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ACTION

Civic Action Toolkit



About the Toolkit

“There can be no daily democracy without daily citizenship”;

says Ralph Nader, an American political activist.

What does ‘daily citizenship’ imply?

Beyond merely being born within a political boundary or inheriting it, citizenship, is the first step towards establishing democracy as an institution. Active and responsible citizenship entails equipping oneself with the tools to engage with people living in a democracy; creating structures that uphold democratic principles; being involved in institutions that are committed to protecting individual rights and facing challenges with the conviction that every citizen has the power to impact democracy.

Within the Indian context, this power to each citizen comes from the Constitution of India envisioning Justice, Liberty, Equality, and Fraternity. While the state is bound to protect these constitutional values, we also recognize that the Constitution both, empowers and calls upon us to uphold these values.

This Civic Action Toolkit (CAT) is an attempt to simplify the steps which equip us with tools to engage with the structures of the state – legislative, executive, and judiciary. We often hear, “the system does not work”. This is the leap from blaming to claiming: it tells you “what we need to do to make the system work” and how to reclaim our space as citizens.

The CAT looks at the following:

- Citizens identifying issues and concerns – locally or nationally
- Citizens linking these issues with relevant institutions within the executive, legislative, and judiciary responsible for the same
- Citizens armed with information and engaging effectively with the above to improve (1) implementation of laws and rules (2) participation in law making (3) interpretation of laws in order to protect individual rights

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As this is the very first edition, please do share your comments, inputs and suggestions to make this an effective manual on our journey of responsible citizenship. Please send in your inputs before 31st July 2014 to rama.akhtar@gmail.com.

1. Identify the issue

This is the first step towards civic action. The issue can be anything that concerns you in the civic space. For e.g., you may choose to work on issues of garbage disposal, accessing government services like widow pension, conditions in schools (infrastructure and quality of education), ration, voter ID cards, etc. At a larger level, you may wish to work on conditions of roads, ground water levels, declining forest cover, irregular land acquisition, etc.

2. Identify the Laws / Rules / Government Orders / Judgements on the Issue:

Once an issue is identified, it is important to gather relevant documents to understand the laws related to this issue. Please note that when we say law in this document, it means different Acts. Each Act has a name and date of passing e.g. the Domestic Violence Act 2005 or the Right to Education Act 2009.

3. Identify the different departments and authorities related to the issues:

At this step in the process, one needs to figure out the departments or offices within the executive arm of the state that are meant to implement the laws/rules/government orders/judgements related to the issue. This would also imply knowing the designations or positions of office bearers who are directly responsible and the powers vested with them.

4. Gather as much information related to the issue as you can

This can be done by going through the department website/going to the department office and meeting officials, reading newspapers and so on.

What to look for:

- a. What are the different services required to be provided by the public authority?
- b. Related laws/ rules/ GOs / citizen charters. These are usually given in the website

- c. What are the responsibilities of the government officials at each level of the department
- d. What is the grievance redress system or process of registering a complaint

Some of this information would probably be under a heading called: **Information under Section 4 of RTI or Right to information Act.**

5. Go through the information.

This will clarify the following:

- a. What does the law pertaining to the issue actually say
- b. What part of the law/rule/order/judgement is not being implemented (this is the problem that one is working to resolve)
- c. If the existing laws/rules/orders itself are not addressing your concern related to the issue.

Useful Tip

Please remember that all documents related to any arm of the state are always in the written form.

To be implemented, all laws, rules or orders must be in the form of written documents.

It is important to make written complaints and maintain copies of the same.

Anytime during the process of taking action, you may need to gather more information. You can use the Right to Information (RTI) Act to access information in the following ways:

Simply go to the department and ask for information or look for the information on the department website. Under Section 4 of the RTI Act, departments have to make certain types of general information available to people without needing to file an RTI application or paying any fees.

File an RTI application asking to inspect files and documents related to the issue. Under Section 2 (j) (i) of the RTI Act, you have the right to inspect records and files.

File an RTI application asking for copies of documents as needed.

**AT NO STAGE WILL YOU HAVE ALL THE INFORMATION.
DO NOT WAIT TO GATHER ALL THE INFORMATION.**

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Section A

Action to be taken for non-implementation of laws and rules

1. Approaching the department: Executive arm of the state responsible for the issue

File a written complaint

(See annexure number II on how to write a complaint)

The complaint can be sent to the department by registered or speed post, via e-mail or hand-delivery.

If you choose to hand-deliver the complaint, ensure that you retain a copy of the complaint received by the official after he/she has stamped and signed your copy.

If you send the complaint through post, please keep the registered or speed post receipt. This is proof that you have filed the complaint, and is essential for follow up.

Some departments and authorities have toll free complaint numbers that are extremely useful to make prompt complaints. But always get a complaint number. It is also advisable to follow this up with a written complaint.

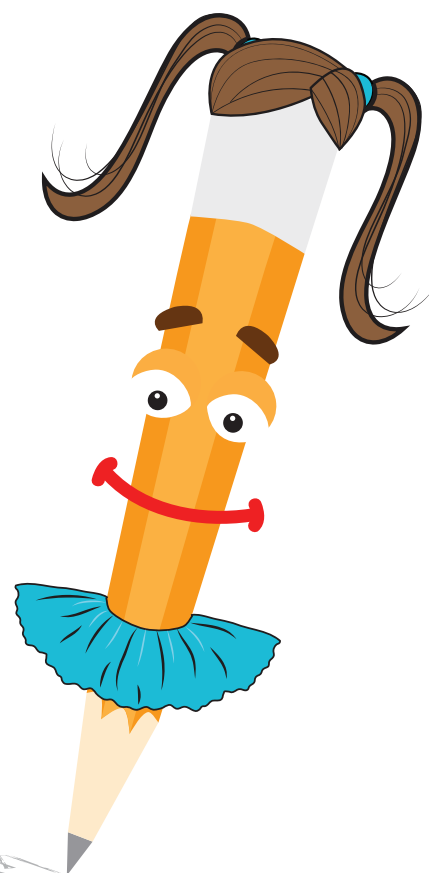
Follow up on a complaint

Most citizens' charters state a time period for redressal of complaints.

In case no action is taken during this time period, a second complaint must be filed by attaching a copy of the first complaint, with a mention of it in the second complaint.

Even when making the second complaint, send a copy to all senior officers in the hierarchy of the department.

In case no action is still taken, an RTI can be filed to find out what action had been taken on your complaint or the file noting your complaint.



2. Approaching vigilance or monitoring committees

A number of public authorities have vigilance and monitoring committees whose members are citizens and locally elected representatives. A copy of the complaint to the department should be given to them as well, so that they can monitor the situation.

3. Approaching elected representatives

The role of elected representatives is to hold the executive accountable and to handle the problems of the citizens they represent.

So, informing them about the problems is also useful. When they take up an issue, it carries more weight and motivates the officials to act on the complaint promptly. A copy of the complaint and other communication with the public authority should be given to the elected representatives such as the Corporator, MLA, MP, etc. Though the elected representatives cannot issue directives to the officials, they can ask questions, demand answers, and/or raise the matter in the Assembly/Corporation/Parliament.

When approaching the elected representatives, find out if the issue falls under their area of work. For e.g., the Ration department is a state subject and not a municipal subject, therefore for ration related issues, the MLA should be approached, not the Municipal Corporator.

4. Approaching Courts

When a public authority does not perform its duty that it is bound by law to perform, then the High Court may be approached. The court will issue directions to the Public Authority.

Frequent thoughts around taking civic action?

Why should I complain?

In any case, usually no action is taken on a complaint.

If you do not complain, you may never know if any action will be taken or not. Further, the authorities will assume that there aren't any problems or grievances, and everything is working fine.

What if I get targeted for taking action?

What if there are threats?

In several cases, you do not need to directly interact with officials. Complaints and RTI applications can be filed through post/e-mail/on the Internet.

When filing a complaint, you may include the names of more than one person or also add the name of an organization or group that you belong to.

For an RTI application, you will need to include the name of one person. You may also add the name of the organization/group that you belong to. In some cases, you may ask someone else (not related to the issue) to file the application on your behalf. You can also ask a few different people from different places to file the same RTI application. Also, share information that you have received in the public domain – internet groups, RTI groups, issue groups, media, et al.

However, regardless of whether you are filing as a single person, always keep the senior functionaries informed.

Useful Tip

For any problem, your first step should be to get information and then make a complaint to the government department.

The elected representatives and the courts may be approached simultaneously.

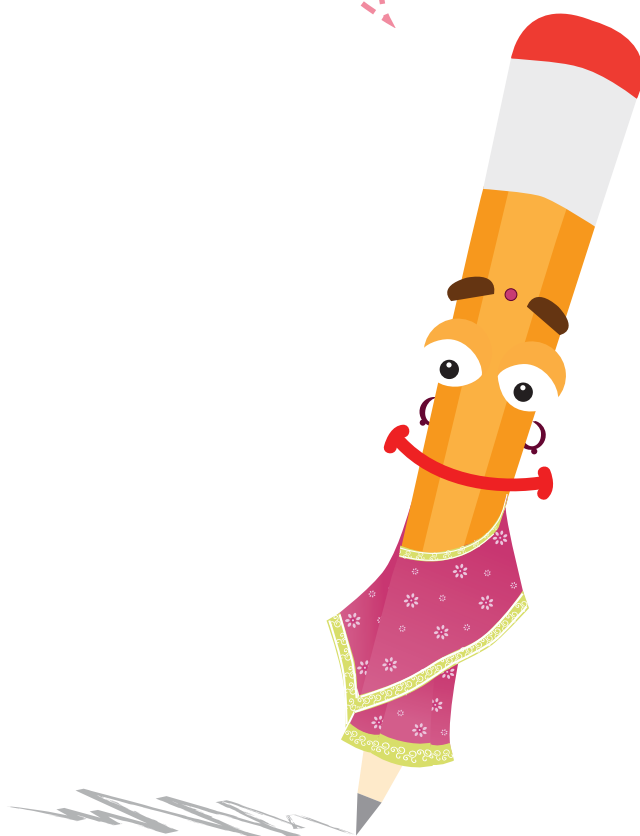
You can file an RTI Application to know the status of your complaint:

Avoid questions like "What is the status of my complaint? What further action has been taken on my complaint/letter?"

Ask for signed and stamped copies of all correspondence till date in the matter of your complaint, including memos, e-mails, cover letters to forward your complaint, etc.

Ask for a copy of the logbook or any other book where details of your complaint are entered, marked to specific officers for their investigation and action.

Ask for a copy of all their remarks, feedback, reports, etc. If the case on your complaint is closed, ask for the closing remarks of the concerned officer.



Section B

When the laws and rules do not address your problem

When you collect information on an issue, you may find that there is no legal provision to address your issue or the problem at hand.

What can you do?

Find out if the obstacle is due to a law or policy of the government.

If you are being deprived of any right or entitlement due to a government policy, then it can be fixed by revoking the government order, which is the responsibility of the executive.

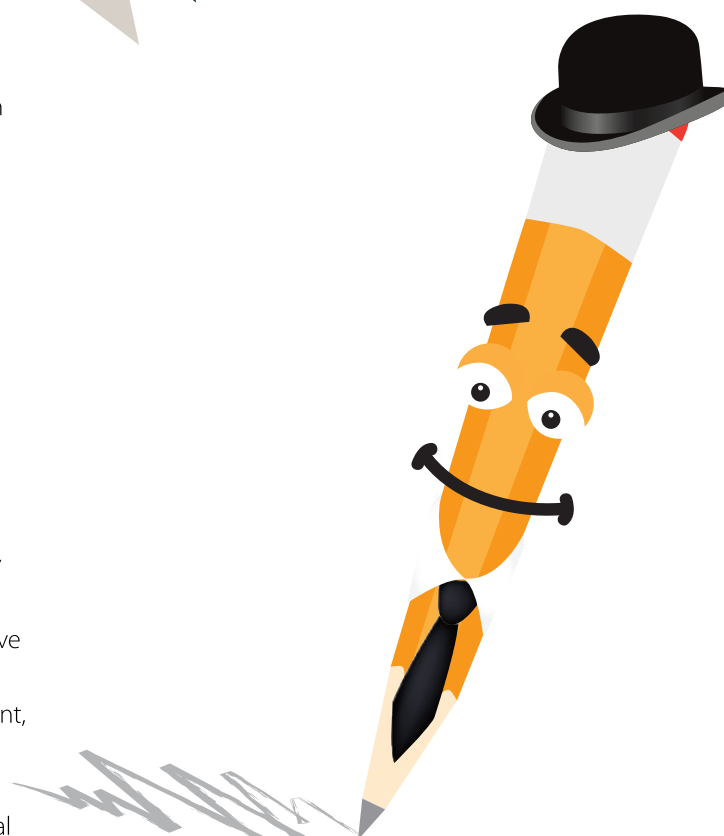
If you are deprived of your right or entitlement on account of a law, or because no law exists on that issue, then a new law will have to be enacted or the existing law amended by the legislature.

To get a new law passed or an existing law changed, you will have to lobby with the MLAs/MPs of all political parties to ensure that the new law is introduced and passed in the Assembly/Parliament, or that the existing one is amended and passed.

If there exists no law or if any rules/laws violate your fundamental rights, then the High Courts or the Supreme Court may also be approached to strike down a law as unconstitutional or to issue guidelines to protect your rights.

Remember: You will have to approach the MLAs or MPs depending on the issues related to the State list or Union List.

To revoke a GO, lobby with the government or put pressure on the government to revoke the order. Lobby with the elected representatives so that they can pressurize the government to change, or revoke the GO so that people's rights and entitlements are protected.



Useful Tip

Changing laws or amending them is a long process, and generally takes a long time

Section C

Public Action

Public action is taken alongside other actions to highlight an issue and to pressurize the different stakeholders. Filing complaints, RTI, lobbying with the elected representatives must carry on simultaneously with all public action.

Some of the often-used methods of public action are:

Raising awareness amongst the community members: For this, public meetings/workshops may be organized to raise awareness on the issue. Pamphlets, posters, flyers, booklets giving simply explained information may be disseminated; films and street plays are useful tools for creating awareness. Information gathered through RTI can be shared at the awareness-raising meetings. Holding consultations with different stakeholders and sharing reports with decision makers. Organizing dharnas and rallies to highlight an issue or, protest against any action or to make demands heard. Using the media in different ways to create awareness, highlight issues and exert pressure. The media finds it useful to report a story on an issue when provided with information and documents such as government orders/ complaints related to the issue.

Note: Media referred to, implies newspapers, television and alternative forms of social media.

After collecting information and creating awareness, exert pressure by conducting social audits. These are useful in involving the community and exposing any wrong doing or corruption.

As far as possible, contact and seek support from civil society groups working on the issue.



Useful Tip

Engage the media for your cause

- Write articles
- Get local action reported in newspapers
- Appear on television debates

Annexure I

Instances of Public Action for Implementation of Laws/Rules etc.

1. Malba hatao Campaign in Gurgaon

In Gurgaon, a 'malba hatao group' was set up at the end of our citizenship programme in May 2013. This consisted of about 10 citizens who identified the lack of any identified site for malba (construction debris) disposal in Gurgaon as an issue they wanted to work on. This group first identified that the authority responsible for sanitation and debris removal was the Municipal Corporation of Gurgaon. They then studied the website of MCG and found out that the MCG has actually floated a tender for processing of malba, and a site had been identified for this in 2012. But there was no written mention of whether the work on this tender had indeed started. In parallel, two actions were taken:

- a. An RTI application was filed with MCG asking for information on sites selected for malba disposal and processing.
- b. A complaint stating the problems related to malba and urging for quick action was filed with the MCG. Also, a meeting with MCG officials was arranged where updates were sought on the status of the tender that had been floated, and the progress on this issue.

The officials claimed that the site identified as part of the tender process needed environmental clearance. They said that the papers for clearance would be filed at once and also, alternative sites would be identified. They promised that a Committee would be set up that included officials from other related departments for identification of sites. All these points were documented and copy of minutes sent to the officials. Follow up action taken was:

- a. Minutes of the meeting of the Committee for site selection was asked for and received (without filing an RTI application)
- b. A complaint was filed with the Secretary of the Department for Urban Local Bodies in Chandigarh (from research it was found that the MCG Commissioner reported to this department)

Meanwhile, the RTI reply stated that site selection was in progress and no final site was identified.

All the written complaints, RTI replies and meeting minutes

were shared with the local media and Hindustan Times; Times of India, Gurgaon came out with more than six stories on this subject. During this time, an awareness raising campaign was taken up with schools and at local events.

The work was still in progress, but by September 2013, environmental clearance papers had been filed by the MCG with the Environment Ministry for one site, and the Committee for site selection had identified and evaluated three more sites. The Malba Group has obtained all the documents on this progress and they intend to keep the pressure on until the sites are fully identified and notified. They understand that this may take some time but equally, if they had not taken up this action, the matter would have not picked up speed at all.

As a member of the Malba Hatao group said, "usually, if we had a civic issue, we would crib and do nothing. If it bothered us too much, we would call up someone we knew in the administration and ask him or her to help. But now we are learning to really work with the administration in the true sense – by using the information, following up, and putting positive pressure."

2. Using the Right to Education (RTE) Act, 2009

Feroz Ali has two children aged 7 and 11 years. He recently moved to Kolkata from Cuttack. He went to P.J. Public School to enquire if his children could get admission. The principal asked him to pay Rs. 50,000/- for each child if he wants to get his children admitted. Feroz Ali knows that the school cannot take so much money as admission fee. But he does not know what to do, and his children's education is important.

P.J. Public School has demanded a capitation fee, which is prohibited under the RTE ACT, 2009. The school can be fined ten times the amount of the capitation fee demanded. To file a complaint against the school, Feroz Ali needs to comply with the following procedure laid down in Section 32 of the RTE Act:

- A written complaint has to be made to the local authority of the area such as Gram Panchayat or Zila Parishad (district council) or Municipal Corporation, notified by the government to receive complaints

- The local authority must decide on the complaint within three months. While dealing with the complaint, the local authority must hear both sides, i.e., the complainant and the school authorities/teachers/government officials, etc.

- An appeal against the decision of the local authority can be made to the State Commission for the Protection of Child Rights (SCPCR) of that state or to the Right to Education Protection Authority (REPA) till an SCPCR is set up

A complaint can also be made to the officials of the education department at the block, district or state level.

A complaint can also be made to the School Management Committee (SMC), a body in which parents, teachers, and the local authority are represented and has responsibility to monitor the working of the school.

Instances of Public Action for Changing Laws and Making New Laws

1. How the Right to Information (RTI) Act came into being

The National Campaign for People's Right to Information (NCPRI) was founded in 1996. Its founding members included social activists, journalists, lawyers, professionals, retired civil servants and academics. One of its primary objectives was to campaign for a national law facilitating the exercise of the fundamental right to information.

As a first step, the NCPRI and the Press Council of India formulated an initial draft of a Right to Information (RTI) law. This draft, after extensive discussions, was sent to the Government of India in 1996. The Government finally introduced the Freedom of Information Bill in Parliament, in 2002. This was a very watered down version of the Bill first drafted by the NCPRI and others in 1996. Meanwhile, the NCPRI was also campaigning for state RTI acts and supporting the efforts of state governments, like Karnataka, Delhi and Rajasthan.

In August 2004 the NCPRI forwarded to the National Advisory Council, a set of suggested amendments to the Freedom of Information Act 2002. These amendments, designed to strengthen and make more effective the 2002 Act, were based on extensive discussions with civil society groups working on transparency and other related issues, and were in response to the undertaking given by the UPA government in their Common Minimum Programme, that the "Right to Information Act will be made more progressive, participatory, and meaningful."

The NAC endorsed most of the suggested amendments and recommended them to the Prime Minister of India for

further action. These formed the basis of the subsequent Right to Information Bill, introduced in Parliament on 22 December, 2004.

However, this bill, as introduced in Parliament, had many weaknesses. Most significantly, unlike the NCPRI suggestion, it did not apply to the whole country but only to the Union Government. The consequent outrage from civil society groups, including the NCPRI, forced the government to review the changes. The Bill was referred to a Standing Committee of the Parliament and to a Group of Ministers.

The standing committee asked several of the NCPRI members to give evidence before it, and ultimately endorsed the stand taken by the NCPRI in most matters. In the next session of Parliament, the bill was passed after over a hundred amendments introduced by the government to accommodate the recommendations of the Parliamentary Committee and the Group of Ministers. Most important, the jurisdiction of the Bill was extended to cover the whole of India. The RTI Act then came into effect all over India, from 13 October, 2005.

2. Sexual Harassment at the Workplace

The problem

Sexual harassment of women at work is common, for example, comments may be passed about women's looks or clothes, or colleagues may send lewd jokes or sometimes try touching them. In extreme cases, they may be stalked or have bosses ask for sexual favours as condition for promotion, etc. This makes the work environment hostile and unsafe for women and can affect their work performance and their physical and mental well being. Women do not complain for the fear of either losing their jobs or being sidelined at work, being blamed for creating trouble or being told that it was their own fault. It is even harder for them to go to the police. In a number of cases, women simply bear this kind of behaviour and carry on working or leave that particular job.

This happens to women doing different kinds of work, whether in corporate or government jobs, or in non-governmental organisations, working as domestic workers, or in shops, restaurants, etc.

The trigger

Bhanwari Devi, a woman belonging to the Dalit community, was a village level worker in the Women Empowerment Programme run by the Rajasthan Government. In 1992 she was gang raped by three men who belonged to a deemed "upper caste" family, for stopping a child marriage in their family. An FIR was registered followed by the lower court acquitting the accused. But the women's rights organization in

Rajasthan – Vishakha and others felt that the issue of security of women at the workplace was a serious problem and sexual harassment of women at work was common. Molestation or verbal/sexual abuse is an offence under the Indian Penal Code, but the accused were punished only for a few years, and most women would not complain. In the event that the women did complain, the police would come to their office/workplace to question them; it was certain that they would be asked to leave their work subsequently.

Remedy

Vishakha and the other women's groups felt that there was a need for a legal remedy and protection for women against sexual harassment at the workplace. The employer should be made responsible to ensure that the workplace is safe for women and they are not sexually harassed. The women had no protection other than going to the police. There was no law specifically addressing the issue about sexual harassment at the workplace. There was nothing in the law that prevented the employer from dismissing the woman from work who filed a complaint.

These groups filed a Public Interest Litigation (PIL) to enforce the fundamental rights of working women under Articles 14, 19(1)(g) and 21 of the Constitution. Since there was a gap in the law, they requested the Supreme Court to issue guidelines to ensure that women at work were safe and not sexually harassed. This case is well known as the "Vishakha" case (Vishakha and others Vs State of Rajasthan and others AIR1997SC3011),

In 1997 the Supreme Court said that a woman has a fundamental right to work with dignity and safety, and sexual harassment at the workplace violates this right. The Supreme Court issued directions on the steps all employers must take to stop sexual harassment, and to take action against anyone sexually harassing women at work.

In April 2013 a law, "Protection of Women from Sexual Harassment at the Workplace" was passed by Parliament and received the President's assent. It was notified in November, 2013.

3. Citizen group's action to stop RTI amendment bill from being passed in Parliament

This was a unique case of an Amendment Bill that had the full support of all political parties – or so it seemed till a citizens' group worked tirelessly to stop it. This was the RTI Amendment Bill that was going to be introduced in Parliament to amend the RTI Act 2005. The background of this was a landmark judgment on June 3rd parties come within the ambit of the Right to Information Act. The Government decided to counter this by introducing an RTI Amendment Bill in September 2013, to keep political parties outside the RTI Act. National Campaign for People's Right to Information (NCPRI), a citizens' group, took the position that no amendment should be made. They knew they were fighting all odds because the dominant feeling was that all political parties would support an amendment that would protect them from making mandatory disclosures of information. They decided to use various public action methods – writing in newspapers, making their position clear on television. They, along with Change.org started a signature campaign to garner public support for no amendment. Once one lakh signatures were received, they met representatives of all political parties separately. Also, they had meetings with the Prime Minister and other members of the PMO. They tried to understand each interest group and worked with them to take a stand to not support the amendment. Slowly, some members of the BJD and TMC came out individually in support of no amendment and recommended that the Bill be sent to a standing Committee for further discussion and consideration. NCPRI tied up with other social media organisations that created campaigns that involved different MPs that were active on twitter. Eventually, individual MPs worked within their parties – BJD and TMC - and emerged with party positions that they would not support the amendment. Also, members of the BJP, a day before the Amendment Bill came up for discussion in the House, termed it unconstitutional. Finally, the Bill was sent to a Standing committee and did not get introduced in the House.

Annexure II

Given below are suggested formats for complaints and RTI applications.

1.Format for writing complaints:

Date

To,

Name, designation, name & address of public authority

Subject: One line only

Dear Sir/Madam,

1st para: Introduce yourselves – names, place

2nd para: State the problem.

3rd para: State what specific action the official of public authority should take/is expected to take. State timelines.

4th para: State the public interest involved in the issue. Refer to particular laws, rules or guidelines that have been followed. Also refer to particular Articles in the Constitution if relevant.

5th para: Request for a written reply at the earliest. Suggest concrete commitments to be made. State timelines.

6th para: Closing salutations

Names and signatures (one or more people may file the same complaint)

Enclosures: If any

CC: If any

2.Format for RTI Application

THE RIGHT TO INFORMATION ACT, 2005

To,
Public Information Officer,
Address of the Public Authority

Dear Sir/Ma'am,

1. Full name of the applicant :
2. Address :
3. Subject matter of information :
4. The period to which the information relates :
5. Description of the information required :
6. Whether information is required by post or in person :
7. In case by post (Ordinary, Registered or Speed) :
8. Whether the applicant is below poverty line :

Date :

Place :

Signature of the Applicant

3.RTI Application seeking information on Status of Complaints Filed

Annexure A

Application under the Right to Information Act, 2005

(See Rule 3)

To,

Public Information Officer,

Name of the Department:

1) Full name of the applicant:

2) Address:

3) Subject matter of information: Action taken on complaints lodged. (Copies enclosed).

4) The period to which the information relates: From _____ till the date of reply to this RTI application.

5) Description of the information required:

Kindly provide:

- a. Copies of the ATR (Action Taken Report), including File Notings, on every complaint lodged.
- b. Reasons recorded for taking no action or partial action.
- c. If no action or partial action has been taken on the said complaints, then kindly provide the name, designation, and contact details of the officers responsible for acting on the said complaint.
- d. Copies of the action taken, including File Notings, against those officers, contractor, etc., for taking improper/incomplete /no action on the said complaint.
- e. Copies of the action taken against the officers, including File Notings, for taking improper/incomplete/no action on the said complaint.
- f. Kindly provide the copy of the plan of action for redressing the said complaint.
- g. All other information available on the above "subject matter of information".

Dear PIO,

Please note:

- i. If the information sought by me is voluminous, then I am willing to visit your office to inspect the records, files etc. (u/s Sec. 2 (j) and Sec. 7 (9) of the RTI Act 2005) at a mutually convenient time.
- ii. If you want to deny any of the information sought by me, then please quote the exemption clause of Section 8 (1) and a brief reason as to how it applies. This is a requirement of the RTI Act, as per Section 7 (8) (i) read along with Section 19 (5).
- iii. If any of the information sought is available with any other department, then kindly transfer the copy of the concerned query to that department and promptly inform me in writing of the same, giving details of the department to which it is transferred. [See Sec. 6 (3) (ii)]
- iv. If information sought needs to be extracted from a file, etc., then it should be done as per Sec. 2 (j) (ii) of the RTI Act 2005.
- h. Whether information is required by post or in person: By Post
- i. If by post (Ordinary, Registered or Speed): By Registered AD
- j. Whether the applicant is below poverty line: Yes/No

Date:

Place:

Signature of the Applicant

Affix fee as per RTI rules of the State in which the public authority is located.

(E.g., Maharashtra has provision of paying by court fee stamp for Rs. 10/-, but different States and Central bodies have different rules)

<http://box.net/HandyRTIFormats>

<http://tinyurl.com/4RTIForms>

4.Format for Letter Requesting Inspection of Files under RTI Act 2005

Annexure A

Application under the Right to Information Act, 2005

(See Rule 3 and Sec. 2 (j) (i))

To,

Public Information Officer,

Name of the Department:

1) Full name of the applicant:

2) Address, Phone number, and E-mail ID:

3) Subject matter of information: Inspection of files related to XYZ subject

4) The period to which the information relates: From _____ till the date of reply to this RTI application.

5) Description of the information required:

I would like to inspect files related to XYZ subject under Section 2 (j) (i) of the RTI Act 2005. Kindly inform me of the date and time by phone and E-mail when I can visit your office to inspect the files. I shall pay for the inspection and for information as per the RTI Act.

6) Whether information is required by post or in person: By Post

7) In case by post (Ordinary, Registered or Speed): By Registered A.D.

8) Whether the applicant is below poverty line:

Date:

Place:

Signature of the Applicant

Affix fee as per RTI rules of the State in which the public authority is located.



We, the People is a network of organisations and individuals. We facilitate exploration, understanding and action for being active and responsible citizens through events and in-depth training programmes. Our programmes are offered in schools, slums, skyscrapers – anywhere that citizens of this nation live, learn and work.

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