

Himanshu Sekhar Das, IAS (Retd), has been State Chief Information Commissioner, Assam since December, 2014. An MA in Economics, he joined the IAS in 1982. He has the distinction of being the longest serving State Finance Secretary for nearly 13 years (2002-2014). He pioneered the financial restructuring and fiscal reforms process in Assam. It was during his tenure as Commissioner and Secretary, Cultural Affairs Department that Sattriya Dance of Assam was accorded the status of a National Classical Dance.

How do you view the Right to Information Act as a tool of functioning democracy?

Basically, democracy is not only rule by the majority. There is the right to dissent and Right to Freedom of Speech and Expression which is a Fundamental Right under Art 19(IA). To have a robust democracy people's participation is necessary. Not only on the day of the election. It is a continuous process. And the participating people have to express their views on political, economic and social life.

Now to have an enlightened opinion on issues, people need to have correct information. The underlying objective of the RTI Act is to empower the citizens of the country by making the Right to Information a reality.

How do you handle the issue of privacy in RTI?

Privacy is also a part of individual liberty which has been recently declared as a Fundamental Right under Article 21. The problem is very delicate. We receive RTI applications seeking information about another person which amounts to intrusion on privacy. There is a clash between these two Funda-

mental Rights— Right to Information and Right to Privacy. There is no law clearly defining the dividing line between these two. As a result we have to take decision on case to case basis keeping in view the public interest.

Can RTI be used against Private bodies?

RTI can not only be used against the government but it can also be used to collect information about private bodies like cinema halls, hotels, restaurants, private hospitals, diagnostic centres, private schools, colleges, private airlines, mobile companies etc. We can get information through regulatory bodies like DC, SP or any government departments or regulatory authorities who have powers under the relevant regulations to have access to this information.

Any examples where RTI could have been filed against private parties.

Yes, There were no RTI filed against the Sarada and Rose Valley companies. They were operating under regulatory bodies of the Union Finance, Commerce, Agriculture ministries. The IRDA, RBI were there. Their housing schemes were under the Ministry of Agriculture. But

the State government was blamed.

If there was any lapse, where was the lapse? Who failed? They were collecting deposits. But as a non-banking financial corporation (NBFC), they are not allowed to collect deposits. RBI regional offices are there. They could have taken action. No RTI application came. This is due to the ignorance of the people about RTI.

How many RTI applications do you receive against private parties?

We do not receive even one per cent RTI applications against private parties. Though in our day to day life private sector is all pervading. Food, transport, education, health, airlines, telecom are all controlled by private sector.

For example, a parent can file RTI to know what salary his child's teacher in school is getting, teacher's education qualification etc.

Of course, we have Consumer Redressal Forums to register grievances. We can access information through RTI which can be used in support of grievances you have.

For instance, in purchase of company shares, there are lot of benami transactions. People need information to

know the actual position. One can then file RTI to get the information through regulatory bodies like SEBI etc.

How will you describe the RTI scenario in Assam?

In Assam, RTI use is still at the level of the BDO, engineer, office level. People are yet to know that RTI can be widely used to get information on all aspects of our day to day life. During the year 2017-18, Assam Information Commission received 3907 appeal cases and 488 complaint cases (which include previous balance). Of this, 2204 and 128 cases were disposed off. During the same period, 1423 cases were returned for re-submission.

Some successful RTI cases you have handled.

There was this case involving a woman in Sivasagar whose husband had died in Chennai from cancer. He was a government employee. She claimed reimbursement of Rs 62,000 from the Health Department who lost her file. She filed an RTI. She had only one single document with her. A forwarding letter from DC, Sivasagar, with amount of claim and saying 20 enclosure are enclosed. We ordered the Health Department to pay the amount with

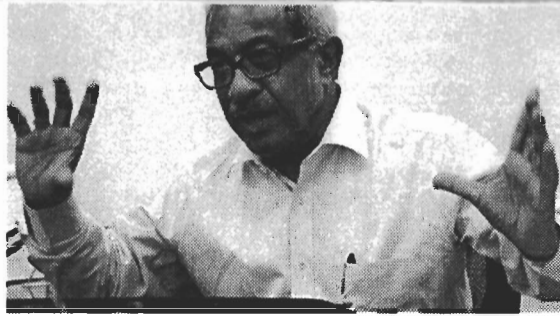


Photo: Samarendra Sarma

involved land grabbing in the city. Taking advantage of the absence of the owner, some unscrupulous elements in connivance with employees of DC office changed land documents to sell off the land. The aggrieved person filed an RTI with us. We ordered DC office to submit relevant documents to him. The illegalities were then detected and he got justice. Without RTI, he would not have got the documents he needed for his case.

We receive lot of RTIs relating to Motor Vehicles Act, mainly accident cases. Police demand money to provide documents and delay the process. We have directed the DGP to instruct SPs to facilitate early issue of necessary documents to accident victims in public interest.

Any important aspect of RTI which you feel people should know.

People should know that RTI covers the right to inspect works done, documents etc. One can ask for sample of work done— steel used in a bridge, road metalling, slopes on roads. Under RTI, you have the right to inspect work sites. You can collect samples of materials which one can use to verify during execution of order/works— to check quality of work.

We receive very few such RTIs.

RTI awareness among women and weaker sections.

Use of RTI per lakh population per year in Assam is less than one fifth of the national average. Women applicants for RTI are not even

like trafficking, gender issues, domestic violence, Government should sensitise women in villages.

Government must also create awareness among the weaker sections. Like wage, ration, PF fund issues of tea community. Diwani problem among minority community in char areas. In Sadiya, Dhemaji areas no land survey has been carried out. People should apply for Cadastral Survey, then only they will get land pattas.

Interestingly, some of our elite, educated class also ignore the RTI. They are indifferent. Even intellectuals do not use RTI for data collection. They would rather rely on the newspapers.

What recommendations have you made to the government on RTI?

We have recommended that the Record Manual should be updated. Now we have no time line. Applicants ask for old records of different vintage. All records should have time line. Record rooms should be upgraded. Permanent records like land records should be maintained properly.

Some important RTI sections relating to government.

Under RTI Act Sec 4 (IB), all offices should publicly display names of officers, staff salaries drawn — their functions and duties— Documents they issue and handle etc.

Under Sec (1C), government has to provide all documents/files leading to formulation of any policy decision. e.g. demonetisation, Art 370 abrogation etc.