



## **National Assessment of the Degree of Compliance to *Suo Moto* Disclosure Provisions of Right to Information Act – 2005**

### ***A Brief Report***

#### **1. Right to Information Act: A Landmark Legislation**

The Right to Information Act enacted in June 2005 is considered as a watershed moment in the history of public governance in independent India for the immense potential it holds in promoting transparency and accountability of public authorities by empowering people with information. The RTI Act has two major components. Firstly, it confers to individual citizens the right to access information from public authorities through a formal procedure. Secondly, it makes it mandatory for public authorities to proactively disclose certain information through various modes. Proactive disclosures are extremely crucial for facilitating freer access to information and in reducing the time and resources expended by citizens in accessing information while also reducing the administrative burden on public authorities and Public Information Officers (PIOs) in particular. The provisions for proactive disclosure, also referred to as *suo moto* provisions are stipulated in Section 4 of the RTI Act. While much of the public discussion on RTI has remained focused on citizens' application for information, the implementation of suo moto provisions has received scant attention. It is in this backdrop that Public Affairs Centre undertook a national assessment of the implementation of suo moto provisions to draw the attention of governments, policy makers and activists to this critical dimension of RTI.

#### **2. *Suo Moto* Provisions of RTI Act 2005**

The mandatory provisions pertaining to suo moto disclosures are specified in Section 4 of the RTI Act 2005. Accordingly, the publication of suo moto information should be in a manner that facilitates easy access and also should be in different forms such as website, printed material etc. More importantly, the Act stipulated a period of 120 days from the date of its enactment within which to publish such information followed by periodic updates

There are seventeen types of information pertaining to public authorities specified as “suo moto” under subsection 4 (1) (b) such as organizational structure, duties and functions, norms and procedures set for discharge of duties, details of PIOs and appellate authority, documents and records held by an authority and the ones to be catalogued and maintained in electronic form, information on policy formulation and decision making process, arrangements for public consultation, information on all schemes and programmes, budgets, annual reports including financial reports etc. Section 4 of the RTI Act is provided as annexure I.

#### **3. Objectives and focus of the National Assessment**

The main objective of the national assessment was to analyze the degree of compliance by central and state governments with the provisions related to suo moto/proactive disclosures under Section



4 (1) (b) of the RTI Act, 2005. The exercise was done based on the information published on the websites of following public authorities:

- 12 central government ministries/departments
- 16 departments of all 28 state governments except Jammu and Kashmir.
- 16 departments of all Union Territories
- Central and State Information Commissions

Local government agencies such as municipal bodies and Panchayats were excluded from the assessment as the initial search revealed that many of the city corporations of even state capitals did not have a website.

#### **4. Scope and Methodology of the National Assessment**

The national assessment was carried out between December 2008 and January 2009 over a period of two months and involved scrutiny of more than 500 websites of various public authorities for suo moto disclosures of which however, only 396 websites were functional. The assessment covered twelve central government ministries/departments such as Commerce, Agriculture & Cooperation, Urban Development, Panchayati Raj etc. sixteen departments each of the 28 state governments and the six Union Territories (UTs) Education, Health, Agriculture, Food and Civil supplies, Rural Development & Panchayati Raj, Housing & Urban Development, Labor etc.; the Central Information Commission; and the State Information Commissions of 27 state governments. The departments chosen for assessment were those generally considered as more relevant for day-to-day life of citizens. The list of ministries and departments are provided as annexure II.

The degree of compliance was assessed by giving a score of '1' for compliance or '0' for non compliance and '0.5' for partial compliance with reference to each of the seventeen items under section 4 (1) (b) of the RTI Act for each of the department/agency. If an RTI portal was present, a score of '1' was awarded and '0', if absent. Same pattern was followed if the website had been regularly updated. Thus the maximum score which means total compliance for a department/agency is 19 and, for a state government/Union Territory, it is 304. A total score of 0 for a given state/UT or central ministry/department or an Information Commission would mean total non compliance. Based on the total score obtained by a state government/other public authorities, percentage degree of compliance was computed.

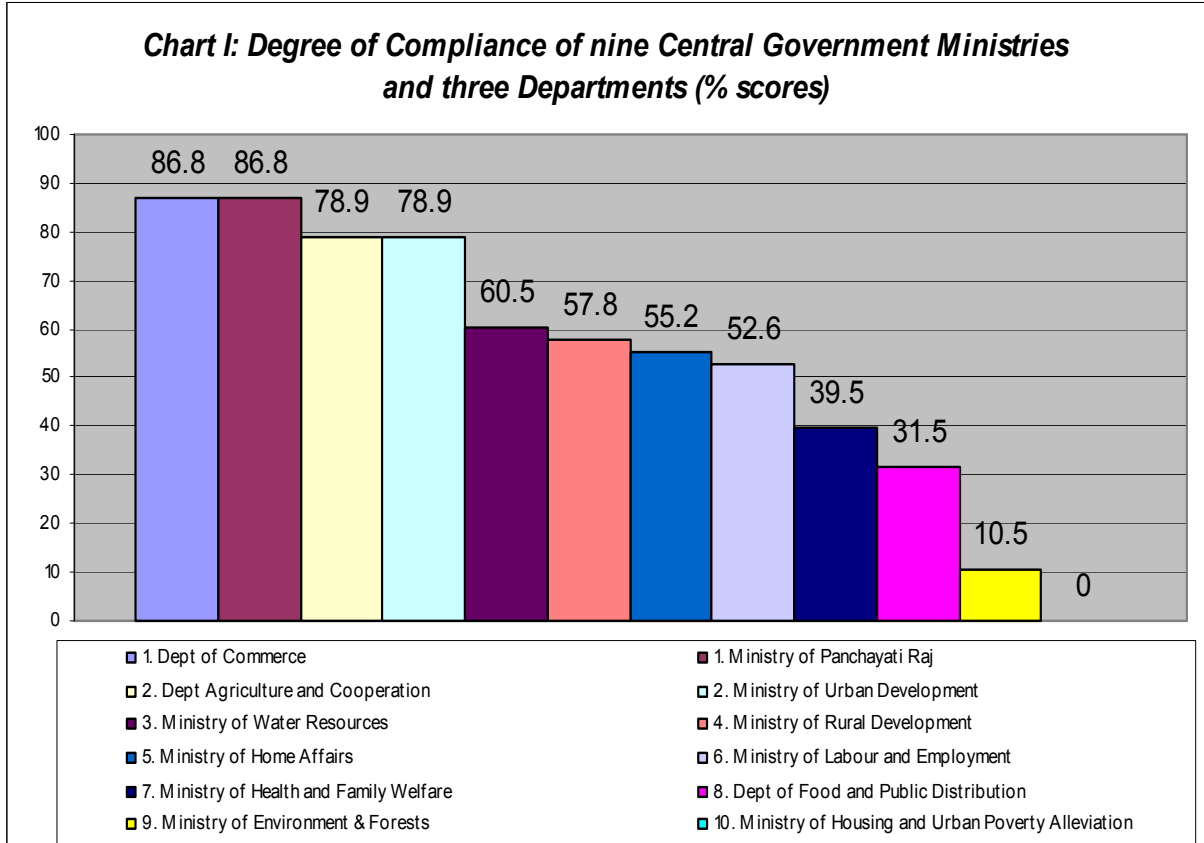
#### **5. Performance of Public Authorities with Regard to Suo Moto Disclosures**

##### **5.1. Central Government Ministries/Departments**

The average compliance percentage score for the twelve central government ministries/departments is 53% which is the highest amongst all public authorities covered in the assessment. Department of Commerce and Ministry of Panchayat Raj both top score with 87% degree of compliance followed by Ministry of Agriculture and Co operation and Ministry of Urban Development both scoring 80% degree of compliance. The lowest scorers amongst the central government ministries are Ministry of Environment and Forests (11%) and Ministry of Housing and



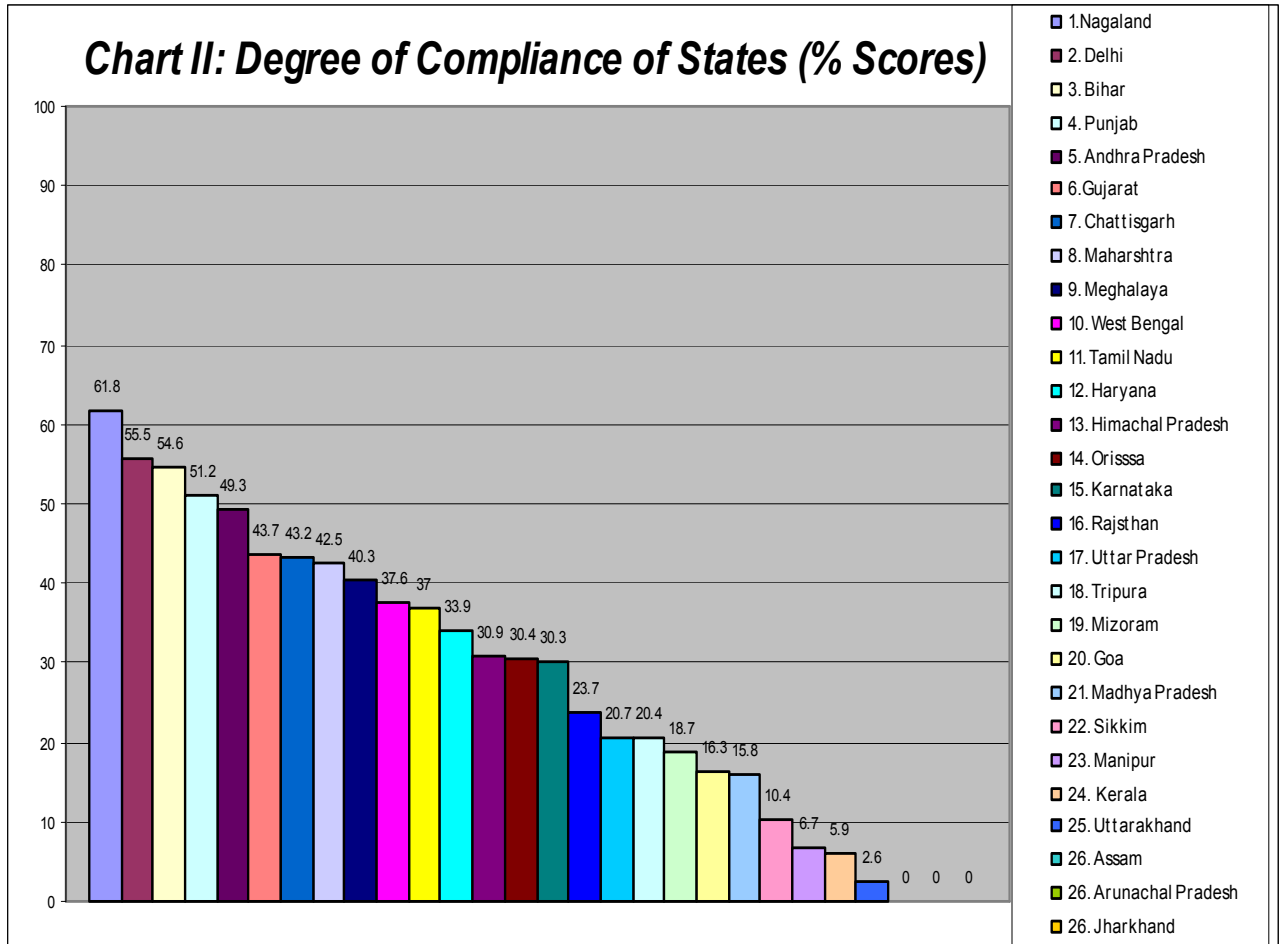
Urban Poverty Alleviation (0%). The latter was accorded a zero percent compliance score since its website contained no information whatsoever pertaining to suo moto provisions.



## 5.2. State governments:

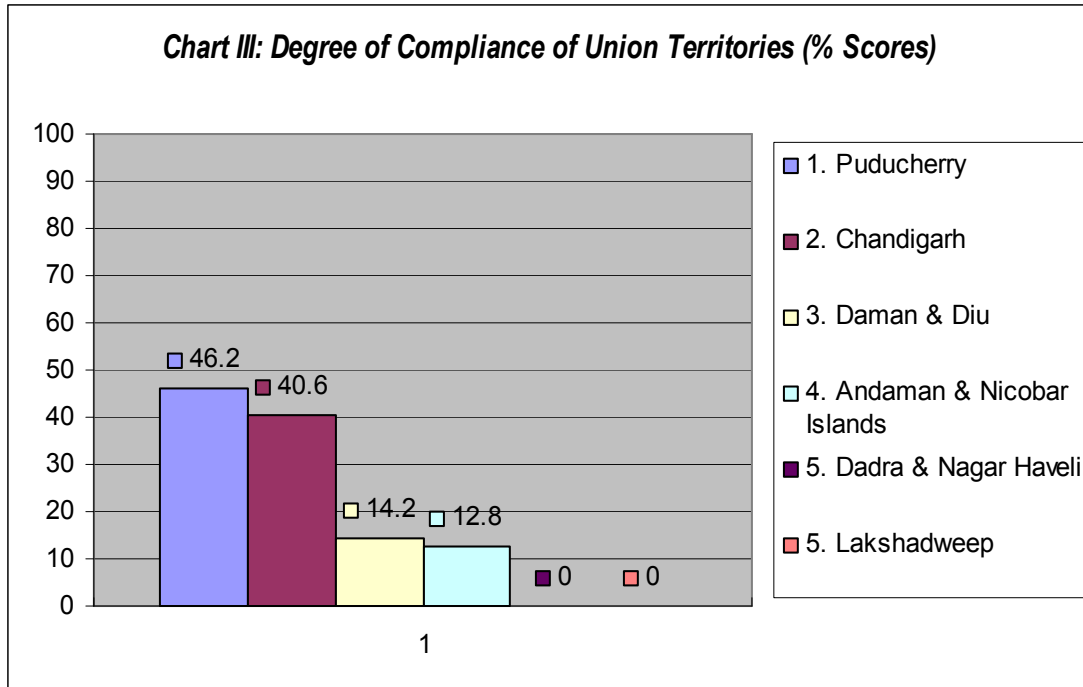
The average compliance percentage score for state governments as a whole is a mere 28% with Jharkhand (0%), Arunachal Pradesh (0%), Assam (0%), Uttarkhand (3%) and Kerala (6%), joining the list of least compliant states while Nagaland (62%), Delhi (56%), Bihar (55%), Punjab (51%) and Andhra Pradesh (49%) emerging as the top five compliant states. Karnataka, one of the leading states in information technology industry is ranked 15<sup>th</sup> amongst the 28 states with a below average performance.

The degree of compliance seems to correlate positively with the recent history of administrative reforms and particularly the e-governance initiatives. Nagaland for instance, was one of the first states to introduce e-governance reforms, where as in Delhi, it is mandatory for every department to allocate 2% of its total allocation for information technology initiatives within the department. Delhi has also been rated high on the e-readiness survey. The third most impressive performance is of Bihar which was recently conferred with the national award for e-governance for its famed “Jaankaari”, call centre for providing information under RTI Act.



### 5.3. Union Territories

With an average compliance percentage score of 19%, the performance of the six Union Territories with regard to suo moto disclosures appears to be far worse than the state governments. Dadra & Nagarhaveli and Lakshadweep (0%) have obtained zero percent compliance score while Puducherry (46%) and Chandigarh (41%) are the top scorers.

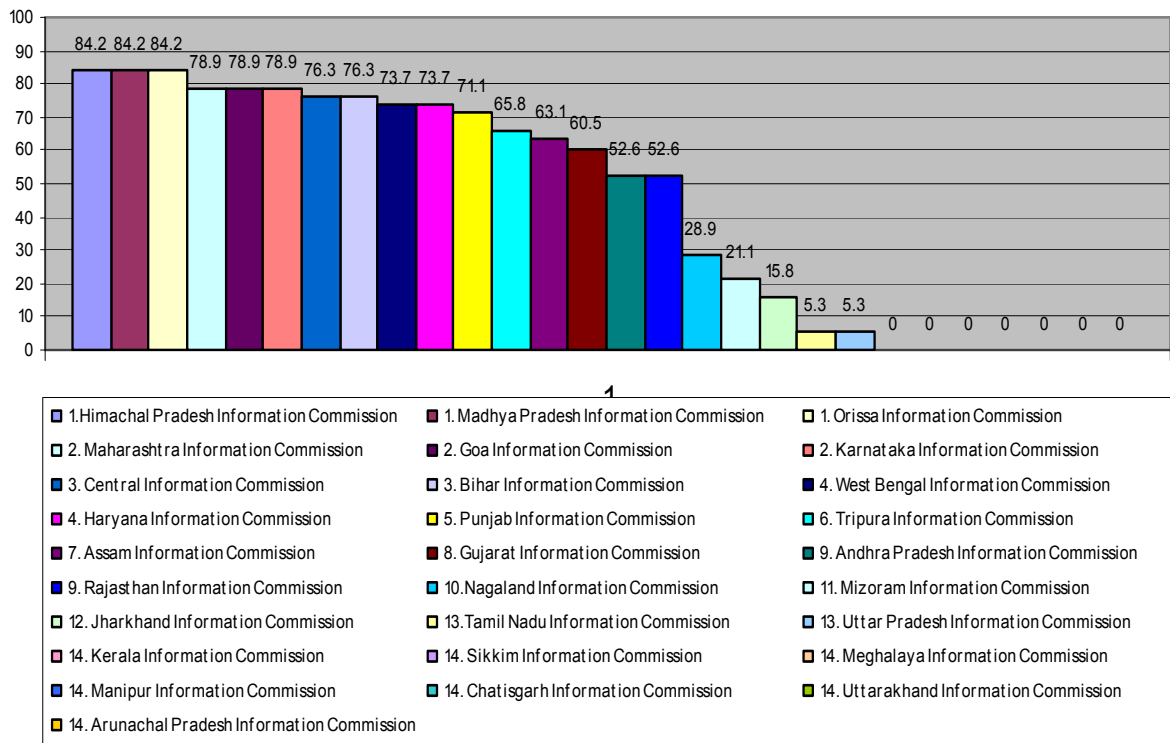


#### 5.4. Information Commissions

The combined average compliance percentage score for State Information Commissions (SIC) and the Central Information Commission (CIC) is 44%. The seven lowest performers amongst SICs are Kerala, Manipur, Sikkhim, Meghalaya, Uttarkhand, Arunachal Pradesh and Chattisgarh, all with zero scores while the top eight scorers garnering first three ranks respectively are Information Commissions of Himachal Pradesh, Madhya Pradesh and Orissa; Goa, Karnataka and Maharashtra; and Bihar and the CIC. Though the aggregate average compliance score of Information Commissions is the second highest amongst the public authorities covered in the assessment, it is still a poor performance considering that they are expected to be torch bearers in the implementation of RTI ACT.



**Chart IV: Degree of Compliance of Central and State Information Commissions (% Scores)**



## 6. Salient Conclusions of the National Assessment

- Lack of political will - low compliance rates:** Though a few central government departments/ministries and a few states and SICs have done reasonably well, the average degree of compliance is however, abysmally low ranging between 19% for Union Territories, 28% of state governments, 44% of Information Commissions and 53% for central government departments. Even after more than three years of enactment of RTI Act and the expiry of 120 days set by the Act for public authorities to comply with suo moto provisions, their performance on the whole, leaves a lot to be desired. This is a reflection of the lack of political will to empower people with information. It is yet another manifestation of the prevalent political culture which lays emphasis only on creating public glare in the enactment of comprehensive legislations without backing it with the commitment to implement them effectively. It is a matter of great concern that the RTI Act in India has failed miserably to facilitate a culture of proactive disclosure of required information within public agencies for the benefit of citizens.
- Indifference of public authorities:** Though the central ministries have done better, the low degree of compliance is a clear indication that authorities at various levels have been indifferent to the cause of empowering people with information. Considering that all the information to be disclosed as suo moto is readily available with the agencies and therefore no



additional work is involved, the laxity of public authorities appears even more stark. That state governments and union territories that are closer to the people have the lowest levels of compliance is a cause for concern.

- **Failure of bureaucracy:** The primary responsibility for compliance lies with the bureaucracy at each level of government as they are the ones who are abreast with the norms, functions and procedures of their organizations. The pathetically low degree of compliance therefore is a reflection of the failure of bureaucracy and also indicates probable lack of dedicated staff for the task of maintaining and updating websites.
- **Lack of accountability for implementation of suo moto provisions:** The laws and the rules of various state governments appear unclear in fixing responsibility for implementation of the suo moto provisions. The State Information Commissioner is entrusted with the responsibility of reporting to the State Legislature on the implementation of the Act. However, a random scrutiny of annual reports of thirteen State Information Commissions revealed that only five SICs had annual reports for one or the other years since 2005 and of which only three states had some passing reference to the implementation of suo moto provisions.
- **Wide variability in the implementation of suo moto provisions:** Though the Department of Personnel and Training of the Central Government has provided a template for suo moto disclosure, the study shows wide variability amongst various levels of public authorities in the implementation of suo moto provisions so much so that various departments of the central and state governments appear to implement the suo moto provisions in differing ways. Therefore the study concludes that there were no proper guidelines or supervision for implementation of suo moto provisions.
- **Gross underutilization of websites:** The fancied e-governance story in India reveals many shortcomings when it comes to citizen centric measures like disclosing basic and essential information. The gross under-utilization of websites as a means to publish basic information to citizens is a major disappointment. Though Website is only one of the modes of publishing suo moto disclosures, it is the most cost effective mode and the technology and skills required to set up and update websites exist all over the country. Government failure to make full use of this facility is therefore all the more surprising.
- **Public authorities to be blamed for overload:** If today, there is an overload of information demand on the system, it is to be squarely blamed on the public authorities owing to their failure to make proactive disclosure of information which in turn has placed unnecessary burden on people.
- **Learning from the leaders:** There is much to learn from better performers such as a few central government departments/ministries, Information Commissions and state governments like Delhi, Bihar, Punjab etc. in making the RTI provisions citizen centric. Be it the commitment of top political leadership or conscious efforts to leverage ICTs to make the working of the administration transparent, there is much to learn and implement.



- **Struggle for effective implementation is far from over:** The suo moto provision is an unique aspect of RTI Act with far reaching implications for transparent, accountable and democratic governance. The findings from the national assessment of websites of public authorities are a stark reminder of the miles to go in achieving the laudable cause of empowering people with information. The pointers emerging from this pioneering evaluation show that getting the RTI Act legislated is only half the battle and the struggle for effective implementation is far from over.

## 7. Key Recommendations

- **Fixing responsibility for implementation of suo moto provisions:** The findings of the study suggest that the most urgent task for both the central and state governments is to fix official responsibility for implementation of suo moto provisions within their agencies/departments. Furthermore, the governments must also put in place appropriate institutional arrangements for regular monitoring and supervision of the implementation of suo moto provisions and issue relevant guidelines in this regard.
- **Prioritize categories of information under suo moto provisions:** If publishing all the information legally mandated under suo moto provisions at once proves to be a overload, priority must be given to information most useful and likely to be sought by citizens such as those related to essential services, schemes etc. In our view, the information on terms, procedures and norms for basic services and development schemes, status of pending requests for information etc, is far more important than staff remuneration of millions of officials.
- **Cataloguing, indexing and computerization of records:** Proactive disclosures stand to gain significantly if all the government records are duly catalogued, indexed and computerized. Therefore, the process of computerization needs to be expedited as specified in section 4 (1) (a) of the RTI Act (see Annexure I).
- **Incentivizing proactive disclosure:** The abysmal compliance to the statutory provision of suo moto disclosures raises a genuine need to penalize the laggards. Necessary policy directives and legal provisions maybe enacted and enforced to deter such non compliances in future. In the same vein, awards for appreciation of exemplary level of compliance may also be instituted to encourage public authorities.
- **Periodic evaluations of compliance to suo moto disclosures:** The Central Information Commission and the SICs may also undertake similar periodic evaluations of the compliance status of various public authorities and make them public to pressure on poor performers. The emphasis here must also be on local public authorities such as municipalities and Panchayats as they are the closest to people.



## **ANNEXURE I: Section 4 of the Right to information Act, 2005**

1) Every public authority shall — (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated;

(b) Publish within one hundred and twenty days from the enactment of this Act,—

- (i) the particulars of its organization, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) a directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of recipients of concessions, permits or authorizations granted by it;
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
- (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (xvi) the names, designations and other particulars of the Public Information Officers;
- (xvii) such other information as may be prescribed and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) It shall be a constant endeavor of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo moto to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.—For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.



**ANNEXURE II: List of Ministries and Departments of the Central & State Governments & Union Territories**

<b>Sl.no</b>	<b>Central Government</b>	<b>State Government/Union Territories</b>
1	Dept of Agriculture and Cooperation	Agriculture
2	Dept of Food and Public Distribution	Food and Civil Supplies
3	Dept of Commerce and Industry	Environment and Forests
4	Ministry Environment & Forests	Employment
5	Ministry Health and Family Welfare	Health and Family Welfare
6	Ministry Home Affairs	Education
7	Ministry Labour and Employment	Election department
8	Ministry Panchayati Raj	Home/police department
9	Ministry of Water Resources	Housing and Urban Development
10	Ministry Housing and Urban poverty alleviation	Industries
11	Ministry Rural Development	Municipal Administration and Water Supply
12	Ministry of urban development	Water Supply department
13		Rural Development and Panchayat Raj
14		Transport
15		Women and Child Development
16.		Labour