing Section 7 (r) of the Right to Information Act, 2009, which exempted disclosure of information of any person protected by the law.

Dissatisfied with the answer, Khairul appealed to the higher authorities of the office and got the same response. Next, he filed a complaint to the Information Commission, which initially also agreed with the DO's decision. However, Khairul insisted that

Section 32 (2) of the RTI Act overrides the exemption raised by the DO, because this was related to corruption, and he had evidence for it. The commission relented in the face of this legal argument and decided in favour of disclosure. It made many happy.

In nearby Dinajpur district, journalist Harunur Rashid from Nababganj upazila was pleased to find that the Dinajpur-Fulbari-Ghoraghat regional highway was being widened into three lanes. Signs were erected quoting a directive from the High Court that no construction should be made within 50 feet of both sides of the road. To his dismay, he found that soon after the road work was completed, construction of shops and other structures had begun. He immediately sent an RTI application to the DO of the Executive Engineer's Office of Roads and Highways Department asking what measures were being taken about enforcing the High Court directive. The response came within the stipulated period, assuring Harunur that action would be taken in the shortest possible time to demolish the new structures. He was happy to have contributed to respecting a directive from the High Court aimed at serving public interest.

In Dinajpur's Chirirbandar upazila, a group of RTI activists were upset to find that trees providing shade along both sides of the road in their area were chopped down by the Forest Department. In December 2021, they sent an RTI application to the DO of the office asking for copies of the official decision, the tender notice, and related papers. They received only some of the requested information and were told that the office did not have any other information as the concerned decision was made by the local upazila parishad. The activists appealed to the higher authorities but received no response. Finally, they complained to the Information Commission. At the hearing, the DO claimed that the requested information was not available to them. To the utter dismay of the complainants, the commission accepted the claim.

The applicants felt aggrieved by the Information Commission's decision since it could have asked the DO to find the information from whichever other office that had it, as provided under the law. How could it be that information related to such a well-acclaimed programme in the country would not be available to the relevant public offices? And the law of the land also requires that all such information be duly recorded.

As decisions of the commission are final and can only be challenged at the High Court under its writ jurisdiction, it is not certain if the matter will go any further. It falls once again to the RTI community in the country to intervene in such cases and take the law forward. In last month's column, we cited a decision of the Central Information Commission of India in a similar case, which stated, "Claim of file

missing or not traceable has no legality as it is not (recognised) as exception by RTI Act. By practice, 'missing file' cannot be read into as exception in addition to exceptions prescribed by RTI Act. It amounts to breach of Public Records Act, 1993 and punishable with imprisonment up to a term of five years or with fine or both." In other words, "I cannot find the information" is not an acceptable response.

In our next case, also from North Bengal, Nowshad Hossain of Boideshir Haat area in Chirirbandar was unhappy about sand excavation on riverbeds, causing environmental hazards. Nowshad was proud of the beauty of the area bordering the Atrai River, on which Boideshir Haat was located. He was therefore aghast at the damage to the area from continuous sand excavation by a private enterprise, which had obtained a lease for the purpose from the district administration. In August 2022, Nowshad sent an RTI request to the DO of the District Commissioner's Office asking for measures the authorities intended to take to stop the damage being caused to the area and to the surrounding riverbanks. As he received no response to his request, he sent an appeal to the Divisional Commissioner's Office. The latter, to the utter delight of the applicant and the local population, promptly replied that the excavator's permit was being cancelled.

Despite general apathy of our citizens, particularly of the more knowledgeable and educated classes, to the tremendous potential of the RTI Act, there are a handful of RTI activists and enthusiasts in the country who persevere to take the law forward with their zeal and determination. The results reveal the power of the law to bring awareness to public authorities that, under democracy, they have a responsibility to ensure that the laws of the land are respected by all concerned to serve the people and safeguard their interests. It is heartening that a number of dedicated NGOs are also continuing to bring awareness to the people about the law. We hope that the above stories will inspire others to make use of the law and take this important instrument of democracy forward.

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