
WORK PRACTICES AT AN INFORMATION COMMISSION

END TERM REPORT

JULY 2012

RAKSHAK
FOUNDATION

Under the Mentoring of
Mr. Shailesh Gandhi

By: - Nawal Kishor Agrawal
Project ID #

Preface

I am 3rd year undergraduate student of the department of Chemical engineering at IIT Kharagpur. Things going on in my surrounding has always attracted me and hence working to find out the scope of improvement in it.

This project is being done on behalf of Rakshak Foundation, an international NGO as my summer intern project. Rakshak Foundation was formed in 2006 with mission of creating a responsible society which is aware of its rights and duties. The internship program of Rakshak Foundation not only provides an opportunity to the administrators to get the ideas of one of the most intellectual brains of the country but also provide internees an opportunity to channelize their energy in a proper direction to give innovative solutions to the one of the major problems of the society.

Working as an RTI activist, I found that rate of disposal of cases in the office of one of the commissioner was 2 to 3 times than others so I chose this topic as my project as to find out those minor things which has helped the commissioner to achieve this success rate.

Acknowledgements

Apart from the efforts of me, the progress of this project depends largely on the encouragement and guidelines of many others. I would like to show my greatest appreciation to Mr. Shailesh Gandhi, Central Information Commissioner for his tremendous support and help. Without his guidance and encouragement the progress that I have made on this project would not have been possible.

I would also like to offer my sincerest gratitude to Mr. Sachin Bansal, Founder and President, Rakshak Foundation for providing necessary infrastructure, guidance and resources to accomplish my research work.

I am also highly indebted to Mr. Rohit Agarwal, Director, Internship Program, Rakshak Foundation, for his valuable advice, constructive criticism and discussion about my work.

I would like to express my special gratitude and thanks to Mr. Kunal Sharma and Mr. Pritesh Mittal, Rakshak Foundation for giving me such attention and time.

I would also like to express my gratitude to Mr. Pankaj Shreyaskar, Registrar, CIC; Mr. Rohan Mishra, Stenographer and personnel secretary to Shri Shailesh Gandhi; Mr. Ritam Agrawal, legal advisor to CIC for their continuous help and guidance.

Last but not least I wish to avail myself of this opportunity, express a sense of gratitude and love to my friends and my beloved parents for their manual support, strength, and help and for everything

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Executive Summary: -

This Report describes the working processes that have been adopted in Mr. Shailesh Gandhi's office which have resulted in a high rate of disposal of cases; reduced the time in which communications received by the office are responded to; and monitoring of Section 4 compliance has been initiated. The Report also provides examples of documents that have been referred to in the Report in the form of Annexures- such as types of responses sent by Mr. Gandhi's office, his orders, and other documents used by the office during its working.

This Report in the context of the objective to provide information under the Right to Information Act, 2005 in a time bound fashion. It also provides certain statistics with regard to disposal rate of cases amongst Commissioners.

This report also includes, the Report discusses the movement of communications or post (referred to as *dak* in the Report) in Mr. Gandhi's office- from the Central Registry to individual members of the staff. It also identifies the different types of *dak* that the office receives.

It also focuses on fresh Complaints and Appeals. It discusses the scrutiny that fresh matters undergo before they are registered; the registration process and the procedure followed once a matter is registered till the order is given.

Once Mr. Gandhi has delivered an order, the office receives a huge number of communications with regard to compliance (or non-compliance) of the order. The report also discusses each type of communication received after an order is passed and how it is dealt with/responded. It also briefly looks at certain other types of *dak* received by the office which are not related to cases filed with the Commission but fall under the purview of the RTI Act.

At last it looks at the initiatives taken by Mr. Gandhi with regard to compliance of Section 4, RTI Act by Public Authorities. It also gives an overview of the staff that works in the office and some statistics with regard to disposal of cases. It finally proposes a way forward and suggests that several measures undertaken by Mr. Gandhi's office can be replicated by Information Commissioners across the country.

1. Introduction

1.1 Background Information: Mr. Shailesh Gandhi took charge as Central Information Commissioner on 18 September 2008. He brought with him the conviction that for the rule of law to be upheld, the legal system has to function in a timely manner and justice has to be delivered in time. If justice is delayed then the rule of law becomes a fiction and the citizen is denied his rights in a democracy.

With this in mind, Mr. Gandhi along with his staff have been trying to improve the processes of the office to facilitate better management of cases and ensure a speedy justice delivery system. The office initially had to work towards reducing the pendency of the cases. As the office has managed to reduce the number of pending cases, it is now striving to achieve a much more efficient system of management. This Report is an attempt to capture the functioning of this office.

The fundamental premise on the basis of which this office works is that law is time bound. For the information to be useful we have to ensure that it is made available within a reasonable period of time. One of the biggest strengths of the Right to Information Act, 2005 is that it requires information to be provided within a reasonable timeframe. If cases are not disposed within this timeframe the spirit of this Act is severely undermined. The importance of the time element in this Act is apparent when one looks at the penalty provision in Section 20 of the Act. In fact, to ensure timely response by the Information Commission, the first RTI Bill of 22nd December 2004 had a provision that the Information Commission would dispose a case within thirty days. However, this provision was dropped at the last moment, without any explanation. Mr. Gandhi's office believes that a timely response is essential and therefore makes strenuous efforts to ensure that cases are disposed within ninety days.

1.2 Main Problems, their scope and impact on the society: An Information Commissioner costs the Nation about **25 Lakh Rupees** annually. The average yearly disposal of Information Commissioners across the country is around **600**, thus the Nation is spending an astounding amount of over **Rs. 4,100** per case only on the Commissioner. This of course is only a part of the expenditure on each case as it does not include costs to maintain an office, infrastructure etc. If however a Commissioner could achieve an average disposal rate of **4000 cases** per year, the nation would spend **Rs. 625 per case** on the Commissioner.

Mr. Gandhi's office has achieved an average monthly rate of disposal of **535** during 2009, with disposal of 3212 cases in the first six months of 2009. Mr. Gandhi is not the only Commissioner to have achieved such figures. Ms. Annapurna Dixit, Central Information Commissioner, has achieved an average monthly disposal rate of **345** cases by clearing 2070 cases in the same period. Setting a target of 4000 cases a year, and achieving an average monthly disposal of **330-340** cases, is not an impossible task and Mr. Gandhi's and Ms. Dixit have proved it consistently.

The phrase 'justice delayed is justice denied' can be read as 'information delayed is information denied'. The RTI Act mandates that information be provided with a specific timeframe. Under Section 20 (1), a Public Information Officer is penalized @ Rs. 250/- per day of delay in providing the information. The Commission should also be able to deliver a judgment in a timely manner. A Commissioner should be able to dispose about 350 to 400 cases a month, if the working is systematized. Current available data of the Commissions all over the country does not reflect a figure of even 50% of this number.

Appeals and complaints filed with the Commission will only increase over time and if Commissions across the country continue to work the way they are currently working, it will be very hard for even ten Commissioners- the limit specified by the law- to cope with this influx of RTI Act users. If the Commissioners are not able to cope with the number of cases and take more than three months to dispose the cases- as is the trend at present- the Act would be rendered ineffective by the very entities which have been constituted to protect and promote the objectives of the Act.

The responsibilities of all Information Commissions go beyond the timely and just disposal of cases. The Commissions are also expected to ensure that obligations under Section 4 are met by public authorities and monitor public authorities to develop an attitude that promotes transparency and better governance. Furthermore, as a government body, we believe that it is important to attempt to reply to most communications received from citizens as soon as possible. Given the multiplicity of responsibilities, the Commissions cannot work efficiently and effectively if they do not reform their current working processes.

In the past eight months, Mr Gandhi's office has tried to accomplish the first goal that aims at timely disposal of cases and reduces pendency. The pendency of cases is 618 at the end of June 2009. The next objective of the office is to dispose most cases within sixty days, and take appropriate action on any communication received within four working days of receipt.

1.3 Goals and Objectives: The purpose of this Report to capture the measures initiated and the processes followed in Mr. Gandhi's office which have resulted in the disposal rate of cases of over 500 per month. These measures are easily replicable and it is hoped that Commissioners across the country may adopt some of these working processes in their offices to achieve a higher rate of disposal and increase efficiency of the system. We would also like to take this opportunity to extend an invitation on behalf of Mr. Gandhi to anyone who would like to come and spend few days with his office to examine and learn more about the processes discussed in this Report.

2. Methodology:

2.1. Literature Survey

A lot of literature is available on public Right to Information act and various stages of appeals. Many RTI activists have also suggested various steps which needs to be taken to strengthen Right to Information which gives a good idea about loopholes of the system. I mainly studied following research papers/bills/books for my research purpose:

- The Right To Information ACT, 2005.
- Various applications for second appeal filed at CIC.
- Some handbooks on RTI.
- Complete report on various steps by which the application has gone before coming to CIC.

2.2. Field Visits

Date of the Visit: 09.05.2012

Suggested/Referred By: Shri Shailesh Gandhi

Name of the person Mr. Pankaj Shreyasker, Registrar, CIC

Visit No.: 01

If more Trips required to the same organization: No

Duration and Timings of Discussion: 2:00PM, 30 minutes.

Goal of the visit:

1. To get the idea of administrative part of the Central Information Commission.
2. To understand the works of CIC other than hearing second appeal.

3. To understand the complete process of a letter becoming file and then second appeal being arranged for that particular application.

Goals Met:

1. Got to know the other workings of Central Information Commission.
2. Had a brief discussion on how exactly we can improve the awareness of RTI in common citizens.
3. He showed and introduced each and every step of how a second appeal is arranged after receiving application for the same.

Date of visit 18.05.12

Name of the person Mr. Ritam Agrawal, Legal Advisor, CIC

Visit No.: 02

If more Trips required to the same organization: May Be

Duration and Timings of Discussion: 11:00A.M, 35 minutes.

Goal of the visit:

1. Complete understanding of how paperless working is being carried out at CIC.
2. To get various statistics of number of cases being disposed, number of PIO's who have been issued Show Cause notice and fine imposed due to non-compliance to the notice.
3. To have the interaction with other interns at CIC..

Goals Met:

1. Got to know the works done by other interns working at CIC.
2. He provided me various statistics which are shown in the report above. We also had discussions on how can we improve the rate of disposal in other offices.
3. He showed and introduced each and every step of how a second appeal is arranged after receiving application for the same.

2.3 Meeting with mentor

Discussions 1:

Date: May 2, 2012

Time: 3:15 PM

Duration of Discussion: 35 minutes

Discussion:

1. Mentor asked to understand the whole process of application.
2. Also to take some photographs and videos as to prepare a documentary
3. Work on to discover the new ways to increase awareness of Right to Information.
4. Try preparing summaries of the cases which are to be held in upcoming days.

Action Items before next discussion please include timeline:

1. Prepare a documentary which shows the simplicity of the process of second appeal at Information Commission. (10 days)
2. Prepare at least 5 summaries and submit it so that my understanding of cases can be checked by my mentor. (2 days)
3. Try preparing a list of the institutes, commissions which have not disclosed information in their websites under suo motto section of RTI act.

Discussions 2:

Date: May 16, 2012

Time: 11:35 AM

Duration of Discussion: 25 minutes

Discussion:

1. Discussions on Citizen Charter of the CIC, its importance and how we can get it implemented.
2. Reasons of the rate of disposals being show high in his office as compared to other offices.

3. Asked me to be present in a hearing and understand the expectations of Appellant and Public Information Officer.

Action Items before next discussion please include timeline:

1. Prepare a documentary on how easy it makes your tasks when you start paperless working by showing demo of the software being used by CIC.
2. Research on Citizen's Charter of CIC which is currently in draft stage [2 hours]
3. Try searching possibilities of setting up a call centre from which people can get information regarding RTI just on a call.

Discussions 3:

Date: June 4, 2012

Time: 1:15 PM

Duration of Discussion: 40 minutes

Discussion

1. Discussions on the citizen charter prepared and how we can enforce CIC to implement it.
2. Discussions on the concept of RTI Anonymous and roadblocks of it.
3. Research on to setup an SMS based RTI filing service.

Action Items before next discussion please include timeline:

1. Record some of the hearings and upload it in public domain to give a taste of hearing to a common citizen. [5 days]....
2. Start preparing final report by which we can show other Information Commissioners and other Government officials that how to make government offices effective and efficient.

3. Current NGO and Govt. Efforts:

Movement of Dak in the Office

In this Part, the report traces the 'path' of any new *dak* (post) that is received by the office.

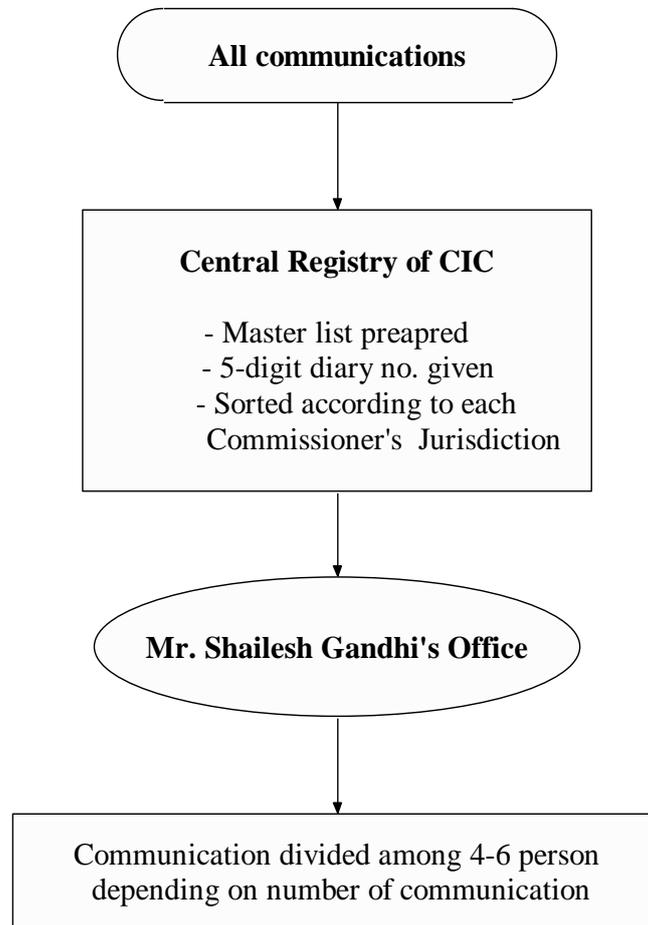
Dak (post) is written communications received by the Central Information Commission. *Dak* is received for all the Commissioners at a central office of the Commission situated in the Old JNU campus, New Delhi. A master list of *dak* received is prepared, a five digit diary number is given, sorted according to the public authority/department to which it relates, and is then sent to the appropriate Commissioner's office. At Mr. Shailesh Gandhi's office *dak* is received once a day in the afternoon. Most *dak* would fall under one of the following categories:

1. Fresh Complaints (under Section 18, RTI Act)
2. Fresh Appeals (under Section 19, RTI Act)
3. Communication from Complainant/Appellant claiming non-compliance of the Commission's Order
4. Communication from PIOs wherein he is sending information to the Appellant/Complainant and the covering letter (with or without the information) is copied to the Commission.
5. Written explanation sent by the PIOs in response to a show cause notice sent by the Commission
6. Request for review of the Commission's Order
7. Written submission sent by Appellant/Complainant/PIOs before the hearing
8. Request for adjournment sent by Appellant/Complainant/PIOs before the hearing
9. Letter from Appellant/Complainant withdrawing the Appeal/Complaint
10. Queries with regard to RTI Act
11. Communication in relation to Section 4 compliance
12. Communication in relation to monitoring
13. Communication which has no file number and a file number cannot be traced (e.g. Copies of RTI Applications copied to the Commission for information; decisions by FAAs; response from the PIO)
14. Communication from other Commissions
15. Representations, suggestions, copies of communications to other offices

Once the *dak* is received by the office, one member of the staff cross-checks the *dak* received with the master list of *dak* that has been allotted to Mr. Gandhi's office on that day. The *dak* is then divided between 4-6 persons; each person is given 10 to 20 *daks* unlike conventional organization of

Commissioner's office there is no separate concept of Registry and personal staff. Most of the staff members are trained and encouraged to take up the various functions in the workflow.

FIGURE 1: FLOW OF COMMUNICATION



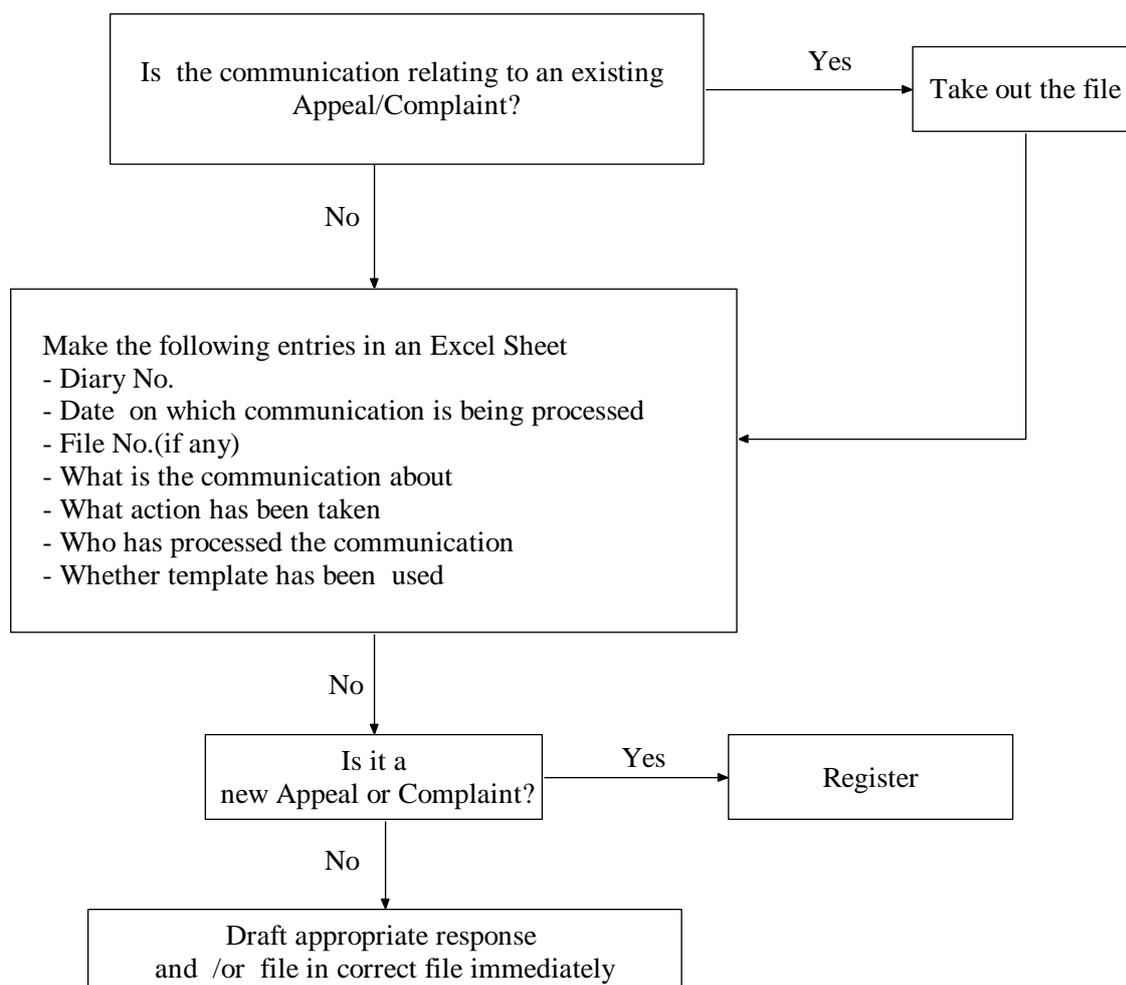
Once a person picks up a *dak* the first step is to figure out whether it is with regard to an existing case or not. If it is with regard to an existing case, the file is taken out. Next, following entries are made in an Excel spreadsheet with regard to each *dak*:

1. Diary Number
2. Date of receipt (date on which the *dak* is being processed)
3. File number
4. What is the document about?
5. What action has been taken?
6. Who has processed the *dak*?
7. Whether a template has been used?

It has been found that certain types of *dak* require a standard response with appropriate changes made to names and designations as well as dates. More than twenty five templates have been prepared for this reason to reduce the redundancy in the amount text to be typed out each time. These templates have been provided as Annexures in subsequent Chapters of this Report where various types of *dak* have been discussed. In case a template does not exist to respond to a particular *dak*, lawyers in the office help other staff members to draft responses. For instance, where information about the implementation of the RTI Act is sought, special responses have to be drafted. Some cases, especially those of non-compliance and responses to show cause notices, are discussed with Mr. Gandhi, before a response is drafted.

Figure 2 explains these actions taken after the *dak* is received in the form of a flow chart.

FIGURE 2



A standard instruction to all members of the staff handling the *dak* is to process *dak* given to them within 24-48 hours. If a response has to be sent, the same is prepared simultaneously (after discussion with Mr. Gandhi and the lawyers, where necessary). The *dak*, if relating to an existing case is then immediately filed in the appropriate file and the file is put away. This is done to ensure that each *dak* is recorded properly.

Total *dak* (post) received by the office per month on average is a little more than **1600**. Statistics for March to June 2009 are given in **Table I**:

TABLE I: Statistics for *dak* received from March to June 2012

Month	<i>Dak</i> received	Average <i>dak</i> per day (<i>Dak</i> received/24 working days: rounded off to nearest decimal)
March 2012	1537	64
April 2012	1746	73
May 2012	1693	71
June 2012	1287	54

Fresh Complaints and Appeals

In this part, the focus is on fresh Complaints and Appeals registered by this office. Cases that have been transferred from other Commissioners to this office are treated in a similar manner.

BEFORE REGISTRATION

While processing *dak*, if it is found that it is a fresh matter which has been sent to the Commission for registration, the following **steps are taken before registration**:

First step is to check whether the concerned governmental body is a public authority for which Mr. Gandhi has charge or if the non-governmental entity may fall within the jurisdiction of a public authority for which Mr. Gandhi has charge. In rare cases, the *dak* (post) may have to be sent back to the Registry if it relates to a public authority which is not in Mr. Gandhi's charge. The Registry then forwards it to the concerned Commissioner's office. Post which relates to a State Information Commission is forwarded to the concerned State Information Commission.

Second step is to identify the documents sent by the Appellant/Complainant. Following documents, if on file, are flagged and the dates of the documents are written on the flag:

1. RTI Application
2. PIO's reply
3. First Appeal
4. Order of the First Appellate Authority

If the RTI Application is not attached, then the *dak* is sent back to the Appellant/Complainant with a covering letter asking the person to send the RTI Application and any other relevant documents. A template has been prepared for such a situation. A copy of the template is attached with this report as **Annexure I**. Appeal /Complaint Format is also sent along with the covering letter. A copy of this format is attached with this report as **Annexure II**.

Third step is to decide whether the fresh matter is an Appeal or Complaint. Complaints are filed under Section 18 and Second Appeals are filed under Section 19 of the RTI Act. To decide the following **Table II** is being used:

TABLE II: Complaint or Appeal?

WHAT DOCUMENTS HAVE COME TO US?	TYPE OF FILE
Only RTI Application	COMPLAINT
RTI Application+ PIO's reply : No First Appeal has been filed	COMPLAINT
RTI Application +First Appeal : No Reply from PIO or Order of FAA	COMPLAINT
RTI Application +PIO's reply + First Appeal has been filed	SECOND APPEAL

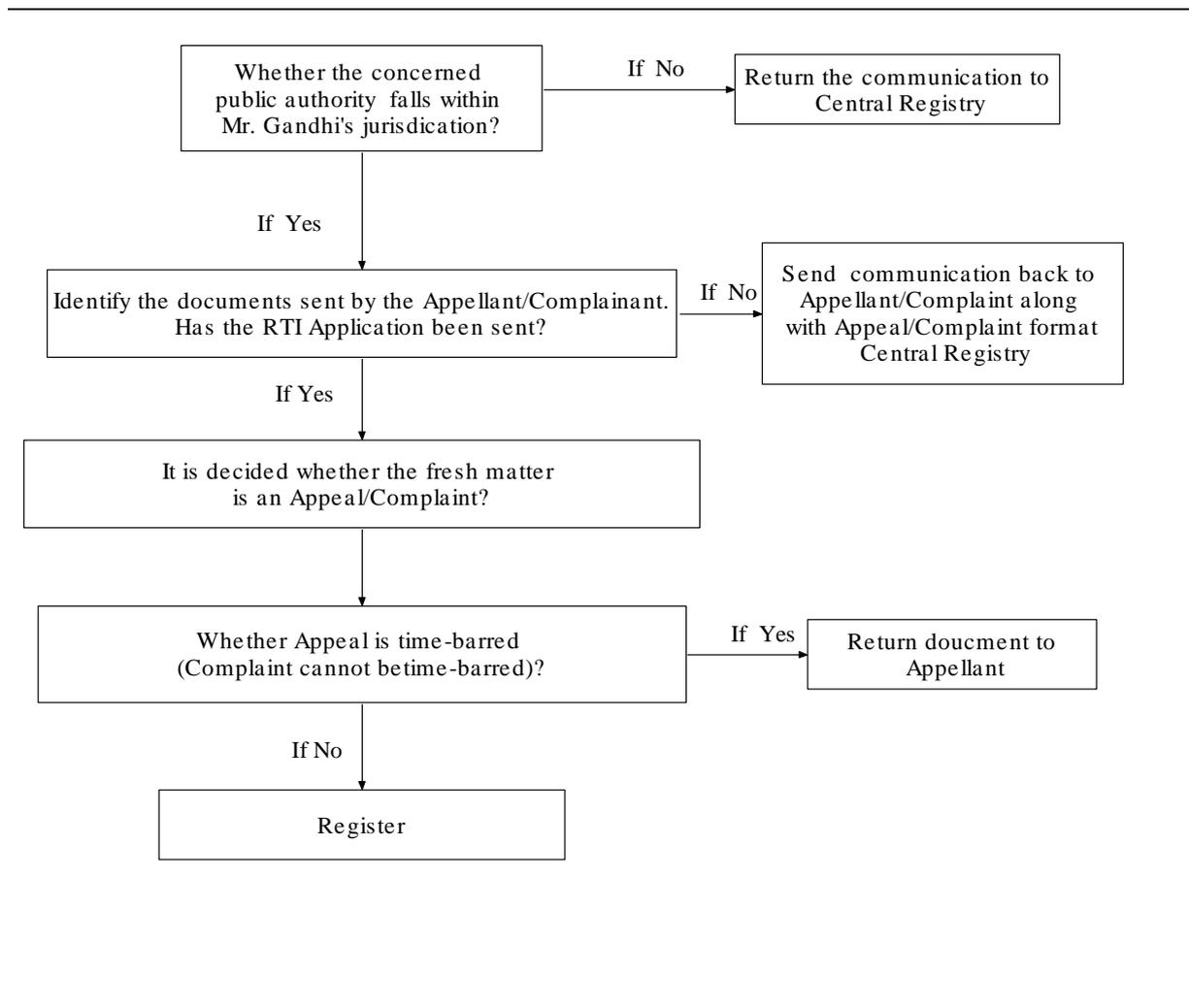
Fourth step is to see whether the fresh matter is time barred. There is no time bar for Complaints. An Appeal is considered time-barred if-

- 120 days have passed since the date of the First Appeal
- 90 days have passed since the First Appellate Order passed it order

If the Appeal is found to be time barred, the documents are returned to the Appellant with a covering letter

The aforementioned four steps have been represented in a flow chart in **Figure 3**.

FIGURE 3 : STEPS INVOLVED IN CASE OF COMPLAINT CAN BE TIME-BARRED



REGISTRATION

Once these steps have been followed, the Appeal or Complaint, as the case may be, is registered on the online registration system at www.rtiadmin.nic.in. Once the file has been registered, the file number is written on top and a physical file is created and the documents are filed in that. It would be ideal if a summary of an Appeal is made simultaneously (*for file summaries- see Part III*). But this system has not been implemented as yet.

TABLE III: Complaints and Appeals registered from January 2012 to June 2012

MONTH	APPEALS REGISTERED	COMPLAINTS REGISTERED	TOTAL REGISTERED	# NUMBER OF CASES NOT REGISTERED & RETURNED
January	150	75	225	7
February	161	90	251	9
March	315	127	442	17
April	333	103	436	14
May	376	184	560	20
Total	1330	579	1986	67

-for completely improper appeals or complaints

AFTER REGISTRATION

Once they are registered, Complaints and Second Appeals follow different 'paths' in the office. It is a conscious decision on part of Mr Gandhi to make this distinction. Hearings are scheduled for Second Appeals. Hearings are not scheduled for Complaints unless there are certain exceptional circumstances (*which have been discussed below*). This is in consonance with rules of natural justice.

Rules of natural justice require that a person against whom an action is proposed to be taken must be given an opportunity to be heard. However, this hearing may be through written representation or oral presentation. An oral hearing is not necessary in every case. There is no right to oral hearing unless such a hearing is expressly prescribed or unless the context indicates that without such a hearing the person cannot adequately present his case.

APPEALS

i) **Summary**

After a Second Appeal is registered a summary is prepared. The summary is used as a preface to the order given by the Commission. The summary is available to Mr. Gandhi from at least a week before the date of hearing. The summary is also open on his desktop during the hearing and he can at any time refer to the documents which are also in front of him. Reading the summary helps Mr. Gandhi to get a gist of the case before the hearing. It also serves as a ready reference for someone reading the order subsequently, who does not have access to the file. Following information is summarized and included in the summary:

- Important dates
- Information sought in the RTI application
- PIO's reply
- Grounds for First Appeal
- First Appellate Authority's Order
- Grounds for Second Appeal

The template used to make such summaries has been attached to this Report as **Annexure IV**. Headings for 'Relevant facts arising during the hearing' and 'Decision' are added at the end of each summary which are filled during the hearing and once the decision is taken. The office in some cases receives written submissions from either/both parties before the hearing; especially in cases where the party/parties have requested for an adjournment. If these submissions are received by the office before the date of the hearing, the submissions are summarized and included in the summary.

ii) **Scheduling a hearing**

Once the summary is prepared for a case, it is scheduled for hearing. A copy of the Schedule of Hearing for 1st to 30th June 2009 has been attached to this Report as **Annexure V**. A notice is then sent to the Appellant and the PIOs requesting them to be present for the hearings. A copy of a Notice of Hearing is attached with this report as **Annexure VI**. Each case is given one of the following hearing time: 10 am, 11:30 am, 2:30 pm and 4 pm. On Monday, Wednesday and Friday 20 hearings are scheduled each day. The hearing schedule also takes into consideration Mr. Gandhi's other commitments like meetings with the other Information Commissioners and Full Bench hearings. A general distribution of cases in a day is as follows:

TABLE IV: Number of Hearings per day

TIME SLOT	NO. OF HEARINGS
10.00 am	7
11.30 am	5
02.30 pm	6
04.00 pm	2

The notice of hearing is generally sent 25 to 45 days before the date of the hearing.

iii) **Hearing**

On the morning of the hearing all the files pertaining to the cases that are scheduled for hearing are placed on Mr Gandhi's table for his reference. He takes a look at the summaries; referring to the files where required, before the hearings start. When the Appellants and PIOs arrive at the office, they first sign an Attendance Sheet which is with the Assistant Registrar. There is a Visitor's room and coffee, tea and water is available for the Appellants, PIOs and persons accompanying them.

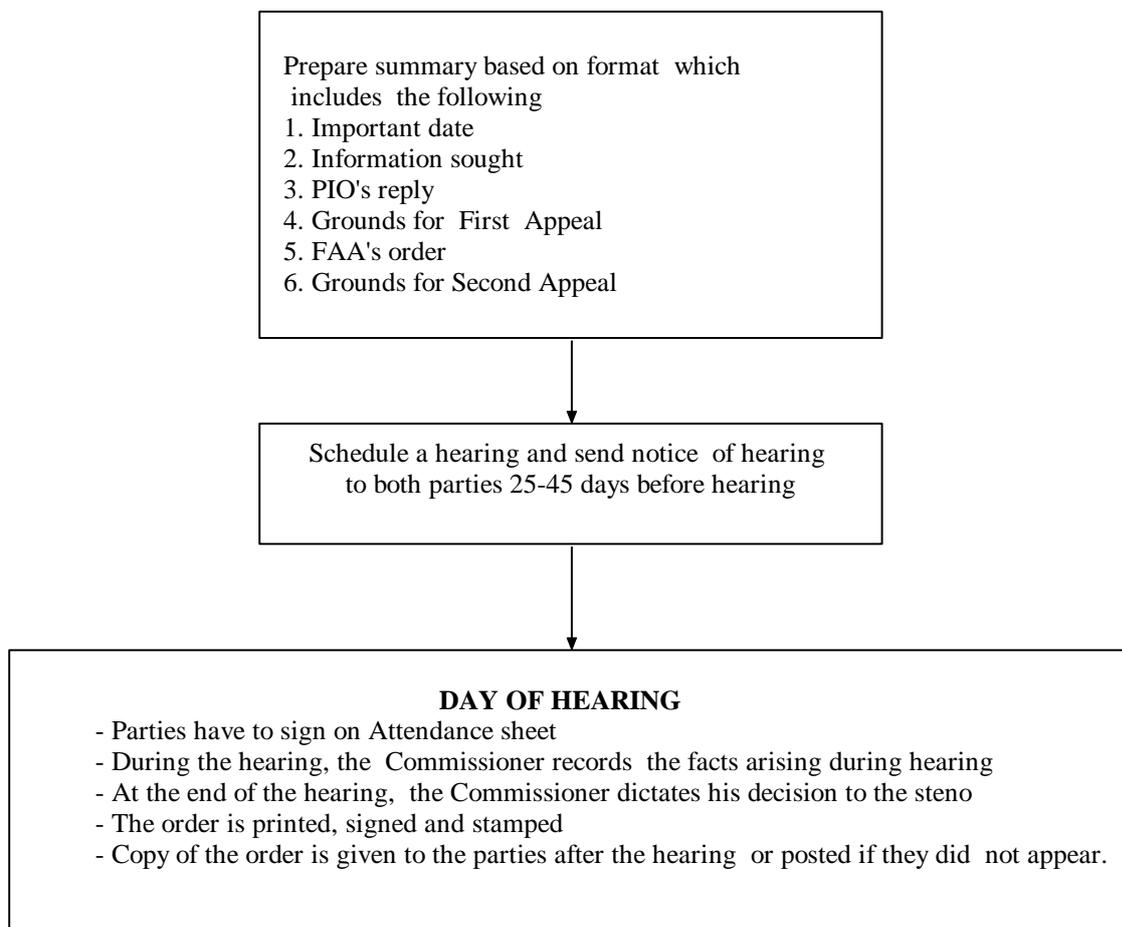
Hearing starts at 10 am and the first case where both parties have arrived is heard first. All cases in the same time slot are then heard in a random order. In some cases, one party may get in touch with the office over telephone to inform that it is on its way; in which case efforts are made to keep postponing the hearing till the party arrives. However, the convenience of the other parties is also kept in mind.

During the hearing, the Commissioner gives both parties an opportunity to present their relevant facts, views and arguments. Mr. Gandhi also looks at the papers relating to the case when required. The names of the persons present during the hearing and the facts emerging during the hearing are recorded by Mr. Gandhi's stenographer in continuation of the previously prepared summary. After listening to the views/arguments presented (if any), Mr. Gandhi dictates his decision to the stenographer who directly types on the computer. Four copies of the Order (which constitutes of the summary along with the relevant facts arising from the hearing and the decision) are printed and signed by Mr. Gandhi immediately. The average time taken for each hearing (including giving the decision) is approximately **fifteen minutes**. In some cases (less than 5%), orders are reserved and delivered on a later date after due consideration to the matter.

The copies of the Order are then given to the Assistant Registrar who puts an official stamp on the decisions. The appellants and PIOs present for the hearing take the decisions with them. When appellants or PIOs are absent, the orders are posted to them. Copies of two orders delivered by Mr. Gandhi are provided in **Annexure VII** and **Annexure VIII**. The average time an appellant or PIO has to spend at the Commission is around 70 minutes and the maximum time is rarely over 130 minutes.

The process of deciding an Appeal as explained above has been represented in a flow chart in **Figure 4**.

FIGURE 4



Adjournment of hearing

To ensure timely disposal of cases, Mr. Gandhi generally does not accept a request for adjournment. This is mentioned in the Notice of hearing as well and parties are asked to send their written submission at least two days in advance if they are unable to attend the hearing for any reason. Rule 17 of the Central Information Commission (Management) Regulations 2007 provides that-

*'The appellant or the complainant or any of the respondent may, for just and sufficient reasons, make an application for adjournment of the hearing. The Commission **may** consider the said applicant and pass such orders as it deems fit.'*
(emphasis added)

Furthermore, Rule 15(v) of the Central Information Commission (Management) Regulations 2007 provides that the-

'If an Appellant or Complainant at his discretion decides not to be present either personally or through his duly authorised representative during the hearing of an appeal or complaint before the Commission, the Commission may pronounce its decision or Order in the matter ex parte'

Re-scheduling/adjourning a hearing

A hearing may be re-scheduled for a later date in a case where both parties did not come for the hearing and the records on the file are not clear enough for Mr. Gandhi to reach a reasoned decision. Sometimes, during a hearing if some facts come to light, which need a clarification, an adjournment is given. The other reason for adjournment is when a notice needs to be given to a third party for a hearing.

COMPLAINTS

A Complaint is registered in **four** situations:

1. When the PIO has not replied and the Complainant has directly approached the Commission
2. When the PIO has not replied and the First Appellate Authority has also not given an Order
3. When the PIO has replied and the Complainant has directly approached the Commission
4. When a Complaint is filed with regard to obligations of public authorities under Section 4, refusal to accept the RTI application or for levying excessive additional fees.

According to the situation, the Complaint follows a different 'path' and this is described below:

1. When the PIO has not replied and the Complainant has directly approached the Commission

In such cases, it is believed that a more effective way of handling the matter is to send a notice signed by the Commissioner to the PIO giving him twenty five days' time to provide the information and comment in thirty five days why there has been a delay in sending the information. A copy of the RTI Application is enclosed with the notice. A copy of the notice is forwarded to the Complainant. The template of the notice is attached to this report as **Annexure IX**. Such a notice gives adequate opportunity to the PIO to respond to the Complaint before the Commission gives its decision.

After the issuance of the notice, there are four possibilities:

First, that the PIO replies stating that he has provided the information to the Complainant within the 30 days of the original RTI application and provides proof of the same. In such a case, the Complaint is **disposed off**. In some cases the PIO sends proof to show that for valid technical grounds the RTI Application was rejected and the Applicant had been accordingly informed. In such cases, the case is dismissed.

Second, the PIO replies stating that he has sent the information to the Complainant after receiving the notice of the Complaint from the Commission. In such a case, the Complaint is **allowed**. Once a Complaint is allowed the Commission may ask the PIO to give a written explanation or appear before the Commission with written explanation to show cause why penalty should not be levied on him/her for defying under Section 20(1), RTI Act.

Third, the Complainant sends a letter showing non-compliance of the Commission's notice. The Complaint is **allowed** and a show cause notice is sent to the PIO directing him to appear before the Commission with written explanation to show cause why penalty should not be levied on him/her for defying under Section 20(1), RTI Act.

Fourth, the Respondent sends a letter stating that it is not a public authority and is therefore not under an obligation to disclose information. In such cases, two letters are sent. One is sent to the Complainant directing him or her to give proof of why the Respondent party is under an obligation to disclose information under the RTI Act. The second letter is sent to the Respondent party asking it to give the following information based on Section 2(h), RTI Act:

- (1) Establishment of the name of the organisation:
 - (a) Whether by a law made by parliament or state legislature
 - (b) Whether by any notification or Order made by government

- (2) Whether the name of the organisation is
 - (a) Controlled by the government
 - (b) Substantially financed directly by funds given the government
 - (c) Substantially financed indirectly by funds given the government

Based on the response received by **both** parties, the Complaint is either allowed or dismissed.

2. When the PIO has not replied and the First Appellate Authority has not given an Order in the stipulated time

In such cases, the Commission follows the same 'path' as in cases in situation No. 1 discussed above. If it is found that valid grounds for a Complaint exist, a notice is sent to the PIO and he is directed to provide the information within 30 days.

3. When the PIO has replied and the Complainant has directly approached the Commission

In such cases, the Commission remands the matter to the First Appellate Authority (FAA) as the alternate and efficacious remedy of First Appeal available under Section 19 (1), RTI Act has not been utilised.

4. When a Complaint is filed with regard to obligations of public authorities under Section 4

In some cases the Complainant is not filing a complaint with regard to the PIO's reply (or no reply) to the Complainant's RTI Application; but instead is pointing out non-fulfillment of the public authority's obligations under Section 4, RTI Act. In such cases, after looking into the matter, if it

appears that there is a clear case of violation of Section 4 obligations, the Commission gives an Order directing the head of the concerned public authority to ensure that obligations under Section 4 are met by a particular date. The Commission also directs the public authority in such cases to send a report to the Commission by a stipulated date on the action taken with regard to Section 4 obligations.

Three examples of such Orders are:

1. A direction was sent to the Food Commissioner, Department of Food and Supplies, Govt. of National Capital Territory, Delhi in response to 45 Complaints. Complainants had applied for renewal of their BPL ration cards, but had not received any information in response to their applications. As per the public authority's obligations under Section 4, such information should be *suo moto* disclosed.
2. In response to Complaint filed with regard to the Transport Department, Govt. of NCT, Delhi, an order was given directing an official of the Department to ensure that when decisions are made by him reasons for the same must be provided to the affected persons as provided in Section 4(d), RTI Act. The order has been forwarded to the Secretary-cum-Commissioner, Transport Department.
3. In another case, the Appellant had sought information regarding his rehabilitation and compensation for land taken from him by the government for the construction of the Metro. The Commission in its Decision No. CIC/SG/A/2009/000734/3446 directed the Divisional Commissioner of Govt. of NCT of Delhi to ensure that details of compensation and rehabilitation to the affected person who have been displaced in this manner must be made available at least on the website. Besides the Commission directed the Divisional Commissioner to ensure that the information about how the Appellant could get compensation for his loss is communicated to him before 15 June 2009. The Commission further directed that-

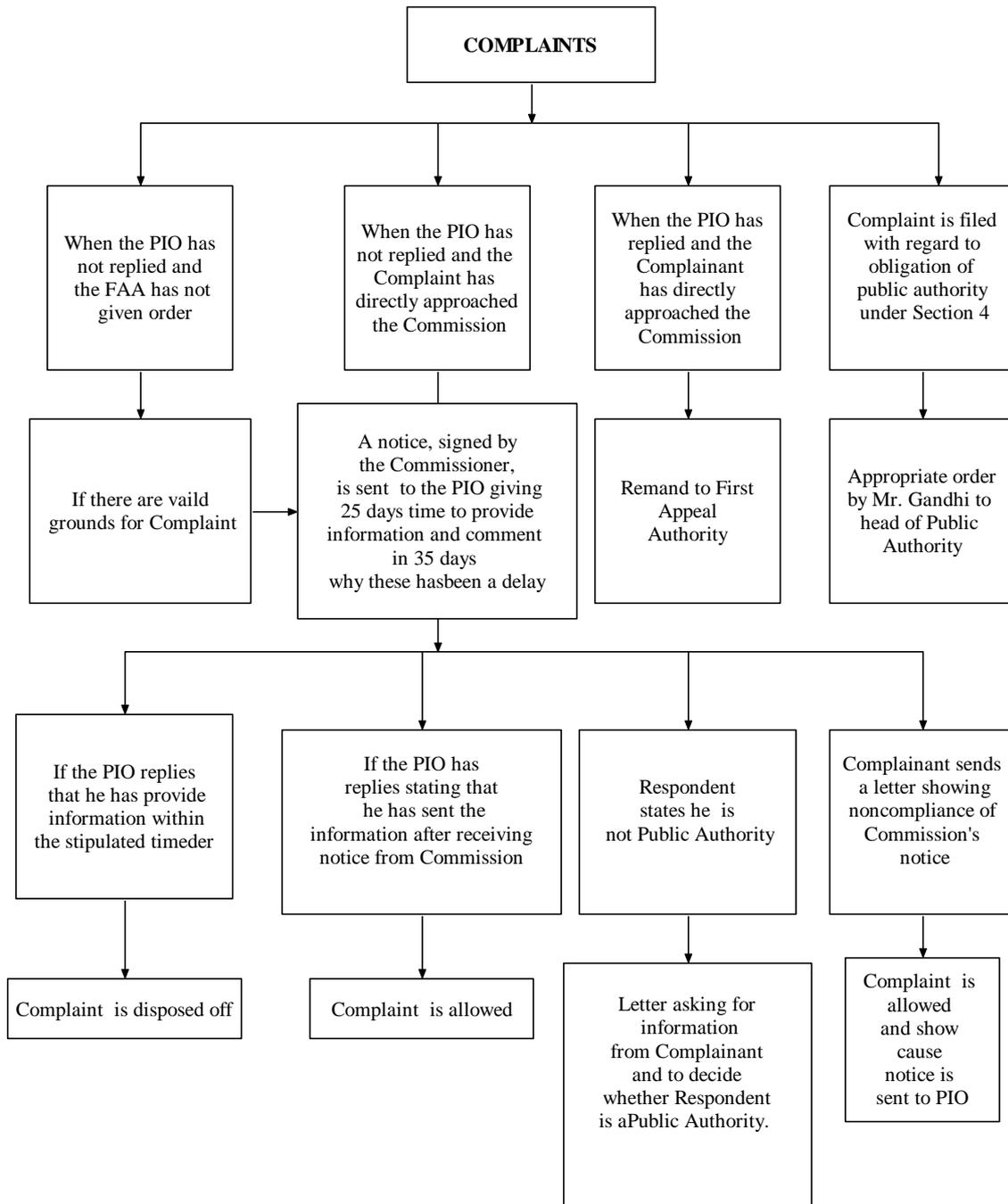
"The Public Authority will also ensure that in compliance with Section 4 requirements details of the project affected persons and the rehabilitation due to them is made available suo moto before 15 August 2009."

There are certain other exceptional situations. These are situations that can only be a subject matter of a Complaint under Section 18, RTI Act but not an Appeal under Section 19, RTI Act. These are:

1. When the Complainant was unable to submit his RTI Application because PIO has not been appointed
2. When the Complainant was unable to submit his RTI Application because the PIO has refused to accept the Application.
3. When the Complainant has been required to pay an amount of fee which he or she considers unreasonable.

The process of deciding a Complaint as explained above has been represented in a flow chart in

FIGURE 5



WITHDRAWAL OF APPEAL OR COMPLAINT

In rare cases, the office has received communication from the Appellant or the Complainant that he or she does not wish to continue with the Appeal or the Complaint and wants to withdraw the same (for instance, if the information has already been provided). In such cases, the Appeal or Complaint is **disposed off** and both parties are sent copies of the Order.

Compliance of Commission's Orders

In this part, the focus is on *dak* received by the office with regard to compliance of orders delivered by the Commission and subsequent action being taken.

Dak (post) with relation to orders delivered by the Commission fall mainly in the following three categories:

1. Communication from Complainant/Appellant claiming non-compliance of the Commission's Order
2. Communication from PIOs wherein he is either sending information to the Appellant/Complainant and the covering letter (with or without the information) is copied to the Commission; or he sending a copy of the information to the Commission
3. Written explanation sent by the PIOs in response to a show cause notice sent by the Commission
4. Request for review of the Commission's Order

Depending on the category in which the *dak* falls, action is taken accordingly:

1. Communication from Complainant/Appellant claiming non-compliance of the Commission's Order

Letters alleging non-compliance of the Commission's Order are of various kinds. Before taking action on these letters, the person dealing with the *dak* (post) first checks what information had been sought by the Appellant/Complainant, what Order was given by the Commission and what

information has been provided. It is seen in some cases, the Appellant/Complainant in the garb of alleging non-compliance seeks either additional information or redressal of grievances- both of which are not permitted. In such cases a communication in this regard is sent to the Appellant/Complainant asking for clarification if there is any specific ground for non-compliance as the information provided appears to be in conformity with the Commission's order.

a. No information received or incorrect/irrelevant information received

While giving an Order, Mr. Gandhi gives a date by which information has to be provided to the Appellant/Complainant. If by this date the information is not received by the Appellant/Complainant or the information received is incorrect/irrelevant, a show cause notice is sent to the concerned PIO and he or she is directed to send the information to the Appellant/Complainant by a particular date. Show cause notices are of three different types and each of these, when sent, is copied to the Appellant/Complainant:

1. Asking the PIO to send a written explanation by a particular date to show cause why penalty under Section 20 (1) should not be levied on him/her as per Section 20 (1)
2. Asking the PIO to appear before the Commission at a particular date and time with a written explanation to show cause why penalty should not be levied on him/her as per Section 20 (1).
3. Asking the PIO to appear before the Assistant Registrar at a particular date and time with a written explanation to show cause why penalty should not be levied on him/her as per Section 20 (1).

b. No information received or incorrect/irrelevant information received even after a show cause notice has been issued

In cases where a show cause notice requiring the PIO to submit written explanation has already been issued, either as part of the Order or in response to a non-compliance letter, and the Appellant/Complainant sends another communication that he or she is yet to receive complete information then a show cause hearing is scheduled.

c. Inspection has not been facilitated in compliance of the Commission's Order

In certain cases, Mr. Gandhi orders the PIO to facilitate inspection of records by the Appellant/Complainant by a particular date or on a particular date. The Appellant/Complainant sometimes sends communication that the inspection was not facilitated by/on that particular date; or that the records provided during inspection were irrelevant. In both these cases, show cause notices of one of three kinds mentioned above are issued to the PIO.

d. Appellant/Complainant is vague about how there is non-compliance

Appellants/Complainants on some occasions do not specify why there is non-compliance of the Commission's Order and it is not clear from a perusal of the records what the Appellant/Complainant is alleging. A letter is sent or a phone call is placed to the Appellant/Complainant seeking clarification before further action is taken.

e. FAA does not give an Order after the case is remanded to it

In certain Complaints, the Commission remands the case to the concerned FAA (*as stated above*). In such cases, the FAA should give its order within 30 days. If the Complainant informs the Commission that the FAA has not given an order within the stipulated time, then a show cause notice is issued to the FAA and he or she is ordered to appear before the Commission for a hearing

2. Communication from PIOs wherein he is either sending information to the Appellant/Complainant and the covering letter (with or without the information) is copied to the Commission; or he sending a copy of the information to the Commission

When a copy of information sought is sent to the Commission or a covering letter addressed to the Appellant/Complainant is copied to the Commission, the same is put on the concerned file and no further action is taken, unless it was in response to a show cause notice (*see below*) or a letter alleging non-compliance is received from the Appellant/Complainant.

3. Written explanation sent by the PIOs in response to a show cause notice sent by the Commission

Once a written explanation is received from the PIO in response to a show cause notice, reasonableness of the explanation is considered in view of the facts on record. If the reasons are found to be unsatisfactory, then a show cause hearing is scheduled and penalty proceedings are initiated.

4. Request for review of the Commission's Order

In some cases, Appellants/Complainants/PIOs request for review or reconsideration of the Commission's Order. The CIC (Management) Rules 2007 as amended on 20 October 2008 do not permit a review of the Commission's Order. A letter in this regard is sent to the person requesting for the review.

Other types of Communications

In this part, the focus is on other type of *dak* received by the office which has not been covered in the previous parts.

The Commission receives other kinds of *dak* (post) which do not fall in any of the categories previously discussed. Action taken on such *dakis* discussed here briefly:

➤ **Queries with regard to RTI Act**

A few *dak* each week ask queries with regard to the implementation of the RTI Act as well as the rights and obligations under the RTI Act. All efforts are made to send an adequate response to such queries as Mr. Gandhi believes that the Commissioner's responsibilities are not restricted to cases brought before him but also extend to disseminating awareness and better understanding of the RTI Act.

➤ **Communication in relation to Section 4 compliance**

The office sometimes receives communication from citizens that certain information which should have been disclosed *suo moto* by a public authority by 12 October 2005 and till date has not been disclosed. In such cases, after due consideration to the facts and research, a letter is sent to the head of public authority directing it to ensure that it fulfills its obligations under Section 4.

➤ **Communication in relation to monitoring under Section 25**

Under Section 25 of the RTI Act, public authorities have to submit information on the implementation of the RTI Act to the Commission. Mr. Gandhi has asked certain public authorities to submit information to him by the 10th of every month. This information can be sent to the office by email or by post. A form has been given to these public authorities which has been annexed as **Annexure XVIII**.

➤ **Communication which has no file number and a file number cannot be traced**

Sometimes *dak* received by the office has no file number, is not a fresh matter and it is not clear why it has been sent to the Commission. For example, copies of RTI Applications copied to the Commission for information; decisions by FAAs in cases *not* remanded to them by the Commission; response from the PIO but not in cases before the Commission. . Some effort is made to link the

communication using the search facility on the computer after which some of this *dak* is returned to the sender and the rest is kept in a file called 'No Record'.

➤ **Communications received through e-mail**

In some cases, Appellants/Complainants/PIOs send e-mails to Mr. Gandhi's official e-mail address or rtimonitoring@gmail.com. While all efforts are being made to respond to these queries as soon as possible, the office has not been entirely successful in responding to all e-mail communication.

Some Other Aspects and Way Forward

This final part touches on certain other aspects of the office's working.

COMPLIANCE WITH SECTION 4

Mr. Gandhi believes that to ensure a *holistic* success of the Act, emphasis needs to be laid on the fulfillment of obligations under Section 4, RTI Act. For this reason constant efforts are being made to bring to the attention of public authorities their obligations under Section 4, RTI Act. Significant measures taken in this direction are the dialogue with the Delhi University and communication with the Municipal Corporation of Delhi and University Grants Commission.

A seminar was organised by Delhi University where Mr. Gandhi among other eminent speakers discussed the implementation of Section 4 in the University. It was attended by Heads of Institutions and PIOs of all colleges of Delhi University. In the light of the recent controversy with regard to 'deemed university' being granted by the University Grants Commission (UGC), Mr. Gandhi has directed the UGC to disclose information in accordance with their obligations under Section 4.

SOME STATISTICS

Having discussed the various aspects of the office's working, it is apt to now produce certain statistics with regard to disposal of matters and communications being sent out of the office.

TABLE V: NUMBER OF HEARINGS AND DISPOSALS

MONTH	NUMBER OF HEARINGS (incl. showcase hearings)	APPEALS DISPOSED	COMPLAINTS DISPOSED	TOTAL DISPOSED	NO. OF STAFF
January	374	368	302	670	13
February	289	286	403	689	15
March	284	283	166	449	11
April	335	335	114	449	13
May	387	355	135	490	15
June	403	348	99	447	12

The pendency of cases at the end of June 2009 is **618** cases out of which **56** cases have been pending over 60 days.

STAFF

Mr. Gandhi believes that for the office to work efficiently, the office environment should be conducive to working in a timely and effective manner. He shares an interactive relationship with his staff which ensures that new ideas are first discussed and then implemented after everyone's views are taken into consideration. He is also very accessible to members of his staff in case they face any problem with regard to their work.

There are around 12 people working in the office. The Government provides for only 9 people (including two peons). Everyone who works in the office, *-including the peons,* works on a computer. The Government has till date not fulfilled Mr. Gandhi's request for a computer literate Designated Officer. Most of the employees of this office can perform most of the functions mentioned in this document. A guide document has been prepared to assist members of the staff and interns and to ensure the smooth working of the office

In addition to the permanent staff the office has persons coming in as interns. Most of these interns are lawyers or law students. The office has hosted 33 interns till now. Permanent interns are usually at this office for at least 6 months while the temporary interns work at this office for three to eight weeks. The interns are trained to do everything that permanent staff are expected to do and their work is supervised by other members of the staff.

There are many other miscellaneous tasks that need to be done for the functioning of this office. After all the correspondence is typed and printed, the correspondence has to be signed then put in envelopes, record has to be maintained of the outgoing communications and then sent to the Central Registry for posting. Even though this task may seem simple, it is time consuming. Some of these correspondences may require photocopying of documents. This is a time consuming process. The office has sent out about **5000** communications in June 2012. To make this process a little more effective, the office uses envelopes with windows, to save time from having to write the address on the envelopes. Also, most persons in the office are trained to use the photocopy machine to ensure that the peons are not overburdened and the communications can be sent out in time.

1. References:

- [1]. Survey and research conducted by Information Commission on Key issues and constraints in implementing the RTI Act.
- [2]. System files from the record room of the Central Information Commission.
- [3]. Survey conducted by Getup4change to collect some statistics of the RTI Applications.
- [4]. Data provided by Mr. Shailesh Gandhi the Central Information Commissioner, India.
- [5]. Data provided by Mr. Rohan Mishra, Stenographer and Personnel Secretary to Shri Shailesh Gandhi, CIC.

Other sources: www.cic.gov.in

www.rtinaction.com

www.rti.gov.in

www.getup4change.org

www.rtiindia.org

Appendix A

Field Visit Report

Field Visit Form

Student Name: Nawal Kishor Agrawal
Project ID: 1
Mentor Name: Shri Shailesh Gandhi
Intern ID: 1
Date of the Visit: 09.05.2012
Suggested/Referred By: Shri Shailesh Gandhi
Name of the person Mr. Pankaj Shreyasker, Registrar, CIC
Visit No.: 01

If more Trips required to the same organization: No

Goal of the visit:

1. To get the idea of administrative part of the Central Information Commission.
2. To understand the works of CIC other than hearing second appeal.
3. To understand the complete process of a letter becoming file and then second appeal being arranged for that particular application.

Goals Met:

1. Got to know the other workings of Central Information Commission.
2. Had a brief discussion on how exactly we can improve the awareness of RTI in common citizens.
3. He showed and introduced each and every step of how a second appeal is arranged after receiving application for the same.

Duration and Timings of Discussion: 2:00PM, 30 minutes.

Student Name: Nawal Kishor Agrawal
Project ID: 1
Mentor Name: Shri Shailesh Gandhi
Intern ID: 1
Date of the Visit: 18.05.2012
Suggested/Referred By: Shri Shailesh Gandhi
Name of the person Mr. Ritam Agrawal, Legal Advisor, CIC
Visit No.: 02

If more Trips required to the same organization: May Be

Goal of the visit:

1. Complete understanding of how paperless working is being carried out at CIC.
2. To get various statistics of number of cases being disposed, number of PIO's who have been issued Show Cause notice and fine imposed due to non-compliance to the notice.
3. To have the interaction with other interns at CIC..

Goals Met:

1. Got to know the works done by other interns working at CIC.
2. He provided me various statistics which are shown in the report above. We also had discussions on how can we improve the rate of disposal in other offices.
3. He showed and introduced each and every step of how a second appeal is arranged after receiving application for the same.

Duration and Timings of Discussion: 11:00A.M, 35 minutes.

Appendix B

Discussions 1:

Date: May 2, 2012

Time: 3:15 PM

Duration of Discussion: 35 minutes

Discussion:

5. Mentor asked to understand the whole process of application.
6. Also to take some photographs and videos as to prepare a documentary
7. Work on to discover the new ways to increase awareness of Right to Information.
8. Try preparing summaries of the cases which are to be held in upcoming days.

Action Items before next discussion please include timeline:

4. Prepare a documentary which shows the simplicity of the process of second appeal at Information Commission. (10 days)
5. Prepare at least 5 summaries and submit it so that my understanding of cases can be checked by my mentor. (2 days)
6. Try preparing a list of the institutes, commissions which have not disclosed information in their websites under suo motto section of RTI act.

Discussions 2:**Date:** May 16, 2012**Time:** 11:35 AM**Duration of Discussion:** 25 minutes**Discussion:**

4. Discussions on Citizen Charter of the CIC, its importance and how we can get it implemented.
5. Reasons of the rate of disposals being show high in his office as compared to other offices.
6. Asked me to be present in a hearing and understand the expectations of Appellant and Public Information Officer.

Action Items before next discussion please include timeline:

4. Prepare a documentary on how easy it makes your tasks when you start paperless working by showing demo of the software being used by CIC.
5. Research on Citizen's Charter of CIC which is currently in draft stage [2 hours]
6. Try searching possibilities of setting up a call centre from which people can get information regarding RTI just on a call.

Discussions 3:

Date: June 4, 2012

Time: 1:15 PM

Duration of Discussion: 40 minutes

Discussion

4. Discussions on the citizen charter prepared and how we can enforce CIC to implement it.
5. Discussions on the concept of RTI Anonymous and roadblocks of it.
6. Research on to setup an SMS based RTI filing service.

Action Items before next discussion please include timeline:

2. Record some of the hearings and upload it in public domain to give a taste of hearing to a common citizen. [5 days]....
3. Start preparing final report by which we can show other Information Commissioners and other Government officials that how to make government offices effective and efficient.

