

Sunshine in the Courts

Ranking the High Courts on their
Compliance with the RTI Act

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The errors, if any, rest with the authors.

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Volume I

National Report



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Executive Summary

The Right to Information (RTI) Act, 2005 which guarantees all Indian citizens a right to access information held by the state, was the first ever ‘sunshine law’ enacted by the Parliament. Like most ‘sunshine laws’, the RTI Act provided a right to all citizens to demand information from any public authority in India, while also creating a positive obligation upon these authorities to proactively publish information about their functioning. High Courts, as constitutional bodies are also covered under the ambit of this Act.

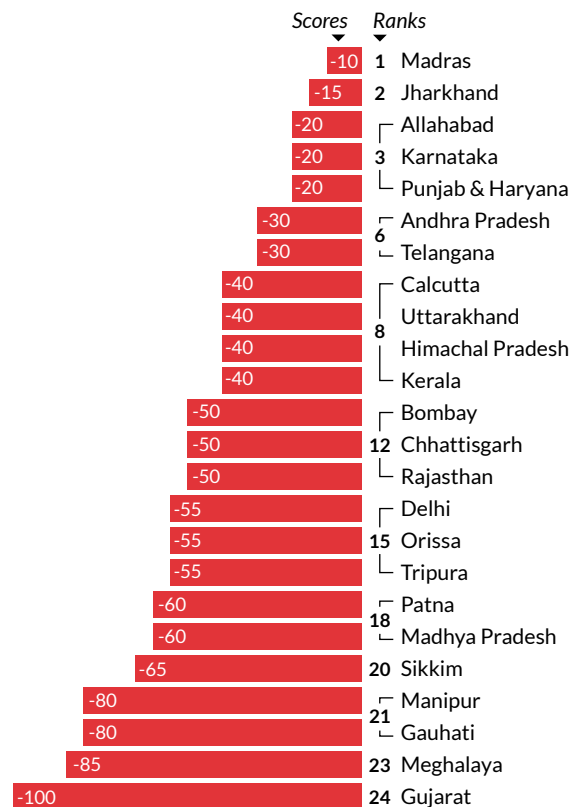
This report aims to measure the degree to which the High Courts are in compliance with the RTI Act. We specifically chose to study the High Courts because they are the most important judicial institutions with regard to administration of justice at the state level. The High Courts are responsible for planning and management of the entire District Judiciary. This includes recruitment of judges and court staff, preparation of budgetary estimates and infrastructure planning. Given the importance of the High Courts in ensuring efficient judicial administration for the District Judiciary, it is important that they be transparent in their workings.

In this report, we examined the legality of the High Court RTI Rules vis-à-vis the RTI Act, the convenience offered by High Court RTI Rules, the practice of the Public Information Officers (PIOs) in replying to the RTI applications and the quality of disclosures made by the High Courts under Section 4(1)(b) of the RTI Act. To capture and compare the variances between the High Courts on these 4 themes, we developed 4 indices namely the legality index, the convenience index, the practice index and the disclosures index. In addition, we also examined the extent to which District Courts were making proactive disclosures under the RTI Act on their respective e-courts websites.

The Legality Index for the High Court RTI Rules

This index measures the legality of the RTI Rules made by each High Court under Section 28 of the RTI Act. This provision of the RTI Act delegated substantial power to each public authority to fix the fees payable for filing RTI applications, the cost of providing information, the mode by which the fee and cost can be paid to the public authority and for any other matter which is required under the law. We decided to measure the legality of the High Court RTI Rules because we discovered that several of these rules were *ultra vires* the RTI

Figure A: Legality Index



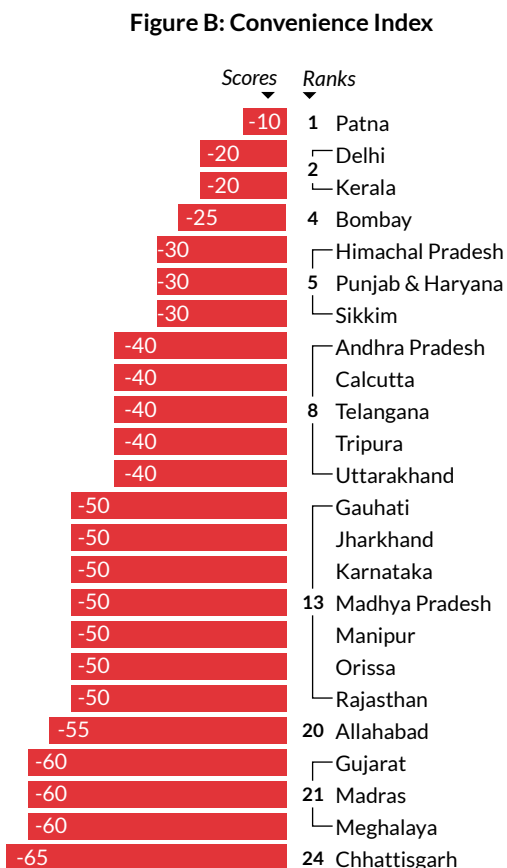
Act. As per several judicial precedents of the Supreme Court, rules made under a particular statute cannot go beyond or against the parent statute. Any such rule can be struck down for being *ultra vires* the RTI Act.

After studying the RTI Rules of the High Courts and the District Courts, we devised twelve criteria on the basis of which we assessed the Rules. These criteria broadly fell into two categories. The first category pertained to ‘missing information’ which basically assessed the sufficiency of information provided in the Rules to enable the filing of RTI applications. The second category pertained to the illegal deviations of the RTI Rules of each High Court vis-à-vis the RTI Act. For every violation under these twelve criteria, 10 points were deducted for the purpose of this index. **Figure A** illustrates the rankings and the scores of the various High Courts on the legality index.

The Convenience Index for the RTI Rules of each High Court

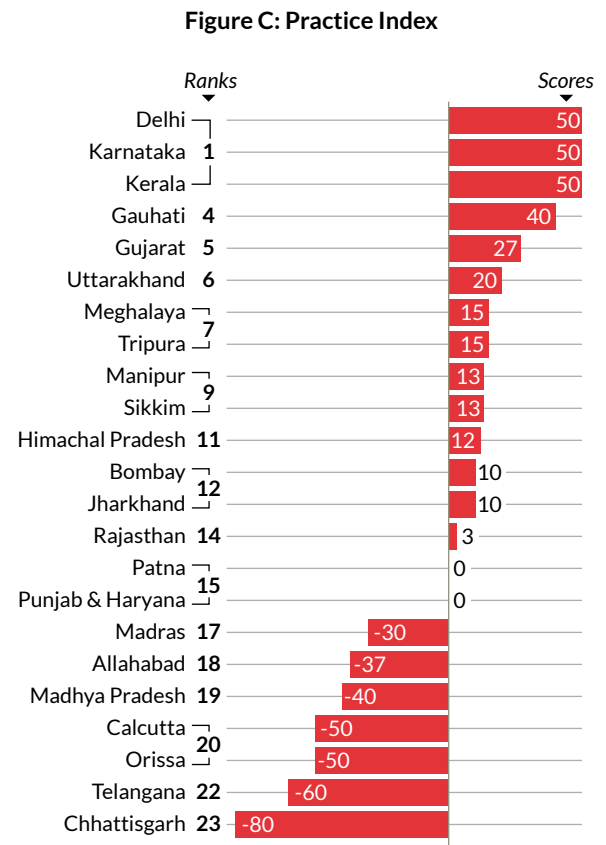
Even if the RTI Rules of a High Court are completely legal, it is entirely possible for the rules to make the process of requiring information very inconvenient. For example, if the RTI Rules require payment of fees only in cash, rather than instruments such as postal orders, it can become quite difficult to file RTI applications through post, making it necessary for the citizen to physically visit the premises of the public authority to file the application in person. This is more inconvenient than the option of filing an RTI application through post.

Therefore, for the purpose of this index we developed six criteria to examine whether the RTI Rules of each High Court make it convenient for the citizens to seek information under the RTI Act. To ensure objectivity, the Government of India, RTI Rules 2012 were used as the benchmark against which the RTI Rules of the High Courts were assessed. If the High Courts had similar provisions as under the Gol Rules, no points were deducted. However, if the Rules of the High Courts provided comparatively less convenient mechanisms then 10 points were deducted. The High Courts were also given additional points if the procedure under their RTI Rules made it more convenient for the citizens to obtain information under the RTI Act. **Figure B** illustrates the rankings and the scores of the various High Courts on the convenience index.



The Practice Index to measure the responses by Public Information Officers of High Courts

This index was developed to evaluate the responses of the PIOs of all the High Courts to 3 sets of RTI applications that we had filed with the High Courts to collect information on their budget statements, their audit reports and statistical information required to be maintained by all High Courts under Section 17 of the Commercial Courts Act, 2015. We devised nine criteria against which the practices of each High



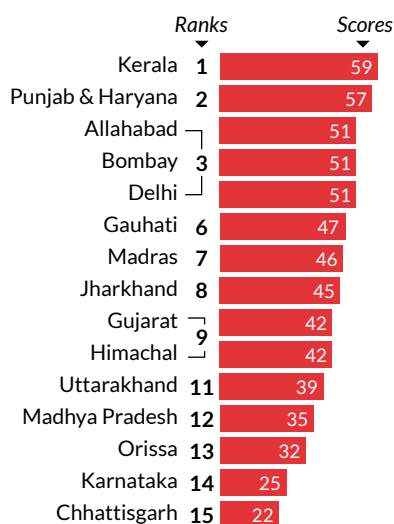
Courts were scored. Out of the nine criteria, four criteria are based on the requirements laid out under the RTI Act and five are subjective criteria that we deemed important in order to measure meaningful compliance with the RTI Act. For the purposes of scoring, if the PIOs did not comply with the mandatory requirements of the RTI Act, points were deducted, while points were awarded if the High Courts provided good quality information in their replies and answered each question individually. Replies that were deemed to be mala-fide rejections were penalised accordingly. **Figure C** illustrates the rankings and the scores of the various High Courts on the practice index.

The Disclosures Index to measure compliance with Section 4(1)(b) of the RTI Act

In addition to providing citizens with a statutory right to obtain information, Section 4(1)(b) of the RTI Act also creates a mandate for public authorities to proactively disclose and disseminate information about their functioning. The categories of information to be disclosed, amongst others, information about the organisation and functions of the employees, the documents under the control of each public authority, the rules and regulations used by the public authority to discharge its functions, the budgetary allocations made to and expenditures incurred by the public authority, the details of the PIOs and appellate authority. Only 15 High Courts made disclosures on their website under the RTI Act. The remaining 9 High Courts that we evaluated did not make any disclosures on their websites.

To assess the quality of the disclosures made by each High Court, we identified the essential information with regard to each category and scored the High Courts if they made that information available. Some categories such as budgetary statements etc. were deemed more relevant than others from the perspectives of institutional transparency and were thus weighted higher. **Figure D** illustrates the rankings and the scores of the various High Courts on the disclosure index

Figure D: Disclosure Index



The High Courts at Andhra Pradesh, Calcutta, Manipur, Meghalaya, Patna, Rajasthan, Sikkim, Telangana and Tripura have not made any disclosures on their websites under Section 4(1)(b) of the RTI Act

Disclosures by District Courts under Section 4(1)(b) of the RTI Act

We undertook a survey of the e-courts websites of all the District Courts to assess if they as public authorities were making disclosures under the RTI Act. We did not assess the quality of such disclosures but only the availability of such disclosures across districts since not many District Courts were making such disclosures. We also assessed whether such disclosures were made available in the local language of the state. Only the District Courts in Kerala, Punjab and Haryana made satisfactory disclosures under the RTI Act. None of the District Courts in Assam, Rajasthan, Madhya Pradesh and West Bengal made any disclosures under the RTI Act. The remaining states did not perform much better, with only a miniscule number of District Courts making the required disclosures under Section 4 of the RTI Act. Since High Courts are responsible for the administration of District Courts it is contingent on the former to ensure that the latter complies with the law.

Conclusion

From our report, it is quite clear that there is a yawning gap between the judiciary's bold pronouncements on the right to information and the manner in which the High Courts are implementing the RTI Act. Not only are the RTI Rules of several High Courts *ultra vires* the RTI Act, they also provide for a relatively inconvenient procedure when compared to the RTI Rules of the Government of India. Most importantly, the PIOs of the High Courts need to be sensitized that rejection of RTI applications should be the exception, not the norm.

The lack of good quality proactive disclosures by several High Courts, on their websites, marks the failure of the High Courts to discharge a specific statutory obligation imposed under Section 4(1)(b) of the RTI Act. The lack of administrative transparency, especially financial transparency, within High Courts is a matter of grave concern.

Ensuring greater administrative transparency within High Courts will be the first step in the lengthy battle for meaningful judicial reforms in India. We are hopeful the High Courts will take corrective steps such as making amendments to their respective rules, making better quality disclosures and introducing best practices. Towards this end, we are sending copies of this report to every High Court, along with specific recommendations for each High Court.

The right to information has existed as an abstract legal right in India since 1975 when a constitutional bench of the Supreme Court of India located the “right to know” in the “concept of freedom of speech”.¹ This was followed by other judgments, including a judgment in 1982 by a bench of seven judges of the Supreme Court where the right to information was more specifically grounded in the fundamental right to free speech. In pertinent part, the court held that “...The concept of an open government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a).”² While this articulation of the right to information was certainly praiseworthy, it meant little to Indian citizens who lacked a simple, accessible and affordable legal framework to enforce this important right against an opaque state.

It took the enactment of the Right to Information Act (RTI) in 2005 to provide Indian citizens, with a strong legal right that could be enforced through a procedural framework that was startlingly simple by the standards of both, conventional Indian legislation, as well as by the standards of similar transparency laws across the world.³ With the enactment of this ‘sunshine law’, Indian citizens could now demand from the state a copy of public records or answers to questions, without any need to justify their request for information with reasons.⁴ The procedure to be followed within the state apparatus on receipt of a request for information, has been strictly regimented by the RTI Act and the bureaucracy’s discretion to evade or delay requests has been tempered by a new system of penalties that could be recovered directly from the salaries of bureaucrats.⁵ Prior to the enactment of the RTI Act, there was no precedent in Indian law wherein Indian bureaucrats have had to pay penalties from their pockets for not discharging their statutory duties.

The simplicity and effectiveness of the RTI Act was a result of the strong influence of the lived experiences of civil society collectives like the Mazdoor Kisan Shakti Sangathan

(MKSS).⁶ In its daily efforts to assist villagers, in claiming their entitlements from the government, it became evident to the MKSS that access to government records was the key to demanding accountability from the government.⁷ The emphasis on procedural simplicity in the RTI Act was critical since this right to information was to be exercised by all citizens, especially the vulnerable and marginalised, on a daily basis against a bureaucracy that was entrenched in a culture of discretion and secrecy. Similarly, the provision of penalties was a specific demand made by the MKSS based on its experiences in the villages of Rajasthan.⁸ By placing a strong emphasis on the procedural rights of the citizenry versus the government, the drafters of the RTI Act succeeded in building a legal framework that has ushered in a transparency revolution.

Despite the conscious effort made by the drafters of the RTI Act to reduce the room for exercise of discretionary powers, they still delegated critical rule making powers to the bureaucracy to determine key issues, such as the fee for filing applications, fee for being provided copies of information and the mode of payment of the fees.⁹

As time has shown us, the aforementioned delegation of rule-making power was a fatal mistake, especially in the context of judicial institutions. We discovered this the hard way during the course of our attempts to get information from the High Courts on different areas of judicial administration. Most of our efforts began with scouring the websites of the High Courts to collect information for research on the issue of judicial reforms. Section 4 of the RTI Act requires all public authorities, including High Courts, to disclose considerable information on their websites. When we realised that most of the information required for the purpose of our research was unavailable on the websites of the High Courts, we filed RTI applications with all High Courts requesting for such information. We soon discovered that several High Courts were rejecting our applications on a number of grounds that went against the text and spirit of the RTI Act. This prompted us to take a closer look

¹ *State of Uttar Pradesh v Raj Narain* [1975] 4 SCC 428

² *S.P. Gupta v President of India and others* [1981] Supp SCC 87

³ Vinita Deshmukh, ‘Hurrah India stands second in the world in global RTI rating’ (Moneylife, 25 July 2012) <<https://www.moneylife.in/article/hurrah-india-stands-second-in-the-world-in-global-rti-rating/27232.html>> accessed 11 July 2019; Access Info, Global Right to Information Rating <<https://www.rti-rating.org/country-data/India/>> accessed 11 July 2019.

⁴ Right to Information Act 2005, s 6(2)

⁵ Right to Information Act 2005, s 20

⁶ *Aruna Roy and MKSS, The RTI Story: Power to the People* (Roli Books, 2018) 88-94

⁷ *ibid.*

⁸ *ibid* 313.

⁹ Right to Information Act 2005, s 28.

at the RTI Rules notified by different High Courts, leading to the realisation that several High Courts had gone far beyond the permissible limits of the RTI Act, while drafting their respective RTI Rules. Many of these rules are vulnerable to being struck down for being *ultra vires* the RTI Act. Other High Courts, while technically in compliance with the RTI Act, made it more difficult to file RTI applications when compared to the procedure laid down by the Government of India's RTI Rules.

It is surprising to learn that several High Courts have exercised their rule-making powers under the RTI Act to draft RTI Rules that violate the letter of the RTI Act and offend the spirit of the peoples' movements that led to the enactment of the law in the first place. Similar efforts by the bureaucracy of the Central Government to dilute the RTI (Regulation of Fee and Cost) Rules, 2005 as well as the RTI Act, have been successfully resisted by democratic protests of citizens.¹⁰ However the judiciary by the very nature of its institutional design, is impervious to the kind of democratic pressures that forced the government to rollback its efforts to dilute the RTI Act. Not only are judges of the High Courts, not elected like the ministers of government, they are also not answerable to the legislature. Further, the higher judiciary has rarely ever responded well to street protests. In the past, protests against judicial orders have been threatened with sanctions for contempt of court.¹¹

Given the judiciary's indifference to conventional democratic forms of protests, the only option for citizen groups was to document the violations and petition the High Courts for amendments to their respective RTI rules.¹² Some High Courts did respond positively to these petitions by amending their RTI Rules on the administrative side.¹³ As a result, most of such litigation against the High Court RTI Rules never translated into significant judicial precedents. The most significant petition which could have transformed into a significant precedent was filed by Common Cause, an NGO, before the

Supreme Court. This petition challenging the RTI Rules of the Allahabad High Court, was kept pending for 6 years before the court took up the matter for a hearing and passed a brief order in 2018.¹⁴ Rather than taking the proverbial bull by the horns and ruling on the substantial issues of law, the Supreme Court preferred the route of vague directions none of which are binding on High Courts. While this order did bring about some change in the fees being charged by some High Courts, a lot remains to be done with regard to other aspects of how High Courts are enforcing the RTI Act on their administrative side.

In an attempt to understand the scale of the problem at different High Courts, we embarked on a rather lengthy research project to try and measure the degree to which High Courts were in compliance with the RTI Act. The 3 areas that we focused on are the RTI Rules of the High Courts, the quality of disclosures made, by High Courts and the District Courts as mandated by Section 4 of the RTI Act and the practices of the PIOs of the High Courts in actually responding to RTI applications.

The reason we chose to focus our efforts on the High Courts was because these institutions, some of which predate the Supreme Court, are the most important cogs in the wheels of judicial administration in each state. By virtue of Articles 227, 229, 233, 234 and 235 of the Constitution, the High Courts are by law responsible for the administration and superintendence of the District Judiciary. This includes the recruitment of judges and administrative staff who man the District Judiciary. High Courts are also responsible for preparing budgetary estimates for the entire state judiciary. A poorly administered High Court will most certainly result in a dysfunctional judiciary across the entire state, which is why it is extremely important for High Courts to be transparent about their administrative affairs. In order to capture and contrast the results of our study across 24 High Courts covered in our survey we developed 4 indices.

¹⁰ Aruna Roy (n 6) 318; V Venkatesan, 'The Central government notifies new RTI rules, which effectively curb citizen's right to obtain information' Frontline (Vol 29, Issue 18, 8-21 September 2012) <<https://frontline.thehindu.com/static/html/fl2918/stories/20120921291809300.htm>> accessed 27 September 2019; 'Government proposes new rules for RTI applications, Activists oppose' News18 (3 April 2017) <<https://www.news18.com/news/india/govt-proposes-new-rules-for-rti-applications-activists-oppose-1367440.html>> accessed 27 September 2019

¹¹ D Mahapatra, 'Cannot protest or call bandhs against court orders' Times of India (New Delhi, 16 September 2016) <<https://timesofindia.indiatimes.com/india/Cannot-protest-or-call-bandhs-against-court-orders-SC-on-violence-over-Cauvery/articleshow/54353909.cms>> accessed 27 September 2019; V Venkatesan, 'Contempt in question' Frontline (Vol 18 Issue 10 12-15 May 2001) <<https://frontline.thehindu.com/static/html/fl1810/18101000.htm>> accessed 27 September 2019

¹² Commonwealth Human Rights Initiative, 'An Analysis of the RTI Rules applicable to the Rajasthan High Court and the Subordinate Courts' (CHRI 2011) <<https://www.humanrightsinitiative.org/publications/rTI/RajasthanHighCourt.pdf>> accessed 27 September 2019; Commonwealth Human Rights Initiative, 'An Analysis of the RTI rules of the Supreme Court, the Delhi High Court and the Subordinate Courts' (CHRI 2010) <https://www.humanrightsinitiative.org/publications/rTI/rTI_in_the_judiciary_series_1.pdf> accessed 11 July 2019.

¹³ Press Trust of India, 'HC decides to amend Delhi High Court RTI Rules 2006' Business Standard (New Delhi, 26 February 2016) <https://www.business-standard.com/article/pti-stories/hc-decides-to-amend-delhi-high-court-rti-rules-2006-116022601074_1.html> accessed 27 September 2019; 'Challenge against Rajasthan High Court RTI rules; Court issues Notice on Law Student's plea' Live Law (10 February 2016) <<https://www.livelaw.in/challenge-against-rajasthan-high-court-rti-rules-court-issues-notice-on-law-students-plea/>> accessed 27 September 2019; 'Punjab & Haryana High Court changes RTI rules after NLSIU graduate Arjun Sheoran's PIL' Lawctopus (30 June 2014) <<https://www.lawctopus.com/punjab-haryana-high-court-changes-rti-rules-nlsiu-graduate-arjun-sheorans-pil/>> accessed 11 July 2019 and *Arjun Sheoran v High Court of Punjab and Haryana* (2017) SCC OnLine P&H 4103.

¹⁴ *Common Cause v High Court of Allahabad* (2018) 14 SCC 39. This case was clubbed with the following cases: *Ram Niwas Singh v Registrar General, High Court of Allahabad T.C.*(C) No. 129 of 2013; *Sunil Kishore Ahya v Registrar General High Court of Judicature at Bombay and Ors.* W.P.(C) No. 238 of 2014; *Lok Prahar, through its General Secretary S N Shukla v High Court of Allahabad and Ors.*; *Kishan Chand Jain v Hon Speaker of Legislative Assembly of UP and Ors.* W.P.(C) No. 40 of 2016; *Kishan Chand Jain v Hon Chairman of Legislative Council of UP and Ors.* W.P.(C) No. 205 of 2016 and *Dinesh Kumar Soni v The State of Chhatisgarh Law and Legislature Department and Ors.* SLP(C) No. 30659 of 2017

The first index measures the 'legality' of the RTI Rules of each High Court i.e. whether the rules are in compliance with the requirements of the RTI Act.

The second index, measures the 'convenience aspect' of the RTI Rules of each High Court, where we try to capture the problems with those RTI Rules, which although in compliance with the RTI Act, made it 'inconvenient' to assert the right to information. For the purpose of this index, we used the Government of India RTI Rules, 2012 as a benchmark for comparison.

The third index, measures the responses of the High Courts to 3 different sets of RTI applications that we sent to all High Courts to source information for 3 other reports that we are working on regarding judicial administration across India.

The fourth index measures the compliance of the High Courts with the disclosure requirements under Section 4 of the RTI Act. Additionally, since the Districts Courts are also public authorities under the RTI Act, we surveyed the e-court websites of 672 Districts to see if they had made any Section 4 disclosures under the RTI Act.

These indices cover only 24 High Courts because at the time of writing this report the Jammu & Kashmir High Court was covered under the state's own RTI Act, under which only residents of the state could request for information.¹⁵

We hope this comprehensive effort to highlight the lack of compliance of High Courts with the RTI Act, adds to earlier studies on judicial transparency, by other institutions such as the Commonwealth Human Rights Initiative¹⁶, the Research Assessment and Analysis Group & Satark Nagrik Sangathan,¹⁷ the Azim Premji University¹⁸ and takes forward the conversation on judicial transparency.

¹⁵ The Jammu and Kashmir Right to Information Act 2009, s.3 (2). This position has changed after the amendment to Article 370 of the Constitution and the conversion of Jammu & Kashmir into a Union Territory. Gaurav Vivek Bhatnagar, 'Central RTI Law to Now Apply to J&K and Ladakh' The Wire (06 August 2019) <<https://thewire.in/law/central-rti-law-to-now-apply-to-jk-and-ladakh>> accessed 9 September 2019;

¹⁶ Commonwealth Human Rights Initiative (n 12).

¹⁷ A Johri and A Bhardwaj, *Tilting the Balance of Power- Adjudicating the RTI Act for the Oppressed and the Marginalised* (2nd edn, Rajpal & Sons 2017).

¹⁸ R Hemrajani and Ors, *The Implementation of the RTI Act 2005 in Nine High Courts of India- A Comparative Study* (Legal Systems Reforms Project, Azim Premji University 2017).

Like most legislations, the RTI Act delegates certain powers to individual public authorities to draft their own Rules on certain aspects such as the fee for filing applications, cost of photocopies etc. Such delegation of power is a routine feature of law-making in most democracies. Most elected legislatures only lay out the broad policy in the parent statute and delegate the procedural details to the authorities charged with implementing the legislation. Delegation to an extent can be beneficial because it allows the implementing authority to rapidly modify the Rules or regulations without going through the cumbersome procedures required for a legislative amendment. The lack of any requirement for legislative approval, also means it becomes easier for the executive to draft or amend rules in a manner that undermines legislative intent.

Section 28 of the RTI Act delegates to public authorities the power to draft rules fixing the fees that may be charged for filing an application requesting for information. Additionally, a vaguely worded sub-clause allows for the public authority to make rules for “any other matter which is required to be, or may be, prescribed”. Every High Court in the country has exercised this power under Section 28 to notify its own RTI Rules.

For the purposes of measuring the legality of the RTI rules notified by High Courts, we developed 2 indices to measure the “legality” and “convenience” of the RTI rules of every High Court. The legality index measures the compliance of the RTI Rules of every High Court with the legal requirements of the RTI Act, while the “convenience” index, measures those aspects of the RTI rules which although legal, make it inconvenient for citizens to file applications or access the information under the RTI Act. The factors forming each index, along with the scoring system, are explained below.

A. The Legality Index: Were the RTI Rules of the High Court in line with the Requirements of the RTI Act?

For the purpose of this index, the legal issues with the RTI Rules of different High Courts can be put into 2 categories, which are explained below.

The first category captures those aspects of the RTI Rules of the High Courts which have failed to provide all of the information that is required by citizens to exercise their right to information vis-à-vis the High Court. This includes, the fees that are payable and mode of payment of fees. The failure to provide this information is in essence a failure to meet the requirements of Section 28¹⁹ of the RTI Act, which directs all public authorities to provide such information in their rules in order to facilitate the filing of RTI applications by citizens. The silence of the RTI Rules of any of the High Courts on these aspects, vastly increases the discretion of the PIO to reject RTI applications on specious grounds.

The second category captures those aspects of the RTI Rules of different High Courts which are contrary to the text of the RTI Act and hence *ultra vires* the RTI Act.

It is a fairly well settled proposition that rules made under a legislation cannot contradict the wording of a legislation or add substantial obligations to existing statutory requirements. Elucidating on this point, the Supreme Court in the case of *General Officer Commanding in Chief v. Subash Chandra Yadav*²⁰ made the following useful observation:

“Rules framed under the provisions of a statute form part of the statute. Rules have statutory force. However before a rule can have the effect of a statutory provision two conditions must be fulfilled, namely, (1) it must conform to the provisions of the statute under which it is framed; and (2) it must also come within the scope and purview of

¹⁹ The text of Section 28 is as follows: “28. Power to make rules by competent authority.—

(1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
 (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 (i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
 (ii) the fee payable under sub-section (1) of section 6;
 (iii) the fee payable under sub-section (1) of section 7; and
 (iv) any other matter which is required to be, or may be, prescribed.”

²⁰ *General Officer Commanding in Chief v. Subash Chandra Yadav* 1988 SCR (3) 62

the rule making power of the authority framing the rule. If either of these two conditions is not fulfilled the rule so framed would be void.”

The scope of delegation under Section 28 of the RTI Act is fairly broad because of the existence of a boiler plate clause found in all Indian legislation, which allows public authorities like High Courts to “...make rules to carry out the provisions of this Act”. Such a broad delegation of powers is however not an invitation for rule making authorities to make rules that go beyond, or which are contrary to, the parent statute from which they derive their rule making power. This is a well-accepted position of law backed by precedents of the Supreme Court. In one such judgment in the case of *Kunj Behari Lal Butail and Ors. v. State of H.P. & Ors.*²¹ a bench of the Supreme Court held the following:

“We are also of the opinion that a delegated power to legislate by making rules ‘for carrying out the purposes of the Act’ is a general delegation without laying down any guidelines; it cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself.”

The logic behind this conclusion is that rule making authorities are subordinate to the legislature which is the ultimate repository of the people’s power. Thus, the general rule when it comes to delegation of rule-making power, is that rules cannot be contrary to the text of the parent statute from which it derives power.²²

Despite the law being crystal clear on the limits of delegated legislation, several High Courts have included patently illegal clauses in their RTI Rules. For example, despite Section 8 of the RTI Act restricting the number of grounds for denying information to citizens, the RTI Rules of several High Courts have included additional grounds for rejecting requests for information.

The illegalities in the RTI Rules of various High Courts have come under the scrutiny and criticism of the Central Information Commission (CIC). The CIC primarily deals with appeals and complaints against public authorities under the RTI Act but they lack the power to make binding determinations regarding the legality of RTI Rules made by High Courts. In the case of *Belma Mawri v. Meghalaya State*

*Information Commission*²³ the Meghalaya High Court held that the Commission was a creation of the RTI Act, 2005 and its powers had been clearly delineated under Sections 18 to 20. These, it held, did not include the power to determine the validity of the Rules that had been formulated under Section 28 of the Act. A decision of the CIC had also reached the same conclusion in the context of the High Court of Madras Right to Information (Regulation of Fee and Cost) Rules, 2006.²⁴ At most, Information Commissions can make “recommendations” to the High Courts to amend their rules.²⁵ It is the prerogative of the High Courts to accept the recommendations made by the Information Commissions.

Scoring the 2 categories over 12 different criteria:

We have split the 2 categories of ‘missing information’ and *ultra vires* rules over 12 criteria which are explained below, along with the scoring mechanism for each criterion. For criteria that fall within the ‘missing information’ category, 10 points were deducted per category of information that was missing in the High Court RTI Rules. No points were deducted if all the necessary information was available in the High Court RTI Rules. For criteria falling within the category of *ultra vires* rules we deducted 10 points for every rule that was contradictory to the spirit of the RTI Act.

Criterion L1: Have the RTI rules been published on the HC Website?

As per Section 4(1)(a) & Section 4(1)(b)(v) of the RTI Act it is mandatory for all public authorities to publish through various media, including the internet, all rules being administered by the public authority. This includes the RTI Rules of the relevant public authorities, without which it would be difficult for citizens to understand the requirements to file RTI applications with such public authorities. The absence of these rules on the websites of High Courts would require the RTI applicant to visit the premises of the High Court to procure a hard copy of the rules and this would have an adverse impact on their ability to exercise their right to information. As per our survey only 3 High Courts, at Sikkim, Uttarakhand and Andhra Pradesh did not have their respective RTI Rules available on their websites. The RTI Rules of the Sikkim High Court were found on the website of the National Federation of Information Commission in India (NFICI) rather than on the website of the Sikkim High

²¹ *Kunj Behari Lal Butail and Ors. v. State of H.P. & Ors* 2000 (1) SCR 1054

²² *Bombay Dyeing & Mfg. Co. Ltd v. Bombay Environmental Action Group and Ors.* (2006) 3 SCC 434; *Kerala Samsthana Chethu Thozilali Union v. State of Kerala* (2006) 4 SCC 327

²³ *Belma Mawrie v. Chief Information Commission Meghalaya State Information Commission* AIR 2016 Meghalaya 8. Also see *B Bhattacharjee v. The Appellate Authority and Registrar General, High Court of Meghalaya* MANU/MG/0166/2015; *Kamini Jaiswal v. Delhi High Court* CIC/WB/A/2007/00418 which held that the CIC can only give recommendations and not strike down the law.

²⁴ *C.J. Karira v. PIO High Court of Madras* CIC/SM/C/2011/901285 decided on 14 August 2014. Also see *C.J. Karira v. PIO Gauhati High Court* CIC/SM/2011/901286, *C.J. Karira v. PIO Chhattisgarh High Court* CIC/SM/C/2011/901287, *C.J. Karira v. PIO Gujarat High Court* CIC/SM/2011/901288 and *C.J. Karira v. PIO Orissa High Court* CIC/SM/C/2011/901289; *C.J. Karira v. PIO Himachal Pradesh High Court* CIC/SM/C/2011/901290

²⁵ Section 25(5) of the RTI Act

Court.²⁶ While the Uttarakhand High Court RTI Rules were not displayed on the website, a link to the rules on the High Court website was displayed when we conducted a search on an internet search engine.²⁷ For the Andhra Pradesh High Court, which was only recently bifurcated from the erstwhile Hyderabad High Court, the RTI Rules are not available on the new website. However, for the purposes of evaluation of the remaining criteria under this index, we have presumed that the new High Court is following the same RTI Rules as the erstwhile Hyderabad High Court. For the Telangana High Court, the RTI Rules were available on the High Court website but the amendment to the Rules was not available on the website.

The High Courts of Andhra Pradesh, Sikkim and Uttarakhand do not make available the RTI Rules on their websites. Telangana High Court does not make available the amendments to the RTI Rules on its website.

Scoring: A total of 10 points were deducted against the High Courts that did not have the RTI Rules or amendments available on their website.

Criterion L2: Are the District Courts covered by the RTI Rules (either by notifying a separate set of District Court rules or by expanding the scope of the High Court Rules)?

As per Section 28 of the RTI Act, every public authority is required to notify its own rules to facilitate the implementation of the RTI Act. In the case of the judiciary, there has been some confusion on whether the Chief Justice of a High Court can make rules for both the High Court and the District Judiciary or whether the presiding District Judges could draft RTI Rules for their own District Courts. The general trend so far has been for the High Courts to formulate specific RTI Rules for the District Courts or make the High Court RTI Rules applicable to the District Courts. The power of the High Courts to draft such rules for the District Courts was challenged before the CIC, which did not rule on the same on account of not having the jurisdiction to decide on the validity of these rules.²⁸

During our survey of the RTI Rules of each High Court we discovered that High Courts at Bombay, Chhattisgarh, Delhi, Kerala and Punjab & Haryana have 2 sets of RTI Rules, one that covers only the High Courts and the other for the District Courts. A few other High Courts at Allahabad, Andhra Pradesh, Calcutta, Gauhati, Himachal Pradesh, Jharkhand, Madras, Manipur, Meghalaya, Orissa, Rajasthan, Sikkim, Telangana, Tripura and Uttarakhand had a single set of RTI Rules covering

both High Courts and District Courts. We considered the District Courts to be covered by the High Court's RTI Rules, if the rules clearly mentioned that it applied to even the District Courts or alternatively, if there was a provision in the rules for designating PIOs for District Courts. The availability of a payment method while filing RTI applications with the District Courts was evaluated separately. The RTI Rules of the remaining High Courts at Gujarat, Karnataka, Madhya Pradesh and Patna did not cover any of the District Courts thereby creating uncertainty for citizens wanting to file RTI applications with the District Courts.

Five of the High Courts have separate RTI Rules to cover the High Courts and the District Courts.	Bombay, Chhattisgarh, Delhi, Kerala, Punjab & Haryana
Fifteen of the High Courts have a single set of RTI Rules covering both High Courts and District Courts.	Allahabad, Andhra Pradesh, Calcutta, Gauhati, Himachal Pradesh, Jharkhand, Madras, Manipur, Meghalaya, Orissa, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand
Four of the High Courts do not have any RTI Rules for District Courts	Gujarat, Karnataka, Madhya Pradesh, Patna

Scoring: A total of 10 points were deducted if the District Courts were not covered by the RTI Rules of the High Court and if there were no standalone RTI Rules for just the District Courts.

Criterion L3: Has the authority to whom the payment is to be addressed for High Courts been mentioned?

In our experience, one of the trickiest issues while filing RTI applications with High Courts, is the issue of payment. If the payment is inadequate or not addressed to the right authority the RTI application can be rejected. Since the power to determine the fee of filing RTI applications, as well as the mode of making the payment, has been delegated to the High Courts, it is incumbent on the High Courts to ensure that their RTI Rules specify the authority to whom the payment is to be made, especially when the mode of payment is such that it is required to be addressed to a particular person. For example, an Indian Postal Order, which is one of the most convenient modes of payment is required by law to be addressed to a particular authority in whose account the money is to be deposited. For many High Courts, this authority may be the Registrar General of the court, while for the Central Government it is usually the Pay & Accounts Officers. Without

²⁶ National Federation of Information Commissions in India, Rules framed by Rules framed the Supreme Court of India and High Courts being Competent Authorities u/s 2(e) (ii) & (iii) read with section 28 of Right to Information Act 2005 <http://www.nfci.org/pdfs/rti_annexure/annexure3/sikkim_high_court_rti_ruels_2007.pdf> accessed 03 October 2019

²⁷ See: <https://highcourtofuttarakhand.gov.in/upload/contents/File-11.pdf> & <https://highcourtofuttarakhand.gov.in/upload/contents/File-109.pdf> accessed 3 October 2019

²⁸ C.J. Karira v. High Court of Himachal Pradesh CIC/SM/C/2011/901290, C.J Karira v. PIO Chhattisgarh High Court CIC/SM/C/2011/90128; C.J. Karira v. PIO, High Court of Orissa CIC/SM/C/2011/901289.

the rules clearly specifying this information, applicants are left clueless as to whom this payment is to be addressed. In our survey of the RTI Rules of several High Courts, we discovered that High Courts at Andhra Pradesh, Calcutta, Chhattisgarh, Delhi, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Orissa, Telangana and Uttarakhand do not mention the name of the authority to whom the payment is to be addressed. The lack of this information makes it difficult for an applicant to pay the fee for the RTI application and is not in keeping with the mandate of Section 28 of the RTI Act. One possible reason to explain why these details were not mentioned in some of the RTI Rules is perhaps the fact that these rules originally recognised only court fee stamps as the mode of payment. Court fee stamps cannot be addressed to any person. When some of these High Courts amended their rules to include IPOs as a mode of payment, the drafters most likely forgot to include the name of the authority in whose name the payment was to be made.

Nine of the High Courts in their RTI Rules do not mention the name of the authority to whom the payment is to be addressed	Andhra Pradesh, Calcutta, Delhi, Gujarat, Himachal Pradesh, Kerala, Orissa, Telangana, Uttarakhand
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Scoring: A total of 10 points were deducted on the index, if the RTI Rules failed to provide information regarding the authority to whom payment has to be made. Since the only method of payment of application fee provided in the High Court RTI Rules of Chhattisgarh and Jharkhand is via court fee stamps, points have not been deducted for the said High Court under this category.

Criterion L4: Has the authority to whom the payment is to be addressed for District Courts been mentioned?

Since some High Courts did notify different RTI Rules for the District Courts, we applied the same test as the previous question, to evaluate whether the High Court RTI Rules or the specific RTI Rules for District Courts clearly specified the authority to whom payment was to be addressed in case an RTI application was filed with a District Court. As mentioned earlier, a failure to clearly identify the authority to whom payment is to be made makes it difficult for an applicant to pay the fee for the RTI application. The lack of this information frustrates the mandate under Section 28 of the RTI Act. As per our survey of the High Court and District Court RTI Rules, the following High Courts did not provide this information: Andhra Pradesh, Bombay, Calcutta, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Madras, Orissa, Patna, Telangana and Uttarakhand. In the case of the High Courts at Chhattisgarh and Jharkhand, the authority was presumably not required to be mentioned since

the method of payment of fees is only via court fee stamps. The remaining High Courts had clearly provided for the authority to whom payment had to be made for the District Courts.

Thirteen of the High Courts do not specify in their RTI Rules, the authority to whom payment is to be addressed while filing RTI Applications with the District Courts	Andhra Pradesh, Bombay, Calcutta, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Madras, Orissa, Patna, Telangana, Uttarakhand
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Scoring: A total of 10 points were deducted if the High Court or District Court rules did not clearly identify the authority in whose name the payment is to be addressed for applications filed with the District Court.

Criterion L5: Are there limitations on the number of questions, subject matters or words in a single RTI Application?

Mandatory word limits or limitations on the number of questions or on the subject matters that can be covered in a single RTI application has been one of the recurring demands of the bureaucracy, presumably to curtail lengthy and vague RTI applications. In 2010, it was rumoured that the Central Government was planning to impose a word limit of 250 words for every RTI Application.²⁹ These attempts have come under harsh criticism from RTI activists who were worried that such limitations on question formats etc. would make it easier for PIOs to reject RTI applications.³⁰ In 2012, the Government of India did amend its rules advising applicants to restrict RTI applications to a word limit of 500 words but with the caveat that an application could not be rejected for crossing the word limit of 500 words.

The High Courts have not shied away from imposing such restrictions in their RTI Rules. The Delhi High Court places restrictions on the number of subjects that can be covered in an RTI application. The High Courts at Allahabad, Gauhati, Madhya Pradesh, Manipur, Meghalaya and Sikkim place a limit on the number of 'items' that can be asked, which arguably places limits on both the number of questions and on subject matter. The Orissa High Court uses a slightly different language, requiring that separate applications be filed for separate records of information. The Chhattisgarh High Court has placed limits on both the number of words and the number of subjects that can be covered in an RTI application. Finally, the High Courts at Himachal Pradesh, Patna and Tripura have placed limits on both the number of years the information can be asked for and the number of subjects that can be covered.

²⁹ Venkatesan (n 10).

³⁰ Ankur Paliwal, 'New draft rules for RTI draws flak, Down To Earth (04 July 2015) <<https://www.downtoearth.org.in/news/new-draft-rules-for-rti-draws-flak-33013>> accessed 9 August 2019.

Such limitations or restrictions on word limits, subject matter, items, records, questions or years are *ultra vires* the parent statute because they contradict the language of Section 6 of the RTI Act, which lays down the prerequisites for filing an RTI application. This provision only requires that the application be in one of the official languages, accompanied by the prescribed fee and addressed to the PIO. By introducing such limits to filing an application, the RTI Rules of various High Courts are introducing an entirely new condition to file an RTI application, in effect modifying Section 6 of the RTI Act. This is clearly impermissible because of precedents like *Kunj Behari Lal* which, as explained earlier, have held that rules being delegated legislation cannot add "...substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself". In addition, it is worth mentioning that experts like Justice A.P. Shah have also expressed their opinion that word limits for RTI applications are unconstitutional.³¹

This criterion was specifically included in our survey because the RTI Rules of High Courts of Bombay, Chhattisgarh, Delhi, Gauhati, Gujarat, Himachal Pradesh, Kerala, Madhya Pradesh, Manipur, Meghalaya, Patna, Rajasthan and Uttarakhand make it mandatory to follow a specified format while filing RTI applications. In our experience some of the High Courts, which prescribe a format, enforce the requirement very rigorously. As with the rules on word limits, we argue that mandatory forms prescribed by High Courts under their RTI Rules are *ultra vires* the RTI Act. This is because Section 6 of the Act only requires that the application be in one of the official languages, accompanied by the prescribed fee and addressed to the PIO. By creating a mandatory format, the RTI Rules of High Courts are adding a requirement to Section 6 of the RTI Act, which is not permissible under the precedents such as *Subash Chandra Yadav* and *Kunj Behari Lal*. In these cases, the Supreme Court has made it clear that delegated legislation has to stay within the confines of the parent statute and cannot create new obligations under the law.

Types of Limitation Imposed on a single RTI Application	High Courts in Violation
Word limits	Chhattisgarh
A limit on the number of subject matters	Chhattisgarh, Delhi, Himachal Pradesh, Patna and Tripura
A limit on the item numbers/ records of information	Allahabad, Gauhati, Madhya Pradesh, Manipur, Meghalaya, Orissa and Sikkim
A limit on the number of years that can be covered in a single RTI application	Himachal Pradesh, Patna and Tripura

Thirteen of the High Courts, in their RTI Rules, prescribe mandatory forms for filing RTI Applications and/or Appeals

Bombay, Chhattisgarh, Delhi, Gauhati, Gujarat, Himachal Pradesh, Kerala, Madhya Pradesh, Manipur, Meghalaya, Patna, Rajasthan and Uttarakhand

Scoring: 10 points were deducted for each restriction placed on the number of words, subject matter, items, records or years that can be asked in a single RTI application.

Criterion L6: Have the rules made it mandatory to file RTI applications or appeals in a specified format?

One of the hallmarks of the RTI Act is that it does not prescribe any specific format to file an RTI application. The conscious choice to not prescribe a format was perhaps driven by the fact that mandatory forms vastly increase the complexity of the filing process thereby increasing the probability of rejections by the bureaucracy. The Department of Personnel & Training (DoPT) of the Government of India has restated the above principle in its circulars to public authorities reminding them that they cannot reject RTI applications for not following a prescribed format.³² In the past, the CIC has ruled against the Secretariat of the Vice-President when an RTI application was rejected on the grounds that it was not filed in a prescribed format.³³

Scoring: A score of 10 points was deducted if a mandatory format was prescribed by the High Court's RTI Rules for the purpose of filing an RTI application.

Criterion L7: Does the applicant have to provide a declaration of bona-fide intent or a declaration that the motive is proper or legal either by the rules or the mandatory forms (for either the application or the appeal)?

As mentioned earlier, the RTI Act does not require any citizen to provide reasons justifying a request for information. As per Section 6, the only requirement is that the application for information be made in the official language of the state along with the required fee. The provision also states, in no uncertain terms, that citizens are not required to provide any reason justifying their request for information under the Act. This was an important provision because creating any substantial positive obligations on the part of citizens, to provide reasons for requesting information, would have provided an easy route for the bureaucracy to reject RTI applications.

However, as we discovered during the course of our survey, High Courts like Allahabad, Calcutta, Delhi, Gauhati, Gujarat, Jharkhand, Madhya Pradesh, Manipur, Meghalaya, Orissa, Patna, Rajasthan and Sikkim made it mandatory for applicants

³¹ Venkatesan (n 10).

³² DoPT Office Memorandum F.No. 1/2/2007-IT dated 23 March 2007 <<http://www.rtifoundationofindia.com/dopt-833>> accessed 16 July 2019.

³³ *Chandrakant Jamnadas Karira v Vice-President's Secretariat* 2010 SCC OnLine CIC 426.

to make a bona-fide declaration of intent while filing an RTI application. Most of these bona-fide declarations either require “a positive assertion that the motive for obtaining such information is proper and legal” or that the information sought for is not excluded under Sections 8 or 9 of the RTI Act and pertains to the public authority in question. From a practical perspective, these declarations make little sense unless the High Court in question intends to prosecute persons under Section 191 of the Indian Penal Code which criminalises the giving of false evidence or false declaration or false statement. It is unlikely any such prosecution will ever be launched but the mere threat of a prosecution for an incorrect declaration may have a chilling effect on future RTI applicants. In our experience the requirement for such a declaration will be used as a ground for rejecting applications where applicants have forgotten to make such a declaration, thereby providing an easy handle for the PIOs to evade the request.

From a legal perspective, these requirements for declarations appear to be illegal. Some of these mandatory requirements for declarations have been questioned by the CIC in the past.

In the case of *Ajit Kumar Modi v High Court of Jharkhand*³⁴ the CIC was confronted with Rule 9(a) of the Jharkhand High Court (Right to Information) Rules, 2007 which required every RTI application to be supported by a positive assertion that the motive for obtaining the requested information was proper and legal. The CIC reasoned that this provision was in contravention of Section 6(2) and despite lacking the statutory power to decide on the legality of rules, directed the Chief Justice of the High Court of Jharkhand to withdraw the rule in question. A similar provision in the RTI Rules of the Allahabad High Court was also directed to be withdrawn by the Commission.³⁵ However, as explained earlier, the *Belma Mawri* judgment is very clear that Information Commissions cannot decide on the legality of RTI Rules. Hence the aforementioned directions of the Information Commission do not have any legal effect. Nonetheless, it could be argued that these High Courts had a moral obligation to amend their rules to comply with the law. However, it appears that neither Jharkhand nor Allahabad High Courts amended their RTI rules to delete the provisions requiring citizens to make declarations as a prerequisite to filing an RTI application.

Thirteen of the High Courts, in their RTI Rules, mandate a declaration of intent or knowledge while filing an RTI Application and/or Appeal

Allahabad, Calcutta, Delhi, Gauhati, Gujarat, Jharkhand, Madhya Pradesh, Manipur, Meghalaya, Orissa, Patna, Rajasthan and Sikkim

Scoring: 10 points were deducted if a declaration of bona-fide or a declaration stating that the information sought for is not excluded under Section 8 or 9 of the RTI Act was a mandatory requirement under the High Court’s RTI Rules.

Criterion L8: Are there categories of information exempted from disclosure, over and above the exemptions listed under Section 8 of the RTI Act?

Section 8 of the RTI Act has a long list of exemptions listing out the grounds for non-disclosure of information. These include grounds like privacy, commercial confidence, security of the state, ongoing investigations etc. The breadth of the exceptions directly impacts the scope of the substantial right.

Our survey discovered that the RTI Rules of various High Courts at Bombay, Delhi, Gauhati, Gujarat, Jharkhand, Kerala, Manipur, Meghalaya, Orissa, Punjab & Haryana, Rajasthan, Sikkim and Tripura have created additional grounds for non-disclosure of information over and above those listed in Section 8 of the RTI Act. For example, Rule 13 of the Bombay High Court RTI Rules has a long list of information that is not required to be shared by the PIO, including one vaguely worded provision that exempts all “information which is not in the public domain”. When Parliament has so clearly defined, in Section 8 of the RTI Act, an exhaustive list of grounds on the basis of which information can be exempted from disclosure, it would most certainly be illegal for the public authority to draft additional grounds of exemptions and substantially alter the scheme of the parent statute.³⁶ There are several judicial precedents which have clarified this position of law, including the previously discussed precedent of the Supreme Court in the *Kunj Behari Lal* case. This is especially true because the RTI Act was premised on disclosure being the norm, and refusal, the exception.³⁷ It is submitted that these additional restrictions are liable to being struck down for being *ultra vires* the parent statute.

The CIC has repeatedly ruled against public authorities, which have cited such prohibitions in their RTI Rules to not disclose information. In one case that involved the provisions of the Delhi Districts Courts (Right to Information) Rules, 2008, the CIC made an observation that the RTI Rules for the Delhi District Courts could not exempt more categories of information than provided for in the RTI Act.³⁸ In pertinent part, the Commission made the following observation:

³⁴ *Ajit Kumar Modi v. High Court of Jharkhand* 2010 SCC OnLine CIC 12179.

³⁵ *Ajay S. Jajodia v. High Court of Allahabad* 2010 SCC OnLine CIC 9907.

³⁶ *Add. District Magistrate (Rev.) Delhi Admn v. Siri Ram* (2000) 5 SCC 451.

³⁷ *CPIO, Supreme Court of India v. S.C. Agarwal Delhi HC* (2009) 162 DLT 135. Also see *Bhagat Singh v. CIC Delhi High Court* MANU/DE/8756/2007 p13 holding that Section 8 must be strictly construed; *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* No. CIC/SG/A/2010/003545/11147 holding that the no public body is permitted under the RTI Act to take upon itself the role of the legislature and import exemptions not provided under Section 8 and Section 9.

³⁸ *Harish Lamba v PIO District & Sessions Judge New Delhi* MANU/CIC/0455/2018.

“The Commission takes note of the fact that while the parent statute i.e. The RTI Act, enumerates only 10 exceptions to the general right to receive information, the Delhi District Court (Right to Information) Rules adds further 13 ‘non statutory exceptions’ if the information sought related to Delhi District Courts. Clause (xiii) of Rule 7, is an overreaching clause which can deny information on “any other reason”. It is couched as a residuary ‘disabling’ provision, which can accommodate ‘any other reason’ justifying non-disclosure of information. Such an open-ended exception cannot be carved out while enacting a subordinate legislation. Similarly, Rule 9(x) of the Delhi District Court (Right to Information) Rules also runs counter to the mandate of Section 8(1)(b) as the former declares all information relating to judicial proceedings as excepted from disclosure whereas RTI Act nowhere contemplates such a blanket exemption of an entire range of information.”

There have been other cases where the CIC has refused to enforce restrictions in the RTI Rules of High Courts against the disclosure of marks obtained by the individual in an examination that was conducted by the judiciary in discharge of its administrative functions.³⁹

For the purposes of this criterion, we disregarded provisions in the RTI Rules of High Court that barred judicial pleadings from being shared with citizens under the RTI Act because this is a very contentious issue with even the Registry of the Supreme Court refusing to respond to RTI applications requesting for copies of pleadings filed before it. A single judge of the Delhi High Court has ruled in favour of the Registry of the Supreme Court in the first appeal⁴⁰ and the matter is currently pending a second round of appeal before the Division Bench.⁴¹

Thirteen of the High Courts, in their RTI Rules, have created additional grounds for non-disclosure of information, over and above those listed in Section 8 of the RTI Act	Bombay, Delhi, Gauhati, Gujarat, Jharkhand, Kerala, Manipur, Meghalaya, Orissa, Punjab & Haryana, Rajasthan, Sikkim, Tripura
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Scoring: A score of 5 points was deducted for each additional category of exemption that was beyond the text of Section 8 of the RTI Act. We did not deduct any points if the text of Section 8 was reproduced in the RTI Rules of the High Courts.

Criterion L9: Do the High Court RTI Rules confer a power on the Appellate Authority to impose penalties for either a failure to provide correct information or for a delay in providing information?

One of the key reasons attributed to the early successes of the RTI Act was the power of Information Commissions to penalise PIOs who rejected RTI applications without adequate reasons or for mala-fide reasons. Since the penalties would be recovered directly from the salary of the PIOs, it created pressure on the PIO to comply with the terms of the RTI Act. Section 20 of the RTI Act capped the maximum penalty that could be imposed on a public servant, for providing incorrect, incomplete or misleading information at Rs. 25,000. However as per this provision, only the Information Commissions can impose penalties. We discovered during the course of our survey that the RTI Rules of some High Courts like Calcutta, Gauhati, Gujarat, Manipur, Meghalaya, Punjab & Haryana and Tripura have conferred powers on the Appellate Authority to impose penalties on the PIO for providing incorrect, incomplete or misleading information. We presume that the Appellate Authority means the First Appellate Authority under Section 19 of the RTI Act. This is usually, an officer who is senior in rank to the PIO. Rules of such nature are vulnerable to being struck down because the RTI Act does not empower High Courts to vest penal powers in their own officers to punish PIOs. As explained earlier there are multiple precedents of the Supreme Court which have held that delegated legislation has to conform to the parent statute.

Seven of the High Courts, in their RTI Rules, empower the Appellate Authority to impose penalties for failure to provide correct information or for a delay in providing information	Calcutta, Gauhati, Gujarat, Manipur, Meghalaya, Punjab & Haryana and Tripura
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Scoring: A score of 10 points was deducted if the RTI Rules of a High Court vested in their appellate authorities the power to impose a penalty on PIOs for providing incorrect, incomplete or false information.

Criterion L10: Instead of transferring the application, as required under Section 6(3) of the RTI Act, do the RTI Rules of the High Court require the return of the application advising the applicant to file with the correct public authority?

One of the main challenges while filing an RTI application is identifying the correct public authority which is the true custodian of the public information in question. In our experience even the bureaucracy sometimes gets confused about which department has the relevant records. The drafters

³⁹ Vipin Kumar v Tiz Hazari Court 2014 SCC OnLine CIC 3157; Keshav Kaushik v High Court of Allahabad CIC/WB/A/2010/000222.

⁴⁰ Registrar Supreme Court of India v. RS Misra 244 (2017) DLT 179

⁴¹ R S Misra v Registrar, Supreme Court of India LPA 636/2018 before the High Court of Delhi

of the RTI Act in their wisdom pre-empted the possibility of RTI applications being rejected on the grounds of being filed with the wrong department by including an obligation, in Section 6(3), on the receiving department to transfer the RTI application to the public authority which is most likely to have the information requested for by the citizen. However, in our survey of the RTI rules, we found that the High Courts of Gauhati, Gujarat, Manipur and Meghalaya required their public information officers to return RTI applications to citizens if the subject matter of the application did not pertain to the High Court. The Sikkim High Court had both, a transfer provision and a separate provision, akin to the one discussed above. This provision is expressly contrary to Section 6(3) of the RTI Act, which imposes a positive obligation on public authorities to transfer RTI applications which may not pertain to their office, within a period of 5 days to the public authority which has the competence to reply to the queries in question. As explained earlier, delegated legislation cannot go against the terms of the parent statute. In this case, Section 6(3) of the RTI Act has been blatantly contradicted by the RTI Rules that have mandated the return and not transfer of RTI applications.

Five of the High Courts, in their RTI Rules, require PIOs to return RTI applications requesting for information which is not within their jurisdiction. This is contrary to Section 6(3) of the RTI Act	Gauhati, Gujarat, Manipur, Meghalaya, Sikkim
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Scoring: A score of 10 points has been deducted if the RTI Rules of the High Court contradict the wording of Section 6(3) of the RTI Act.

Criterion L11: Is there a cost imposed by the High Court RTI Rules for filing an appeal against the denial of information by a Public Information Officer?

The RTI Act requires the payment of a fee at the time of filing an RTI application. Section 6 of the legislation clearly specifies this requirement. There is however no such requirement mentioned in Section 19 of the RTI Act, which allows for the filing of appeals to the first appellate authority, who is usually an officer superior to the PIO within the same department.

However, as we discovered, the RTI rules of High Courts at Bombay, Chhattisgarh, Gauhati, Madhya Pradesh, Manipur, Meghalaya, Rajasthan, Sikkim and Tripura imposed a cost for the filing of first appeals. When the parent statute has limited the charging of fees for only RTI applications and not RTI appeals, the rules cannot create new obligations for citizens and any such rule will be *ultra vires* the parent statute because of precedents of the Supreme Court like *Kunj Behari Lal*.

The CIC followed the above line of reasoning when it held that the imposition of a fee of Rs. 50 for filing a first appeal, by the Delhi District Court (Right to Information) Rules did not conform to the provisions and the spirit of the RTI Act. It therefore recommended that the Delhi High Court amend the rules accordingly.⁴² The rule was subsequently amended in 2014 by the Delhi High Court to delete the requirement for payment of a fee for the purpose of filing an appeal.

Nine of the High Courts, in their RTI Rules, impose a cost for the filing of first appeals	Bombay, Chhattisgarh, Gauhati, Madhya Pradesh, Manipur, Meghalaya, Rajasthan, Sikkim and Tripura
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Scoring: A score of 10 points was deducted if the RTI Rules of the High Court prescribed a cost to file an appeal under the RTI Act to the first appellate authority within the High Court.

Criterion L12: Are there any other additional violations?

This criterion was included to capture those unique provisions of RTI Rules of different High Courts which are in violation of the RTI Act but could not be captured under the other heads of the index. For example, the RTI Rules of the Chhattisgarh High Court mandatorily require the applicant to appear before the public authority after the submission of an RTI application.⁴³ This requirement is vulnerable to being struck down as *ultra vires* the scheme of the RTI Act, since Section 6(2) merely requires a citizen to submit their contact details along with the application. The underlying assumption of the RTI Act is that the entire application process can be completed through written applications rather than oral hearings. In fact, no other High Court has a requirement for an oral hearing in order to process an RTI Application.

Rule 4(7) of the Gujarat High Court (Right to Information) Rules, 2005, states that judicial officers cannot be summoned by the CIC.⁴⁴ We believe this rule is *ultra vires* Section 18(3) of the RTI Act which specifically vests in the Central and State Information Commissions, the power to summon any person while inquiring into any matter under the RTI Act.

The RTI Rules of the Patna High Court as published on its website are illegible and dim while the Sikkim High Court RTI Rules on the other hand do not have continuous numbering make it challenging to understand the Rules.

⁴² L.G. Dass v. Patiala House Court 2014 SCC OnLine CIC 8330.
⁴³ Rule 4, Chhattisgarh High Court (Right to Information) Rules, 2006
⁴⁴ Rule 4, Gujarat High Court (Right to Information) Rules, 2005.

High Courts with Additional Violations	Description of the Violation
Chhattisgarh	Rule 4, Chhattisgarh High Court (Right to Information) Rules, 2006 mandatorily require the applicant to appear before the public authority after the submission of an RTI application.
Gujarat	Rule 4(7) of the Gujarat High Court (Right to Information) Rules, 2005, states that judicial officers cannot be summoned by the CIC.
Patna	Rules as published on the website are illegible and dim.
Sikkim	Rules do not have continuous numbering.

Scoring: A score of 10 points was deducted for every additional violation that we observed in the RTI Rules.

We have illustrated the criteria wise scores obtained by all the High Courts under the legality index in 'Figure 1'. A key detailing all the criteria under which the scores have been awarded is provided in the next page.

Key for the Detailed Legality Index (Figure 1)

Criteria	Points
L1	Have the rules been published on the High Court website? -10 if the rules are unpublished or cannot be located on the website 0 if the rules are available on the High Court website
L2	Are the District Courts covered by a separate set of RTI Rules or under the the High Court's RTI Rules? -10 if there are no rules regarding the District Courts 0 if the District Courts have a separate set of rules or if they are covered under the High Court Rules
L3	Has the authority to whom the payment is to be addressed for High Courts been mentioned in the RTI Rules? -10 if the rules are silent or the authority is not mentioned 0 if the authority has been clearly mentioned or not required to be mentioned
L4	Has the authority to whom the payment is to be addressed for District Courts been mentioned in the RTI Rules? -10 if the rules are silent or the authority is not mentioned 0 if the authority has been clearly mentioned or not required to be mentioned
L5	Are there restrictions in the RTI Rules on the number of items, records, subject matter, words or years that can be asked in a single RTI application? -10 if a word limit is prescribed -10 if a subject matter limit is prescribed -10 if there is a limit on the number of items/ records of information or a limit on the number of years 0 if none have been prescribed
L6	Have the RTI Rules made it mandatory to file RTI applications and/or appeals in a specified format? -10 if following the prescribed the format is made mandatory 0 if the forms have not been made mandatory <i>[NOTE: No points have been deducted if the rules are silent on the form being mandatory or if they note that the requirement to follow a form is not mandatory]</i>
L7	Do the RTI Rules require the applicant to provide a declaration of intent or knowledge, while filing an RTI application or appeal? -10 if declaration is mandatory 0 if no declaration is required
L8	Are the categories of information, exempted from disclosure in the RTI Rules, over and above the exemptions listed under Section 8 of the RTI Act? -5 for every additional category over and above the Section 8 exemptions 0 if there is no provision on exemption from disclosure
L9	Do the High Court RTI Rules confer a power on the Appellate Authority to impose penalties on PIOs for either a failure to provide correct information or for a delay in providing information -10 if the Appellate Authority has been conferred with the power to impose penalties 0 if the penalty has not been reduced
L10	Instead of transferring the application, as required under Section 6(3) of the RTI Act, do the RTI Rules of the High Court require the return of the application advising the applicant to file with the correct public authority? -10 if the transfer provision is contradicts Section 6(3) 0 if the transfer provision has not been amended
L11	Is there a cost imposed by the High Court RTI Rules for filing an appeal against the denial of information by a Public Information Officer? -10 if cost has been imposed 0 if no cost has been imposed
L12	Are there any other additional violations in the High Court RTI Rules? -10 for every violation

Figure 1: Detailed Legality Index



B. The Convenience Index - Did the RTI Rules of the High Court Provide Convenient Procedures for the Citizens?

Separate from the legality index, we also examined the High Court RTI rules from the perspective of convenience of the citizen, i.e. whether the rules prescribed a procedure that was convenient enough to be used by the average citizen to secure information from the High Court. It was necessary to examine the rules from this perspective because it is entirely possible for the rules to be absolutely legal but at the same time, in reality make it punishingly inconvenient for citizens to file applications. For example, it is completely legal for a public authority to require that the payment of RTI fees be made only in cash to the PIOs. This is legal because the RTI Act delegates this power to decide the mode of payment, to each public authority. However, in practice a requirement to make the payment only in cash would make it necessary to visit the court premises to file the RTI application. This can be time consuming, especially if the citizen is not living in the city where the High Court is located. If postal orders or demand drafts were accepted as the mode of payment, it would be feasible for citizens to file RTI applications through post thereby saving time and energy.

In order to maintain some objectivity in measuring the 'convenience' aspect of each High Court's RTI rules, we used the Government of India's ("GOI") Right to Information Rules, 2012 as the benchmark for this index. The logic for this was the fact that the GOI's Rules provide a very convenient route to file RTI applications. This is in large part because of an active pressure campaign on the government by civil society organisations who wanted to ensure that the procedure to file RTI applications was kept simple and convenient.⁴⁵ The only additional parameter we included in this index, for reasons discussed elsewhere was whether the rules were available in the local language of the states.

The rule of scoring that was followed in this index was that no points were deducted if the RTI Rules of a High Court provided the same options as the government rules. We only deducted points if the High Court rules provided for less convenient options than the GOI's rules. In case the High Court rules provided for more convenient options than the GOI, additional points were given.

Criterion C1: Are the rules available in the local language on the website of the High Court?

The RTI Act does not make it compulsory to publish the RTI rules in the local language of the state. At most, Section 4(4) of the RTI Act requires PIOs to take into "consideration...the local language" while disseminating information throughout the state. Most state governments publish the RTI Rules of the High Courts in the state gazettes in both English and the local language of the state. The High Court merely has to make available both English and the local language version. However most High Courts usually make the RTI Rules available on their website in English only. The only exception to this rule has been the Patna High Court and, in part, the Allahabad High Court (that has made available only some of the amendments in Hindi). Unless a citizen has access to the RTI Rules in a language they can understand, they cannot effectively counter a reluctant bureaucracy. While not a legal requirement, the failure to provide rules in a language that is understood by all citizens certainly makes it inconvenient for those citizens to file RTI applications.

Two of the High Courts make available their RTI Rules in local language

Allahabad (Allahabad has made available only some of the amendments in Hindi), Patna

Scoring: A score of 10 points was deducted for High Courts which did not make the RTI Rules available in the local official languages on the website of the High Court. 5 points were deducted if only the amendment was available in the local language.

Criterion C2 & C3: Do the RTI Rules of the High Court charge more than Rs. 10 as the fee of filing a RTI Application? Do the RTI Rules of the High Court charge more than Rs. 2 per page as the cost of providing photocopies of documents in response to an RTI Application?

As mentioned in the introduction of this report, the RTI Rules of most High Courts had prescribed very high fees for the filing of RTI applications. Some High Courts were charging fees as high as Rs. 500. This was fifty times the amount charged by the Government of India and was clearly intended to discourage the filing of RTI applications. In 2012, the NGO Common Cause challenged several facets of the RTI Rules of the Allahabad High Court including the rule prescribing Rs. 500 as the cost of filing an RTI application.⁴⁶ At the time Common Cause had argued that Section 7(5) of the RTI Act required all public authorities to charge a 'reasonable' fee and that a fee of Rs. 500 would be unreasonable in a state like Uttar Pradesh where the average income of a person was approximately Rs. 70 per

⁴⁵ For a detailed history of the campaign to keep the RTI Act afloat please refer to history on the website of the Commonwealth Human Rights Initiative at <https://www.humanrightsinitiative.org/content/national-level-rti> accessed 3 October 2019.

⁴⁶ *Common Cause v. High Court of Allahabad* (2018) 14 SCC 39. Also see PTI, SC caps fee charged by HCs for information under RTI Law at Rs. 50, Outlook India (20 March 2018) <<https://www.outlookindia.com/newscroll/sc-caps-fee-charged-by-hcs-for-information-under-rti-law-at-rs-50/1274503>> accessed 17 July 2019.

day.⁴⁷ The Supreme Court decided this case only in 2018 and that too, in a very briefly reasoned order without tackling the substance of Common Cause's argument on 'reasonableness' of the fees under the RTI Act. With specific regard to the cost of RTI applications, the Court stated the following:

"We are of the view that, as a normal Rule, the charge for the application should not be more than Rs.50/- and for per page information should not be more than Rs.5/-. However, exceptional situations may be dealt with differently. This will not debar revision in future, if situation so demands."

While this order was generally well received in the media and civil society groups working on transparency related issues, there is no denying the fact that the order lacks any form of legal reasoning. Fortunately, though this judgment, by implication, reverses a decision of the Chhattisgarh High Court which had imposed a cost of Rs. 10,000 on the applicant for challenging a provision of the Chhattisgarh Vidhan Sabha Secretariat Right to Information (Regulation of Fees and Costs) Rules, 2011, requesting that the cost of application be reduced from Rs. 300 to Rs. 15.⁴⁸

Notwithstanding the sparse legal reasoning in the Supreme Court's order, most High Courts have complied with the Supreme Court's order and there is currently no High Court that charges more than Rs. 50 as the fee for filing an RTI application. However, even this amount of Rs. 50 (as filing fee) and Rs. 5 (document fee), is still more expensive than the fee of Rs. 10 and Rs. 2 charged by the Government of India and the Supreme Court of India.⁴⁹ As of today, the High Courts of Allahabad, Chhattisgarh, Gujarat, Madhya Pradesh, Meghalaya and Rajasthan charge more than Rs. 10 for filing an RTI application. Additionally, the High Courts of Allahabad, Chhattisgarh, Gauhati, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Manipur, Meghalaya and Tripura charge more than Rs. 2 for providing photocopies of documents. Orissa charges Rs. 2 per 180 words, which is a strange standard of measurement in an age where documents are photocopied. The High Courts of Madras, Sikkim and Uttarakhand do not even mention the rate of photocopying per page.

The Bombay High Court has a problematic clause requiring applicants to send self-addressed stamped envelopes along with the RTI application. The Madras High Court also has a problematic clause, where apart from paying Rs. 10 as the fee for an RTI application, an applicant is also required to send a lumpsum amount of Rs. 100 when requesting copies of any

documents rather than the normal practice wherein applicants are expected to pay the exact sum calculated by the PIO as the photocopying cost.

There is no logical reason for the High Courts to charge fees that are higher than the Government of India.

Six of the High Courts charge more than Rs. 10 for filing an RTI application	Allahabad, Chhattisgarh, Gujarat, Madhya Pradesh, Meghalaya and Rajasthan
Ten of the High Courts charge more than Rs. 2 for providing photocopies of documents	Allahabad, Chhattisgarh, Gauhati, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Manipur, Meghalaya and Tripura
Three of the High Courts do not mention the rate of photocopying per page.	Madras, Sikkim and Uttarakhand
Three of the High Courts have other problematic charges	Orissa High Court charges Rs. 2 per 180 words for copies of information. Bombay High Court requires applicants to send self-addressed stamped envelopes along with the RTI application. Madras High Court requires an applicant to send a lumpsum amount of Rs. 100 in addition to application fee when requesting copies of any documents.

Scoring: A score of 10 points was deducted for C2, if the application fee in the RTI Rules of the High Court was more than Rs. 10. If the RTI Rules of the High Court charged Rs. 10 no points were deducted. A score of 5 points was deducted if there were any additional requirements in the rules like sending the application along with a self-addressed envelope which is stamped with adequate postage. For C3, 10 points were deducted if the RTI Rules of the High Court charged more than Rs. 2 per page or if they had not specified a cost per page of photocopying.

Criterion C4: Do the RTI Rules of the High Court charge for inspecting information for the first hour and is the cost of inspecting files for subsequent hours, more than Rs. 5 per hour?

Apart from the right to file applications seeking information from public authorities, the RTI Act also recognises the right of citizens to inspect files of different public authorities. This right to inspect can be traced to the definition of right to information under the Act. The RTI rules of the Government

⁴⁷ Text of Writ Petition in Common Cause v. High Court of Allahabad W.P (Civil) No. 194 of 2012 available at para 10 <<http://www.commoncause.in/uploadimage/case/8077390661608748951sc10c.pdf>> accessed 17 July 2019

⁴⁸ Dinesh Kumar Soni v. State of Chhattisgarh MANU/CG/0317/2017.

⁴⁹ The Supreme Court charges Rs. 10 per RTI application <<https://sci.gov.in/right-information-act>> accessed 17 July 2019.

of India allow applicants to inspect files for free for a period of 1 hour. A fee of Rs. 5 is charged for every subsequent hour. Our survey of the RTI Rules of the High Courts indicated that several High Courts were charging for even the first hour. For example, the Jharkhand High Court was charging as high as Rs. 50 for every hour or part thereof as cost of for inspection which includes charging for the first hour. The High Courts at Andhra Pradesh, Chhattisgarh, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Rajasthan, Telangana and Uttarakhand prescribed fees of more than Rs. 5 per hour as the cost for inspection. The other High Courts at Allahabad, Calcutta, Gauhati, Gujarat, Madras, Manipur, Meghalaya, Orissa and Tripura, were silent on the aspect of inspection fees. The lack of mention of any fees in the rules for inspections, are troublesome from a convenience perspective because of the lack of certainty for citizens regarding their rights. Similarly, high costs are problematic because it makes it more expensive for citizens to enforce their rights.

Nine of the High Courts prescribe fees of more than Rs. 5 per hour as the cost for inspection	Andhra Pradesh, Chhattisgarh, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Rajasthan, Telangana and Uttarakhand
Nine of the High Courts were silent on the aspect of inspection fees	Allahabad, Calcutta, Gauhati, Gujarat, Madras, Manipur, Meghalaya, Orissa and Tripura

Scoring: 10 points were deducted, if an inspection fee was charged for the first hour or if for every subsequent hour, a sum more than Rs. 5 was charged or if the rules were completely silent on the cost of inspection. No points were deducted if the first hour of inspection was free and if the cost of inspection for every subsequent hour was Rs. 5.

Criterion C5: Do the RTI Rules of the High Court recognise the same modes of payment as the Government of India RTI Rules, 2012?

The mode in which payments are allowed under the RTI Rules of different public authorities is a critical issue that directly impacts the convenience with which a citizen can file an RTI application. If a public authority restricts the mode of payment of RTI fees to only cash, citizens will necessarily have to visit the public authority to make the payment. This is technically legal but makes it highly inconvenient for citizens to file an RTI application. On the other hand, if the public authority allows for payment to be made via postal orders, it would mean that the citizen can purchase the postal orders from any post office and make the payment through post thereby saving the citizen the time and trouble of travelling to the office of the public authority. The GOI's RTI Rules, 2005 originally

did not recognise postal orders as a mode of payment but subsequently, the government issued a circular instructing all PIOs to accept postal orders as a mode of payment.⁵⁰ The new GOI RTI Rules introduced in 2012 formally recognised postal orders as a mode of payment.⁵¹

We evaluated the RTI Rules of all High Courts to determine the mode of payments that were allowed in comparison to the RTI Rules of the GOI, and scored the same on the Convenience Index. While several High Courts did recognise convenient modes of payments like postal orders, the RTI Rules of the High Courts of Allahabad, Chhattisgarh, Gauhati, Gujarat, Jharkhand, Kerala, Madhya Pradesh, Manipur, Meghalaya, Rajasthan and Sikkim, did not recognise postal orders as a mode of payment. The RTI Rules of High Courts of Chhattisgarh and Jharkhand, prescribe only court fee stamps as the relevant mode of payment. Not only are court fee stamps different in each state, they are usually available at fewer locations than postal orders which are available in all post offices across the country. There are also courts like the Gujarat High Court whose RTI Rules do not mention any mode of payment thereby increasing the uncertainty for RTI applicants.

The RTI Rules of High Courts of Andhra Pradesh, Karnataka, Madras, Telangana, Tripura and Uttarakhand which recognised postal orders as a valid mode of payment, did not offer all of the other modes of payment that were recognised under the Government of India's RTI Rules, 2012.

The last limb of analysis under this criterion was whether the RTI Rules of the High Courts prescribed online methods of payments. This was included in the analysis because the GOI RTI Rules, 2012 also allow payments to be made by electronic means to the Accounts Officer of the public authority. Unfortunately, none of the High Courts have prescribed an online mechanism of payments. Only the Madhya Pradesh High Court had an online portal to file and pay for RTI applications. However, it did not work the few times we tried using it.

Eleven of the High Courts did not recognise postal orders as a mode of payment in their RTI Rules.	Allahabad, Chhattisgarh, Gauhati, Gujarat, Jharkhand, Kerala, Madhya Pradesh, Manipur, Meghalaya, Rajasthan and Sikkim
Six of the High Courts, in their RTI Rules, recognised postal orders as a valid mode of payment but did not offer all of the remaining modes of payment as the Government of India's RTI Rules, 2012	Andhra Pradesh, Karnataka, Madras, Telangana, Tripura and Uttarakhand

⁵⁰ Department of Personnel and Training, Office Memorandum No.F. 1/2/2007-IT dated 23 March 2007 <<http://www.rtifoundationofindia.com/dopt-833>> accessed 16 July 2019. Also see guidelines under No. 1/4/2008-IR dated 25 April 2008 p 24 <http://andssw1.and.nic.in/rti/pdf/om_public.pdf> accessed 16 July 2019.
⁵¹ Rule 6(b) of the Right To Information Rules, 2012.

Two of the High Courts only prescribe court fee stamps as a valid mode of payment for application fee	Chhattisgarh and Jharkhand
None of the High Courts prescribe online methods of payments in their RTI Rules.	NA

Scoring: A score of 10 points was deducted for the High Courts which did not clearly mention the documentation that is required to be produced by a citizen to establish BPL status.

We have illustrated the criteria wise scores obtained by all the High Courts under the convenience index in 'Figure 2'. A key detailing all the criteria under which the scores have been awarded is provided in the next page.

Scoring: A score of 10 points was deducted if the RTI Rules of the High Courts excluded instruments like postal orders, banker's cheques and demand drafts or an online payment mechanism. All these modes of payment recognised in the Government of India's rules.

Criterion C6: Do the RTI Rules of the High Courts describe the documentation required to be provided by below poverty line applicants in order to qualify for a fee and cost waiver under the RTI Act?

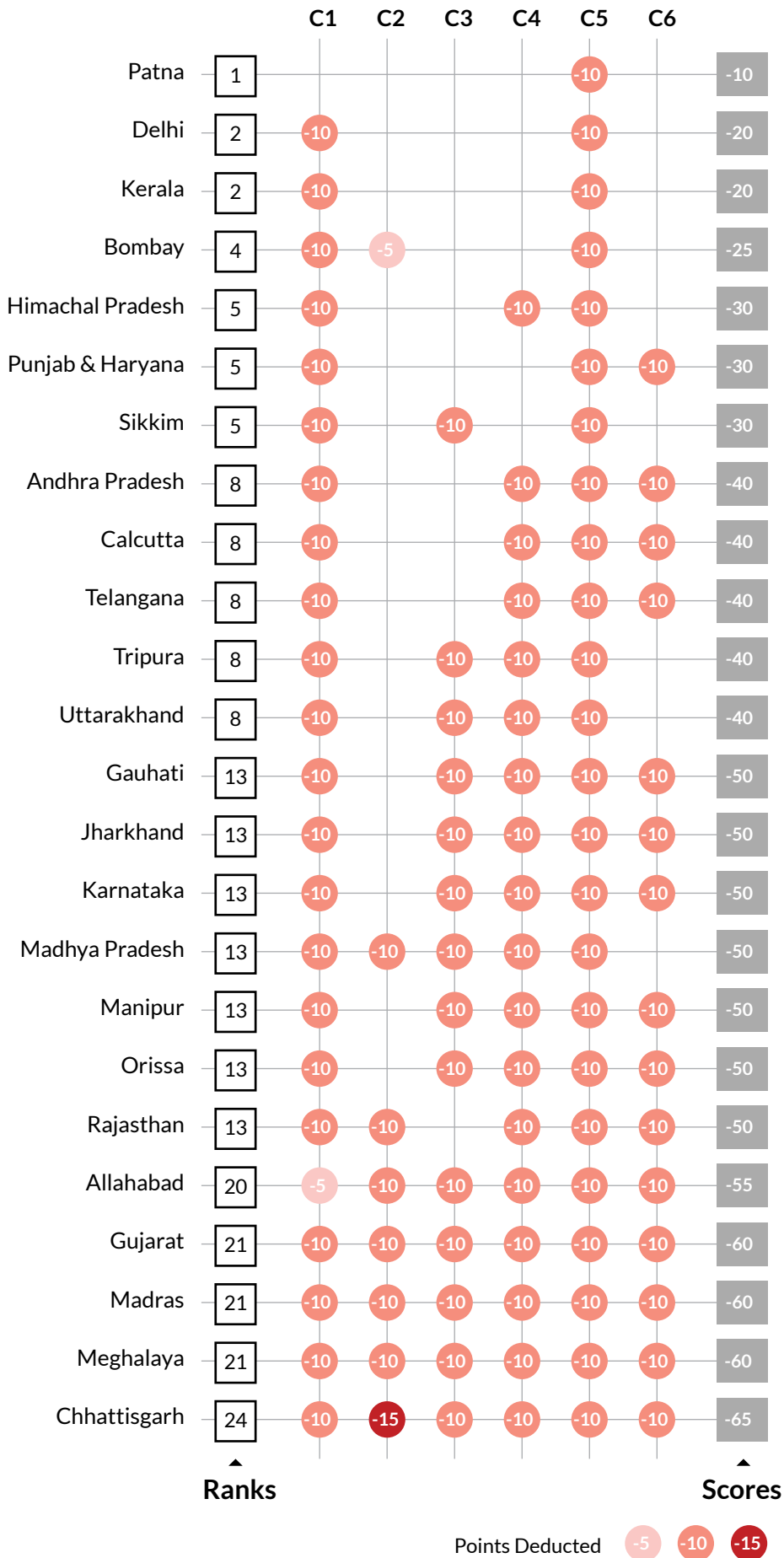
The last factor evaluated for the purpose of the convenience index was whether the RTI Rules of High Courts provided citizens living below the poverty line (BPL) with the information about the documentation they are required to provide before the High Court in order to avail their right, under Section 7, to avail of information without having to pay any fee. This provision states that the status of BPL citizens should be as determined by the appropriate government. There is no legal requirement for the RTI Rules of a public authority to specifically mention the documentation required to be submitted by the RTI applicant. However, it would help BPL applicants if the RTI Rules do mention the requirements because there are multiple identity documents issued by state governments to BPL citizens including a special BPL card or a ration card. The Government of India's RTI Rules requires a BPL applicant to provide a copy of the certificate issued by the appropriate government in order to file an RTI application without payment of any fee. The High Courts at Allahabad, Andhra Pradesh, Calcutta, Chhattisgarh, Gauhati, Gujarat, Jharkhand, Karnataka, Madras, Manipur, Meghalaya, Orissa, Punjab & Haryana, Rajasthan and Telangana are entirely silent on this aspect in their RTI Rules making it difficult for BPL citizens to negotiate their rights with the bureaucracy at the High Courts. We therefore evaluated all the rules of the High Courts on this aspect and scored them on the convenience index.

Fifteen of the High Courts are silent on certification criterion for BPL applications in their RTI Rules	Allahabad, Andhra Pradesh, Calcutta, Chhattisgarh, Gauhati, Gujarat, Jharkhand, Karnataka, Madras, Manipur, Meghalaya, Orissa, Punjab & Haryana, Rajasthan and Telangana
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Key for the Detailed Convenience Index (Figure 2)

Criteria	Points
C1 Are the RTI Rules available in the local language on the website of the High Court?	<p>0 if the Rules are available and published on the website</p> <p>-5 if only the amendment or rules, either, are available</p> <p>-10 if neither are available</p>
C2 Do the RTI Rules of the High Court charge more than Rs. 10 as the fee of filing a RTI Application?	<p>-10 if it is more than Rs. 10</p> <p>-5 if there are additional requirements like self addressed stamped envelope</p> <p>0 if it is Rs. 10</p>
C3 Do the RTI Rules of the High Court charge more than Rs. 2 per page as the cost of providing photocopies of documents in response to an RTI Application?	<p>-10 if it is more than Rs. 2 or not specified</p> <p>0 if it is Rs. 2</p>
C4 Do the RTI Rules of the High Court charge for inspecting information for the first hour and is the cost of inspecting files for subsequent hours, more than Rs. 5 per hour?	<p>-10 if the cost imposed is more than Rs. 5 per hour, cost is imposed for the first hour or if the rules are silent</p> <p>0 if less than or equal to Rs. 5 per hour with no cost imposed for the first hour</p>
C5 Do the RTI Rules of the High Court recognise the same modes of payment as the Government of India RTI Rules, 2012?	<p>-10 if the payment methods exclude IPOs, bankers cheque/DD or other electronic methods of payment</p> <p>0 if IPOs, bankers cheque/DD are accepted as methods of payment of RTI application along with electronic methods of payment</p>
C6 Do the RTI Rules of the High Courts describe the documentation required to be provided by below poverty line applicants in order to qualify for a fee and cost waiver under the RTI Act?	<p>0 if the criteria is clearly mentioned</p> <p>-10 if the rules are silent or if no criteria is mentioned</p>

Figure 2: Detailed Convenience Index





The Practice Index – How did the Public Information Officers respond to RTI Applications?

The best written laws can be wrecked by reluctant bureaucrats tasked with implementing the law in practice. Therefore, apart from evaluating the RTI Rules drafted by High Courts, we also thought it necessary to evaluate the manner in which the Public Information Officers at these High Courts respond to RTI applications.

For the purposes of this report, we decided to evaluate the responses of all High Courts to 3 sets of RTI applications that we had filed with each of the High Courts for the purpose of collecting information for our research work on other issues; 2 out of 3 sets of applications were filed in November 2018 and the third set was filed in April 2019. Of these 3 sets, the first pertained to the implementation of the Commercial Courts Act [attached as 'annexure A'], the second pertained to the budget outlays of the High Court [attached as 'annexure B'] and the third and final set of RTIs requested all High Courts to provide copies of their audit report [attached as 'annexure C']. We evaluated all the responses received from the High Courts and scored them on certain specific criteria. The replies received before the 1st of May 2019 were evaluated for the purposes of this index. Of the 9 criteria that formed the basis of this index, 4 are based on legal requirements laid out under the RTI Act and 5 are subjective criteria that were important in our opinion to ensure meaningful compliance with the RTI Act. The score for each High Court, for each criterion, is the average score of responses to all 3 RTI applications. The rationale for each criterion is explained below in greater detail.

With regard to scoring in this index, we deducted points if mandatory requirements under the RTI Act or High Court Rules have not been complied with by the High Court while responding to our RTI applications. We have awarded points only for those criteria where the High Court has made it easier for RTI applicants to access the information despite no legal requirement to do so under the law.

The Andhra Pradesh High Court was not evaluated for this index because we had filed the applications with the High Court of Hyderabad before it was bifurcated into the Andhra Pradesh High Court and the Telangana High Court. We received the responses from the latter High Court.

Criterion P1: Has the RTI application been replied to by the High Court?

The first and most important criterion in this index is whether the RTI application was even responded to by the High Court, even if the reply was a rejection. High Courts that did not reply to the RTI applications, were penalised on the index. Most of the High Courts scored well on this index. Only the High Courts of Calcutta, Chhattisgarh, Madras, Patna and Telangana were penalised for not replying to at least 1 of the 3 RTI applications. Only the High Court at Chhattisgarh, was penalised for not responding to 2 RTI applications.

Scoring: For High Courts that did not respond to an RTI application, a total of 30 points were deducted. No points were deducted for High Courts that responded to our RTI applications even if the reply was in effect a rejection of our request for information.

Criterion P2: Did the High Court respond to the RTI application within 40 days?

As per Section 7(1) of the RTI Act, PIOs are required to respond to all RTI applications within a time-span of 30 days from the receipt of the RTI application. This timeline has been reiterated in multiple cases including in context of High Courts. In the case of *Asharfilal Kulshreshtha v CPIO Allahabad High Court*⁵² the CIC reminded the Allahabad High Court that it needed to dispose the RTI applications in a timely fashion without breaching statutory timelines. It requested the High Court to revisit its procedures for disposing RTI application to remove bottlenecks and streamline procedures. A DoPT circular in its guidelines has also required that applications be disposed within 30 days of the receipt of the request.⁵³ However as we discovered not all High Courts were responding within the 30 days deadline.

For the purpose of this index, we took the date on which we dispatched our RTI application, by post, as the relevant date. This date was chosen, to keep the dates uniform between all the High Courts, since not all High Courts have noted the dates on which the application was received by them in their reply. In order to account for any possible delays in the postal system we have chosen 40 days instead of 30 days as the benchmark to measure the response time.

⁵² [2012] CIC 14803.

⁵³ Department of Personnel and Training, Office Memorandum No. 1/4/2008-IR dated 25 April 2008 p 12 <http://andssw1.and.nic.in/rti/pdf/om_public.pdf> accessed 16 July 2019.

Of the 23 High Courts that were evaluated, most replied to the RTI applications within 40 days. However, the High Courts at Allahabad, Calcutta, Madras, Patna, Rajasthan, Sikkim, Telangana and Tripura delayed their responses to at least 1 of our RTI applications.

Scoring: A score of 20 points was deducted for High Courts whose response reached us after 40 days from the date of filing the RTI application.

Criterion P3: Was the RTI application replied to in the preferred method of communication by the High Court?

As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought unless it disproportionately diverts the resources of the public authority or would be detrimental to the safety or preservation of the record in question. In all our RTI applications filed with the High Courts it was clearly indicated that any response should be sent via email rather than post.

Of all the High Courts from whom we sought replies via email, only the High Court at Punjab & Haryana responded via email. The remaining High Courts replied to us by post.

Scoring: If the response was received via email as requested, no points were deducted. However, if the response was received via post 10 points were deducted on the index.

Criterion P4: Did the High Court provide details of the First Appellate Authority in its reply?

As per Section 7(8)(iii) of the RTI Act, the response of a PIO to an RTI application must contain the particulars of the Appellate Authority under the RTI Act if the request for information is being rejected. Additionally, Section 7(3)(b) of the RTI Act requires that all replies to applications, where information is being provided, also contain the details of the appellate authority. This is to facilitate the filing of an appeal under the RTI Act in case an applicant disagrees with the reply of the PIO or the costs as calculated by the PIO. For the purposes of our index we consider this requirement of disclosing the appellate authority to be mandatory in all cases and not merely for responses where request for information was rejected.

The High Courts at Calcutta, Gauhati, Himachal Pradesh, Jharkhand, Madhya Pradesh, Madras, Meghalaya, Orissa, Sikkim and Tripura failed to provide details of the first appellate authority in all their responses. Manipur and Patna failed to provide the details of the Appellate Authority in 1 of the replies that we received.

Scoring: If the response provided by the High Court did not include the particulars of the Appellate Authority, 10 points were deducted against this criterion in the index.

Criterion P5: If information was provided, was it a question wise reply?

In cases, where information was provided in response to multiple questions that were posed in a single RTI application, we evaluated whether it was possible to match the responses to individual questions. We decided to evaluate this particular criterion because we discovered that some High Courts would side-step specific questions in our RTI applications by providing a consolidated response to multiple questions thereby making it difficult for us to understand the replies. We faced this issue with 2 sets of RTI applications. The 3rd set had asked only 1 question and hence was not considered while evaluating this particular criterion.

Only, the High Courts of Bombay, Delhi, Gauhati, Gujarat, Jharkhand, Karnataka, Kerala, Manipur, Patna, Punjab & Haryana and Sikkim provided question-wise replies to the questions in our RTI applications. Uttarakhand provided a question wise reply to only 1 out of our 2 applications that contained multiple questions. Those applications that were rejected for various reason, were marked NA.

Scoring: A score of 10 points was awarded if the response was individually mapped to each question in the RTI application. No points were deducted if a High Court did not provide a question wise reply. Similarly, no points were deducted if the RTI application was rejected on other grounds.

Criterion P6: If information was provided by the High Court, was it to the satisfaction of the applicant?

This criterion is meant to evaluate the replies where some information was provided in response to our RTI applications. The scoring for this criterion was based on whether the Research Fellow who drafted the RTI application was satisfied with the information provided by the High Court in its response. We did not however, penalise those responses, which although unsatisfactory to the Research Fellow, were still adequately reasoned in law and fact. If an application was rejected it was not evaluated under this head. Rejections have been evaluated under a different head in the same index.

The High Courts at Bombay, Delhi, Gauhati, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madras, Manipur, Meghalaya, Patna, Punjab & Haryana, Rajasthan, Sikkim, Telangana, Tripura and Uttarakhand gave satisfactory replies to at least 1 of the 3 RTI applications. The High Courts at Delhi, Karnataka, Kerala, Sikkim and Gauhati were the best performers in this category.

The High Court of Calcutta gave the least satisfactory replies while several other High Courts simply rejected our applications on various grounds.

Scoring: For this criterion we used a sliding scale of a maximum 30 points with the responses that most adequately replied to the queries being awarded the maximum points. The least satisfactory replies were given a zero. Those applications that were rejected for various reasons, were marked NA.

Criterion P7: If information was provided by the High Court, what is the time frame within which the documents are supplied by the High Court after the submission of document fee?

As per Section 7 of the RTI Act, a request for information must be disposed within 30 days of receiving the application. In cases where the PIO is required to inform the citizen of a document fee for photocopying, the period between the intimation of this amount to the citizen and the payment being made by the citizen is to be excluded from calculating the 30 days period within which applications are to be responded to by the PIO. For the purposes of this index we formulated what we considered were reasonable timelines for High Courts to have replied with copies of documents requested after the submission of document fee. We used 21 days as the first benchmark and 31 days as the second benchmark with both dates being calculated from the date on which we dispatched the document fee.

The High Courts at Bombay, Delhi, Gauhati, Gujarat, Jharkhand, Karnataka, Kerala, Manipur, Meghalaya, Patna, Rajasthan, Tripura and Uttarakhand performed the best in this category.

Scoring: High Courts that provided information in less than 21 days from payment of the document fee were awarded 20 points, which is the highest for this criterion. High Courts that provided us information between 21 and 31 days from the date of dispatch of document fee were given 10 points. No points were given for High Courts that took more than 31 days. High Courts that declined to provide us with any information were marked as NA.

Criterion P8: Was the rejection of the RTI application by the High Court on malafide grounds?

Requests for information under the RTI Act can legitimately be rejected for various reasons ranging from procedural issues such as non-payment of fees, to substantive grounds such as those listed in Section 8 of the RTI Act. Very often, public authorities who are very reluctant to share information under the RTI Act will attempt very creative interpretations of Section 8 to reject RTI application. We noticed such behaviour even with High Courts and we thought it was necessary to capture this behaviour on the index.

Where our RTI applications were rejected by High Courts, we evaluated their supporting grounds against Section 8 of the RTI Act and the High Court Rules. If a request for information was

rejected by a High Court, we examined the rule or precedent cited by the High Court to justify its rejection and if we found the rule or precedent to be rightly applied, we did not deduct any points even if the rule, as per our assessment, was *ultra vires* the parent statute. If, however, a rule or precedent was wrongly applied in our opinion, we deducted points for the High Court. For example, the PIO of the Telangana High Court rejected our request for information regarding the budget of the High Court by citing a judgment of the Madras High Court in the case of *The Registrar General v. K. Elango*.⁵⁴ In this judgment, the Madras High Court had held that the Registries of High Court were not required to share “administrative letters and internal deliberations” under the RTI Act. However the application of this precedent by the PIO of the Telangana High Court to deny us budgeting information was clearly a mala-fide rejection because not only does budgeting information not fall within this exception but also because the PIO of the Madras High Court (which had delivered the *Elango* judgment) provided us with the very same information regarding its budget, in response to the same questions in an RTI application. Another example of mala-fide rejection was in the case of the Orissa High Court which rejected 2 of the 3 RTI applications citing a provision from its RTI Rules despite the cited provision having been repealed. While the First Appellate Authority ruled in our favour in this case, we still deducted the maximum permissible points for the Orissa High Court because the point of this index was to evaluate the response of PIOs.

The High Courts which performed very poorly in this category because they rejected at least 1 of our RTI applications on grounds that we considered mala-fide were the High Courts of Bombay, Chhattisgarh, Madras, Orissa, Punjab & Haryana and Telangana.

Scoring: If the application was rejected on the basis of rules or the provisions of the RTI Act, no points were deducted for the High Court, even if the rule was *ultra vires* the RTI Act in our opinion. However, if the application was rejected on mala-fide grounds, a total of 30 points were deducted for the High Court.

Criterion P9: Were the RTI applications, which were transferred to the High Courts by the Department of Justice replied to by the High Court or rejected on account of non-payment of fee or for other reasons?

As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to be transferred to the relevant public authority within a period of 5 days. It is the general practice within the Central Government that an RTI applicant does not have to repay the RTI fees, when an application is being transferred. The High Courts, however quite often request the RTI fee to be paid once again for even the RTI applications which they received on transfer. This is not keeping with the practice or convention of the law. We

⁵⁴ *The Registrar General v. K. Elango* (2013) 5 Mad LJ 134.

evaluated whether the High Courts were asking for repayment of the RTI fees and also whether High Courts were responding to the RTI applications transferred to them by other public authorities like the Department of Justice (DoJ), Ministry of Law & Justice, Government of India.

For the purpose of only this one criterion, we used 2 sets of RTI applications which are different from the sets used for the other criteria in this index. These 2 sets were originally filed with the DoJ, requesting for information that we believed would be in the possession of the DoJ. The first application inquired whether the High Courts were sending DoJ annual reports as required under Section 25(2) of the RTI Act [attached as 'annexure D']. The second application concerned the court developments plans that were prepared by the High Courts and submitted to the DoJ [attached as 'annexure E']. The DoJ transferred both applications to the High Courts on the grounds that they lacked the relevant information and the High Courts would be better equipped to provide the requested information. Most of the High Courts did not respond to the transferred applications in the manner required under Section 6(3) of the RTI Act. Some of the High Courts did not reply to the transferred RTI applications, while others demanded payment of RTI fees once again.

The High Courts at Bombay, Calcutta, Delhi, Gauhati, Himachal Pradesh, Karnataka, Kerala, Madras, Meghalaya, Orissa, Patna, Tripura were the best performing courts in this category.

Scoring: For High Courts that did not provide information in response to a transferred RTI Applications because of the non-payment of RTI fee, we deducted 20 points. Similarly, if a High Court did not respond to an RTI application that was transferred to it by the DoJ we deducted 20 points.

Figure 3 illustrates the scores obtained by the High Court under the practice index. For every High Court, there are 3 columns of scores under each criteria. These are the scores obtained by the High Court for each of the 3 RTI applications that were filed. The applications are annexed to this report as annexure A, B and C respectively.

Some criteria do not apply to the High Court and are hence marked as not applicable (NA). For example, since RTI application number 2 did not have multiple questions, the scores obtained by all the High Court under criteria P5 will always be NA. Similarly, if an RTI applications has not been replied to at all, then criteria P2-P8 will not be not be applicable.

Key for the detailed Practice Index (Figure 3)

Criteria	Points
P1 Has the RTI application been replied to by the High Court?	-30 if there is no reply 0 if the application has been replied to
P2 Did the High Court respond to the RTI application within 40 days?	0 if <40 days -20 if >40 days NA if there was no reply
P3 Was the RTI application replied to in the preferred method of communication by the High Court?	-10 if the reply was via post 0 if the reply was via e-mail NA if there was no reply or if the application was rejected
P4 Did the High Court provide details of the First Appellate Authority in its reply?	-10 if the designation or name of the authority was not provided 0 if details have been clearly provided NA if there was no reply or if the application was rejected
P5 If information was provided, was it a question wise reply?	10 if the reply was question wise 0 if the reply was not question wise NA if there was a single question
P6 If information was provided by the High Court, was it to the satisfaction of the applicant?	0-30 This is a sliding scale from 0 (not satisfactory at all) to 30 (to the complete satisfaction of the applicant) NA NA if there was no reply or if the application was rejected
P7 If information was provided by the High Court, what is the time frame within which the documents are supplied by the High Court after the submission of document fee?	20 if documents are supplied in <21 days (from date of dispatch of document fee) or if documents are supplied with the first reply 10 if documents are supplied between 21 - 31 days (from date of dispatch of document fee) 0 if documents are supplied >31 days (from date of dispatch of document fee) NA if no documents were provided, there was no reply or if the application was rejected
P8 Was the rejection of the RTI application by the High Court on malafide grounds?	-30 for any malafide ground for rejection 0 for when rejection is based on rule compliance (even if the rule is <i>ultra vires</i> the RTI Act)
P9 Were the RTI applications, which were transferred to the High Courts by the Department of Justice replied to by the High Court or rejected on account of non-payment of fee or for other reasons?	-20 if rejected on account of non payment of fee, non-compliance with the form or if the application was not replied to at all 0 if non-payment of RTI fee to the High Court or non-compliance with the form is not a ground for refusal of information

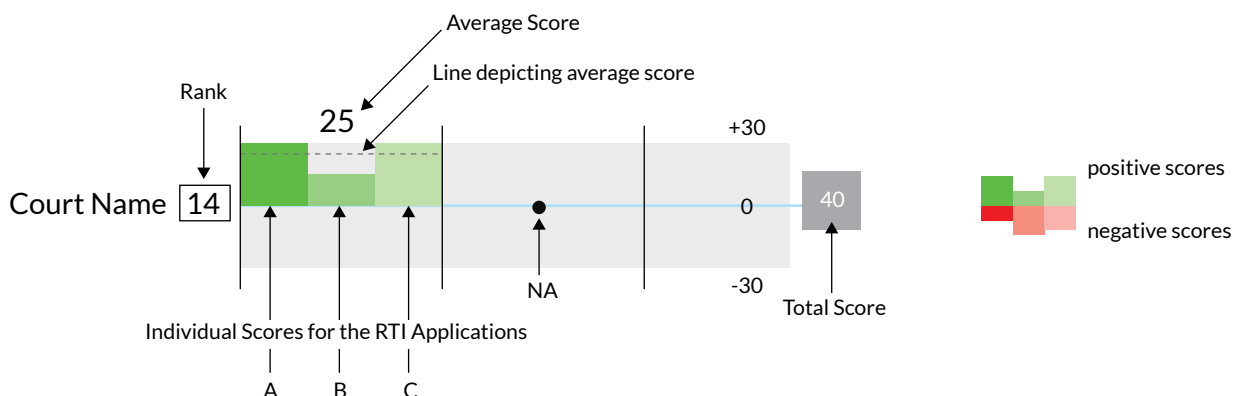
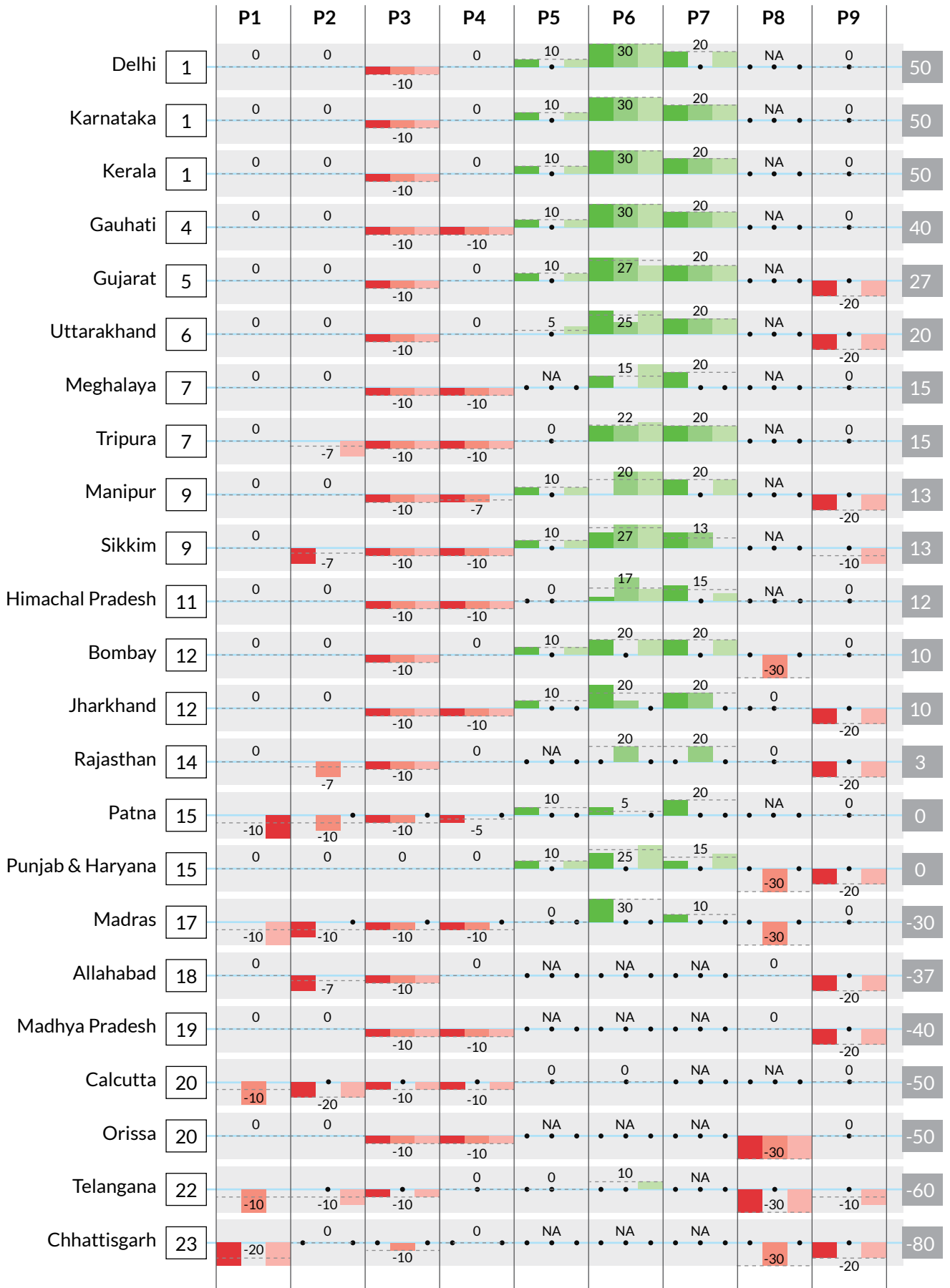


Figure 3: Detailed Practice Index





Proactive Disclosure of Information under Section 4 of the RTI Act by the High Courts

Apart from providing citizens with the right to request for information, the RTI Act also creates a mandate for public authorities to proactively disclose certain categories of information to the public such as the particulars of the organisation, the budget allocations to it, names and designations of Public Information Officers (PIOs) etc. As explained by the CIC in one of its decisions, “An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms.”⁵⁵

This duty which is contained in Section 4 of the RTI Act is usually fulfilled by publishing the information on the website of the public authority. The intention behind this provision, as explained by the CIC in one of its orders, is to minimize the need for citizens to use the RTI Act to request for information. In pertinent part, the CIC held the following:

“The importance of suo-moto disclosures under Section 4(1)(b) can hardly be over-emphasized as maximisation of such disclosures would result in minimisation of recourse to the provisions of section 6(1) of the Act and thereby save valuable time, energy and resources of the stakeholders viz, the Public Authorities and the information seekers.”⁵⁶

This point has been reiterated by civil society organisations who have repeatedly argued that the number of RTI applications filed with public authorities would fall significantly if public authorities made proper disclosures under Section 4 of the RTI Act.⁵⁷

Over the years, there have been several judicial pronouncements and administrative orders, reminding public authorities of the importance of proactive disclosure under Section 4(1)(b) of the RTI Act. In one such judgment from 2011⁵⁸, the Supreme Court stated the following:

“The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act

which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.”

Similar pronouncements have been made by some High Courts. In one judgment, the Delhi High Court declared that Section 4 mandated the publication of information by public authorities on the internet, in the following words:⁵⁹

“The word disseminate has also been defined in the explanation to mean - making the information known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet, etc. It is, therefore, clear from a plain reading of Section 4 of the RTI Act that the information, which a public authority is obliged to publish under the said section should be made available to the public and specifically through the internet.”

The Government of India's interpretation of Section 4 is similar and necessarily requires all its departments to disclose the information on its websites. The Ministry of Personnel, Public Grievances and Pensions of the Government of India, in an office memorandum interpreted Section 4 of the RTI Act as requiring all public authorities to have their records computerised and connected through a network that can be accessed from across the country. The same memorandum reminded public authorities that they were required to publish the information mentioned in Section 4(1)(b) within a period of 120 days and to ensure compliance without any further delay.⁶⁰

These pronouncements from the Supreme Court, High Courts and Government of India indicate a consensus amongst the highest rungs of the judiciary and government regarding the obligations of public authorities under Section 4(1)(b), including on the requirement to make such information available on the internet. Notwithstanding this consensus, the compliance with Section 4 has been rather weak. A study of mandatory disclosures by public authorities, commissioned by the CIC, examined the websites of 838 public authorities

⁵⁵ *Navdeep Gupta v. Director General of Income Tax* CIC/DGITE/C/2017/603578-BJ.

⁵⁶ *Parminder Kaur vs. Vigilance Department Central Information Commission*, CIC/WB/C/2008/00115/LS para 19;

⁵⁷ *Johri and Bhardwaj* (n 17) 88.

⁵⁸ *CBSE and Anr. vs. Aditya Bandopadhyay and Ors*, 2011 (8) SCC 497.

⁵⁹ *Delhi Development Authority v. Central Information Commission* 2010 SCC OnLine Del 2058.

⁶⁰ Government of India, Ministry of Personnel, Public Grievances & Pension, Office Memorandum, No. 1/18/2007 (September 2007) <<http://www.rtifoundationof-india.com/dopt-830>> accessed 3 October 2019.

before coming to the conclusion that several of the public authorities audited for the purposes of the study were not making satisfactory disclosures under Section 4 of the RTI Act.⁶¹ A different study by the NCPRI in October 2015 of disclosures made by the different Chief Minister's Offices across the states also revealed poor compliance with Section 4 of the RTI Act.⁶²

It is thus not surprising that there are a fair number of complaints/appeals filed before the CIC regarding the non-implementation of Section 4 by different public authorities. In all these cases, the CIC has repeatedly highlighted the importance of disclosing information under Section 4 of the RTI Act and has exercised its powers under Section 19(8) to order several public authorities such as educational institutions⁶³, government departments⁶⁴, regulators⁶⁵ and public sector undertakings⁶⁶ to publish the disclosures mandated under Section 4(1)(b). There is little the CIC can do if these public authorities do not make the necessary disclosures under Section 4(1)(b). The RTI Act does not vest in the Information Commissions the power to penalise PIOs who fail to implement Section 4 obligations. At most, Information Commissioners can penalise PIOs for failing to reply to RTI applications in an appropriate manner.⁶⁷

When complaints were filed against 7 High Courts, in 2010, for not making the appropriate disclosures under Section 4 of the RTI Act, the CIC merely made a "recommendation", under Section 25(5) of the RTI Act, to the High Courts that they comply with Section 4(1)(b) of the RTI Act.⁶⁸ While 5 High Courts proceeded to make the necessary disclosures, the High Courts of Rajasthan and Sikkim are yet to make the requisite disclosures. These orders of the CIC are in contrast to the earlier cases where public authorities were "ordered" to publish information under Section 4. It is possible that the CIC

did not "order" the publication of information because it was dealing with a complaint filed under Section 18 of the RTI Act and not an appeal under Section 19.

As per Section 18, the CIC can only order an inquiry and cannot pass an order mandating disclosure of information. An order for disclosure, however, can be passed by the CIC only under Section 19(8) of the RTI Act while hearing appeals. This is because Section 19(8) allows the Information Commissions to take any such steps "as may be necessary to secure compliance with the provisions" of the RTI Act. The Supreme Court has made it clear that Section 18 and 19 serve two different purposes and provide two different remedies which are not substitutable for the other.⁶⁹ Therefore if the CIC is dealing with a complaint it is limited to ordering an inquiry or making a recommendation.

Since the aforementioned complaints against the High Courts before the CIC were disposed in 2012, there has been relatively little scrutiny of proactive disclosures by High Courts under Section 4 of the RTI Act. The only exception was a study conducted by the students at the Azim Premji University in 2017 that examined the compliance of 9 High Courts with the RTI Act.⁷⁰ The study concluded that "...most High Courts comply with this provision very poorly."⁷¹

In this backdrop, we thought it necessary to conduct a more comprehensive study regarding the extent to which all High Courts in India were making disclosures, required under Section 4, on their websites.

While all the High Courts have made extraordinary strides in making accessible their orders and judgments on their websites and for no payment, the same cannot be said of the remaining disclosures that they are required to make under Section 4 of the RTI Act on their websites. In fact, only 15 of the

⁶¹ AN Tiwari, MM Ansari, Transparency Audit of Disclosures u/s 4 of the Right to Information Act by the Public Authorities, (Central Information Commission, 2018) <<https://cic.gov.in/sites/default/files/Transparency%20Audit%20of%20Disclosures%20Under%20Section%204%20of%20the%20RTI%20Act%20by%20the%20Public%20authorities.pdf>> accessed 3 October 2019

⁶² Johri and Bhardwaj (n 17) 88.

⁶³ *Rajeev Lala v. Sri Aurobindo College* CIC/SG/C/2009/001566/5669Penalty-9

⁶⁴ *Nithyaesh Natraj v. Department of Economic Affairs* CIC/DOEAF/A/2018/164195-BJ-Interim.

⁶⁵ *Dilip Singh Premi v. Pharmacy Council of India* CIC/PHRCI/A/2017/602557-BJ+.

⁶⁶ *Manoj Pai v. All India Radio, Goa* CIC/AD/C/09/00049.

⁶⁷ Despite Section 20 allowing for the CIC to impose penalties only in the case of denial of information and not in cases of non-publication of information under Section 4 of the RTI Act, there is at least one set of orders passed by the CIC in connected cases, where a penalty was imposed on a public authority for not making the requisite disclosures under Section 4. See *Rajeev Lala v. Swami Sharddhanand College* CIC/SG/C/2009/001566/5669Penalty-5, *Rajeev Lala v. Sri Aurobindo College* CIC/SG/C/2009/001566/5669Penalty-9, *Rajeev Lala v. Aditi Mahavidyalaya* CIC/SG/C/2009/001566/5669Penalty-1, *Rajeev Lala v. Amar Jyoti Rehabilitation & Research Centre* CIC/SG/C/2009/001566/5669Penalty-3, *Rajeev Lala v. Mata Sundari College for Women* CIC/SG/C/2009/001566/5669Penalty-4, *Rajeev Lala v. Rajkumari Amrit Kaur College* CIC/SG/C/2009/001566/5669Penalty-7, *Rajeev Lala v. Shaheed Sukhdev College of Business Studies* CIC/SG/C/2009/001566/5669Penalty-6. This set of orders was passed by the same Information Commissioner on the same day. The penalties imposed on these public authorities are not supported by a plain reading of Section 20. There is one view point by some academics and activists that the CIC does have power to impose penalties for non-disclosures under the doctrine of implied power but such reasoning has not been adopted by any Information Commissioners so far. See Johri and Bhardwaj (n 17) 84.

⁶⁸ *C.J. Karira v. High Court of Andhra Pradesh, Gauhati High Court, High Court of Gujarat, High Court of Himachal Pradesh, Jharkhand High Court, Rajasthan High Court, High Court of Allahabad, High Court of Madras, High Court of Punjab & Haryana, High Court of Sikkim* CIC/WB/C/2010/900031, CIC/WB/C/2010/900032SM, CIC/SM/C/2011/900894, CIC/SM/C/2011/901291, CIC/SM/C/2011/901292, CIC/SM/C/2011/901294, CIC/SM/C/2011/901296, CIC/SM/C/2011/901297, CIC/SM/C/2011/901298, CIC/SM/C/2011/901301 & CIC/WB/C/2010/000575SM.

⁶⁹ *Chief Information Commissioner v. State of Manipur* AIR 2012 SC 864.

⁷⁰ Hemrajani (n 18).

⁷¹ *ibid*, 23.

24 High Courts that we surveyed have made disclosures under Section 4, while the remaining 9 High Courts did not publish disclosures under Section 4 on their websites. The quality of disclosures made by the 15 High Courts under Section 4 demonstrated a great degree of variance and we created an index in order to measure the quality of their disclosures.

Nine of the High Courts did not make disclosures under Section 4 of the RTI Act on their websites	Andhra Pradesh, Calcutta, Manipur, Meghalaya, Patna, Rajasthan, Sikkim, Telangana, Tripura
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A. Explaining the methodology

It is important for us to mention over here that we evaluated a High Court only if it made a specific disclosure on its website under the label of 'RTI disclosures' or 'Section 4(1)(b) Disclosures' or likewise.⁷² If the information covered by Section 4(1)(b) was disclosed in a disaggregated format on the website of the High Court without being compiled at one location on the website, it was not considered as an appropriate disclosure under Section 4(1)(b) of the RTI Act and hence was not evaluated. This is because it is a standard practice amongst most public authorities to make disclosure under Section 4(1)(b) in a consolidated format on their websites, thereby making the information more easily accessible to citizens.

Section 4 (1) (b) of the RTI Act lists out 17 heads, under which the public authorities are obligated to make disclosures at regular intervals. Of these 17 heads, we found that 5 heads either did not apply to the High Courts or were not of particular relevance to High Courts, given the administrative setup and functions of High Courts. These 5 heads were hence excluded from our survey.⁷³

The remaining 12 heads were broken down to their key ingredients, that is, the essential details which should ideally be provided to constitute a good quality disclosure under that head. Each of these ingredients were scored at one point. So, a High Court which has disclosed information pertaining to each of the ingredients will get the full score under that head. For example, under the head "the particulars of its organisation, functions and duties", we have identified five ingredients. A High Court which has disclosed all these five pieces of information will be awarded a score of 5.

Of the 12 heads, that we evaluated, we deemed the following 6 heads as more important than the others because of which these important heads were weighed twice the value of the lesser important heads:

1. the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions⁷⁴;
2. a statement of the categories of documents that are held by it or under its control⁷⁵;
3. a statement of the boards, councils, committees and other bodies consisting of 2 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 public⁷⁶;
4. a directory of its officers and employees⁷⁷;
5. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made⁷⁸;
6. the names, designations and other particulars of the Public Information Officers⁷⁹;

These heads were considered more important because information under these heads is of high relevance for the primary stakeholders of the justice system, such as litigants, advocates and employees of the High Courts who regularly require access to this information in the normal course of their business. The other reason we considered these heads to be important is because High Courts are public institutions that play a critical role in the administration of justice. There is a general public interest in ensuring the transparency of such important public institutions so as to guarantee accountability and prevent corruption.

The scoring for each head is represented below in brief:

- Total score of more important heads = Sum of the total score of the ingredients x 2
- Total score of less important heads = Sum of the total score of the ingredients x 1

The detailed breakup is available in the scoring sheet on pages 35-37

⁷² For Himachal Pradesh the disclosure was available on the website of the High Court when we undertook the evaluation exercise in April, 2019 and therefore was considered for evaluation. Thereafter, the website has been redesigned and we have not considered it for this study.

⁷³ Right to Information Act 2005, s 4(1)(b)(iv), s 4(1)(b)(vii), s 4(1)(b)(xii), s 4(1)(b)(xiii), s 4(1)(b)(xvii);

⁷⁴ Right to Information Act 2005, s 4(1)(b)(v);

⁷⁵ Right to Information Act 2005, s 4(1)(b)(vi);

⁷⁶ Right to Information Act 2005, s 4(1)(b)(viii);

⁷⁷ Right to Information Act 2005, s 4(1)(b)(ix);

⁷⁸ Right to Information Act 2005, s 4(1)(b)(xi);

⁷⁹ Right to Information Act 2005, s 4(1)(b)(xv);

Additionally, we also rated the High Courts on four ancillary criteria:

1. Ease of finding the disclosure on the website of the High Court [Easy, Moderately Difficult and Difficult];
2. Availability in local language? [Yes / No];
3. Ease of using online services such as accessing orders and judgments of the High Court through its website [Easy, Moderately Difficult and Difficult];
4. Whether a detailed contact page existed on the High Courts' website [Yes/No]?

These criteria were included to assess how conveniently a citizen can access the disclosures and other e-services that the High Court provides.

B. The following is the performance of various High Courts on the quality of their Section 4 disclosures

On undertaking the above survey of the Section 4 disclosures made on the websites of all the High Courts, it was found that the High Courts of Kerala (59 points) and Punjab & Haryana (57 points) had made the best quality disclosures under the RTI Act. On the other hand, Orissa High Court (32 points), Karnataka High Court (25 points) and Chhattisgarh High Court (22 points) had the poorest quality of the disclosures.

Certain pertinent observations regarding the quality of disclosures by different High Courts are noted below:

1. Who did what right?

It was observed that Kerala had the best disclosures in 5 out of the 6 higher weighted heads which helped it secure the first rank. For example, it had comprehensive lists of rules applicable to it and categories of documents under its control, updated details of committees, directory of its employees, as well as contact details of the PIO.

The High Courts of Bombay, Himachal Pradesh and Uttarakhand had the best disclosures regarding the budget statements. They provided the updated budget and surrender statements for the High Court as well as the subordinate courts.

2. Problematic Practices amongst High Courts

(a) Lack of Periodic Updates of Disclosures:

Four heads required the information to be periodically updated failing which the information loses its utility and relevance. These include the directory of employees, budget statements, statement of committees and details of the PIO. The lack of up-to-date information robs the disclosures of any substantial value.

The High Courts of Delhi, Kerala and Punjab & Haryana made available updated disclosures with the latest information under all the four heads. Gauhati High Court and Jharkhand High Court on the other hand had entirely outdated disclosures.

(b) Lack of Information on Subordinate Courts:

3 heads of disclosure under Section 4(1)(b), that is rules and regulations under its control (Section 4(1)(v)), budget statements of its agencies (Section 4(1)(b)(xi)) and details of PIO (Section 4(1)(b)(xvi)) require the High Court to provide details of the subordinate courts within its administrative control. The Indian Constitution through Article 235 and Article 227, vests the administrative control of the District Courts in the judges of the High Court. These provisions were enacted to ensure that the executive and legislative interference is curtailed with regard to the functioning of the District Judiciary. To realise this intention, the High Courts should take ownership over the role prescribed to them by the Constitution and publish information under these heads with regard to the District Judiciary as well.

In this regard, Allahabad, Bombay, Himachal Pradesh and Kerala High Courts have disclosed information regarding subordinate courts for all 3 heads. On the other hand, the High Courts of Chhattisgarh, Delhi, Karnataka and Orissa do not make disclosures for any of the 3 categories of information for the subordinate courts.

(c) Lack of Information on Rules:

Under Section 4(1)(b)(v), public authorities are required to disclose 'the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions'. We had identified certain categories of Rules which should necessarily be made available by the High Courts for the convenience of lawyers, litigants as well as interested citizens. These include rules on (1) High Court Procedures (2) recruitment, conditions of service of State Judiciary and its employees (3) financial management and the financial powers of the High Court (4) RTI (5) Administration of District Judiciary and subordinate judiciary under the jurisdiction of the High Court and (6) Any other Rules.

We found that High Courts of Bombay and Punjab & Haryana provide a comprehensive list of rules and hence they received the highest score under this head. Orissa High Court on the other hand does not mention a single rule under this category and simply states that "The instructions are being issued by the Orissa High Court in shape of standing orders, circular letters and general letters to the High Court and the Subordinate Courts for discharging their functions". This information is clearly inadequate as the High Court follows a number of rules for its functioning which are easily available on the website elsewhere but not in the section pertaining to RTI disclosures.

Some of the other good quality disclosures in this regard were made by the Allahabad High Court, which provided a hyperlink to the body of the rules and the Delhi High Court which reproduced the text of the Rules within its disclosure. These are good practices which improve the ease of access to this information.

(d) Lack of disclosure of information in relation to categories of documents held by the High Court

Under Section 4(1)(b)(vi) public authorities are required to disclose 'a statement of the categories of documents that are held by it or under its control'. For disclosures under this head, we examined whether the Courts disclosed the category of documents they maintain regarding personnel, recruitment, financial and other administrative functions. Additionally we also observed whether they had identified the custodian for such documents. Having this information helps a citizen seek the exact document she requires from the court by approaching the relevant authority/office under the High Court.

We found that the Bombay High Court had the best disclosure in this regard. However, Uttarakhand High Court simply states "(i) Judicial Record. (2) Administrative Record" under the disclosure. The Himachal Pradesh High Court states that since the process of digitization is still on, some branches still maintain information in registers. This does not provide any meaningful information to the reader, but technically fulfils the compliance requirement under the RTI Act.

(e) Ease of Accessing the Disclosure:

While most High Courts have published the disclosures under the RTI Act under a separate RTI tab on their website making it easy for citizens to access the information, there are some High Courts for which, we had to search the website thoroughly or alternatively use internet search engines like Google to find the disclosures. For example, the Gauhati High Court website has the disclosure under a link titled "RTI Notification dated 22-12-2011" and is not easy to spot amongst the list of old amendments and other notifications. The website of the Himachal Pradesh High Court did not have the disclosure under "RTI" tab but instead mentioned it under the "Announcements" tab. Since then, the website has undergone a complete overhaul and we have not been able to locate the disclosure on the new website. Similarly, since the split of the Hyderabad High Court, neither Telangana High Court nor the Andhra Pradesh High Court have published section 4 disclosures on their websites, which is why it has not been evaluated here. However, the disclosure for Hyderabad High Court for 2018 could be found through internet search engines like Google.⁸⁰

The Karnataka High Court and Orissa High Court have the disclosures appended at the bottom of their RTI Rules as annexures thereby making it difficult for a citizen to find the same. The disclosures made by Orissa High Court is incomplete as it ends after disclosure under sub-clause (xi).

Of all the High Courts, only the High Courts at Chhattisgarh and Madhya Pradesh publish their disclosures in Hindi exclusively, which is the official language of the state. All other High Courts have the disclosures available in English only. Ideally disclosures should be published in both English and the local language of the state which is spoken by citizens residing in the jurisdiction of the High Court.

Figure 4 illustrates the criteria wise scores obtained by the High Courts under the High Court Disclosure Index. The key on the next page explains the exact criteria under which the scores have been awarded.

⁸⁰ For the purpose of this study, this disclosure has not been evaluated as it could not be found on the website of the Andhra Pradesh or Telangana High Court website. The disclosure could be found on a link available at <https://righttoinformation.wiki/rules/andhrapradesh/court> accessed 20 September 2019.

Clauses of 4(1)(b)	Ingredients (NOTE: Each Ingredient is weighted 1 point)	Score	Weights to be multiplied	Weighted Total
(i) the particulars of its organisation, functions and duties;	<ol style="list-style-type: none"> 1. Statute that created the High Court 2. Jurisdiction 3. Workforce 4. Office hours 5. Contact details Total	<p>1 1 1 1 1</p> 5	1	5
(ii) the powers and duties of its officers and employees;	<ol style="list-style-type: none"> 1. Are all employees included? 2. Powers & functions 3. Is the source (for example, rules/ office manuals/practice & procedure handbook) which distributes powers and functions mentioned? Total	<p>1 1 1</p> 3	1	3
(iii) the procedure followed in the decision-making process, including channels of supervision and accountability;	<ol style="list-style-type: none"> 1. If the disclosures provide the source of procedure (for example, rules/ guidelines etc) which apply to the functioning of the High Court on the administrative side. 2. How does the hierarchy flow? 3. If provided for each committee/ if it is provided subject matter wise Total	<p>1 1 1</p> 3	1	3
(v) The rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;	Exhaustive List should include: <ol style="list-style-type: none"> 1. Financial Rules 2. Conditions of service (for both officers and employees) 3. RTI rules 4. Rules applicable to subordinate courts (civil and criminal) 5. High Court Rules 6. Any other rules 7. Embedded within a Link/Full Text attached Total	<p>1 1 1 1 1 1 1</p> 7	2	14
(vi) a statement of the categories of documents that are held by it or under its control;	<ol style="list-style-type: none"> 1. Judicial 2. Personnel 3. Recruitment 4. Financial 5. Administrative 6. Custodian of documents Total	<p>1 1 1 1 1 1</p> 6	2	12

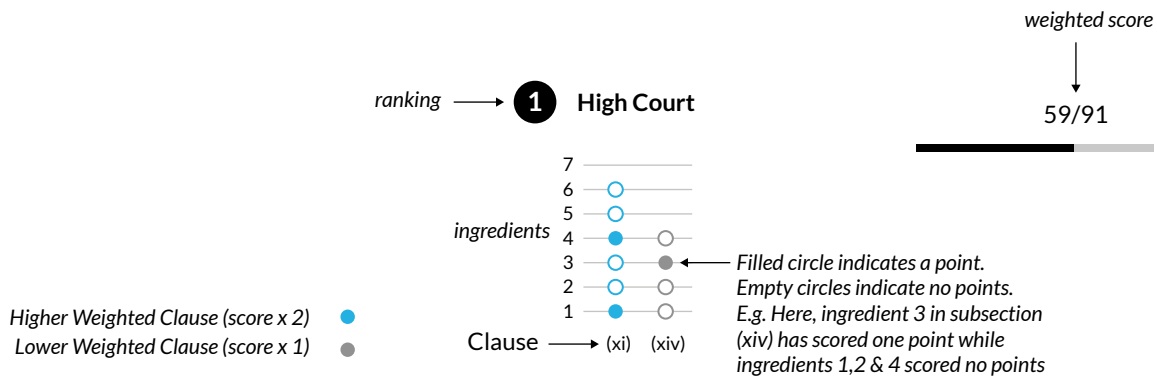
Higher Weighted Clause

Lower Weighted Clause

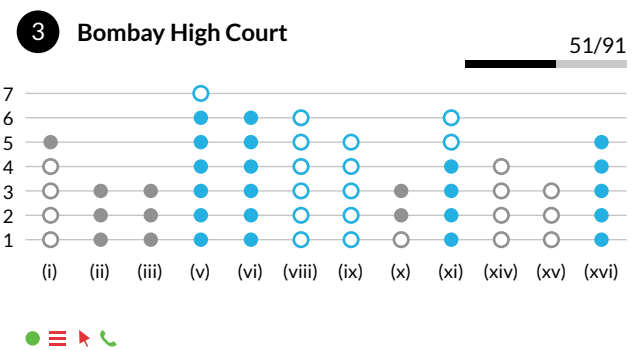
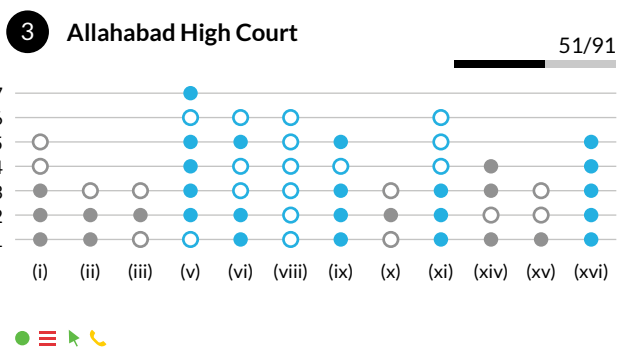
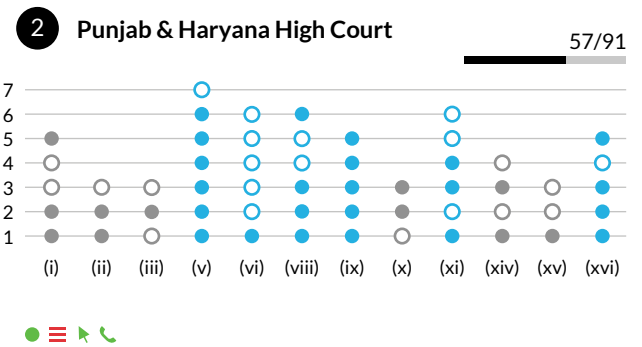
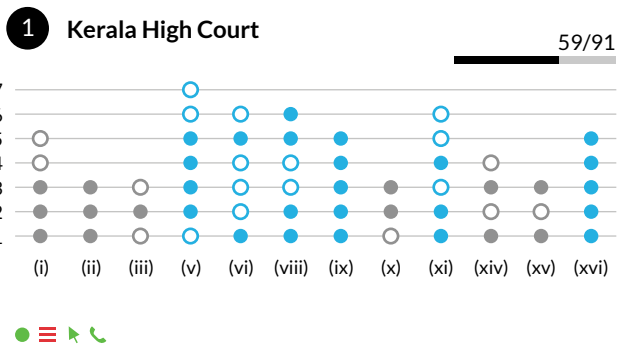
Clauses of 4(1)(b)	Ingredients (NOTE: Each Ingredient is weighted 1 point)	Score	Weights to be multiplied	Weighted Total
(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;	<ol style="list-style-type: none"> 1. Allocation of administrative work/list of committees 2. Brief scope of work 3. Composition of committees 4. Term/tenure of the committee 5. A statement confirming whether or not minutes are available to the public 6. Year (only given a mark if the allocation is actually given) Total	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>6</p>	2	12
(ix) a directory of its officers and employees;	<ol style="list-style-type: none"> 1. Does the disclosure contain the directory or a link to the directory? 2. Names 3. Designations 4. Contact details 5. Yearly Update Total	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>5</p>	2	10
(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;	<ol style="list-style-type: none"> 1. Grade pay of judges 2. Grade pay of employees 3. Have they been updated after the 7th pay commission? Total	<p>1</p> <p>1</p> <p>1</p> <p>3</p>	1	3
(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;	<ol style="list-style-type: none"> 1. Allocation to the High Court 2. If there are separate budget disclosures for subordinate courts/benches? 3. Expenditure Statement 4. Whether the statement disclosed has been updated annually? 5. Details of planned expenditure 6. Audit Reports Total	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>6</p>	2	12
(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;	<ol style="list-style-type: none"> 1. The e-services provided by the HC like cause lists/case status/judgments/orders 2. Whether links are embedded in the disclosure 3. The details of statutes/rules/regulations which have been uploaded on the website 4. Details of administrative documents (for example, tenders) Total	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>4</p>	1	4

Clauses of 4(1)(b)	Ingredients <i>(NOTE: Each Ingredient is weighted 1 point)</i>	Score	Weights to be multiplied	Weighted Total
(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;	<ol style="list-style-type: none"> 1. Library timings/ a statement confirming or denying whether it's available for public use 2. Facility for obtaining copies of court documents 3. Any other facility (like facilitation desk) Total	1 1 1 3	1	3
(xvi) the names, designations and other particulars of the Public Information Officers;	<ol style="list-style-type: none"> 1. Designation of the PIO 2. Name 3. Contact Details 4. Have the details been provided for subordinate courts/benches of the HC separately? 5. Have the details been updated yearly? Total	1 1 1 1 1 5	2	10
Grand Total		56		91

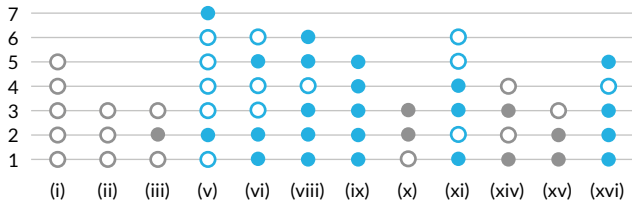
Figures 4: Detailed High Court Disclosure Index



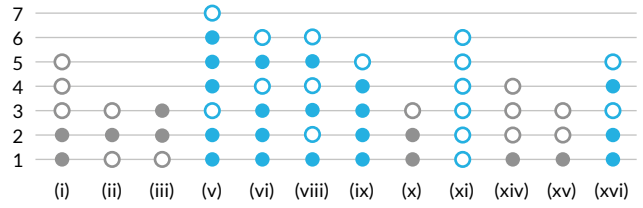
Ancillary Criteria



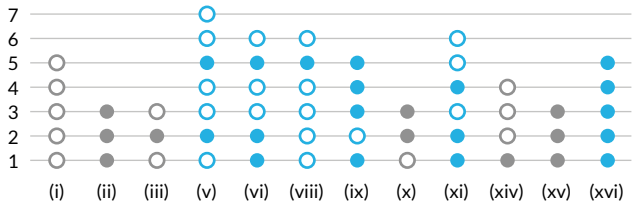
3 Delhi High Court 51/91



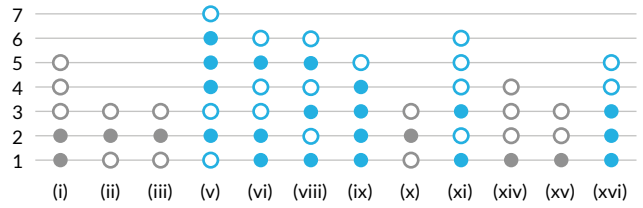
6 Gauhati High Court 47/91



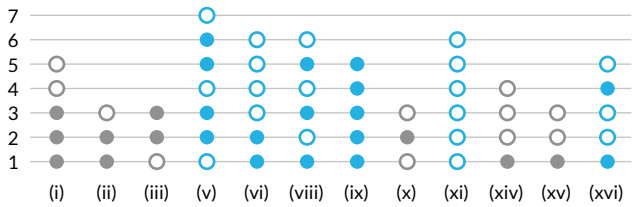
7 Madras High Court 46/91



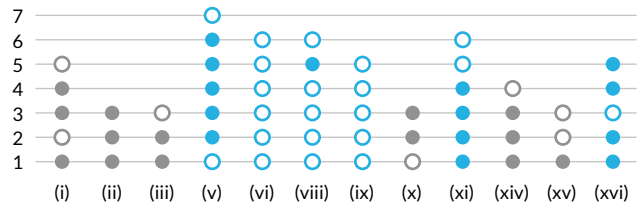
8 Jharkhand High Court 45/91



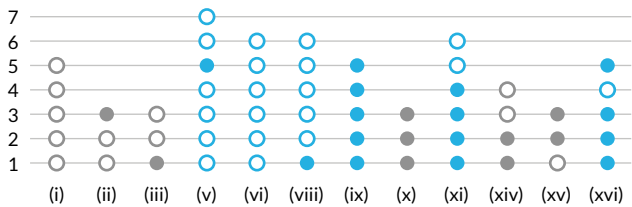
9 Gujarat High Court 42/91



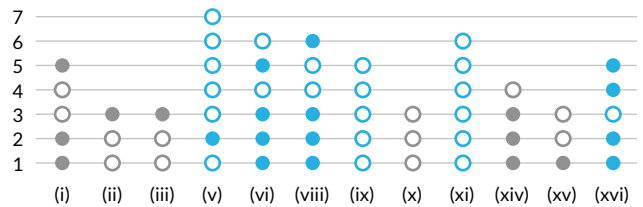
9 Himachal Pradesh High Court 42/91



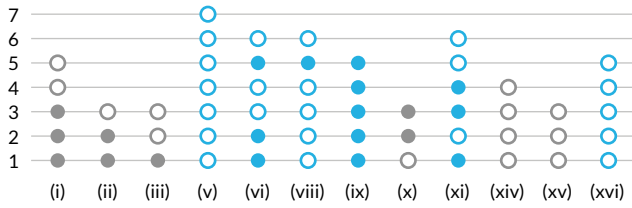
11 Uttarakhand High Court 39/91



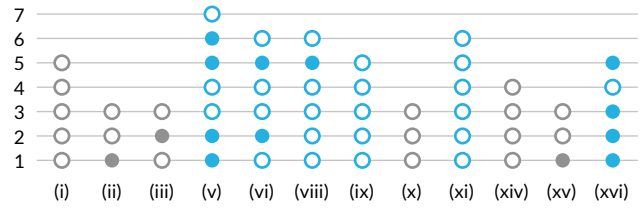
12 Madhya Pradesh High Court 35/91



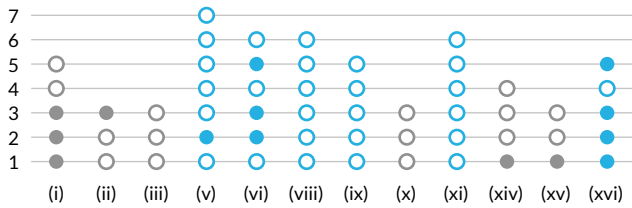
13 Orissa High Court 32/91



14 Karnataka High Court 25/91



15 Chhattisgarh High Court 22/91



The High Courts at Andhra Pradesh, Calcutta, Manipur, Meghalaya, Patna, Rajasthan, Sikkim, Telangana and Tripura have not made any disclosures on their websites under Section 4(1)(b) of the RTI Act



Proactive Disclosure of Information under Section 4 of the RTI Act by the District Courts

The District Courts are most often the first point of contact with the justice system a vast majority of litigants across India. There are an estimated 672 District Courts⁸¹ across the country. In criminal cases, these courts are the first line of defence against unfair arrests or policing since they decide critical issues such as arrest, remand and bail. Given the importance of these courts for common citizens, it is critical that these courts comply with all of the disclosure requirements of Section 4 of the RTI Act to ensure maximum transparency and to make it easier for citizens to understand the working of the courts.

As explained earlier, Section 4 disclosures are required to be made by all public authorities on their websites. As a result of the e-courts project powered by the Central Government and E-committee of the Supreme Court, a vast majority of the District Courts finally have websites. We therefore undertook a survey of all the E-court websites of all District Courts to assess whether they had made any kind of disclosures under Section 4 of the RTI Act and if so, whether the disclosures were in both the local language of the state as well as in English. The language question is particularly important for District Courts because most of these courts conduct their proceedings in the local language of the state rather than English. However, dissemination of the information in the English language is equally important because these District Courts will often summon or pass orders against citizens living in other states.

The results of our survey paint a poor picture of compliance of Section 4 of the RTI Act. Apart from the District Courts in Kerala, Punjab and Haryana where almost all the District Courts published relatively detailed disclosures, most states did not have a single District Court which had made the required disclosures under Section 4 on their websites. Most of these disclosures in Kerala, Punjab and Haryana were made in the English languages and not in the local languages of these states. Only in Kerala, 3 District Courts made disclosures in both English and the local language.

In Karnataka, Maharashtra and Uttarakhand, only 13 (of 30), 20 (of 39) and 6 (of 13) District Courts respectively made detailed disclosures under Section 4 of the RTI Act. Most of these disclosures were made in English, except for in Maharashtra, where 13 of the District Courts made disclosures in the local

language, while four made disclosures in both languages. Similarly, in Karnataka, 9 District Courts made disclosures in both languages.

In some of the other states like Himachal Pradesh, Delhi, Gujarat, Odisha and Uttar Pradesh a small number of the District Courts disclosed very little of the substantial information mandated under Section 4. Most only provided details of the PIO authorised to accept RTI applications. In many of these cases, the disclosure section was not clearly identified on the websites and were available under other poorly labelled heads on the websites.

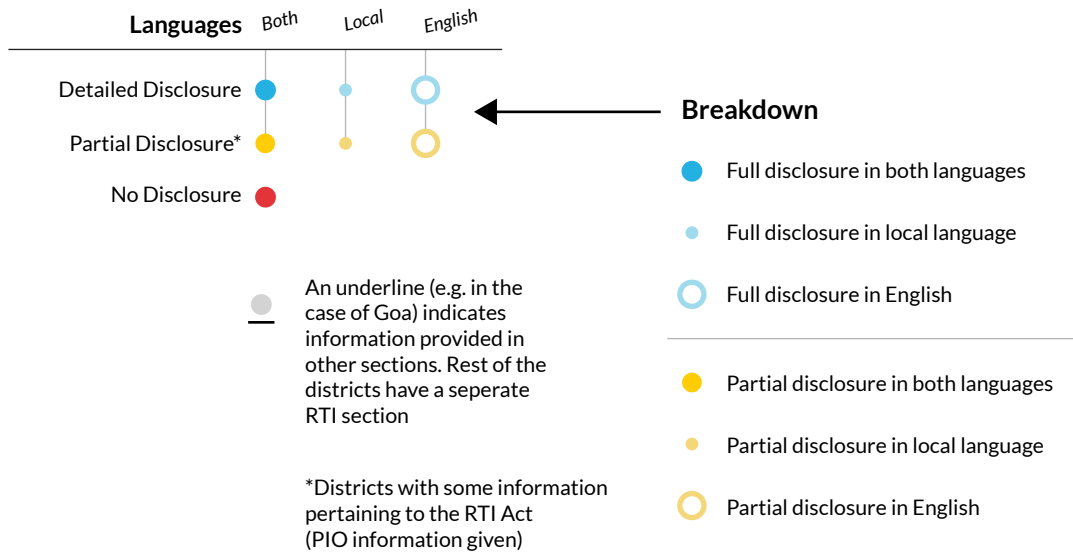
In many of the big states like Assam, Rajasthan, Madhya Pradesh and West Bengal none of the District Courts had made any kind of Section 4 disclosure under the RTI Act.

Clearly, the District Courts have a long way to go in fulfilling the requirements of Section 4 of the RTI Act. The High Courts which are responsible for the administration of all District Courts should issue directions to all District Judges informing them to take the obligations under Section 4 seriously and make the necessary disclosure of information in both the local language and English. Further it is important, that even in states like Punjab, Haryana and Kerala where all District Courts have complied with Section 4, the disclosures be made both in English and the local language of the state. Most importantly, the High Courts need to put in place a mechanism that ensures District Courts under their superintendence update their disclosures under Section 4 on a regular basis.

The performance of all the District Courts has been visualised in **Figure 5** as per the State and Union Territory in which they are located. A detailed key explaining the symbols used has also been provided. The States and Union Territories have been organised alphabetically.

⁸¹ We arrived at this figure based on our survey of the e-Courts websites <<https://districts.ecourts.gov.in/>> accessed 17 October 2019

Figure 5: Detailed District Courts Disclosure Index



Andaman & Nicobar



Andhra Pradesh



Arunachal Pradesh



Assam



Bihar



Chandigarh



Chhattisgarh



Dadra & Nagar Haveli



Daman & Diu



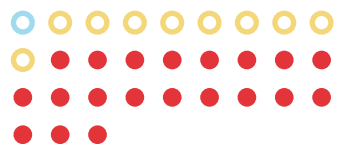
Delhi



Goa



Gujarat



Haryana



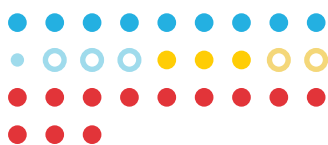
Himachal Pradesh



Jharkhand



Karnataka



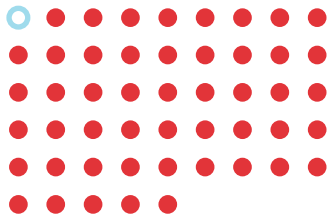
Kerala



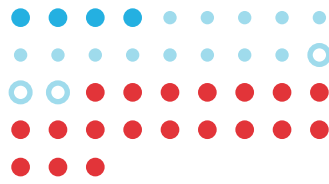
Lakshwadeep



Madhya Pradesh



Maharashtra



Manipur



Meghalaya



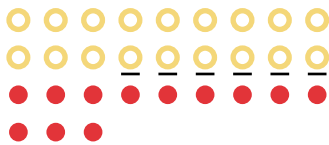
Mizoram



Nagaland



Odisha



Puducherry



Punjab



Rajasthan



Sikkim



Tamil Nadu



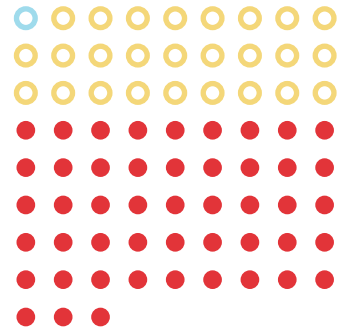
Telangana



Tripura



Uttar Pradesh



Uttarakhand



West Bengal



One of the unique provisions of the RTI Act, is Section 25 which requires the CIC and the State Information Commission (SIC) to prepare an annual report on the implementation of the Act.⁸² This report is to contain information about the number of requests made to each public authority⁸³ under the RTI Act, the number of decisions that denied the information to the applicants, the provisions that were used to deny this information⁸⁴, the number, nature and outcome of appeals referred to the CIC or the SIC⁸⁵ the particulars of disciplinary action taken against any officer in respect of the administration of this Act⁸⁶ and the charges collected⁸⁷ amongst other things. The Information Commissions are assisted in this regard by the relevant Ministries or Departments who collect the relevant information for the public authorities under their respective jurisdiction.⁸⁸ The final reports are required to be tabled before Parliament or the relevant State Legislature and provide the information necessary to evaluate the manner in which each public authority is administering the RTI Act.

Since we were keen on understanding the implementation of the RTI Act by the High Courts, we accessed a copy of the CIC's annual report. To our surprise we discovered that the CIC's annual report provided statistics only with regard to the Delhi High Court.⁸⁹ We then discovered that there is significant confusion on whether High Courts comes within the jurisdiction of either the CIC or SIC. We have seen both CIC and SICs hear appeals against the rejection of RTI applications by High Courts. As per the scheme of the RTI Act, it is very clear that all public authorities under the Central Government are subject to the jurisdiction of the CIC, while all public authorities under the State Governments are subject to the jurisdiction of the SIC. The High Courts however are constitutional bodies that are independent of the Central and State Governments. While only Parliament can make laws regarding the constitution and organisation of High

Courts, it is the states which pay the salaries of the judges and administrative staff of the High Courts. The states also pay the salaries of the judges and administrative staff of the District Judiciary.

The issue of jurisdiction over High Courts was tackled by the CIC in the case of *D.N. Loharuka v. High Court of Judicature at Mumbai*.⁹⁰ In pertinent part, the CIC held that High Courts as public authorities fall under the jurisdiction of the CIC for the purposes of the RTI Act. The Commission argued that the CIC should have exclusive jurisdiction over public authorities which are established or constituted (i) by or under the Constitutional provisions concerning the Union of India, (ii) by any other law made by Parliament amongst other criteria. The constitution and organisation of the High Courts are within the Parliament's legislative competence.⁹¹ It was therefore held that High Courts as public authorities come within the jurisdiction of the CIC. While this is sound logic, it should also be reiterated that the High Courts are funded entirely out of the Consolidated Fund of each state and not out of the Consolidated Fund of India. Given the focus of the RTI Act is on accountability, the issue of funding of a public authority is a critical factor that must be accommodated in any analysis regarding the jurisdiction of the CIC or the SIC. The *Loharuka* judgment did not consider this line of argument.

In order to confirm whether the *Loharuka* judgment was the accepted position of law we filed an RTI application with the DoJ asking it whether it was collecting the required information from the High Courts.⁹² The DoJ in response, merely transferred our RTI application to all High Courts in the country without providing us with an explanation as to why it was not collecting this information from all the High Courts.

⁸² Right to Information Act 2005, s 25(1)

⁸³ Right to Information Act 2005, s 25(3)(a)

⁸⁴ Right to Information Act 2005, s 25(3)(b)

⁸⁵ Right to Information Act 2005, s 25(3)(c)

⁸⁶ Right to Information Act 2005, s 25(3)(d)

⁸⁷ Right to Information Act 2005, s 25(3)(e)

⁸⁸ Right to Information Act 2005, s 25(2)

⁸⁹ Central Information Commission, Annual Report 2017-2018 p 7, 183,193 <<https://cic.gov.in/sites/default/files/Reports/AR-2018%20English%20%2802-01-2019%29%20-%20final.pdf>> accessed 1 October 2019.

⁹⁰ CIC/AT/A/2008/01137

⁹¹ Constitution of India, Seventh Schedule, Entry 78, List I.

⁹² We filed the application with the DoJ specifically because as per Section 25 it is the responsibility of the Ministries and Departments to collect this information and submit it to the CIC. As per the Allocation of Business (Government of India) Rules under Article 77 of the Constitution [Rule 3 Second Schedule II Department of Justice, 104], the Department of Justice, Ministry of Law and Justice will be the relevant authority for compiling the information required under Section 25 of the Act and sending it to the CIC.

Many of the High Courts did not reply to the transferred RTI application. Of those which replied, the Calcutta High Court candidly confessed that “since the adoption of the Act in 2006, this Hon’ble Court has never maintained the clause(s) of section 25 till this date”.

Of those which were compiling such data under Section 25, the High Courts of Himachal Pradesh, Tripura, Uttarakhand, Patna, Kerala and Gujarat claimed to be sending the information directly to the SIC. While the High Courts of Karnataka, Gauhati, Madras and Bombay were sending the information only to the respective law departments of the State Governments and not to their respective SICs.

The Orissa High Court replied that they comply with the requirements of Section 25 without disclosing whether they were sending this information to the relevant authorities. Meghalaya High Court replied that the only information being sent to the DoJ was with regard to the judicial strength and judicial infrastructure.

Since the RTI replies from the High Courts were not very helpful, we examined the Annual Reports of the SICs and CIC to check if they were publishing the information required under Section 25(3) of the RTI Act for their respective High Courts.

In the process we discovered that the SICs themselves were not very regular in preparing and publishing their annual reports on their websites.⁹³ Therefore, the last available report on the website of the Commission for each state was considered for this exercise.

During the course of our survey we discovered that only the following SICs were reporting the information required under Section 25 with regard to High Courts as public authorities: Andhra Pradesh⁹⁴, Himachal Pradesh⁹⁵, Kerala⁹⁶, Madhya Pradesh⁹⁷, Tamil Nadu⁹⁸ and Uttarakhand⁹⁹. Information regarding the Kohima Bench, Aizawl Bench and Itanagar Bench of the Gauhati High Court was reported in the Nagaland Information Commission’s report¹⁰⁰, Mizoram Information Commission’s report¹⁰¹ and Arunachal Pradesh Information Commission’s Report¹⁰² respectively. Similarly, information about the High Court is included in the the annual reports of the Information Commissions of Meghalaya¹⁰³, Manipur¹⁰⁴ and Tripura¹⁰⁵.

The fact that the SICs continue to exercise jurisdiction over the High Courts under the RTI Act, demonstrates that the CIC’s decision in *Loharuka* is being disregarded by the SICs. The CIC however does hear appeals against several High Courts. The lack of clarity on this aspect of jurisdiction is worrying and it maybe necessary for either the Supreme Court or Parliament to intervene and resolve this confusion. Logically, the same Information Commission that is entrusted with hearing appeals against the High Courts should be responsible for collecting and publishing the information required under Section 25. This will allow the Information Commissions to better monitor the compliance of the High Courts with the provisions of the RTI Act.

⁹³ Satark Nagrik Sangathan and Centre for Equity Studies, 'Report Card on the Performance of Information Commissions in India' (2018) p 11 <<http://snsindia.org/wp-content/uploads/2018/03/Report-Card-on-Performance-of-Information-Commissions-2018-Key-findings-FINAL.pdf>> accessed 1 October 2019.

⁹⁴ Andhra Pradesh Information Commission, Annual Report 2014 (for Telangana and Andhra Pradesh) p 61 <http://www.sic.ap.gov.in/Documents/AR_TEL_AP_2014.pdf> accessed 1 October 2019

⁹⁵ Himachal Pradesh Information Commission, Annual Report 2016-2017, p 12 <<http://hp.gov.in/sic/showfile.aspx?fgid1=e2156f09-da65-46d9-aead-057381e156b5>> accessed 1 October 2019

⁹⁶ Kerala Information Commission, Annual Report, p 52,73,94 <<http://keralasic.gov.in/images/stories/pdf/Annual%20Report%2014-15.pdf>> accessed 1 October 2019

⁹⁷ Madhya Pradesh Information Commission, Annual Report p 145 <http://164.100.196.220/mpwebsite/DOCUMENTS/1-%20Writeup%20MPSIC-VP-2014%20Dt%2002-02-16%20Dt%2021-03-2017_55.pdf> accessed 1 October 2019

⁹⁸ Tamil Nadu Information Commission, Annual Report, p 56 <http://www.tnsic.gov.in/annualreports/ar_e_2016.pdf> accessed 1 October 2019

⁹⁹ Uttarakhand Information Commission, Annual Report 2013-2014, p 68 <<http://uic.gov.in/Annual%20Report/2013-14/Part%202.pdf>> accessed 1 October 2019

¹⁰⁰ Nagaland Information Commission Annual Report for 2015-2016 and 2016-2017, p 49 <<http://nlsic.nagaland.gov.in/annualreport/15-16%20%2016-17.pdf>> accessed 1 October 2019

¹⁰¹ Mizoram State Information Commission Annual Report for 2017-2018, p 24 <<https://mic.mizoram.gov.in/uploads/attachments/8d626067a0c60ffe294d9fb4e-5146de3/report-17-18.pdf>> accessed 1 October 2019

¹⁰² Arunachal Pradesh Information Commission Annual Report 2016-2017, p 83 <<http://www.arnsic.nic.in/assets/pdf/annualreport/Annual%20Report%202016-2017%20Final%2029-5-2018.pdf>> accessed 1 October 2019

¹⁰³ Meghalaya Information Commission, 12th Annual Report 2017, p 56 <http://megsic.gov.in/annualreport/Annual_Report-2017.pdf> accessed 1 October 2019

¹⁰⁴ Manipur Information Commission, Annual Report 2015-2016 p 41 <https://maninfocom.nic.in/downloads/Annual_Report_2015_16.pdf> accessed 1 October 2019

¹⁰⁵ Tripura Information Commission, Annual Report 2013-2014, p 14,17,32 <<http://tripurarti.nic.in/AnnualReports/New%20Annual%20Repot%202013-14.pdf>> accessed 1 October 2019

VII Conclusion

The RTI Act has been in existence for 14 years. The legislation has ushered in a transparency revolution in governance which in turn has strengthened the accountability of public institutions in India. It should then be a matter of concern to see the judiciary lagging behind even the Government of India when it comes to abiding by the letter and spirit of the RTI Act. The fact that the RTI Rules of so many High Courts have provisions that run the risk of being declared *ultra vires* the RTI Act coupled with the fact that 9 High Courts and most District Courts have not bothered to make any of the disclosures under Section 4(1)(b) of the RTI Act, is indicative of serious systemic issues within the administrative side of the judiciary. It is also telling, that on our convenience index, not a single High Court was able to match the convenience offered by the Government of India's RTI Rules. **Figure 6** illustrates the scores obtained by the various High Courts under the Legality, Convenience, Practice and Disclosure Indices.

In particular, the lack of transparency in financial matters of the High Courts is very worrying. Most High Courts do not proactively publish details about their budgets and expenditure. Even fewer High Courts are willing to provide copies of their budgets and audit reports under the RTI Act. The Telangana High Court cited a judgment of the Madras High Court to refuse our request for budget and expenditure statements when the Madras High Court itself was more than ready to share the same information. Similarly, the High Court of Punjab & Haryana which otherwise does a very good job in complying with the RTI Act, declined to share a copy of its audit reports¹⁰⁶ despite having agreed to the same in its initial communication.¹⁰⁷ This is a serious issue given that the Punjab & Haryana High Court has had a budget of Rs. 973 crores over the last 5 years.¹⁰⁸

This lack of administrative transparency within the Indian judiciary, is ironic, given that it was the Supreme Court of India which had declared 'open government' to be implicit in the fundamental right to free speech which is guaranteed under Article 19(1)(a) of the Constitution of India. In 2011, it was the same Supreme Court which declared that "The right to information is a cherished right. Information and right to

information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability."

So why then, has there been such a yawning gap between the judiciary's bold pronouncements on transparency and its actual enforcement of the transparency requirements of the RTI Act?

A possible answer to the above question is that neither the Bar nor civil society have made a serious demand for greater administrative transparency within the High Courts. This is because most of the conversation for greater judicial transparency has focussed on ensuring 'individual accountability' of judges rather than 'institutional accountability' of the judiciary.¹⁰⁹ The recurring debate on whether personal assets of judges of the Supreme Court are covered under the RTI Act falls within the first category. These issues of 'individual' and 'institutional accountability' are entirely different categories. Save for a few honourable exceptions referenced earlier in this report, there is relatively little writing or civil society action on the issue of 'institutional accountability' of the High Courts which play a far more important role, than the Supreme Court, in planning for and administering the district judiciary which is the first point of contact for most litigants who seek justice.

While it is not our case that more administrative transparency within the High Courts will automatically lead to a more accountable and efficient judiciary, it will certainly create the foundations for Indian civil society and the Bar to demand more accountability of the High Courts and hopefully such accountability will translate into more efficiency.

We believe that such an approach, which focuses on institutional transparency will be more effective in tackling the issue of pendency than merely appointing more judges or providing more resources to the judiciary.

¹⁰⁶ Letter No 526/PIO/HC/RTI-1 dated 13.03.2019

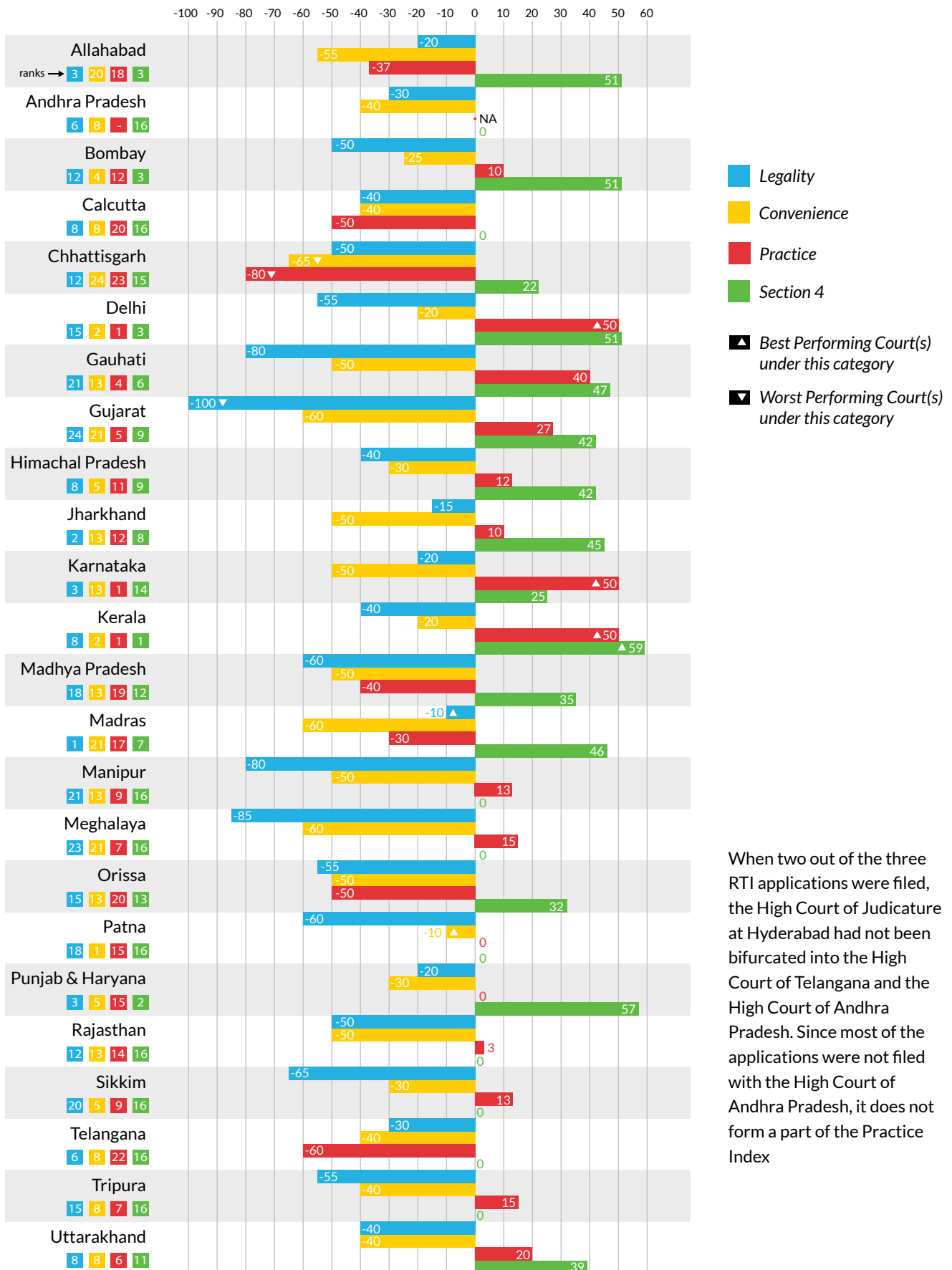
¹⁰⁷ Letter No. 672/PIO/HC dated 23.04.2019

¹⁰⁸ Based on RTI replies given by Punjab and Haryana High Court

¹⁰⁹ Arghya Sengupta, Independence & Accountability of the Indian Higher Judiciary (CUP 2019) 124

To this end, we are sending copies of this report, along with recommendations for change, to each High Court explaining to them how best they can amend their respective RTI Rules, make better disclosures under their RTI Act and train their PIOs to better respond to applications under the RTI Act. If High Courts can ensure that their own officers complied with the RTI Act, they would be taking the first steps toward building the foundations of a more transparent, accountable and efficient judiciary which will undoubtedly contribute to strengthening the 'rule of law' in India.

Figure 6: Scores and ranks obtained by the High Courts under the Legality, Convenience, Practice and High Court Disclosure Indices



Annexures

Annexure A

(Template of the RTI application seeking information on implementation of Commercial Courts Act from the High Courts)

APPLICATION UNDER SECTION 6 OF THE RIGHT TO INFORMATION ACT, 2005

To
Public Information Officer,
_____ High Court

Date of Application	
Name of Applicant	
Postal Address	
Contact phone no.	
Email ID	
Specific subject matter of the document	Information regarding the pendency of cases in the High Court and the Commercial Courts Act.
Further details of queries	<ol style="list-style-type: none"> 1. Please provide us with information on whether the Commercial Courts, Commercial Appellate Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 has been notified by your High Court as required under Section 3(1), Section 3A and Section 5(1) of the Act. If yes, please provide us with the notification. 2. Please provide us with statistical data on the number of civil, criminal and total cases, instituted, pending and disposed of by the High Court, with a month wise breakdown from November 2015 to October 2018. 3. Please provide us with statistical data that is required to be maintained under Section 17 of the Commercial Courts Act, 2015. Please provide month wise data from December 2015 to October 2018. 4. Please provide us with the names of all judges assigned to the Commercial Courts and the Commercial Appellate Courts at the district court level as required under Section 3(1) and Section 3A of the Commercial Courts Act with their respective tenures. 5. Please provide us with the names of all judges assigned to Commercial Appellate Division as required under Section 5(2) of the Commercial Courts Act with their respective tenures, as judges of these courts. 6. Please provide us with the nomenclature and corollary abbreviation used for cases under the Commercial Courts Act at both the District Court and High Court level, under the heading 'case types' [e.g. CREF Criminal Reference]. Please provide us the information for cases covered by the Commercial Courts Act.
Preferred format of receipt of information.	Soft/digital copy preferred in English language.
Preferred mode of receipt of copy of documents	By speed post/email, if soft/ digital copy is not convenient.
Is inspection of documents requested	No

Mode of payment of application fee	Via Post
------------------------------------	----------

I am herewith paying the application fee ____ by way of _____.

If you are of the view that the above requested information does not pertain to your department, then please follow the provisions of Section 6 (3) of the RTI Act 2005 and direct the query to the concerned authority. Also, as per the provisions of the RTI Act, 2005, kindly provide the details (including name and designation) of the first appellate authority before which I may, if required, file my first appeal.

NOTE: Since the High Court website does not mention the person the postal order is to be addressed to, a blank postal order is enclosed, which you may fill as per your convenience.

Regards,

Annexure B

(Template of the RTI application seeking information on implementation of Commercial Courts Act from the High Courts)

APPLICATION UNDER SECTION 6 OF THE RIGHT TO INFORMATION ACT, 2005

To
Public Information Officer,
_____ High Court

Date of Application	
Name of Applicant	
Postal Address	
Contact phone no.	
Email ID	
Specific subject matter of the document	Details regarding fund allocation for the judiciary
Further details of queries	<p>In this regard kindly provide</p> <ol style="list-style-type: none">1. Photocopies of statement showing the budget estimates prepared by the High Court and submitted to the UP Law Department for the preparation of demand for grants by the department during financial years:<ul style="list-style-type: none">• (2014-2015)• (2015-2016)• (2016-2017)• (2017-2018)• (2018-2019)2. Photocopies of statement showing budget allocation by the government to the High Court under the head "administration of justice" and expenditure incurred by the High Court against the allocated budget under :<ul style="list-style-type: none">• administration of justice for the High Court,• administration of justice for subordinate courts including civil and session courts, criminal courts and family courts. for the financial years<ul style="list-style-type: none">• (2014-2015)• (2015-2016)• (2016-2017)• (2017-2018)• (2018-2019)3. The photocopies of statements showing funds surrendered (final excess and saving statement) for the financial years<ul style="list-style-type: none">• (2014-2015)• (2015-2016)• (2016-2017)• (2017-2018)

	<p>4(a). Statement showing the component wise and head wise grant received under the 13th and 14th Finance Commission for the financial years</p> <ul style="list-style-type: none"> • (2014-2015) • (2015-2016) • (2016-2017) • (2017-2018) • (2018-2019) <p>4(b). A copy of the statement showing progress report of the extent of utilisation of funds received under 13th and 14th Finance Commission for the financial years</p> <ul style="list-style-type: none"> • (2014-2015) • (2015-2016) • 2016-2017) • 2017-2018) • (2018-2019) <p>5. The statement showing details of allocation made to the law department under the Centrally Sponsored Scheme by the Centre and the State government for the implementation of the scheme for the financial years :</p> <ul style="list-style-type: none"> • (2014-2015) • (2015-2016) • (2016-2017) • (2017-2018) • (2018-2019) <p>6. The copy of the statement showing expenditure incurred under the Centrally Sponsored Scheme for the financial years :</p> <ul style="list-style-type: none"> • (2014-2015) • (2015-2016) • (2016-2017) • (2017-2018) • (2018-2019) <p>Under Section 4(1) (b)(xi) of the RTI Act, the budget allocation for each of its agency, indicating all particulars of all plans, proposed expenditures and reports on disbursements made should be proactively disclosed by the public authorities.</p>
Preferred format of receipt of information.	Soft/digital copy preferred in English language.
Preferred mode of receipt of copy of documents	By speed post/email, if soft/ digital copy is not convenient.
Is inspection of documents requested	No
Mode of payment of application fee	Via Post

I am herewith paying the application fee of Rs. ____ by way of ____.

If you are of the view that the above requested information does not pertain to your department, then please follow the provisions of Section 6 (3) of the RTI Act 2005 and direct the query to the concerned authority. Also, as per the provisions of the RTI Act, 2005, kindly provide the details (including name and designation) of the first appellate authority before which I may, if required, file my first appeal.

Regards,

Annexure C

(Template of the RTI application seeking copies of audit reports of the High Courts)

APPLICATION UNDER SECTION 6 OF THE RIGHT TO INFORMATION ACT, 2005

To
Public Information Officer,
_____ High Court

Date of Application	
Name of Applicant	
Postal Address	
Contact phone no.	
Email ID	
Specific subject matter of the document	Audit Reports
Further details of queries	Please provide copies of the audit reports of the High Court for the years of 2013 to 2018.
Preferred format of receipt of information.	Soft/digital copy preferred in English language.
Preferred mode of receipt of copy of documents	By speed post/email, if soft/ digital copy is not convenient.
Is inspection of documents requested	No
Mode of payment of application fee	Via Post

I am herewith paying the application fee of Rs. ____ by way of ____.

If you are of the view that the above requested information does not pertain to your department, then please follow the provisions of Section 6 (3) of the RTI Act 2005 and direct the query to the concerned authority. Also, as per the provisions of the RTI Act, 2005, kindly provide the details (including name and designation) of the first appellate authority before which I may, if required, file my first appeal.

Regards,

Annexure D

(RTI application filed with the Department of Justice seeking information about reports filed under Section 25(2) of the RTI Act. This application was transferred by the DoJ to the various High Courts.)

Online RTI Request Form Details

RTI Request Details :-

RTI Request Registration number	JUSTC/R/2019/50306
Public Authority	Department of Justice

Personal Details of RTI Applicant:-

Name	Vaidehi Misra
Gender	Female
Address	
Pincode	
Country	India
State	Delhi
Status	Urban
Educational Status	Literate
	Above Graduate
Phone Number	
Mobile Number	
Email-ID	

Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

(Description of Information sought (upto 500 characters))


Description of Information Sought	
Please tell us whether High Courts across India provide the DoJ data, for the purposes of creating the report under Section 25(2) of the Right to Information Act 2005, containing all the relevant information specified under Section 25(3).	
Concerned CPIO	Nodal Officer
Supporting document <i>(only pdf upto 1 MB)</i>	Supporting document not provided

[Print](#)

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Annexure E

(RTI application filed with the Department of Justice seeking information on courts developments plans. This application was transferred by the DoJ to the various High Courts.)


Select Language: English ▼Public Authorities Available

RTI Online

Version 2.0
An Initiative of Department of Personnel & Training, Government of India

[Submit Request](#) [Submit First Appeal](#) [View Status](#) [User Manual](#) [FAQ](#) [My Account](#) [Login History](#) [Feedback](#)

[Final Status of JUSTC/R/2018/52814](#)

Applicant Name	Chitrakshi Jain
Date of receipt	20/12/2018
Request Filed With	Department of Justice
Text of Application	Kindly provide copies of the COURT DEVELOPMENT PLANS which were submitted to the 14th Finance Commission by the High Courts drawn up for all High Courts and District Courts, covering matters relating to infrastructure, computerization, human resource development, setting measurable performance standards, performance parameters, enhancing user friendliness of the judicial system, etc.
Request document (if any)	
Status	REQUEST PHYSICALLY TRANSFERRED TO OTHER PUBLIC AUTHORITY as on 25/12/2018
Date of Action	25/12/2018
Remarks	Details of Public Authority :- Registrar (Admn.), Hon'ble Delhi High Court
Print	

[Home](#) | [National Portal of India](#) | [Complaint & Second Appeal to CIC](#) | [FAQ](#)

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Volume II

Reports for Individual
High Courts

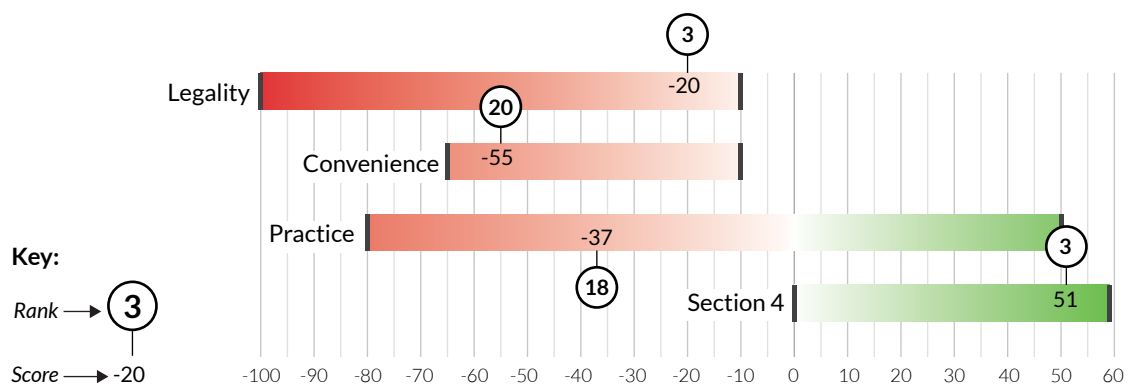


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High Court of Judicature at Allahabad

After analysing the Allahabad (Right to Information) Rules, 2006 as amended in 2012 and 2013, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Allahabad High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act.

1. Rule 3 of the High Court RTI Rules places a limit on the number of items that can be asked in an RTI application. It is recommended that the limit on the number of questions that can be asked be removed because such a limit restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the number of items that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
2. Rule 20 of the High Court RTI Rules requires the applicant to make a declaration of bona-fide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bona-fide intent.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State. Currently only the amendments made to the High Court Rules in 2012 and 2013 are available in the local language.
2. Rule 4(c) of the High Court RTI Rules prescribes Rs. 50 as the cost of filing an RTI application. We recommend that the cost of filing an RTI application be reduced to Rs. 10 to make it at par with the fee charged by the Central Government RTI Rules, 2012, as well as the Supreme Court.
3. Rule 5 of the High Court RTI Rules prescribes Rs. 15 as the per-page cost of providing information. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.
4. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to set it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.

5. Rule 4 of the High Court RTI Rules, does not allow for Indian postal orders as a form of payment for an RTI application. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 4 be amended to include postal orders and bankers' cheques. In addition we recommend that the High Court adopt digital modes such as UPI, e-payment gateways and NEFT transfer as methods of payment.
6. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: All 3 applications filed were rejected by the High Court]

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, we received replies to 1 out of the 3 applications, filed with the Allahabad High Court, after 30 days of filing the application. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in either of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, 2 of the applications transferred by the Department of Justice to the High Court were rejected on account of non-payment of application fees. Requiring applicants to once again pay for transferred applications is in clear contravention of the RTI Act.

Therefore, it is requested that PIO be instructed to not reject the application on account of the failure of payment of application fees.

D. Recommendations regarding Section 4(1)(b) Disclosures by the High Court

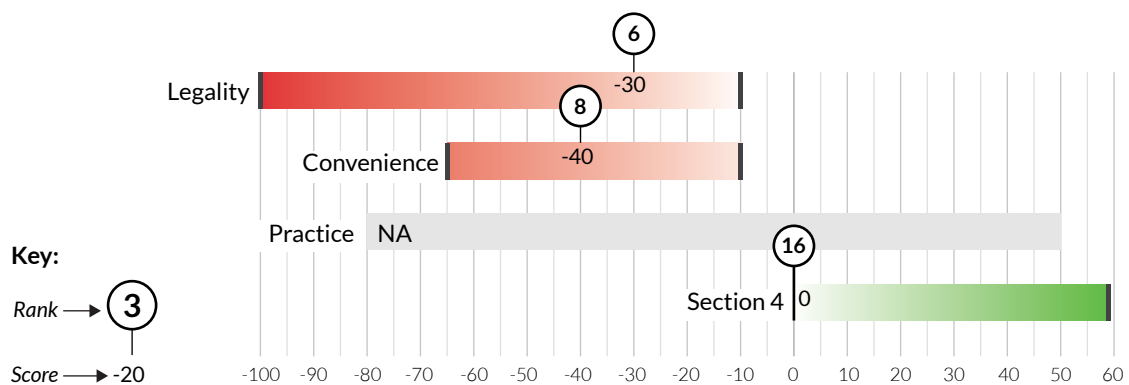
1. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.
2. The information under the disclosure available on the website is for FY 2014-2015. As per Section 4(2), public authorities are required to update such disclosures at regular intervals. We recommend that the disclosure be annually updated for the information to remain relevant. We also recommend that the disclosures be archived on the website of the High Court.
3. While the disclosure mentions that the Chief Justice of the High Court has constituted committees for discharging different functions, it does not provide details regarding the composition of the said committees or the scope of their work. Under Section 4(1)(b)(viii), the public authorities are required to provide a statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be regularly updated.

E. Recommendations regarding Section 4(1)(b) Disclosures by the District Courts

1. Out of the 75 District Courts in Uttar Pradesh, only 1 District Court (Maharajganj) website has properly labelled disclosure under Section 4(1)(b) of the RTI Act in the local language but not in English. Another 26 District Court websites have provided information regarding the Public Information Officer & Appellate Authority in English but not in the local language. 48 other District Court websites have no disclosures.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Andhra Pradesh High Court

We analysed the Andhra Pradesh High Court (Right to Information) Rules, 2005 as amended in 2013 and 2017, which we presume were adopted by the High Court after the bifurcation of the erstwhile Hyderabad High Court on 1st January, 2019. We also analysed the disclosures made by the High Court and the Districts Courts, under its jurisdiction, pursuant to Section 4(1)(b) of the RTI Act.¹ The following are the results of our analysis and recommendations to the Andhra Pradesh High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. While the High Court RTI Rules are available on the website, the amendments have not been published on the website. We recommend that a clear copy of the RTI Rules of the High Court be published on the website of the High Court.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application, can be deposited for the High Court. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
3. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to

specifically provide the name of the authority in whose name the fee has to be deposited when an RTI application is filed with a District Court.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 4 of the High Court RTI Rules prescribes Rs. 15 as the per hour cost for inspection of documents. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) the Central Government Right to Information Rules, 2012.
3. Rule 3 of the High Court RTI Rules, does not mention bankers' cheques as 1 of the methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 3 be amended to include

¹ Unlike for the other High Courts, we have not evaluated the Andhra Pradesh High Court on the practices of its PIOs in responding to RTI applications. This is because we had filed most of the RTI applications with the High Courts in November 2018 when the Andhra Pradesh High Court had not yet been created. At the time, 2 of the RTI applications had been filed with the Hyderabad High Court. We received replies to these applications from the Telangana High Court since the Hyderabad High Court had been bifurcated on 1st January, 2019.

banker's cheques in addition to electronic means such as UPI, e-payment gateways and NEFT transfer as methods of payment.

4. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding Section 4 Disclosures by the High Court

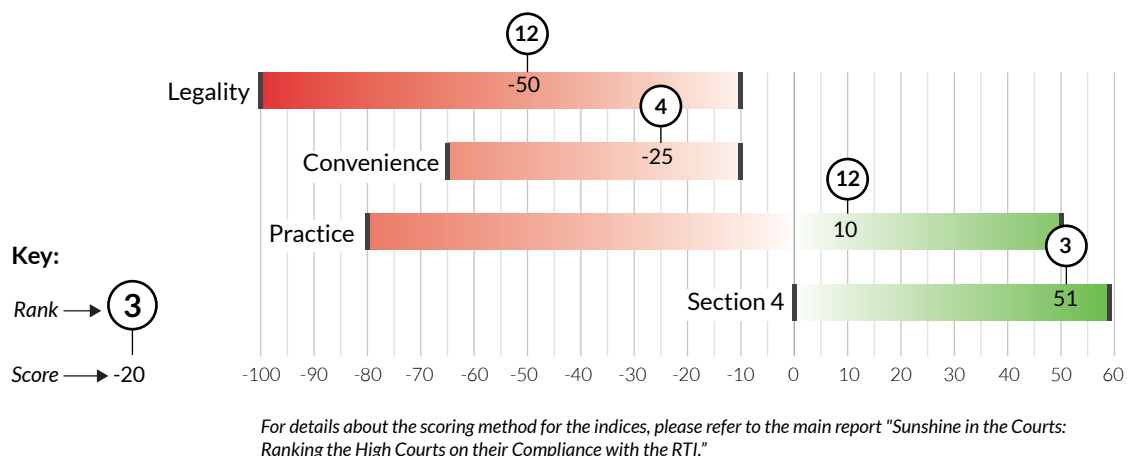
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosure annually.

D. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 13 District Courts in Andhra Pradesh have made any disclosures under Section 4(1)(b) of the RTI Act on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

The High Court of Judicature at Bombay

After analysing the Bombay High Court Right to Information (Revised) Rules, 2009 as amended in 2017, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Bombay High Court.



A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The Maharashtra District Courts RTI Rules, 2009 are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
2. Rule 4 of the High Court RTI Rules makes it mandatory to file RTI applications in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
3. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rules 13(a) permits denial of information not in the public domain, Rule 13(b) permits denial of information that relates to judicial functions

- and duties of the courts, Rule 13(e) permits denial of information that may affect the confidentiality of the judicial service examinations, Rule 13(h) permits denial of information that is contained in published material available to the public or which is available on the website. We recommend these rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.
4. Rule 15 of the High Court RTI Rules require citizens to pay a fee of Rs. 20 for an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge for appeals. The CIC in the case of *L.G. Dass v. Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules which charged a fee for hearing appeals.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.

2. Rule 4 of the High Court RTI Rules prescribes an additional requirement of sending a self-addressed envelope bearing postal stamps equivalent to the rate prescribed for registered post in addition to paying the cost for filing the RTI. We recommend the deletion of this rule because neither the RTI Rules of the Central Government nor the Supreme Court prescribe such a requirement over and above the fee of Rs. 10 that is payable as the fee for filing an RTI application. There is no other High Court (except the Chhattisgarh High Court) which requires the applicant to provide a self-addressed and stamped envelope along with an RTI application.
3. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. We, thus, recommend that the High Court RTI Rules be amended to include digital modes of payments such as UPI, e-payment gateways and NEFT transfer as methods of payment.
2. All the departments and functionaries on the original and appellate side have made independent disclosures under Section 4. While this is a good practice, the number of disclosures may confuse ordinary citizens.
3. Given the multiplicity of disclosures, general information regarding particulars of organization, statement of committees, particulars of facilities available to citizens for obtaining information, common to the entire High Court cannot be found.
4. We recommend that a consolidated, properly indexed disclosure be prepared at the level of the High Court rather than only department level disclosures. This would make it easier for the citizens to access information.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. The District Courts in Goa and Maharashtra as well as the Union Territories of Dadra & Nagar Haveli and Daman & Diu come under the jurisdiction of the Bombay High Court. No disclosures have been made by the 1 District Court in Dadra & Nagar Haveli or the 2 District Courts in Daman & Diu. Out of the 2 District Courts in Goa, both websites have properly labelled disclosures under Section 4(1)(b) of the RTI Act in English but not in the local language. However, neither of the disclosures are in a separate RTI section on the website. Out of the 39 District Courts in Maharashtra, 20 District Court websites have properly labelled disclosures under Section 4(1)(b) of the RTI Act. Of these disclosures, 13 are in the local language, 3 in English and 4 District Court websites have disclosures in both the local language and English. All of these disclosures are available in a separate RTI section on the website. The remaining 19 District Court websites have made no disclosures.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Of the 3 RTI applications that were filed with the Bombay High Court 1 was rejected.]

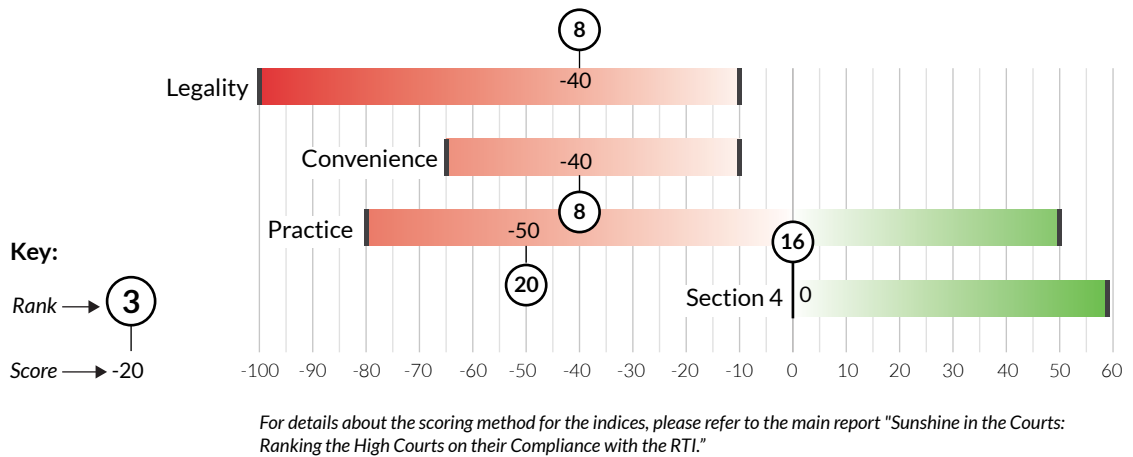
1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. 1 of the RTI applications that we filed requesting audit reports of the Bombay High Court for the years from 2013 to 2018 was rejected on the ground that the application was not in compliance with the format given in the rules, when in fact, the format had been followed.
3. The RTI application requesting the audit report was additionally rejected on the grounds that the request was "vague, unspecific and lacking in details" and that the "details/particulars/nature of the audit has not been given". However, some of the other High Courts responded to the identically worded RTI applications by providing us with their respective audit reports. It is recommended that the PIO be sensitised to adopt a pro-disclosure approach while dealing with RTI applications.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.

Calcutta High Court

After analysing the Calcutta High Court (Right to Information) Rules, 2006 as amended in 2008, 2011 and 2012, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Calcutta High Court.



A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees for filing the RTI application with the High Court, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
3. Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar*

Modi v High Court of Jharkhand (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free, to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012, which have also been adopted by the Supreme Court of India.
3. Rule 10 of the High Court RTI Rules, lists demand draft, bankers' cheque, court fee stamps and Indian postal orders as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 10 be amended to include cash. In addition, we also recommend adding electronic means of payment such as UPI, e-payment gateways and NEFT transfer.
4. The RTI Act allows for exemption/reduction of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents

required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Of the 3 RTI applications that were filed with the Calcutta High Court, 1 did not receive a reply, apart from an interim reply “soliciting” our cooperation while our application was being “processed” on the grounds that the data was yet to be finalised.]

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, 1 out of the 3 applications filed with the Calcutta High Court was not replied to at all and the other 2 applications were responded to after 40 days of receipt of the application. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of filing the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in the 2 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when information is being provided to the applicant under the RTI Act. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. The 2 replies received from the High Court did not provide such details.
4. Both applications that contained multiple questions did not receive question wise replies. It is requested that the PIO be instructed to provide question wise replies to enable an applicant to match the responses to individual questions and prevent PIOs from side-stepping specific questions by providing a consolidated response.

5. The applications that were replied to by the High Court were not to the satisfaction of the applicants. The first application sought details on the judicial budget of the state. The applicant was merely directed to the West Bengal Finance Department website, which did not have the required information. For the second application, regarding data related to Section 17 of the Commercial Courts Act, 2015 all the questions were not answered. The High Court also sought time to provide a reply, which was eventually never provided. We would recommend that the PIOs be sensitized about the importance and workings of the RTI Act through training sessions by specialists in the area.

D. Recommendations regarding Section 4 Disclosures by the High Court

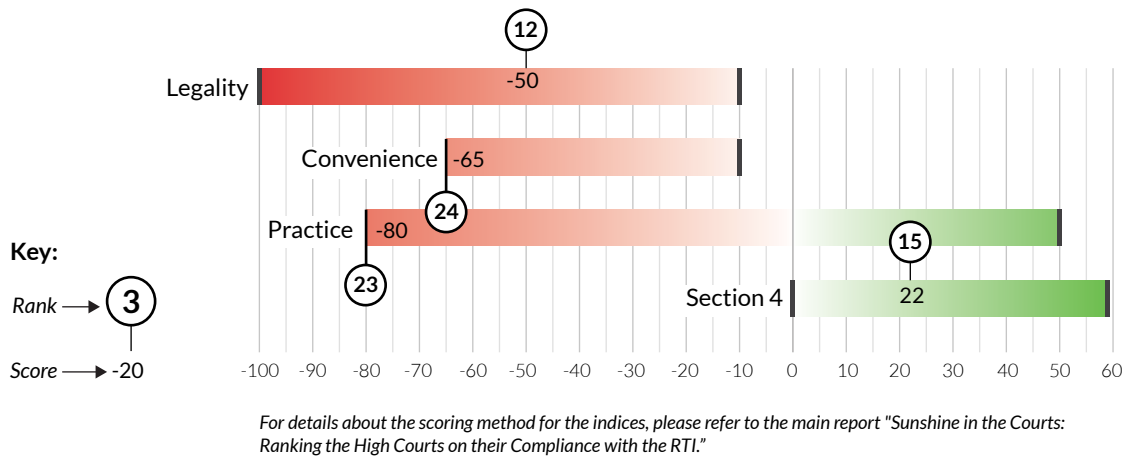
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosure annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. The District Courts in West Bengal & the Union Territory of Andaman & Nicobar Islands come under the jurisdiction of the Calcutta High Court. None of the 21 District Courts in West Bengal & the 3 District Courts in the Union Territory of Andaman & Nicobar Islands, have made the required disclosure under Section 4(1)(b) of the RTI Act.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as “Disclosures under the RTI Act”.

Chhattisgarh High Court

After analysing the Chhattisgarh High Court, Right to Information Rules, 2005 as amended in 2013, the disclosures made by the High Court and the District Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Chhattisgarh High Court.



A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 3 of the High Court RTI Rules restricts the subject matter, as well as the number of words per RTI application. As per this rule an applicant can ask only 1 question per RTI application and even that 1 question has to be limited to 150 words. It is recommended that the limit on questions as well as on words be removed because such a restriction restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the questions/words that can be asked in a single RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
2. Rule 3 of the High Court RTI Rules makes it mandatory to file RTI applications in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v Vice-President's Secretariat* (CIC/WB/C/2009/900352) have, both, reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least, not be made mandatory.

3. Rule 14.1 of the High Court RTI Rules require citizens to pay a fee of Rs. 40 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities to charge for appeals. The CIC in the case of *L.G. Dass v Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules which charged a fee for hearing appeals.
4. We recommend deleting Rule 4 of the High Court RTI Rules which make it mandatory to appear before the public authority after the submission of an RTI application. In our opinion this requirement is *ultra vires* the scheme of the RTI Act, especially Section 6(2) which merely requires a citizen to submit their contact details along with the application. The underlying assumption of the RTI Act is that the entire application process can be completed through written applications rather than oral hearings. In fact, no other High Court has a requirement for an oral hearing in order to process an RTI Application.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.

2. Rule 3 of the High Court RTI Rules prescribes Rs. 12 as the cost of filing an RTI application. Additionally, the rules require that a self-addressed envelope bearing necessary postal stamps also be enclosed if the information is sought by post. We recommend that the cost of filing an RTI application be reduced to Rs. 10 and the additional requirement be removed to make it at par with the fee charged by the Central Government RTI Rules, 2012 that have also been adopted by the Supreme Court of India.
3. Rule 14 of the High Court RTI Rules prescribes Rs. 10, per page, as photocopying charges and Rs. 15, per page, as printing charges for providing information in response to RTI applications. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.
4. Rule 14 of the High Court RTI Rules prescribes Rs. 10 per hour as the cost for inspection. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.
5. Rule 3 of the High Court RTI Rules, does not prescribe Indian postal orders, bankers cheques or demand drafts as methods of payment of fees under the RTI Act. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 3 be amended to include Indian postal orders, bankers cheques or demand drafts, in addition to digital modes of payments, such as UPI, e-payment gateways and NEFT transfer as methods of payment of fees under the RTI Act.
6. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Of the 3 RTI applications that were filed with the Chhattisgarh High Court, 2 did not receive replies and 1 was rejected.]

1. Section 7(1) of the Right to Information Act, 2005 requires a PIO to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, 2 out of the 3 applications filed with the High Court were never replied to by the PIO. We, therefore, request that the PIO be instructed to

reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.

2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in the 1 reply that we received from the High Court. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. 1 of the RTIs applications that we had filed, sought copies of the audit reports of the High Court. The PIO deemed the information confidential having no relationship with any 'public activity or any public interest'. It should be noted that there is no such ground of exemption in Section 8 of the RTI Act. We have therefore classified this reply as a mala-fide reply.
4. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, 1 of the 2 applications transferred by the Department of Justice to the High Court was rejected on account of non-payment of application fees while the other was never responded to by the High Court. Requiring applicants to once again pay for transferred applications is in clear contravention of the RTI Act. Therefore, it is requested that PIO be instructed to not reject the application on account of the failure of payment of application fees.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. The disclosure is available in the official language of the state, which is a good practice for increasing access to information.
2. The list of rules provided under Section 4(1)(b)(v) needs to be made more comprehensive and ideally hyperlinks should be provided to the text of the Rules.
3. The disclosure says that the requirement under Section 4(1)(b)(viii) is not relevant to the High Court while the same disclosure under Section 4(1)(b)(iii) states that the Chief Justice constitutes committees for allocating administrative work. Under Section 4(1)(b)(viii), the public authorities are required to provide statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be updated regularly.
4. We recommend that directory of employees and judges be prepared and published on the website and the link to this should be provided under the RTI disclosure.

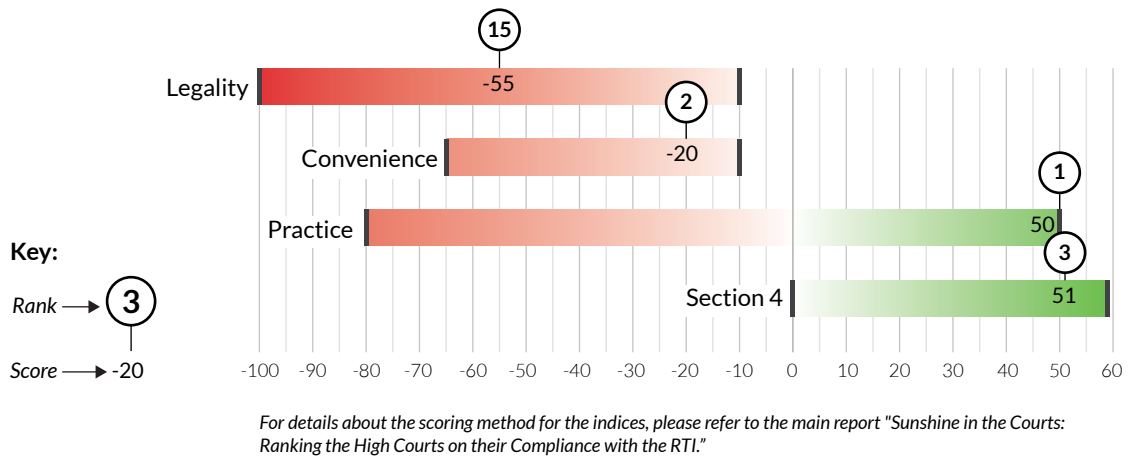
5. Under Section 4(1)(b)(xi), the disclosure provides a link to the finance department's website to procure budget statements. We recommend that the High Court prepare a comprehensive budget statement which includes allocations and expenditures for the High Court and the District Courts under its jurisdiction and make it available under Section 4 (1)(b)(xi) and update it annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 25 District Courts in Chhattisgarh, have made properly labelled disclosures under Section 4(1)(b) of the RTI Act on their websites. Only 5 District Court websites have provided information regarding the Public Information Officer & Appellate Authority, out of which 4 are in English and 1 in the local language. The remaining 20 other District Court websites have made no disclosures under Section 4(1)(b) of the RTI Act.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Delhi High Court

After analysing the the Delhi High Court (Right to Information) Rules, 2006 as amended in 2007, 2009, 2010, 2011, 2014 and 2016, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Delhi High Court.



A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the High Court, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
2. Rule 3 of the High Court RTI Rules restricts every RTI application to only 1 subject matter. The Rules state that only questions which are consequential or related to 1 another can be asked in 1 application. It is recommended that the limit on the number of questions that can be asked be removed because such a restriction restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the questions/subject that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
3. Rule 3(a) of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
4. Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.
5. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 5(a) permits denial of information on the ground that it pertains to duties and judicial functions and duties of the court, Rule 5(b) permits denial of information effecting any public activity or interest and Rule 5(c) affects the confidentiality of judicial service examinations. We recommend that these rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that

public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language.
2. The High Court RTI Rules do not include electronic methods of payments for RTI application fees. We recommend that payments be permitted through digital means such as UPI, e-payment gateways and NEFT transfers to bring it at par with the general provision given under Rule 6(c) of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Information was provided in reply to all the 3 applications filed with the High Court]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, we received all 3 replies via post. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.

D. Recommendations regarding Section 4 Disclosures by the High Court

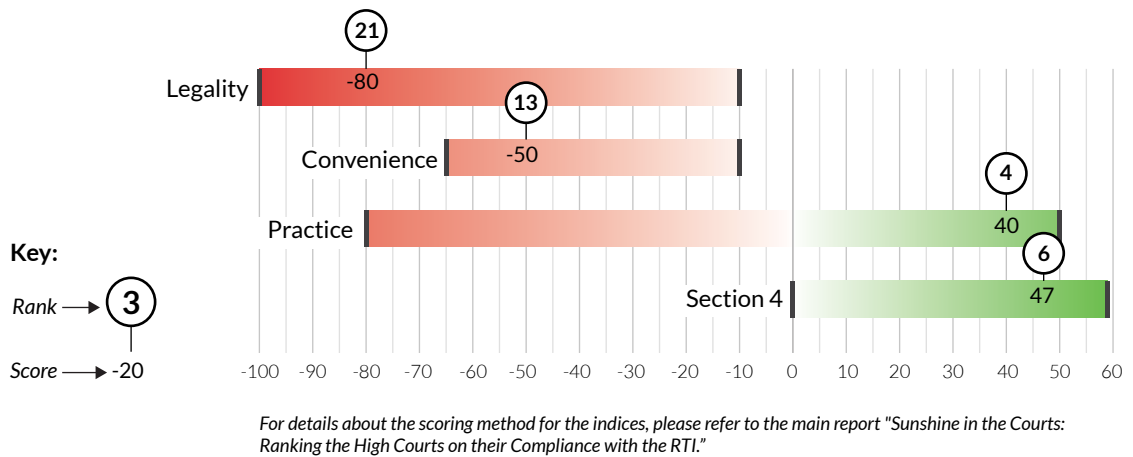
1. We recommend that to assist citizens in accessing information under Section 4, the disclosures also be made available in the local language.
2. We recommend that the disclosure should also include the information regarding the powers and duties of employees.
3. The list of Rules provided under Section 4(1)(b)(v) needs to be made more comprehensive and ideally hyperlinks should be provided to the text of the Rules.
4. While the High Court has provided details about the budget allocations, details of PIO and the rules according to which employees and officers discharge their functions, the said disclosures do not cover information about the Delhi District Judiciary which is under the jurisdiction of the High Court. We recommend that the disclosures be revised to include such information.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Out of the 14 District Courts in Delhi, only 1 District Court (Shahdara) website has head-wise proper disclosures under Section 4(1)(b) of the RTI Act on its website. Further 8 District Court websites have provided information regarding the Public Information Officer & Appellate Authority in English which are in a separate RTI section. The remaining 5 District Court websites have made no disclosures.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Gauhati High Court

After analysing the the Gauhati High Court (Right to Information) Rules, 2008 as amended in 2011 and 2017, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Gauhati High Court.



A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 3(b) of the High Court RTI Rules requires citizens to limit each RTI application to only 1 particular item. It is recommended that the limit on the number of questions be removed because such a restriction restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the questions/subject that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
2. Rules 2 and 3 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
3. Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.
4. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 4(v) permits denial of information related to administrative or quasi-judicial decisions; Rule 5(a) permits denial of information that is not in the public domain and does not relate to juridical functions and duties of the Court, Rule 5(c) permits denial of information that relates to any public activity or interest and Rule 5(d) permits denial of information that affects the confidentiality of judicial service examinations. We recommend that these rules be deleted because Section 8 already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchana v Public Information Office, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.
5. Rule 8 of the High Court RTI Rules allows the Appellate Authority to impose a penalty on the PIO for failing to discharge his duty under the RTI Act at Rs. 50 per day (beyond the 30 day limit) for failure to supply information which is capped at a maximum of Rs. 500. In case of

false information, the penalty is capped at Rs. 1000. We recommend deleting this rule because the RTI Act allows only the Information Commissioners to impose penalties on errant PIOs. The RTI Act does not vest such powers in the Appellate Authorities under the Act.

6. Rule 4(ii) of the High Court RTI Rules require the PIO to return those RTI applications in cases where the information may not be in the custody of the High Court. We recommend deleting this rule because it is clearly *ultra vires* Section 6(3) of the RTI Act which requires public authorities to transfer a RTI application, that may not pertain to records held by them, to the public authority which is most likely to have the information required to answer the queries of the citizen.
7. Rule 9 of the High Court RTI Rules require citizens to pay a fee of Rs. 50 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge for appeals. The CIC in the case of *L.G. Dass v Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules which charged a fee for hearing appeals.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 9 of the High Court RTI Rules prescribes Rs. 5 as the per-page cost of providing information. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.
3. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.
4. Rule 9 of the High Court RTI Rules, lists cash, demand drafts and pay orders as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 9 be amended to include Indian Postal Orders and banker's cheques in addition electronic means such as UPI, e-payment gateways and NEFT transfer as methods of payment.
5. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend

that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Information was provided in response to all the 3 applications filed with the High Court.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received from the PIO of the High Court. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. It is thus, requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. None of the 3 replies we received from the High Court provided such details.

D. Recommendations regarding Section 4 Disclosures by the High Court

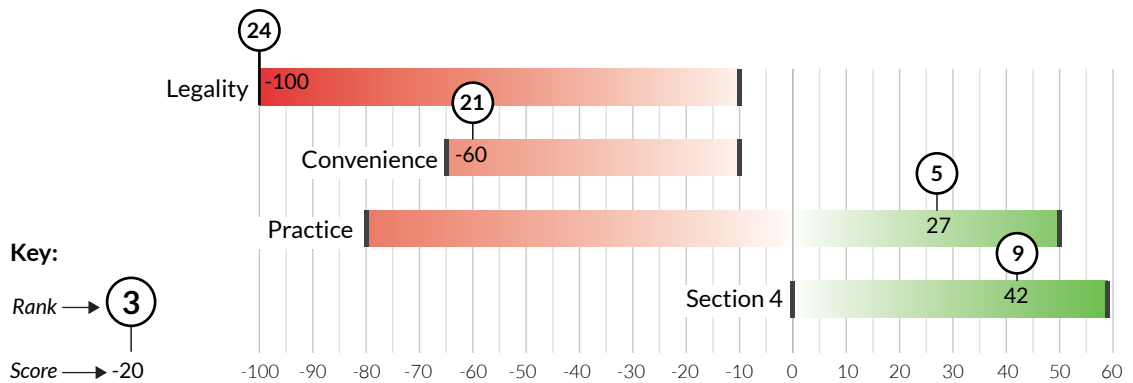
1. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.
2. The disclosure is filed under notifications making it difficult for the citizens to locate the disclosure. We also recommend that the disclosure be periodically updated. The current set of disclosures were updated last in 2011. We also recommend that the disclosures be archived on the website of the High Court.
3. While the disclosure contains the list of rules and regulations, a hyperlink to the text of the rules can be provided for the same.
4. We recommend that the High Court prepare and publish under Section 4(1)(b) (xi) a comprehensive budget statement which include allocations and expenditures for the High Court and the District Courts under its jurisdiction and update it at regular intervals.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. The 16 District Courts in Arunachal Pradesh, 27 District Courts in Assam, 8 District Courts in Mizoram & 11 District Courts in Nagaland come under the jurisdiction of the High Court of Gauhati. None of these District Court websites have made any disclosures under Section 4(1)(b) of the RTI Act.
2. We recommend all District Courts be made to provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Gujarat High Court

After analyzing the the Gujarat High Court (Right to Information) Rules, 2005 as amended in 2006 and 2007, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Gujarat High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

- The High Court RTI Rules do not cover the District Courts. We recommend that either, the High Court RTI Rules be amended to cover District Courts or alternatively, a different set of RTI Rules can be formulated for the District Courts.
- The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the High Court, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
- The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited while filing RTI applications with the District Courts.
- Rule 3 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
- Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.
- The High Court RTI Rules prescribe categories of information that need not be shared with citizens. Specifically, Rule 4(5)(a) permits denial of information not in the public domain and which does not relate to judicial functions, Rule 4(5)(c) permits denial of information that affects confidentiality of examinations conducted by the High Court and Rule 4(6) permits denial of any information

that may be notified by the court via any rule or regulation. We recommend that this rule be deleted because Section 8 already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchana v Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.

7. Rule 6 of the High Court RTI Rules allows the Appellate Authority to impose a penalty on the PIO for failing to discharge his duty under the RTI Act at Rs. 50 per day (beyond the 30 day limit) for failure to supply information which is capped at a maximum of Rs. 500. In case of false information, the penalty is capped at Rs. 1000. We recommend deleting this rule because the RTI Act allows only the Information Commissioners to impose penalties on errant PIOs. The RTI Act does not vest such powers in the Appellate Authorities under the Act.
8. Rule 4(1) of the High Court RTI Rules require the PIO to return those RTI applications for information that may not be in the jurisdiction of the High Court. We recommend deleting this rule because it is clearly *ultra vires* Section 6(3) of the RTI Act, which requires public authorities to transfer an RTI application that may not pertain to records held by them, to the public authority which is most likely to have the information required to answer the queries of the citizen.
9. Rule 4(7) of the High Court's RTI Rules states that no judicial officer can be compelled to appear in person before the State Information Commission. We believe this rule is *ultra vires* Section 18(3) of the RTI Act which specifically vests in the Central and State Information Commissions, the power to summon any person while inquiring into any matter under the RTI Act.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 8 of the High Court RTI Rules prescribes Rs. 50 as the cost of filing an RTI application. We recommend that the cost of filing an RTI application be reduced to Rs. 10 to make it at par with the fee charged by the Central Government RTI Rules, 2012, as well as the Supreme Court.
3. Rule 8 of the High Court RTI Rules prescribes Rs. 5 per page as photocopying charges for providing copies of any documents requested under the RTI Act. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.

4. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free, to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 which have been adopted by the Supreme Court.
5. The Rules of the High Court RTI Rules, do not prescribe any methods of payment for RTI applications. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that the Rules be amended to include cash, demand draft, bankers' cheque, court fee stamps, non-judicial stamps and Indian postal orders as modes of payment in addition to electronic means such as UPI, e-payment gateways and NEFT transfer as methods of payment.
6. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Information was provided in response to all the 3 applications filed with the High Court]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was mentioned as email, all the 3 replies that we received from the High Court were via post and not email. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. 1 of the 3 replies received from the High Court were less than satisfactory because the application was transferred to a different authority by the High Court when the law had created an obligation upon the High Court to legally maintain such information. It may be advisable for the High Court to offer regular training sessions for PIOs on the record keeping practices within the institution as well as the implementation of the RTI Act.
3. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, both of our RTI applications transferred by the Department of Justice to the High Court were rejected by the High Court on account of

non-payment of application fees. Requiring applicants to once again pay for transferred applications is in clear contravention of the RTI Act. Therefore, it is requested that PIO be instructed to not reject the application on account of the failure of payment of application fees.

D. Recommendations regarding Section 4 Disclosures by the High Court

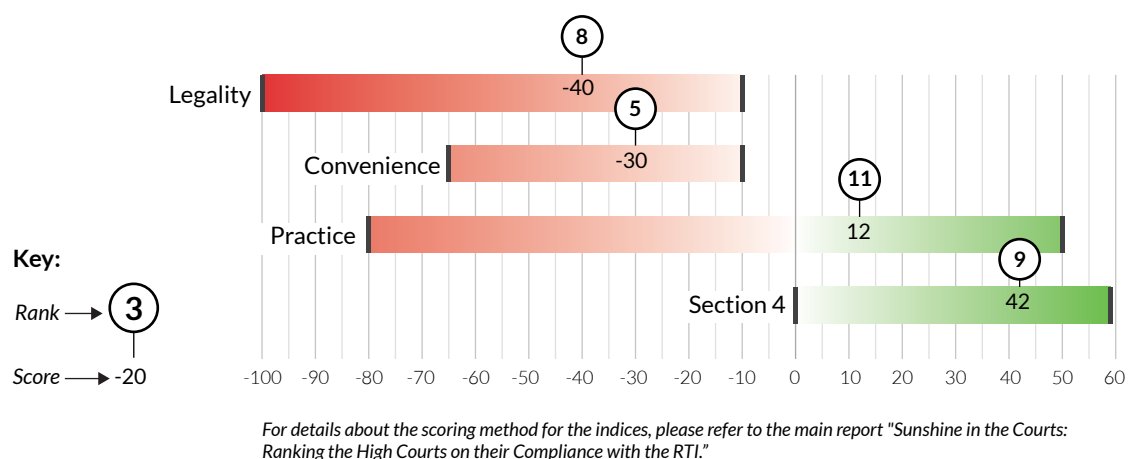
1. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language of the states.
2. While the disclosure gives a list of rules under Section 4(1)(b)(v), it does not include rules related to functioning of the District Judiciary which is under the jurisdiction of the High Court. We recommend the list of rules be made more comprehensive and a hyperlink to the text of the rules be provided for the same.
3. We recommend that the High Court prepare a comprehensive budget statement which include allocations and expenditures for the High Court and the District Courts under its jurisdiction and make it available under Section 4 (1)(b)(xi).
4. High Courts as public authorities have many documents under their control. We recommend that the High Court prepare a list of all the documents that it has under its control and also identify the custodian for each. This will assist the public in approaching the relevant office for seeking documents.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Out of the 30 District Courts in Gujarat, only 1 District Court (Narmada) website has made properly labelled head-wise proper disclosures under Section 4(1)(b) of the RTI Act which is in a separate RTI section. Of the remaining, 9 District Court websites have provided information regarding the Public Information Officer & Appellate Authority in English which are in a separate RTI section. The remaining 20 District Court websites have made no disclosures under Section 4(1)(b) of the RTI Act.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Himachal Pradesh High Court

After analysing the the Himachal Pradesh High Court (Right to Information) Rules, 2013 as amended in 2015, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Himachal Pradesh High Court.



A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application, can be deposited for the High Court. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited while requesting for information from District Courts.
3. Rule 4(1) of the High Court RTI Rules requires that separate applications be filed for each subject and for each year. It is recommended that the limitations on subject matter per application be removed because such a restriction restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations

on the questions/subject that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.

4. Rule 4(1) of the High Court RTI Rules makes it mandatory to file RTI applications in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 5(3) of the High Court RTI Rules prescribes Rs. 10 per 15 minutes as the cost for inspecting documents under the RTI Act. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.

3. Rule 5(3) of the High Court RTI Rules, includes treasury challans, bank drafts and Indian Postal Orders as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 5(3) be amended to include bankers' cheques and cash in addition to digital modes of payment such as UPI, e-payment gateways and NEFT transfer as methods of payment.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Information was provided in response to all the 3 applications that was filed with the High Court.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, we received all 3 of our replies via post rather than email. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. Neither of the 3 replies received from the High Court provided such details.
3. 2 out of the 3 applications filed contained multiple questions. However, the replies to these 2 RTI applications were not question wise. It is requested that the PIO be instructed to provide question wise replies to enable an applicant to match the responses to individual questions and prevent PIOs from side-stepping specific questions by providing a consolidated response.
4. 2 of the 3 replies that we received from the PIO of the High Court, were unsatisfactory. None of the questions asked in an application seeking information regarding the implementation of the Commercial Courts Act, 2015 were replied to by the PIO of the High Court. Another application sought information on the budgetary allocations, expenditure, saving statement and sums received under the Centrally Sponsored Scheme. However, the reply received from the High Court merely attached the budget portion of the Section 4(1)(b) disclosures, which was already available on the High Court website.

This information was an inadequate response to our RTI application. We recommend that the High Court follow better record keeping practices and the PIO be sensitised to adjudicate the applications on their merit instead of providing information that is already publicly available.

5. Under Section 7 of the RTI Act, a request for information must be disposed within 30 days of receiving the application. This includes submitting any documents that are requested for, although as per Section 7(3) of the RTI Act, the time taken for the applicant to pay the additional document fee is to be excluded from calculating the period of 30 days. For the 1 application in response to which the High Court did supply the documents, it did so after 20 days of submission of document fee. As a best practice, it is requested that the PIO be instructed to provide the documents within reasonable timelines.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. We recommend that to assist citizens in accessing information under Section 4 the disclosures be also made available in the local language.
2. The disclosure cannot be found easily on the website; we recommend that the disclosure be filed as Section 4 Disclosure and a separate link be placed on the website for the same.
3. The disclosure states that the process of digitization of documents is in process. We recommend that the High Court prepare a list of all the documents that it has under its control and also identify the custodian for each. This will assist the public in approaching the relevant office for seeking documents.
4. Under Section 4(1)(b)(viii), the public authorities are required to provide statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be regularly updated.
5. We recommend that directory of employees and judges be prepared and published on the website and the link to this should be provided under the RTI disclosure.

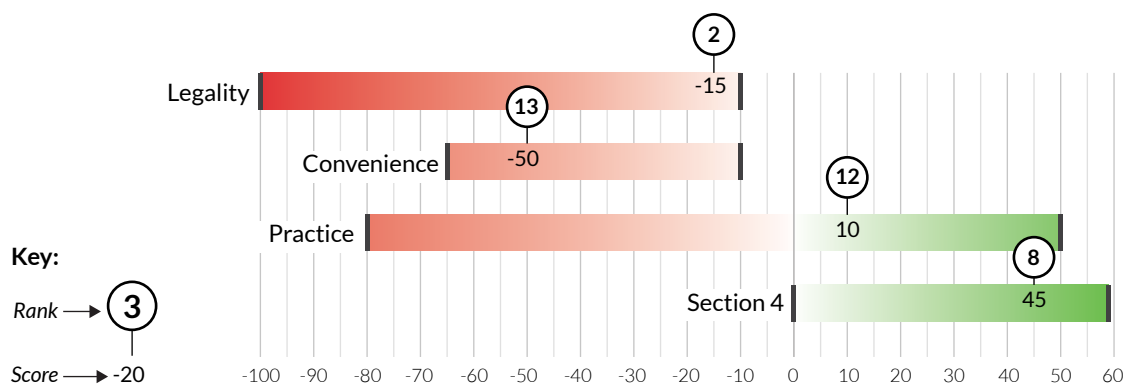
E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 11 District Courts have made properly labelled disclosures under Section 4(1)(b) of the RTI Act on their websites. All 11 District Court websites have provided some information regarding the Public Information Officer & Appellate Authority in English which are available in a separate section on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information

provided should be easily accessible on the e-Courts websites under a separate section that is labelled as “Disclosures under the RTI Act”.

Jharkhand High Court

After analysing the the Jharkhand High Court (Right to Information) Rules, 2007 as amended in 2011 and 2012, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Jharkhand High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 9(a)(i) of the High Court RTI Rules requires the applicant to make a declaration of bona-fide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing an RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bona-fide intent of the applicant.
2. The High Court RTI Rules prescribes an additional category of information that need not be shared with citizens under the RTI Act. Specifically, Rule 9(a)(v) permits the denial of information which is "not otherwise against any law or practice prevailing in the material regard". We recommend that this rule be deleted because Section 8 already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchana v Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 3 of the High Court RTI Rules prescribes Rs. 5 as the per-page cost of providing information. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.
3. Rule 3 of the High Court RTI Rules prescribes Rs. 50 as the per hour cost for inspection. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.
4. Rule 3 of the High Court RTI Rules, states that the only methods of payment of RTI fees is via adhesive court fee stamps. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 3 be amended to include cash, Indian Postal Orders (IPOs), demand draft and bankers' cheque in addition to digital modes such as UPI, e-payment gateways and NEFT transfer as methods of payment.

5. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: 1 of the 3 replies received was rejected by the High Court.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, all 3 replies received from this High Court were via post and not email. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. It is thus, requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. None of the 3 replies received from the High Court provided such details
3. Of the 2 replies from the High Court which provided information, 1 was not to the satisfaction of the applicant. The RTI application in question sought audit reports of the High Court for a period of five years. Poor photocopies of an audit report covering 3 years were provided to the applicant. The information was therefore illegible and incomplete. These issues could have been remedied if the High Court followed better record keeping practices and the PIO was sensitised to follow simple requirements such as providing legible documentation to applicants.
4. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five five days. However, neither of the 2 applications transferred by the Department of Justice to the Jharkhand High Court were replied to at all. It is requested that the PIO be instructed to respond to transfer applications within 30 days of receiving the application akin to any application that is filed with it at the first instance.

D. Recommendations regarding Section 4: Disclosures by the High Court

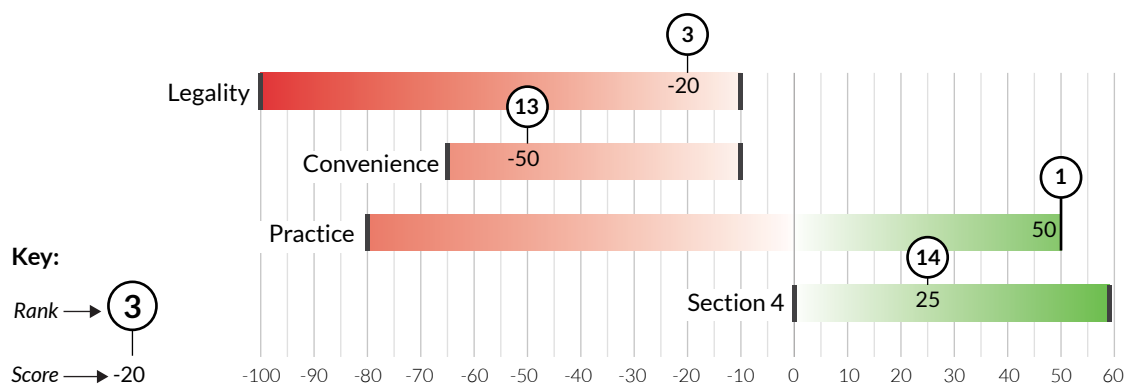
1. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.
2. We recommend that the High Court update the disclosure at regular intervals. The current disclosures were last updated in 2014. We also recommend that the disclosures be archived on the website of the High Court.
3. While the High Court has provided budgetary allocations and details of the PIOs applicable to the High Court; we recommend that the disclosure be revised to also include these details with regard to the District Judiciary under the jurisdiction of the High Court.
4. While the disclosure contains the list of rules and regulations, a hyperlink to the text of the rules can be provided for the same.

E. Recommendations regarding Section 4: Disclosures by the District Courts

1. None of the 24 District Courts in Jharkhand have made properly labelled disclosures under Section 4(1)(b) of the RTI Act on their websites. 3 District Court websites have provided information regarding the Public Information Officer & Appellate Authority in English which are in a separate RTI section. The remaining 21 District Court websites have made no disclosures.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Karnataka High Court

After analysing the Karnataka High Court Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended in 2012, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Jharkhand High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules do not cover the District Courts. We recommend that either the High Court RTI Rules be amended to cover District Courts or alternatively, a different set of RTI Rules can be formulated for the District Courts.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited while filing RTI applications with the District Court.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 4(a) of the High Court RTI Rules prescribes Rs. 3 as the per-page cost of providing information. We recommend that the per-page cost of providing information be

- reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.
3. Rule 4(d) of the High Court RTI Rules prescribes Rs. 5 per 15 minutes as the cost for inspection of files under the RTI Act. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.
4. Rule 3 of the High Court RTI Rules, lists cash, Indian Postal Orders, bankers' cheques and pay orders as the possible methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 3 be amended to include demand drafts as a mode of payment. The High Court may also consider adding digital modes of payments such as UPI, e-payment gateways and NEFT transfer as methods of payment.
5. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. However, the RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Information was provided in response to all the 3 applications filed with the High Court to the complete satisfaction of the applicants.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, all 3 replies from the High Court were received via post rather than email. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. We found that the disclosure was appended to the RTI Rules of the High Court, thereby making it difficult for the citizens to locate it. We recommend that the disclosure be made available under a separate head on the website.
2. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.
3. Under Section 4(1)(b)(viii), the public authorities are required to provide statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be regularly updated.
4. We recommend that directory of employees and judges be prepared and published on the website and the link to this should be provided under the RTI disclosure.
5. We recommend that the High Court prepare and publish under Section 4(1)(b)(xi), a comprehensive budget statement which include allocations and expenditures for the High Court and the District Courts under its jurisdiction and update it at regular intervals.
6. High Courts as public authorities have many documents under their control. We recommend that the High Court prepare a list of all the documents that it has under its control and also identify the custodian for each. This will assist the public in approaching the relevant office for seeking documents.

E. Recommendations regarding Section 4 Disclosures by the District Courts

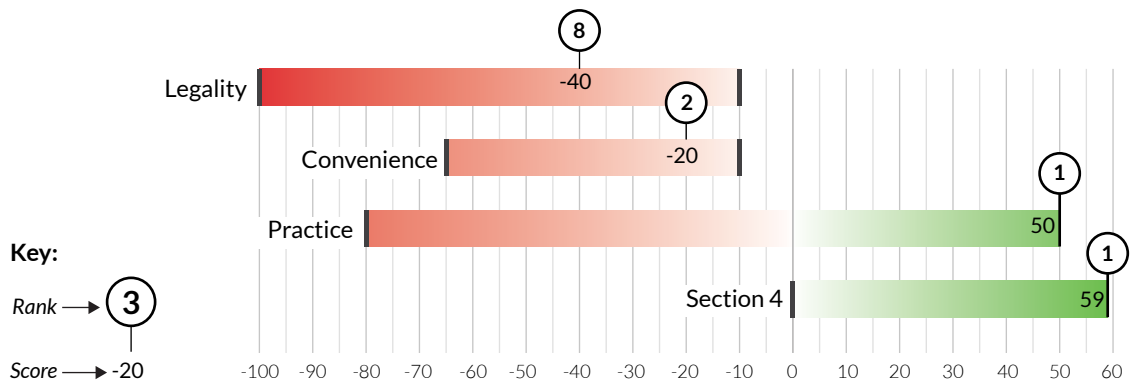
1. Of the 30 District Courts in Karnataka, only 13 District Court websites have made properly labelled disclosures under Section 4(1)(b) of the RTI Act which are available in a separate RTI section on their respective websites. Only 1

of these disclosures is in the local language, while 3 are in English and the remaining 9 are in both the local language and English.

2. A further 5 District Court websites have only provided information regarding the Public Information Officer & Appellate Authority in English which are in a separate RTI section. Out of these, 2 disclosures are in English while 3 District Court websites have disclosures in both the local language and English which are all in a separate RTI section. 12 other District Court websites have no disclosures.
3. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Kerala High Court

After analysing the Kerala High Court (Right to Information) Rules, 2006 as amended in 2012, 2014 and 2015, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Kerala High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules are silent regarding the name of the authority in whose name the fee, for filing the RTI application, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fee, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited while filing RTI applications with the District Court.
3. Rule 5 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe

- a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
4. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 12 permits denial of information on the ground that it is related to a judicial proceeding and Rule 13 permit denial of information on the grounds that the request relates to a policy matter under consideration. We recommend these rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court RTI Rules be published on the High Court website in the local language of the State.

2. Rule 5 of the High Court RTI Rules do not state the method of payment of the RTI fee. Instead, these rules require applicants to pay a fee as notified by either the High Court or the State Government. Since the High Court has not issued a notification pertaining to fees payable under the RTI Act, we presumed that the High Court was following the Kerala Right to Information (Regulation of Fee and Cost) Rules, 2006 that were notified by the State Government of Kerala. In specific, Rule 3(2) of the Kerala State Government RTI Rules recognise the following as methods of payment of RTI fees: court fee stamps, remitting amount in the Government treasury, cash against proper receipt, demand drafts, bankers' cheques and pay orders. Indian Postal Orders (IPOs) are not mentioned as a method of payment. In Clause 3 of a separate document called 'General Guidelines - High Court', available on the website of the Kerala High Court, it has been mentioned that the fee may be paid through court fee stamps, demand drafts, bankers' cheques, money orders, IPO, e-IPOs and cash. This document has not been notified under the RTI Act but rather seems to be in the nature of a general manual. As such it cannot be considered to be a binding legal instrument. Clause 3 of this manual is in contradiction to the state government's RTI Rules on the issue of IPOs. It is thus recommended that the High Court RTI Rules be amended to resolve all contradictions and clearly mention the methods of payment that are recognised. IPOs should be mentioned as a mode of payment since they are the most convenient mode of payment for most citizens. This will bring the High Court Rules at par with the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court. We also recommend that the High Court adopt digital modes of payment such as UPI, e-payment gateways and NEFT.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Information was provided in response to all the applications filed with the High Court to the complete satisfaction of the applicants.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.

D. Recommendations regarding Section 4(1)(b) Disclosures by the High Court

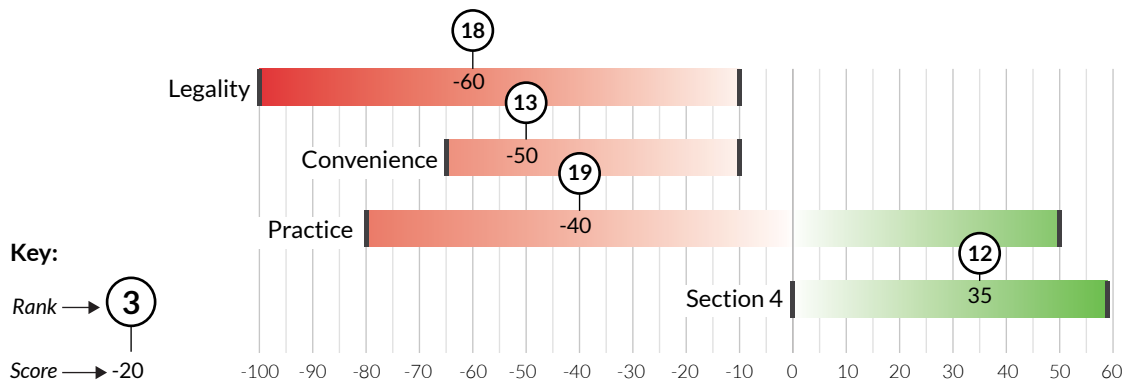
1. We recommend that to assist citizens in accessing information under Section 4, the disclosures also be made available in the local language.
2. While the disclosure contains the list of rules and regulations, a hyperlink to the text of the rules can be provided for the same.
3. Under Section 4(1)(b)(viii), the public authorities are required to provide a statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be regularly updated.

E. Recommendations regarding Section 4(1)(b) Disclosures by the District Courts

1. Since the District Courts in Kerala & Union Territory of Lakshadweep come under the jurisdiction of the High Court of Kerala, they have been included in this analysis.
2. Our research found that all 14 District Courts have made properly labelled disclosures under Section 4(1)(b) of the RTI Act on their websites which are available in a separate RTI section. However, only 3 District Courts have made the disclosures in both English and in the local language. Of the remaining, 10 disclosures are in English and 1 is in the local language.
3. District Courts in Kerala have the most elaborate disclosures in the country - including disclosures for various Courts under the District Courts such as JMFCs, MACT, Family Courts, etc. However, no disclosures have been provided by the 1 District Court in Lakshadweep.
4. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Madhya Pradesh High Court

After analysing the High Court of Madhya Pradesh (Right to Information) Rules, 2006 as amended in 2015 and 2017, the disclosures made by the High Court and the Districts Courts, covered under its jurisdiction, pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Madhya Pradesh High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

- The High Court RTI Rules do not cover the District Courts. We recommend that either, the High Court RTI Rules be amended to cover District Courts or alternatively, a different set of RTI Rules can be formulated for the District Courts.
- The High Court RTI Rules are silent regarding the name of the authority in whose name the fee for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited when filing RTI applications with the District Courts.
- Rule 3 of the High Court RTI Rules prescribes a limit of 1 item per RTI application. It is recommended that such a limit be removed because it restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the items that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
- Rule 3 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
- Form A of the High Court RTI Rules requires the applicant to make a declaration of bona-fide intent. Additionally, the form also requires that the applicant provide a photograph, father's name, age and occupation along with details of the information sought. Additionally, for online applications made on the web portal there is a requirement to additionally upload a copy of an id card. We recommend the deletion of all the above requirements as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing an RTI application or any other information than those required for contacting him. The CIC (in the case of *Ajit Kumar Modi v. High Court of Jharkhand* CIC/PA/A/2009/000001) has also, specifically, ruled against such requirements to make a declaration regarding bona-fide intent.
- Rule 7(2) of the High Court RTI Rules require citizens to pay a fee of Rs. 50 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow

public authorities the power to charge a fee for appeals. The CIC in the case of *L.G. Dass v. Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules, 2008 which charged a fee for hearing appeals.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 7 of the High Court RTI Rules prescribes Rs. 50 as the cost of filing an RTI application. We recommend that the cost of filing an RTI application be reduced to Rs. 10 to make it at par with the fee charged by the Central Government RTI Rules, 2012 which have also been adopted by the Supreme Court of India.
3. Rule 7 of the High Court RTI Rules prescribes Rs. 5 as the per-page cost of providing photocopies of information. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India.
4. Rule 7 of the High Court RTI Rules prescribes Rs. 25 as the cost per hour or a fraction thereof as the cost for inspection for every record inspected. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court.
5. Rule 7 of the High Court RTI Rules, lists non-judicial stamps and treasury challans as the only methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 7 be amended to include cash against proper receipt, demand drafts and Indian Postal Orders in addition to electronic means such as UPI, e-payment gateways and NEFT transfer as methods of payment.
6. While the Madhya Pradesh High Court is the only High Court to provide for an online RTI application process we found that this online process is not user friendly. For example, the bar against the usage of special characters unnecessarily complicates the process of filing applications through the portal. Further, the online application portal does not permit the submission of an online application after the working hours. This is a strange prohibition given that the entire process of filing is automated and does not involve manual interventions by the employees.

The guidelines for the portal clearly mention that the RTI application can be filed post working hours in which case they would be processed only on the next day.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: All 3 applications filed with the High Court were rejected.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. None of the 3 replies received from the High Court provided such details. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications.
3. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, 2 of our RTI applications that were transferred by the Department of Justice to the High Court were rejected by the PIO of the High Court on account of non-payment of application fees. Requiring applicants to once again pay for transferred applications is in clear contravention of Section 6(3). Therefore, it is requested that the PIO be instructed to not request payment for transferred RTI applications.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. The disclosure is available in the official language of the state, which is a good practice for increasing access to information.
2. The disclosure made by the High Court under Section 4(1)(b)(viii) states that committees are not relevant to the functioning of the High Court, however under Section 4(1)(b)(iii) the disclosure provides the list of committees. We

recommend that this contradiction be reconciled and that the disclosure be updated to reveal information about the currently active committees.

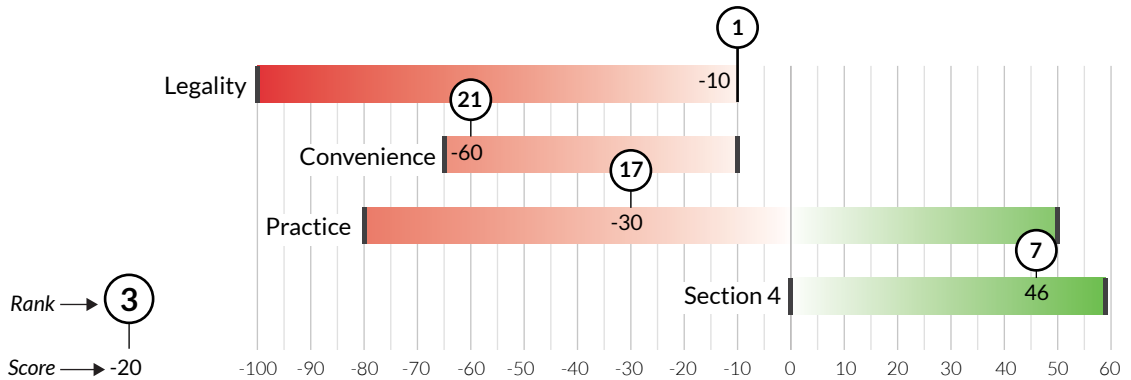
3. The list of Rules provided under Section 4(1)(b)(v) needs to be made more comprehensive and ideally hyperlinks should be provided to the text of the Rules.
4. We recommend that directory of employees and judges be prepared and published on the website and the link to this should be provided under the RTI disclosure.
5. We recommend that the High Court prepare and publish under Section 4(1)(b) (xi) a comprehensive budget statement which include allocations and expenditures for the High Courts and the District Courts under its jurisdiction and update it at regular intervals.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Of the 50 District Courts in Madhya Pradesh, only the website of the District Court at Narsinghpur has provided information regarding the Public Information Officer & Appellate Authority. This information is in English and available in a separate RTI section. The remaining 49 District Court websites have made no disclosures under the RTI Act.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Madras High Court

After analysing the Madras High Court Right to Information (Regulation of Fee and Cost) Rules, 2007 as amended in 2014, the disclosures made by the High Court and the Districts Courts under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Madras High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules are silent regarding the name of the authority in whose name the fee for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 4 of the High Court RTI Rules prescribes Rs. 100 for request of any copy of a record in addition to Rs. 10 as the cost of filing an RTI application. We recommend that the additional requirement to pay Rs. 100 be removed to make it at par with the fee charged by the Central Government RTI Rules, 2012 which have also been adopted by the Supreme Court of India.

3. Rule 4 of the High Court RTI Rules which prescribes fee does not prescribe a per-page cost of providing information. We recommend that the per-page cost of providing information be clearly mentioned and set at Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India.
4. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012, which have also been adopted by the Supreme Court of India.
5. Rule 4 of the High Court RTI Rules lists cash, demand draft, court fee stamps, treasury challans and Indian Postal Orders as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 4 be amended to include banker's cheques. In addition, we recommend that the High Court allow payment through digital modes such as UPI, e-payment gateways and NEFT transfer as methods of payment.
6. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention the identifying documents

required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Of the 3 applications filed with the High Court, 1 was rejected, 1 was not replied to and partial information was provided in response to the third].

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, of the 3 applications we had filed with the High Court, 1 was not replied to at all and 1 reply was received after 40 days of submission of the application. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in both the replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. The 2 replies we received from the High Court did not provide such details.
4. 1 of the replies we received did not contain a question wise reply. The other application that was replied to did not contain multiple questions that would require a question wise reply. It is requested that the PIO be instructed to provide question wise replies to enable an applicant to match the responses to individual questions and prevent PIOs from side-stepping specific questions by providing a consolidated response.

5. Under Section 7 of the RTI Act, a request for information must be disposed within 30 days of receiving the application. This includes submitting any documents that are requested for, although as per Section 7(3) of the RTI Act, the time taken for the applicant to pay the additional document fee is to be excluded from calculating the period of 30 days. The High Court, however, supplied documents after 20 days of submission of document fee. As a best practice, it is requested that the PIO be instructed to provide the documents within reasonable timelines.
6. 1 of our 3 RTI applications were rejected on what we considered to be mala-fide grounds. Our application had sought audit statements of the High Court. The application was rejected on the grounds that it was not "information" as defined by the RTI Act. Instead it was classified as "personal information of the O/o The Registrar General". Under no circumstance, can audit statements be considered personal information of the Registrar General. Other High Courts, in reply to our applications did provide us the audit reports. It is requested that the PIO be sensitised against mis-utilising the exemptions under Section 8 of the RTI Act.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. We recommend that to assist citizens in accessing information under Section 4, the disclosures also be made available in the local language.
2. The list of Rules provided under Section 4(1)(b)(v) needs to be made more comprehensive and ideally hyperlinks should be provided to the text of the Rules.
3. Under Section 4(1)(b)(viii), the public authorities are required to provide statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be updated regularly.

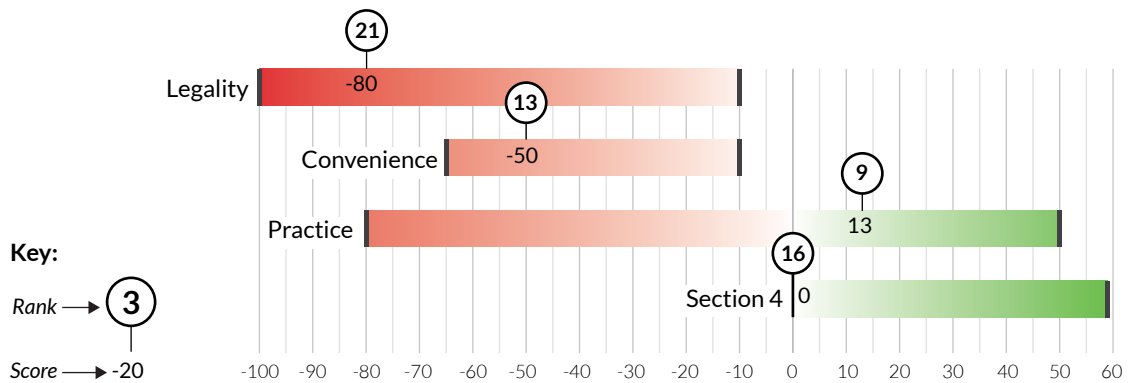
E. Recommendations regarding Section 4 Disclosures by the District Courts

1. The District Courts in Tamil Nadu & Union Territory of Puducherry come under the jurisdiction of the Madras High Court.
2. Of the 32 District Court websites in Tamil Nadu, only 1 District Court (Ariyalur) website has provided information regarding the Public Information Officer & Appellate Authority in both English & the local language. The remaining 31 District Court websites have made no disclosures under Section 4(1)(b) of the RTI Act.
3. None of the 4 District Court websites in Puducherry have made disclosures under the RTI Act.
4. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information

provided should be easily accessible on the e-Courts website under a separate section that is labelled as “Disclosures under the RTI Act”.

Manipur High Court

The following is the analysis of the Gauhati High Court (Right to Information) Rules, 2008 as amended in 2011 and 2017 which we presume were adopted by the Manipur High Court as the link on its website leads to the Gauhati High Court (RTI) Rules, 2008. We also analysed the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Manipur High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 3(b) of the High Court RTI Rules requires citizens to limit every RTI application to only 1 particular item. It is recommended that the limit on the number of questions be removed because such a restriction restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the questions/subject that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
2. Rules 2 and 3 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed form. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
3. Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.
4. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 4(v) permits denial of information related to administrative or quasi-judicial decisions; Rule 5(a) permits denial of information that is not in the public domain and does not relate to juridical functions and duties of the Court, Rule 5(c) permits denial of information that relates to any public activity or interest and Rule 5(d) permits denial of information that affects the confidentiality of judicial service examinations. We recommend that these rules be deleted because Section 8 already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchana v Public Information Office, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.
5. Rule 8 of the High Court RTI Rules allows the Appellate Authority to impose a penalty on the PIO for failing to discharge his duty under the RTI Act at Rs. 50 per day for failure to supply information beyond 30 days and puts a maximum limit of Rs. 500. In case of false information, the

penalty is capped at Rs. 1000. We recommend deleting this rule because the RTI Act allows only the Information Commissioners to impose penalties on errant PIOs. The RTI Act does not vest such powers in the Appellate Authorities under the Act.

6. Rule 4(ii) of the High Court RTI Rules require the PIO to return those RTI applications in cases where the information may not be in the custody of the High Court. We recommend deleting this rule because it is clearly *ultra vires* Section 6(3) of the RTI Act which requires public authorities to transfer an RTI application that may not pertain to records held by them, to the public authority which is most likely to have the information required to answer the queries of the citizen.
7. Rule 9 of the High Court RTI Rules require citizens to pay a fee of Rs. 50 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge a fee for appeals. The CIC in the case of *L.G. Dass v. Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules which charged a fee for hearing appeals.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court RTI Rules be published on the High Court website in the local language of the State.
2. Rule 9 of the High Court RTI Rules prescribes Rs. 5 as the per-page cost of providing information. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012. The Supreme Court charges the same fees as the Central Government when it comes to the RTI Act.
3. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.
4. Rule 9 of the High Court RTI Rules, does not list Indian Postal Orders or bankers cheques as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 9 be amended to include Indian Postal Orders and banker's cheques. In addition, the High Court may also recognize payments through digital modes of payment such as UPI, e-payment gateways and NEFT transfer as methods of payment.
5. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents

required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Some information was provided in response to all the 3 applications filed with the High Court.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. Only 2 out of the 3 replies received from the High Court provided such details. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications.
3. 1 of the replies that we received was not to our satisfaction. The application in question sought budgetary estimates, allocations, saving and expenditure statements and allocation under the Centrally Sponsored Scheme (CSS). However, this application was incorrectly transferred to the Law and Legislative Affairs Department. The correct public authority that would be required to maintain this information would have been the High Court itself. We recommend that the High Court follow better record keeping practices to ensure that information, required to be maintained by the High Court, can be accessed by citizens seeking such information. Additionally, we recommend that the PIO be sensitised to sparingly utilise the transfer provision provided under Section 6(3) of the RTI Act.
4. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, both the applications transferred by the Department of Justice to the High Court were never replied to by the High Court. It is requested that the PIO be instructed to respond to transferred applications within 30 days of receiving the application akin to any other RTI application that is filed with it at the first instance.

D. Recommendations regarding Section 4 Disclosures by the High Court

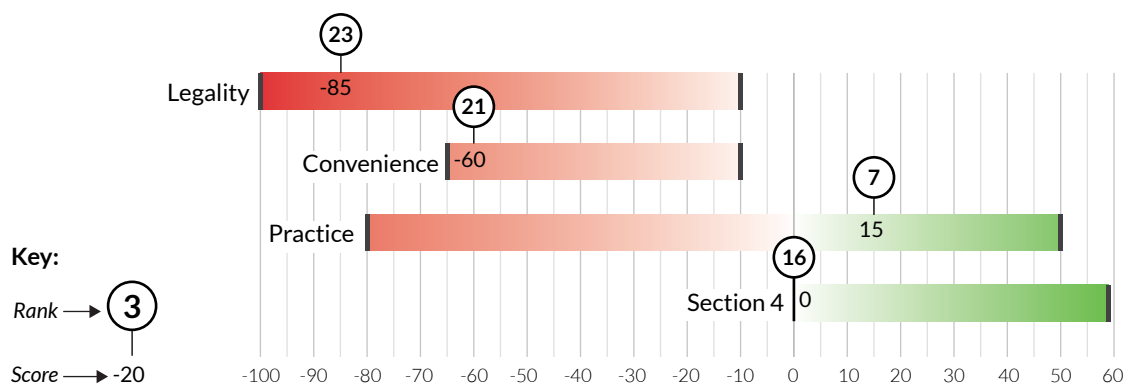
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosure annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 7 District Courts in Manipur have made any disclosures under Section 4(1)(b) of the RTI Act on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Meghalaya High Court

After analysing the High Court of Meghalaya (Right to Information) rules, 2013 as amended in 2018, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Meghalaya High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 3 of the High Court RTI Rules limits the number of items of information that can be asked to 1 per RTI application. It is recommended that such a provision be removed because such a limit restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
2. Rule 3 and Rule 7 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals, respectively, in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
3. Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar*

4. *Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.
4. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 5(a) permits the denial of information on the ground that it is not in the public domain as well as information that pertains to juridical functions and duties of the court, Rule 5(c) permits denial of information that relates to any public activity or interest and Rule 5(d) permits denial of information that affects confidentiality of judicial service examinations. Additionally Rule 6 states that the information that can be provided is also subject to the restrictions and prohibitions contained in the rules and regulations framed, notified or implemented by the High Court. Further as per Rule 4(v), information related to administrative or quasi-judicial decisions is made available only for affected persons. We recommend that the rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.

5. Rule 8(i) of the High Court RTI Rules allows the Appellate Authority to impose a penalty on the PIO for failing to discharge his duty under the RTI Act at Rs. 50 per day and puts a maximum limit of Rs. 500. Similarly Rule 8(ii) allows the Appellate Authority to impose a penalty of up to Rs. 1,000 on any person supplying information found to be false in material particular. We recommend deleting these rules because the RTI Act allows only the Information Commissioners to impose penalties on errant PIOs. The RTI Act does not vest such powers in the Appellate Authorities under the Act.
6. Rule 4 of the High Court RTI Rules require the PIO to return those RTI applications for information that may not be within the jurisdiction of the High Court. We recommend deleting this rule because it is clearly *ultra vires* Section 6(3) of the RTI Act which requires public authorities to transfer RTI applications that may not pertain to records held by them, to the public authority which is most likely to have the information required to answer the queries of the citizen.
7. Rule 9B of the High Court RTI Rules require citizens to pay a fee of Rs 50 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge fee for appeals. The CIC (in the case of *L.G. Dass v. Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules, 2008 which charged a fee for hearing appeals.
5. Rule 9 of the High Court RTI Rules, lists cash, demand draft or pay order as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 9 be amended to include bankers' cheques and Indian Postal Orders in addition to electronic means such as UPI, e-payment gateways and NEFT transfer as methods of payment.
6. The RTI Act allows for exemption/reduction of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the state.
2. Rule 9 of the High Court RTI Rules prescribes Rs. 50 as the cost of filing an RTI application. We recommend that the cost of filing an RTI application be reduced to Rs. 10 to make it at par with the fee charged by the Central Government RTI Rules, 2012 that have also been adopted by the Supreme Court of India.
3. Rule 9 of the High Court RTI Rules prescribes Rs. 5 as the per-page cost of providing information. We recommend that the per-page cost of providing information be reduced to Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.
4. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: All the 3 applications filed with the High Court were replied to and some information was provided in response to all 3 applications.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Section 7(8)(iii) of the RTI Act makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. None of the 3 replies received from the High Court provided such details. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications.
3. 2 of the 3 replies received from the High Court were not to our satisfaction. The application which sought budget estimates, allocations and expenditure statements relating to the High Court and District Judiciary was responded to by the PIO but only 2 of the 6 questions were replied to by the PIO. 1 of the other replies pertaining to a request for audit reports was also not satisfactory because the PIO stated that he did not have these reports as they were not within his jurisdiction. This is a strange response because

other High Courts did provide us with their audit reports. In any instance, if the High Court did not have audit reports, the PIO should have transferred the application to the public authority which did maintain such audit reports of the High Court's finances. We recommend that the High Court adopt better record keeping practices and that the PIO be sensitised through training sessions so that they are aware of all their duties including the obligations to transfer applications to relevant public authorities under Section 6(3) of the RTI Act.

D. Recommendations regarding Section 4 Disclosures by the High Court

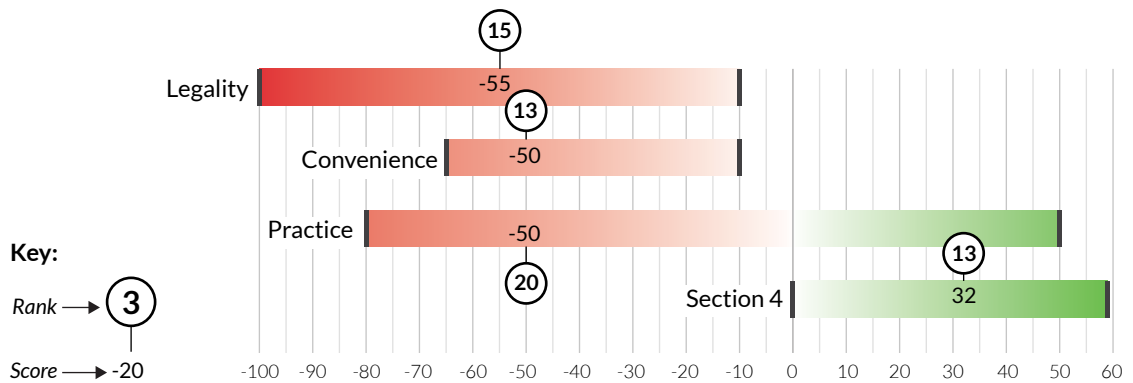
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosure annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 7 District Courts in Meghalaya have any disclosure under Section 4(1)(b) of the RTI Act on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Orissa High Court

After analysing the Orissa High Court Right to Information Rules, 2005 as amended in 2012 and 2018 the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Orissa High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules are silent regarding the name of the authority in whose name the fee for filing the RTI application with the High Court, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fee for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited while filing RTI applications with District Courts.
3. Rule 5(v) of the High Court RTI Rules prescribes limits on the number of questions or records of information that can be asked by 1 per RTI application. It is recommended that this rule be removed because such a limit restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
4. Rule 4 (a) of the High Court RTI Rules mandatorily requires the application be submitted along with a declaration on oath that requires an applicant to state that the information in the application has been obtained from authentic sources, that the facts stated in the application are true to the applicant's knowledge and do not come within the purview of Section 8(1)(a) to (j) of the Act. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing an RTI application or any other information other than those required for contacting him. The CIC in the case of *Ajit Kumar Modi v. High Court of Jharkhand* CIC/PA/A/2009/000001) has specifically ruled against such requirements to make declaration regarding bona-fide intent.
5. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 5 (ii) permits denial of information that is likely to affect the security of any institution or public order, Rule 5(iii) permits denial of information that has no relation to any public activity and Rules 5(iv) permits denial of information that results in an invasion of privacy to any person. The latter 2 exemptions are a dilution of the provision 8(j) because they do not have a larger public interest exception. We recommend these rules be deleted because Section 8 of the RTI Act already

prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 4 of the High Court RTI Rules prescribes Rs. 2 per 180 words as the cost of providing information. We recommend that the per-page cost of providing information be set at Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.
3. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.
4. Rule 4 of the High Court RTI Rules, lists non-judicial stamps, money orders, Indian Postal Order and bank drafts as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 4 be amended to include bankers' cheques. In addition, the High Court may allow digital modes of payment such as UPI, e-payment gateways and NEFT transfer.
5. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: All the 3 applications filed with the High Court were rejected.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even

though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received from the High Court. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.

2. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. None of the 3 replies received from the High Court provided such details. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications.
3. All 3 of our applications were rejected on mala fide grounds. 2 out of the 3 applications were rejected on the basis of a rule that had already been deleted from the RTI rules of the High Court through an amendment. The appellate authority within the High Court subsequently overruled the PIO for rejecting our applications on the basis of a deleted rule. The third application sought the audit reports of the High Court. However, this application was rejected citing the confidentiality of the information. However, Section 8 of the RTI Act does not list confidentiality as a ground for denial of information. It is requested that the PIO be sensitised about the correct interpretation of Section 8 of the RTI Act.

D. Recommendations regarding Section 4 Disclosures by the High Court

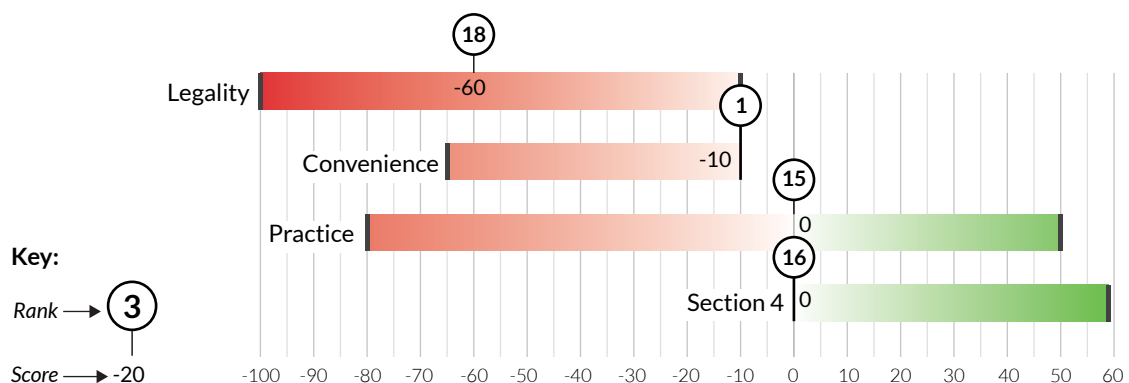
1. We found that the disclosure appended to the RTI Rules of the High Court, on the website of the High Court, was, making it difficult for the citizens to locate it. We recommend that the disclosure be made available under a separate head on the website.
2. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.
3. The list of Rules provided under Section 4(1)(b)(v) needs to be made more comprehensive and ideally hyperlinks should be provided to the text of the Rules.
4. Under Section 4(1)(b)(viii), the public authorities are required to provide statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be updated regularly.
5. The disclosure on the website is incomplete, it abruptly ends with the disclosure under Section 4(1)(b)(xi). We strongly recommend that a statement of disclosure be prepared for sub clauses (xii) to (xvii) under Section 4(1)(b).

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Of the 30 District Courts in Orissa, 12 have made no disclosures under Section 4(1)(b) of the RTI Act on their websites. The remaining 18 District Court websites have merely provided information regarding the Public Information Officer & Appellate Authority in English only 12 of which are in a separate RTI Section on their website.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Patna High Court

After analysing the Patna High Court (Right to Information) Rules, 2005 as amended in 2009, 2011 and 2014, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Patna High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules do not cover the District Courts. We recommend that either, the High Court RTI Rules be amended to cover District Courts or alternatively, a different set of RTI Rules can be formulated for the District Courts.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fee for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to specifically provide the name of the authority in whose name the fee has to be deposited while filing RTI applications with District Courts.
3. Rule 8(3) of the High Court RTI Rules requires that separate RTI applications be filed for each subject and each year to which the information related. It is recommended that the above limits be removed because they restrict the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
4. Rule 3 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
5. Form A of the High Court RTI Rules requires the applicant to make a declaration of bonafide intent. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing a RTI application. The CIC in the case of *Ajit Kumar Modi v High Court of Jharkhand* (CIC/PA/A/2009/000001) ruled against such requirements to make a declaration regarding bonafide intent.
6. The gazette copy of the RTI Rules available on the website are illegible. It is recommended that a legible copy be uploaded to ensure that applicants know the Rules clearly before filing RTI applications with the High Court.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. Rule 3 of the High Court RTI Rules does not include digital mode of payments for the fees and cost under the RTI Act. We recommend that payments be permitted through UPI, e-payment gateways and NEFT transfers to bring it at par with the general provision given under Rule 6(c) of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: 1 of the 3 applications filed with the High Court was not replied to at all. Some or very limited information was provided in response to the other 2 applications.]

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, 1 of the 3 applications we filed with the Patna High Court was not replied to at all and another application was replied to after 40 days after it had been filed. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in either of the 2 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. Only 1 of the 2 replies received from the High Court provided such details.
4. Neither of the 2 replies that provided us with information were to our satisfaction. 1 of the applications had sought information related to funding for the state judiciary. In response, to this application, information was not provided

for 4 out of 6 questions stating that the information was not related to the High Court. Other High Courts did provide such information to us in response to the very same question. The other application sought audit reports of the High Court. The PIO in this case was of the opinion that the relevant public authority for seeking the audit report was not the High Court, which is required to be in possession of this information, but the Accountant General of the state. However, even then, the PIO did not transfer the said application to the relevant public authority. Given that information in both these cases ought to be in possession of the High Court, we request that the High Court follow better record keeping practices so that such crucial information can be provided to citizens under the Act. Additionally, it is requested that the PIO be sensitised to exercise the transfer provision under Section 6(3) of the Act instead of just naming the more appropriate authority that might be in possession of this information.

D. Recommendations regarding Section 4 Disclosures by the High Court

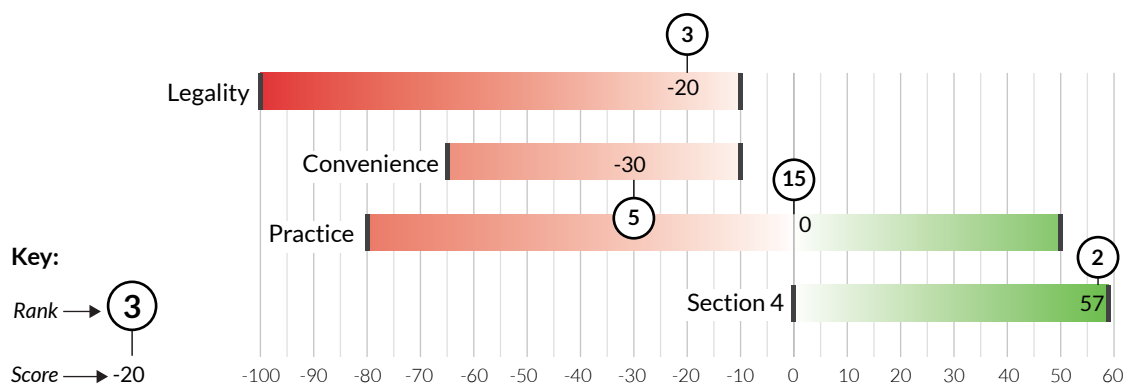
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosures annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Of the 37 District Courts in Bihar, 35 did not make any disclosures under Section 4(1)(b) of the RTI Act. The remaining 2 District Court websites have provided information regarding the Public Information Officer & Appellate Authority in English.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Punjab and Haryana High Court

After analysing the High Court of Punjab and Haryana (Right to Information) Rules, 2007 as amended in 2012 and 2014 along with the Chandigarh Union Territory Subordinate Courts (Right to Information) Rules, 2007 as amended in 2012 and 2014, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Punjab and Haryana High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 4(1) permits denial of information relating to the juridical functions and duties of the Court and matters incidental and ancillary thereto and Rule 4(2) permits denial of information that affects the confidentiality of judicial service examinations. We recommend these rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.
2. Rule 9 of the High Court RTI Rules allows the Appellate Authority to impose a penalty on the PIO for failing to discharge his duty under the RTI Act at Rs. Rs. 50 per day for failure to supply information and puts a maximum limit of Rs. 500. In case of false information it imposes a penalty of Rs. 1000. We recommend deleting this rule because the RTI Act allows only the Information Commissioners to impose penalties on errant PIOs. The RTI Act does not vest such powers in the Appellate Authorities under the Act.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the states and UT serviced by the High Court i.e. Punjab, Haryana and Chandigarh.
2. Rule 3 of the High Court RTI Rules does not include electronic methods of payments for RTI application fees. We recommend that payments be permitted through digital modes such as UPI, e-payment gateways and NEFT transfers to bring it at par with the general provision given under Rule 6(c) of the Central Government Right to Information Rules, 2012.
3. The RTI Act allows for exemption/reduction of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: 1 out of the 3 applications filed with the High Court was rejected. Some information was provided in response to the other 2 applications.]

1. 1 of the replies received was not completely to our satisfaction. The application had sought information on the budget estimates, allocations, expenditure and saving statements along with the allocation under the Centrally Sponsored Scheme. Although the reply to the application included the funding related information for both Punjab and Haryana, the information which ran into more than 200 pages, was not paginated and there was no way to make out which budgeting documents belonged to which state. It is requested that all documents supplied in reply to RTI applications be properly paginated and labelled in a manner that is understandable to even those not familiar with the internal workings of the court. Additionally, it is recommended that the High Court follow better record keeping practices to ensure that information between different states be clearly demarcated, especially given that the High Court covers more than 1 state within its jurisdiction.
2. Under Section 7 of the RTI Act, a request for information must be disposed within 30 days of receiving the application. This includes submitting any documents that are requested for, although as per Section 7(3) of the RTI Act, the time taken for the applicant to pay the additional document fee is to be excluded from calculating the period of 30 days. The High Court, however, supplied documents, in response to 1 application, after 20 days of submission of document fee and more than 30 days after filing of the RTI application. As a best practice, it is requested that the PIO be instructed to provide the documents within reasonable timelines.
3. 1 of the 3 RTI applications we filed were rejected on mala-fide grounds. The application in question sought the audit reports of the High Court. The PIO agreed to give the copies of the audit reports that were sought for in the first reply. However, we then received a second reply, which said that the sought audit reports could not be provided to the applicant because they are confidential documents. It should be noted that Section 8 of the RTI Act does not list confidentiality as a ground for denying information. It is therefore requested that the PIO be sensitised to not frivolously reject applications by overextending the exemptions under Section 8 of the RTI Act.
4. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, both the applications transferred by the Department of Justice to the High Court were rejected on account of non-payment of application fees.

Requiring applicants to once again pay for transferred applications is in clear contravention of the RTI Act. Therefore, it is requested that PIO be instructed to not reject the application on account of the failure of payment of application fees.

D. Recommendations regarding Section 4 Disclosures by the High Court

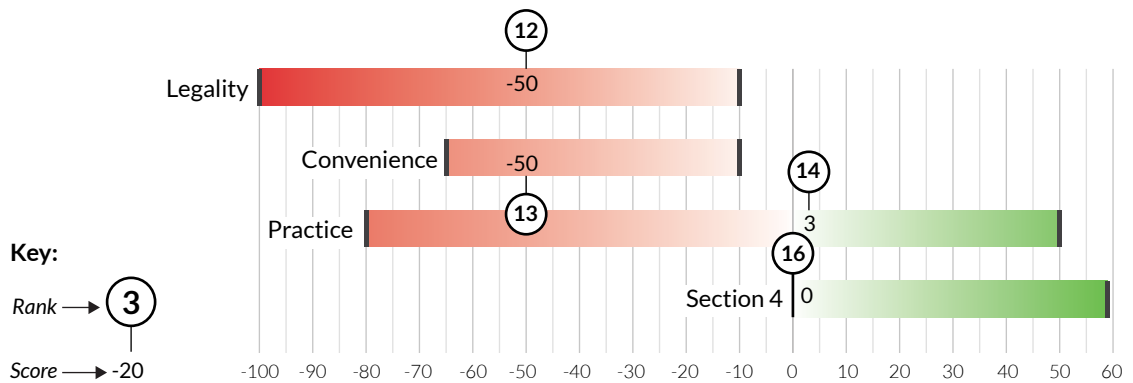
1. We recommend that to assist citizens in accessing information under Section 4 the disclosures also be made available in the local language.
2. High Courts as public authorities have many documents under their control. We recommend that the High Court prepare a list of all the documents that it has under its control and also identify the custodian for each of those documents. This will assist the public in approaching the relevant office for seeking documents.
3. While the disclosure has details about the budget allocations and PIO of the High Court, the said disclosures do not provide information about the District Judiciary. We recommend that the disclosures be updated to include such information.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. The District Courts in Haryana and Punjab and the Union Territory of Chandigarh come under the jurisdiction of the High Court of Punjab & Haryana.
2. Out of the 21 District Courts in Haryana, 20 have made well labelled disclosure under Section 4(1)(b) of the RTI Act in English. Only 1 District Court (Yamuna Nagar) website has no disclosures.
3. Out of the 22 District Courts in Punjab, 21 District Court websites have made well labelled disclosures under Section 4(1)(b) of the RTI Act in English. Only 1 District Court (Fazilka) website has no disclosures. Although the website has an RTI section, the same contains no disclosures.
4. The 1 District Court in Chandigarh has made well labelled disclosures under Section 4(1)(b) of the RTI Act on its website in English.
5. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Rajasthan High Court

After analysing the Rajasthan Right to Information (High Court & Subordinate Courts) Rules, 2006 as amended in 2016 and 2018, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Rajasthan High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 4 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.
2. Rule 10(2) of the High Court RTI Rules requires the applicant to make a declaration of bona-fide intent. Additionally, it also places a requirement on the applicant to provide details of their age, occupation and father's name. We recommend the deletion of such requirement to make a declaration as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing an RTI application or any other information other than those required for contacting him. The CIC in the case of *Ajit Kumar Modi v. High Court of Jharkhand* (CIC/PA/A/2009/000001) has specifically ruled against such a requirement to make declaration regarding bona-fide intent.
3. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 10(1)(ii) permits denial of information likely to affect the security of any institution or the public order, Rule 10 (1) (iii) permits denial of information not related to public activity, Rule 10(1) (iv) permits denial of information that may violate the privacy of any person and Rule 10(1)(v) permits denial of information that is related to a policy matter under consideration. We recommend these rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8 of the RTI Act.
4. Rule 7 of the High Court RTI Rules requires citizens to pay a fee of Rs. 100 as cost for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge for appeals. The CIC in the case of *L.G. Dass v. Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules, 2008 which charged a fee for hearing appeals.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the state.
2. Rule 4 of the High Court RTI Rules prescribes Rs. 50 as the cost of filing an RTI application. We recommend that the cost of filing an RTI application be reduced to Rs. 10 to make it at par with the fee charged by the Central Government RTI Rules, 2012 that have also been adopted by the Supreme Court of India.
3. Rule 9 of the High Court RTI Rules requires the payment of Rs. 100 per application for inspection of records. Following such a payment, an applicant can inspect the record for 60 minutes without any further payment. After the expiry of the first hour, Rule 9 prescribes Rs. 25 per 15 minutes as cost for inspection. We recommend that the cost of the application for inspection be reduced to Rs. 10 with the first hour being free and every subsequent hour being charged Rs. 5 per hour, to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court.
4. Rule 4 of the High Court RTI Rules, lists non-judicial stamps, bankers' cheques and demand drafts as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 4 be amended to include Indian Postal Orders. In addition, the High Court should consider digital modes of payments such as UPI, e-payment gateways and NEFT transfer as methods of payment.
5. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: 2 out of the 3 applications filed with the High Court were rejected. Some information was provided to the third application.]

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, we received replies to only 1 of the 3 applications, 40 days after we filed the

RTI application. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.

2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was followed in neither of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. The 1 application to which we received information was only partially satisfactory. The quality of photocopying was poor preventing the applicant from deciphering the information that was provided. The other 2 applications received a standardised rejection that the applications did not prescribe to the format given under the Act even when all the information required under Section 6(2) had been provided. It is therefore requested that the PIO be sensitised to satisfy basic requirements such as providing proper photocopy of documents while ensuring that the applications are adjudicated on their merits instead of rejecting them via standardised replies.
4. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, both of our applications which were transferred by the Department of Justice to the High Court were rejected on account of non-payment of application fees or on account of failing to prescribe to the format available in the rules. Requiring applicants to once again pay for transferred applications or expecting applicants to pre-empt the transfer and follow the format given under the rules is in clear contravention of the RTI Act. Therefore, it is requested that the PIO be instructed to not reject the application on account of the failure to make payment of application fees or on account of not following the prescribed format.

D. Recommendations regarding Section 4 Disclosures by the High Court

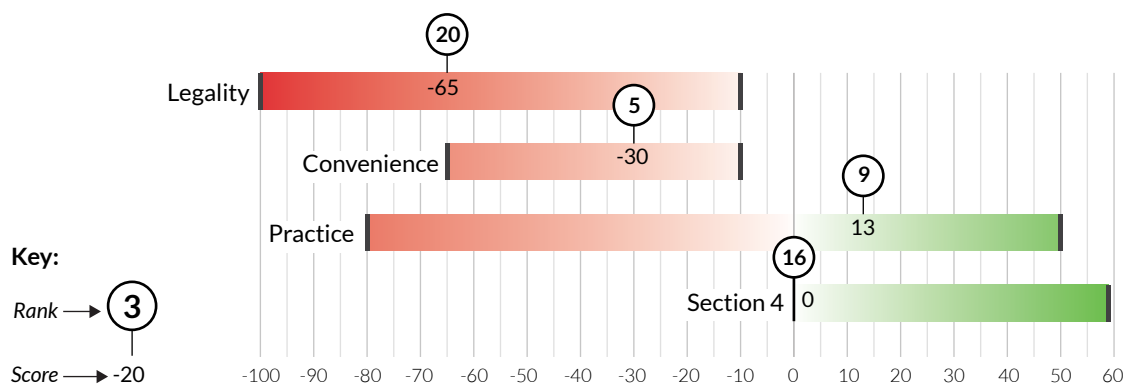
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosure annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 35 District Courts in Rajasthan have made any disclosures under Section 4(1)(b) of the RTI Act on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as “Disclosures under the RTI Act”.

Sikkim High Court

After analysing the High Court of Sikkim Right to Information (Regulation of Fee, Cost and Miscellaneous) Rules, 2007 as amended in 2008 and 2011, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Sikkim High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. We recommend that a clear copy of the High Court RTI Rules of the High Court be published on the website of the High Court. The only copy of the High Court RTI Rules that we could find were available on the website of the National Federation of Information Commissions in India (NFICI).
2. Rule 4 of the High Court RTI Rules limits the number of items that can be asked per RTI application. It is recommended that such a limit be removed because it restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the number of items that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
3. Rule 19 of the High Court RTI Rules requires the applicant to make a mandatory declaration that the motive for seeking the information is proper and legal. We recommend the deletion of such a requirement as it goes against Section 6(2) of the RTI Act which very clearly mentions that citizens are not required to provide any reasons for filing an RTI application or any other information other than those required for contacting him. The CIC in the case of *Ajit Kumar Modi v. High Court of Jharkhand* (CIC/PA/A/2009/000001) has specifically ruled against such requirements to make declaration regarding bona-fide intent.
4. Rule 19(v) of the High Court RTI Rules allows the PIO to deny information that would not "be against any law or practice prevailing in the material regard". We recommend that this rule be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.
5. Rule 11 of the High Court RTI Rules reiterates the transfer provision under Section 6 of the RTI Act. Dichotomously, Rule 3 dilutes this same provision by stating that the public authority will instead, render advice on the correct public authority that must be approached with the application. We recommend deleting this rule because it is clearly *ultra vires* Section 6(3) of the RTI Act which requires public authorities to transfer an RTI application that may not pertain to records held by them, to the public authority which is most likely to have the information required to answer the queries of the citizen.
6. Rule 23 of the High Court RTI Rules requires citizens to pay a fee of Rs. 100 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge a fee for appeals. The CIC (in the case of *L.G. Dass v. Patiala House Court* (CIC/

AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules, 2008 which charged a fee for hearing appeals.

7. The High Court Rules do not follow a coherent system of numbering. 3 rules have the same numbering i.e. Rule 2. We recommend that the rules be amended to follow a consistent numbering system.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the state.
2. The High Court Rules do not provide the per-page cost of providing information. We recommend that the per-page cost of providing information be clearly mentioned and set at Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.
3. Rule 2 of the High Court RTI Rules, lists that the payment needs to be accompanied by a bank receipt deposited in the State Bank of Sikkim as applicant fee. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 2 be amended to include cash, demand drafts, bankers' cheques and Indian Postal Orders. In addition, the High Court should adopt digital modes of payments such as UPI, e-payment gateways and NEFT transfer as methods of payment.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: All 3 applications filed with the High Court were replied to by the PIO. Some information was provided in response to 1 application and 2 replies were to the satisfaction of the applicant].

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, we received replies to 1 out of the 3 applications, filed with the Sikkim High Court, after 40 days of filing the application. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in either of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications. Neither of the 3 replies received from the High Court provided such details.
4. While 2 of the replies received were completely to the satisfaction, 1 was not. The application to which we did not get satisfactory information sought budgetary estimates, allocations, saving and expenditure statements and allocation under the Centrally Sponsored Scheme. While the application was responded to, it was also transferred to another authority i.e. Law Department. Complete information was not provided by the PIO. We recommend that the PIO be sensitised through training sessions conducted by RTI specialists on how best to accurately respond to RTI applications.
5. Under Section 7 of the RTI Act, a request for information must be disposed within 30 days of receiving the application. This includes submitting any documents that are requested for, although as per Section 7(3) of the RTI Act, the time taken for the applicant to pay the additional document fee is to be excluded from calculating the period of 30 days. While the High Court supplied documents for 2 applications within 21 days or with the first reply, documents for the third application were supplied 30 days after we submitted the document fee. As a best practice, it is requested that the PIO be instructed to provide the documents within reasonable timelines.
6. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, 1 of the 2 applications transferred by the Department of Justice to the High Court was rejected on account of non-payment of application fees while the other transferred application was not replied to by the High Court. Requiring applicants to once again pay for transferred applications is in clear contravention of the

RTI Act. Therefore, it is requested that PIO be instructed to not reject the application on account of the failure of payment of application fees.

D. Recommendations regarding Section 4 Disclosures by the High Court

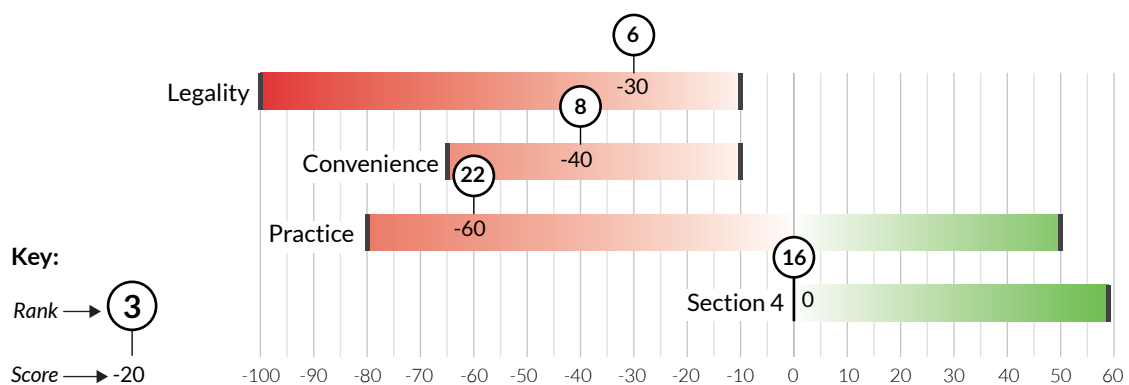
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. It should be mentioned that in the case of C.J. Karira v. High Courts (CIC/SM/C/2011/900894) the CIC has already made a recommendation to the Sikkim High Court, under Section 25(5) of the RTI Act, on January 12, 2012 to publish on its website disclosures under Section 4(1)(b) of the RTI Act. We recommend that the High Court publish a disclosure as required under Section 4(1)(b) on its website and update it regularly.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 4 District Courts in Sikkim have made any disclosures under Section 4(1)(b) of the RTI Act on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as "Disclosures under the RTI Act".

Telangana High Court

The following are the results of our analysis of the Andhra Pradesh High Court (Right to Information) Rules, 2005 as amended in 2013 and 2017 which have been adopted by the Telangana High Court², the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications. The following are the results of our analysis and recommendations to the Telangana High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. While the High Court RTI Rules are available on the website of the High Court, the amendments have not been published on the website. We recommend that a clear copy of the amendments to the RTI Rules be published on the website of the High Court.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
3. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees, for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended to

specifically provide the name of the authority in whose name the fee has to be deposited when an RTI application is filed with a District Court.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the State.
2. Rule 4 of the High Court RTI Rules prescribes Rs. 15 as the per hour cost for inspection of documents. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012.
3. Rule 3 of the High Court RTI Rules, does not mention bankers' cheques as 1 of the methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012. Therefore, we recommend that Rule 3 be amended to include banker's

² We presume these rules have been adopted post the bifurcation of the erstwhile Hyderabad High Court since the link on the website of the new Telangana High Court leads to these rules.

cheques. In addition, we recommend that the High Court allow digital modes of payments such as UPI, e-payment gateways and NEFT.

4. The RTI Act allows for exemption of payment of RTI fees for below poverty line applicants. The RTI Rules of the High Court do not mention, the identifying documents required to be submitted by a BPL citizen. We recommend that a clear criterion be prescribed under the High Court RTI Rules to bring it at par with Rule 5 of the Central Government Right to Information Rules, 2012.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: 1 of the 3 applications filed with the High Court, 1 application was not replied to, 1 application was rejected and though the third application was replied to no substantial information was provided.]

We had filed 3 applications in November, 2018 with the Hyderabad High Court. In the following month, the Hyderabad High Court was bifurcated into the Andhra Pradesh High Court and Telangana High Court. The replies were ultimately received from the High Court of Telangana. We have used these replies for the analysing the practices of the PIO in replying to RTI applications.

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, 1 of the 3 applications, was not replied to by the PIO, while another application was replied to after 40 days of receipt of the application. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in both the replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
3. Of the 2 replies that we received, 1 did not contain a question wise reply. The other application was rejected and could therefore not contain a question wise reply. It is requested that the PIO be instructed to provide question wise replies to enable an applicant to match the responses

to individual questions and prevent PIOs from side-stepping specific questions by providing a consolidated response.

4. The 1 RTI application regarding the implementation of the Commercial Courts Act, 2015 received a partial response.
5. We classified 2 of the replies from the High Court as a mala-fide rejection. As mentioned above, the RTI application which dealt with the Commercial Courts Act, 2015 received only a partial response. The remaining questions were rejected on the grounds that the information requested for would involve the diversion of men and material and resources which are not commensurate with the public interest involved. We classified this reply as a mala-fide reply because the information requested for in our application was information that is statutorily required to be maintained by the High Court under Section 17 of the Commercial Courts Act. Other High Courts provided us complete responses to similar questions. In the second RTI application we had sought budget data for the state judiciary. It was rejected by the High Court on the ground that internal notings were confidential and could not be shared with us. It also cited a Madras High Court judgment on the issue of internal notings of the court being confidential. However, it should be noted that the Madras High Court responded to the same application providing us with the required information. Moreover, budget documents cannot by any stretch of imagination be considered confidential. In fact, as per Section 4(1)(b) of the RTI Act, there is a requirement for all public authorities to proactively publish information related to the budgets and other financial information. We strongly recommend to the High Court that it organize training sessions for all officers being deputed as PIOs.
6. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, 2 of our RTI applications transferred by the Department of Justice to the High Court were not replied to at all. It is requested that the PIO be instructed to respond to transferred applications within 30 days of receiving the application akin to any other RTI application that is filed with it at the first instance.

D. Recommendations regarding Section 4 Disclosures by the High Court

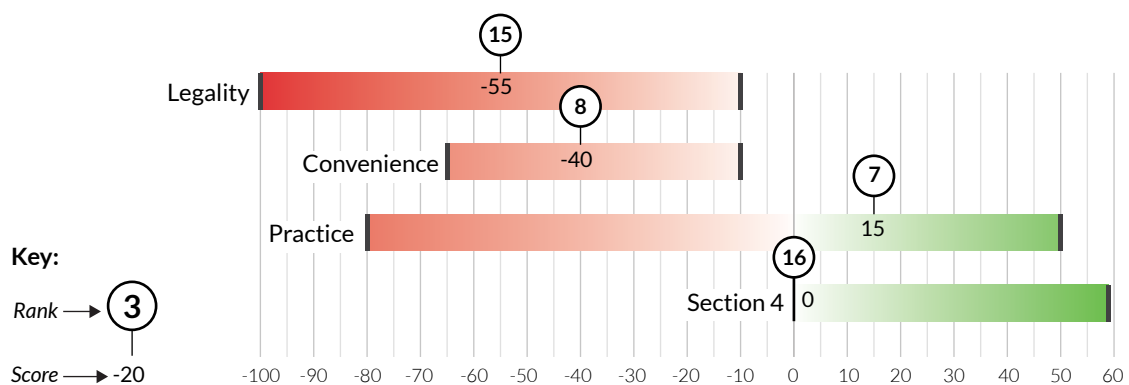
1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and make it available on the website of the High Court. Further the High Court must update the disclosure annually.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. None of the 9 District Courts in Telangana have made any disclosures under Section 4(1)(b) of the RTI Act on their websites.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as “Disclosures under the RTI Act”.

Tripura High Court

After analysing the Tripura High Court (Right to Information) Rules, 2013, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Tripura High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. Rule 3 of the High Court RTI Rules prescribes a limit of 1 subject per year for each individual RTI application. It is recommended that this limit be removed because it restricts the scope of the right to information as articulated by Section 6 of the RTI Act. Such limitations on the questions/subject that can be asked in an RTI application are vulnerable to being struck down for being *ultra vires* Section 6 of the RTI Act.
2. The High Court RTI Rules prescribe categories of information that need not be shared with citizens under the RTI Act. Specifically, Rule 5 (i) permits denial of information that does not relate to public domain, juridical functions and duties of the court, Rule 5 (iv) permits denial of information that affects confidentiality of any examination conducted by the High Court, Rule 5(iii) permits denial of information which relates to any public activity or interest, Rule 4(vi) permits denial of information concerning administrative or quasi-judicial decisions and Rule 4(vii) permits denial of information that involves sensitive matters such as matrimonial matters, Juvenile Justice Act matters relating to intelligence agencies, matters relating to domestic violence and sexual offences against women and children is not required to be provided except information on the status and pendency of the case. We recommend that these rules be deleted because Section 8 of the RTI Act already prescribes specific categories of documents that may be exempted from the RTI Act. The CIC has already held in *Suraj Prakash Manchanda v. Public Information Officer, Tiz Hazari Courts* (No. CIC/SG/A/2010/003545/11147) that public authorities cannot prescribe new categories of exemption in their rules, over and beyond the exemptions in Section 8.
3. Rule 8 of the High Court RTI Rules allows the Appellate Authority to impose a penalty on the PIO for failing to discharge his duty under the RTI Act at Rs. 50 per day is prescribed for the failure to supply information and puts a maximum limit of Rs. 500. In case the information provided is false a penalty of Rs. 1000 is prescribed. We recommend deleting this rule because the RTI Act allows only the Information Commissioners to impose penalties on errant PIOs. The RTI Act does not vest such powers in the Appellate Authorities under the Act.
4. Rule 9 of the High Court RTI Rules requires citizens to pay a fee of Rs. 100 for filing an appeal. We recommend deleting this rule because the RTI Act does not allow public authorities the power to charge for appeals. The CIC (in the case of *L.G. Dass v. Patiala House Court* (CIC/AD/A/2013/001687SA) recommended to the Delhi High Court that it delete the provision in the Delhi District Court (Right to Information) Rules, 2008 which charged a fee for hearing appeals.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the state.
2. Rule 9 of the High Court RTI Rules prescribes Rs. 5 as the per-page cost for A4 paper, Rs 10 for legal and Rs 100 for CD as document fee for providing information. We recommend that the per-page cost of providing information be reduced to Rs. 2 per page and Rs. 50 for CD to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.
3. The High Court RTI Rules do not specify a cost for inspection. We recommend that the cost of inspection be specified and set at Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.
4. Rule 9 of the High Court RTI Rules, lists cash, treasury challan, bank draft or Indian Postal Order as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 9 be amended to include banker's cheques. In addition, we recommend the High Court adopted digital modes of payment such as UPI, e-payment gateways and NEFT transfer as methods of payment.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: Some information was provided in response to all the 3 applications filed with the High Court.]

1. Section 7(1) of the Right to Information Act, 2005 states that the PIO is to dispose RTI applications as expeditiously as possible, and in any case within thirty days of the receipt of the request. However, 1 out of the 3 applications filed with the Tripura High Court was replied to after 40 days. We, therefore, request that the PIO be instructed to reply to all RTI applications within 30 days of receipt of the application. To ensure the disposal of applications in a timely manner we request the High Court to revisit its procedures for disposing RTI applications to remove bottlenecks and streamline procedures.
2. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in any of the 3 replies that we received. We, therefore, request that the PIO be instructed

to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.

3. Section 7(8)(iii) of the Right to Information Act, 2005 makes it mandatory for PIOs to provide the details of the First Appellate Authority while rejecting RTI applications. Similarly, Section 7(3)(b) makes it mandatory for PIOs to provide the details of the First Appellate Authority even when the information is being provided to the applicant under the RTI Act. None of the 3 replies received from the High Court provided such details. It is thus requested that the PIO be instructed to provide the details of the First Appellate Authority while replying to all RTI applications.
4. Both the applications that contained multiple questions did not receive question wise replies. It is requested that the PIO be instructed to provide question wise replies to enable an applicant to match the responses to individual questions and prevent PIOs from side-stepping specific questions by providing a consolidated response.
5. All the 3 replies received were only partially satisfactory. 1 application sought information that was statutorily required to be maintained under Section 17 of the Commercial Courts Act, 2015. While information was provided in reply to this application, part of the application was transferred to all District Courts even though the High Court was required to statutorily maintain this information. The second application sought audit report for 5 years, however information was provided for only 1 of the 5 years. The third application sought budgetary estimates, allocations, saving and expenditure statements and allocation under the Centrally Sponsored Scheme to the High Court. The information provided to this application was incomplete and therefore not to our satisfaction.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. All public authorities are duty bound to proactively publish information with regard to the clauses mentioned in Section 4(1)(b). However, we could not find a disclosure on the website of the High Court. We recommend that the High Court prepare a disclosure as required under Section 4(1)(b) and publish it on the website of the High Court. Further the High Court must update the disclosure annually.

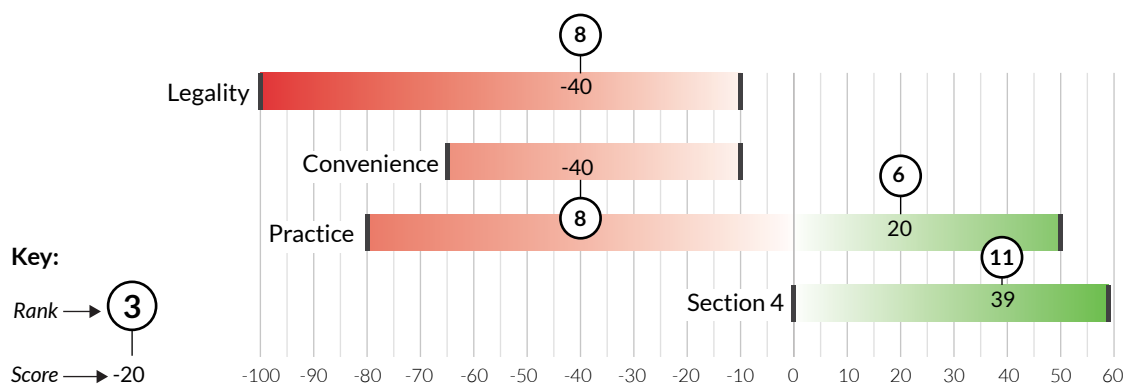
E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Out of the 8 District Courts in Tripura, 7 District Courts have no disclosures under Section 4(1)(b) of the RTI Act on their websites. 1 District Court website provides some information regarding the Public Information Officer & Appellate Authority in English.

2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate section that is labelled as “Disclosures under the RTI Act”.

Uttarakhand High Court

After analysing the Uttarakhand High Court Right to Information Rules, 2009 as amended in 2010, the disclosures made by the High Court and the Districts Courts covered under its jurisdiction pursuant to Section 4(1)(b) of the RTI Act and the replies received to our RTI applications, the following are the results of our analysis and recommendations to the Uttarakhand High Court.



For details about the scoring method for the indices, please refer to the main report "Sunshine in the Courts: Ranking the High Courts on their Compliance with the RTI."

A. Recommendations regarding amendments to the RTI Rules of the High Court to ensure compliance with the RTI Act

1. We could find a copy of the High Court RTI Rules on the High Court website only through a search on an internet search engine because the rules are not visible on the homepage of the High Court website. Additionally, even the 2010 amendment to the High Court RTI Rules are unavailable. Both the RTI Rules and the amendments had to be sourced from a paid online database. We recommend that a clear copy of the RTI Rules of the High Court be published on the website of the High Court.
2. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees for filing the RTI application with the High Court, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the RTI Rules of the High Court be amended to specifically provide the name of the authority in whose name the fee has to be deposited.
3. The High Court RTI Rules are silent regarding the name of the authority in whose name the fees for filing the RTI application with the District Courts, can be deposited. Citizens require such information while making payments through Indian Postal Orders (IPOs) or demand drafts. We recommend the relevant RTI Rules be amended

4. Rule 3 of the High Court RTI Rules makes it mandatory to file RTI applications or appeals in a prescribed format. The Department of Personnel and Training (In OM No. F.No. 1/2/2007-IT dated 23 March 2007) and the Central Information Commission in *Chandrakant Jamnadas Karira v. Vice-President's Secretariat* (CIC/WB/C/2009/900352) have reiterated that public authorities cannot prescribe a mandatory form for citizens to make requests for information under the RTI Act. It is recommended that the use of a form be deleted or at the very least not be made mandatory.

B. Recommendations regarding amendments to the RTI Rules of the High Court to simplify the process for citizens

1. We recommend that the High Court Rules be published on the High Court website in the local language of the state.
2. The High Court Rules do not prescribe the per-page cost of providing information. We recommend that the per-page cost of providing information be clearly mentioned in the Rules and set at Rs. 2 to bring it at par with Rule 4 of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court of India.

3. Rule 4 of the High Court RTI Rules prescribes Rs. 20 per hour as cost for inspection. We recommend that the cost of inspection be reduced to Rs. 5 per hour, with the first hour being free to bring it at par with Rule 4(f) of the Central Government Right to Information Rules, 2012 that have also been adopted by the Supreme Court.
4. Rule 3 of the High Court RTI Rules, lists cash, demand draft, Indian Postal Orders and adhesive court fee stamps as methods of payment of RTI fees. We recommend that payments be permitted through all the methods listed under Rule 6 of the Central Government Right to Information Rules, 2012 which have also been adopted by the Supreme Court of India. Therefore, we recommend that Rule 3 be amended to include banker's cheques. We further recommend that the High Court recognise digital modes of payment such as UPI, e-payment gateways and NEFT transfer as methods of payment.

C. Recommendations regarding practices of the Public Information Officers while responding to RTI applications

[NOTE: All the 3 applications filed with the High Court were replied to. Complete information was provided in response to 2 out of the 3 applications and some information was provided to the third application.]

1. As per Section 7(9) of the RTI Act, any information provided in response to an RTI application should ordinarily be provided in the form in which it is sought. However, even though our preferred mode of communication was email, the rule was not followed in either of the 3 replies that we received. We, therefore, request that the PIO be instructed to reply in the method preferred by the applicant. This is particularly beneficial in the case of an email since the time taken to communicate between the authority and applicant is significantly reduced.
2. Only 1 of the 2 applications that contained multiple questions received a question wise reply. It is requested that the PIO be instructed to provide question wise replies to enable an applicant to match the responses to individual questions and prevent PIOs from side-stepping specific questions by providing a consolidated response.
3. All the replies received to our RTI application were not completely to our satisfaction. 1 application that sought audit reports of the High Court was replied to with a copy of a document that was handwritten and illegible and thus difficult to decipher. It is possible that the High Court received these reports in this format. It is therefore recommended that the High Court follow better record keeping practices to ensure that the problems such as the 1 above could be remedied.
4. As per Section 6(3) of the RTI Act, if an RTI application does not pertain to a particular public authority, it is required to transfer it to the relevant public authority within a period of five days. However, both the applications transferred

by the Department of Justice to the High Court were not replied to at all. It is requested that the PIO be instructed to respond to transfer applications within 30 days of receiving the application akin to any application that is filed with it at the first instance.

D. Recommendations regarding Section 4 Disclosures by the High Court

1. We recommend that to assist citizens in accessing information under Section 4 the disclosures be also made available in the local language.
2. The list of Rules provided under Section 4(1)(b)(v) needs to be made more comprehensive and ideally hyperlinks should be provided to the text of the Rules.
3. High Courts as public authorities have many documents under their control. We recommend that the High Court prepare a list of all the documents that it has under its control and also identify the custodian for each. This will assist the public in approaching the relevant office for seeking documents.
4. Under Section 4(1)(b)(viii), the public authorities are required to provide statement of committees. We recommend that the composition and scope of work of such committees be published under the disclosure and be updated regularly.

E. Recommendations regarding Section 4 Disclosures by the District Courts

1. Out of the 13 District Courts in Uttarakhand, 6 have made well labelled disclosure under Section 4(1)(b) of the RTI Act in English. 5 of these disclosures are in English and 1 in the local language. All 6 of these disclosures are in a separate RTI section on the website. 2 District Court websites has provided information regarding the Public Information Officer & Appellate Authority in English which are in a separate RTI section. 5 other District Court websites have no disclosures.
2. We recommend that all District Courts should provide detailed disclosures under Section 4(1)(b) of the RTI Act in both English and the local language. The information provided should be easily accessible on the e-Courts website under a separate RTI section.

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