



ANALYSIS OF INFORMATION REQUESTS UNDER KP RIGHT TO INFORMATION ACT, 2013

2014 to 2016



[ANALYSIS OF INFORMATION REQUESTS UNDER KP RIGHT TO INFORMATION ACT, 2013]

2014 to 2016

Centre for Governance and Public Accountability (CGPA)

TABLE OF CONTENTS

<u>EXECUTIVE SUMMARY:</u>	<u>2</u>
INTRODUCTION:	3
SALIENT FEATURES OF KP RTI ACT, 2013:	3
COMPLAINT ANALYSIS REPORT:	4
METHODOLOGY:	5
<u>ANALYSIS</u>	<u>6</u>
INFORMATION WISE ANALYSIS, 2014:	6
DEPARTMENT WISE ANALYSIS, 2014:	7
COMPLAINT WISE ANALYSIS, 2015:	8
DEPARTMENT WISE ANALYSIS 2015:	9
INFORMATION WISE ANALYSIS 2016:	10
DEPARTMENT WISE ANALYSIS 2016:	11
<u>CONCLUSION:</u>	<u>12</u>

Executive Summary:

The right to access information held by public bodies, known as the right to information, is internationally recognised as a human right and protected under Article 19-A of the Constitution of Pakistan, 1973. This constitutional right provides a range of benefits, to the citizens of Pakistan which includes promoting democratic participation, combating corruption and helping to foster effective, accountable and responsive government. Although it has been over a decade that first Freedom of Information Ordinance, 2002 was enacted at the federal level, it took another eleven years to enact internationally accepted law in the form of Khyber Pakhtunkhwa Right to Information Act, 2013 which before it was amended in 2014, secured 3rd slot among the world ranking.

Under Khyber Pakhtunkhwa Right to Information Act, 2013 public bodies are legally bound to proactively share information pertaining to:

*Khyber
Pakhtunkhwa
public bodies
are legally
bound to
proactively
share
information
under Section 4
& 5 of KP RTI
Act, 2013*

- *particulars of the public body, its functions and duties*
- *powers and functions of its officers and employees*
- *norms and criteria set by the public body for the discharge of its functions*
- *Acts, Ordinances, Rules, Regulations, Notifications, Circulars and other legal instruments being enforced, issued or used by the public body in the discharge of its functions*
- *a statement of categories of information being held by the public body*
- *a description of its decision-making processes and any opportunities for the public to provide input into or be consulted about decisions*
- *a directory of its officers and employees with their respective remuneration, perks and privileges*
- *budget of the public body including details of all proposed and actual expenditures*
- *amount of subsidy and details of beneficiaries if the public body provides any subsidy, particulars of the recipients of concessions*
- *permits or authorizations granted by the public body*
- *facilities offered by the public body for obtaining information held by it – specifically name, designation and other particulars of the Public Information Officer (PIO) of the public body.*

The analysis done for this report reveals that most of the complaints submitted to KP RTI Commission pertains to the data which has not been proactively disclosed despite the fact that same cannot be termed either as exempt information or should not be disclosed, thus causing KP RTI Commission a lot of time and resources to be consumed for resolving the complaints.

Introduction:

The new legislation 'Khyber Pakhtunkhwa Right to Information (RTI) Act, 2013' was enacted in province of Khyber Pakhtunkhwa (KP). It was a giant leap forward in real empowerment of the general masses of KP as the law was ranked third in the list of laws around the world by RTI experts. The Act on one hand empowered citizens to access the maximum possible information concerning the working of any public body in the province and on the other following the best international practice a fully independent Information Commission was established. It was also a remarkable step in accordance with the Spirit of Article 19-A of the Constitution of Pakistan, whereby the right to information has been explicitly and emphatically declared as part of the fundamental rights.

Salient Features of KP RTI Act, 2013:

The law is a complex piece of legislation which will require time to be properly analyze and digest. And, as with all such laws, must have to be followed by effective implementation. According to sections 4 and 5 of the said Act, respective public bodies have to maintain and Index the public record, publish and made available the record and designate public information officers (PIO's) accordingly to facilitate and promote the process of transparency and accountability envisaged in the law. However, the pace has been really slow so far at this front and only information Officers have been nominated. On part of the provincial government this requires sincere and strong efforts to enable these legal provisions without which the extensive exercise of promulgation of the law would be futile and would only look like electioneering ploy.

Establishment of Information Commission on RTI is a welcome step. It is a popular trend in the world and has been successfully in practice in neighboring countries like India, Bangladesh and Nepal. As an independent and exclusive body on RTI, Information Commission can bring an open and fair RTI regime in KP. Under Section 25(1) of the KP RTI Act, 2013, the primary responsibility of the Commission is to receive and decide on complaints filled by aggrieved complainant who is either denied the information requested or not satisfied by the response of the public body to whom the information request has been submitted.

Another significant clause in Khyber Pakhtunkhwa Right to Information Act, 2013 is the rapid process of disposal of complaints and imposition of daily fine of up to Rs.250 per day, up to maximum of Rs.25000 on any official who blocks any activity for preventing or delaying the disclosure of information to the requester. This will act as a deterrent and make the officials more efficient and responsive while providing information to requesters. In this regard KP Information commission is mandated to impose this penalty. However, evidence suggests that KP Information Commission faced a lot of difficulties in implementing these penalties so far.

Setting an example and popular trend in the region KP RTI Act, 2013 has very short and brief list of exemptions regarding information sharing. The list only includes topics related to security and international relations, disclosure harmful to law enforcement, public economic affairs, policy making, privacy, legal privilege, and commercial and confidential information. The detailed analysis done of the complaints for this report revealed that, most public departments still either not fully aware of the spirit of this law or not ready to move away from the erstwhile mindset to keep everything secret.

The inclusion of Secretariats of Chief Minister, Governor, Provincial Assembly of KP and subordinate judiciary in the definition of public bodies was a positive characteristic and was another welcome step which showed the commitment of the respective government towards openness and accountability. However, these institutions were removed from the purview of this law under the amendment made in this regard highlighted the mindset of the public representatives to avoid scrutiny of their affairs.

Another step towards transparency and accountability and makes KP RTI Act, 2013 referred as sun shine law is the clause 30 which is about protection of whistle blowers.

On the negative side, inclusion of clause 28, declaring information as a criminal offence if it is obtained for malafide purpose and penalty amounting to Rs. 50000 or imprisonment has also been provided. It conveys the feeling that by doing so KP government is not interested in maximum disclosure of information. Moreover, this will also create a sense of fear among the requesters and ultimately become a huge impediment while accessing information under this Act.

Complaint Analysis Report:

No doubt, the introduction of this new legislation has created ripples in the stagnant behaviour of the government and pushed a change in the manner the information used to be disseminated.

However, the legislation is not free of shortcomings like the state of proactive disclosure. Under Section 4 of the Act, public bodies are required to ensure that all the records which it holds are properly maintained and must be indexed. Moreover, under Section 5, the record must be published and must be made readily available, including through internet to the public. In this regard RTI Commission has also been mandated to facilitate and provide assistance to the relevant departments to ensure that these two important provisions of the law are fully implemented.

KP RTI Act, 2013 does not set any time period to public departments for publication of their record. On the other hand, the Right to Information (RTI) Act India (Chapter II, Clause 4 (1-b)) obliges all public departments to publish their record within one hundred and twenty days from the enactment of RTI Act.

Nevertheless, the law lack significantly to bring tangible reforms to implement the norms set within the legislation to enforce and implement the required level of proactive disclosure.

In the above context Centre for Governance and Public Accountability (CGPA) took the an initiative of doing detailed analysis of the information requests submitted to different departments since the enactment of this Act and subsequent establishment of the KP RTI Commission. For this purpose the data of information requests have been used as uploaded on Commission's website starting from December, 2013 till January, 2016.

Methodology:

The methodology used for this analysis has been in two stages. In first stage the information requests were segregated department wise in order to highlight the number of departments from which the information has been requested. In the second stage, using the same data, an information wise analysis has been done in order to segregate the data pertaining to the category of information requests. This exercise has been done to confine the focus of analysis to two broader aspects; a) information wise analysis and, b) Department wise analysis.

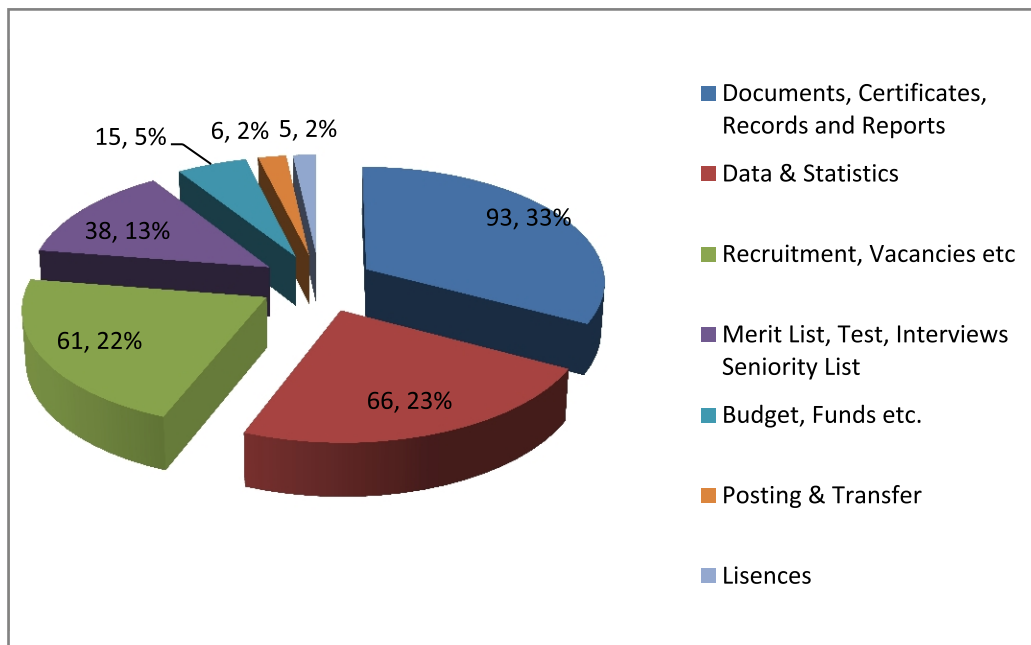
The purpose of this exercise on one hand is to identify the most sort after information by the public at large and on the other hand to identify the department from which most of the information is requested.

Detailed analysis done is presented in the form of data and is also presented in the form of pie chart for clear understanding in the following pages.

Information Wise Analysis, 2014:

Complaint wise analysis shows that out of 291 information requests submitted in 2014, a large number of information requests were for the Documents, Certificates, Records and Reports which comes to around 33% of the total. 23% of these submitted complaints pertain to data and statistics for which information requests have been submitted. Similarly, 22% complaints were regarding recruitment and vacancies within the public department. Interestingly some of the complaints 13% were regarding the information on provision of merit lists, tests, interviews and departmental seniority list, sought by the requesters. This followed by information regarding different data and statistics about budget, funds, postings and Transfers and Licences.

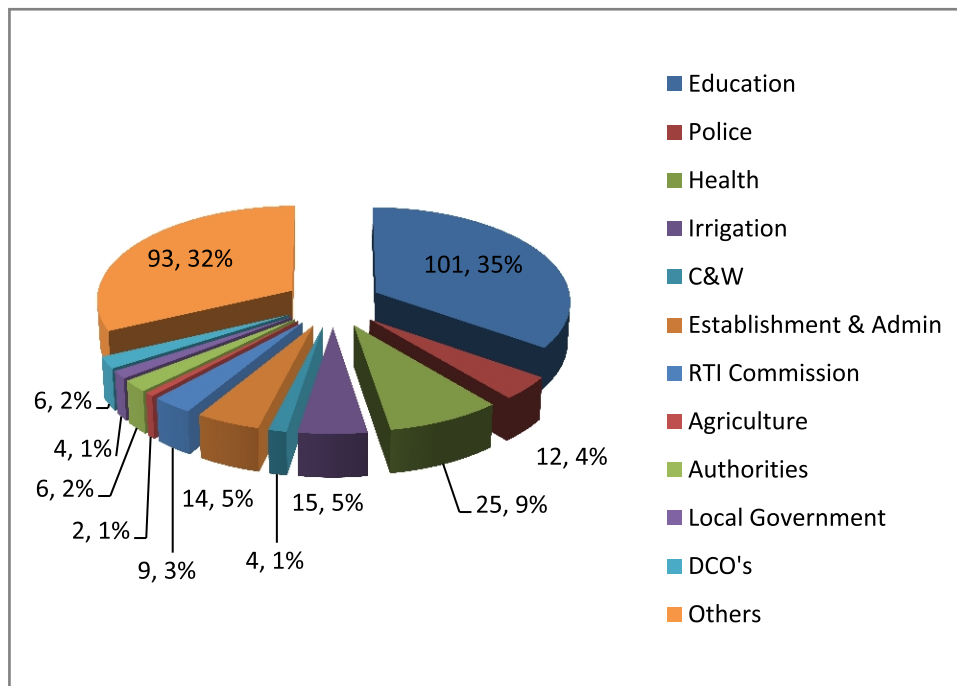
Documents, Certificates, Records and Reports	Data & Statistics	Recruitment, Vacancies etc	Merit List, Test, Interviews Seniority List	Budget, Funds etc.	Posting & Transfer	Licenses	Others
93	66	61	38	15	6	5	7



Department Wise Analysis, 2014:

Department wise analysis shows that out of 291 information requests made under the KP RTI Act, 35 % were for the information pertaining to education sector. Second in the run was Health department with 9% complaints. Similarly, complaints against Irrigation and Establishment departments stood at 5% respectively. During 2014, 4% complaints were made against Police department which seems to be a significant number considering the reporting period which was quiet short. Complaints against different provincial authorities and DCO's stood at 2%. Moreover, complaints against RTI Commission were 3% followed by Local Government department and Agriculture Department 1% each respectively. Most number of complaints 32% were made to different other departments.

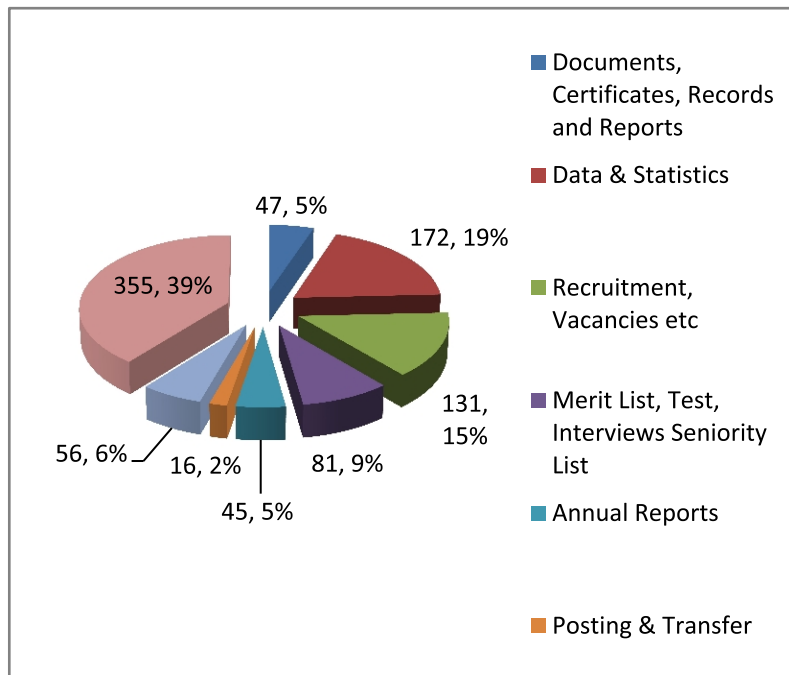
Educa tion	Poli ce	Hea lth	Irrigat ion	C& W	Establish ment & Admin	RTI Commis sion	Agricul ture	Author ities	Local Govern ment	DC O's	Oth ers
101	12	25	15	4	14	9	2	6	4	6	93



Complaint Wise Analysis, 2015:

The year 2015, saw a huge inflow of information requests and the number was staggering 1091, spread over 12 months. However, the trend of information requested by the citizen during 2015, remained the same as of previous year. Most of the information was regarding data and statistics 19% followed by information regarding recruitment, vacancies and appointments 15%. Significant number of information requests also pertains to merit lists, interviews and seniority lists 19% followed by requesting information on Enquiry report 6% and Annual reports 5%.

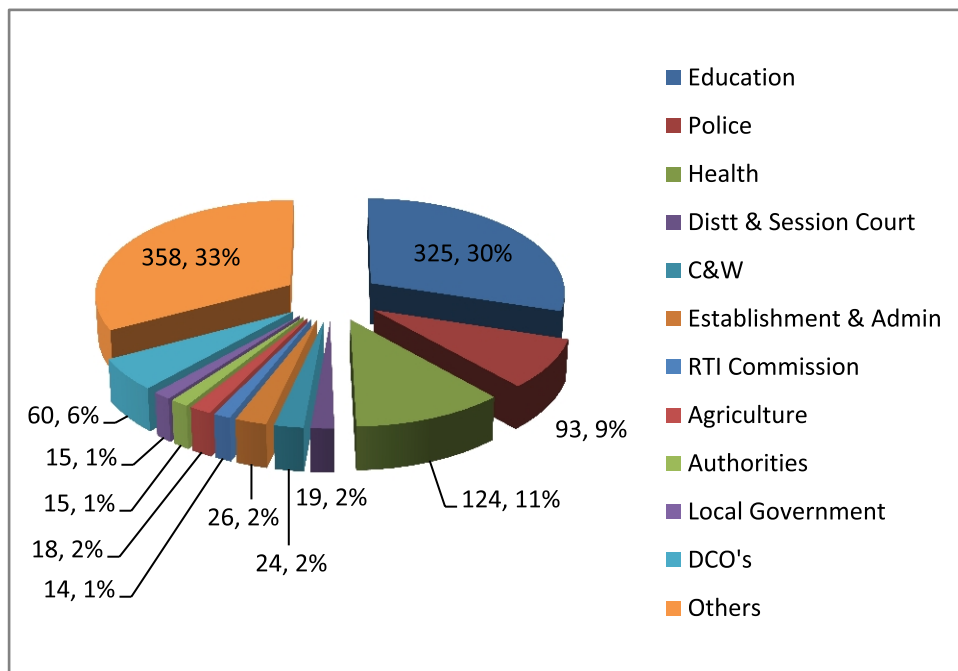
Documents, Certificates, Records and Reports	Data & Statistics	Recruitment, Vacancies etc	Merit List, Test, Interviews Seniority List	Annual Reports	Posting & Transfer	Enquiry Reports	Others
47	172	131	81	45	16	56	355



Department Wise Analysis 2015:

During 2015, number of department increased from which the information was requested, including Health, Police and DCO's. Most of the information requested 35 % was from Education department followed by health 11%, Police 9% and DCO's 6%. Information from other departments were staggering 358 which comes to around 33%.

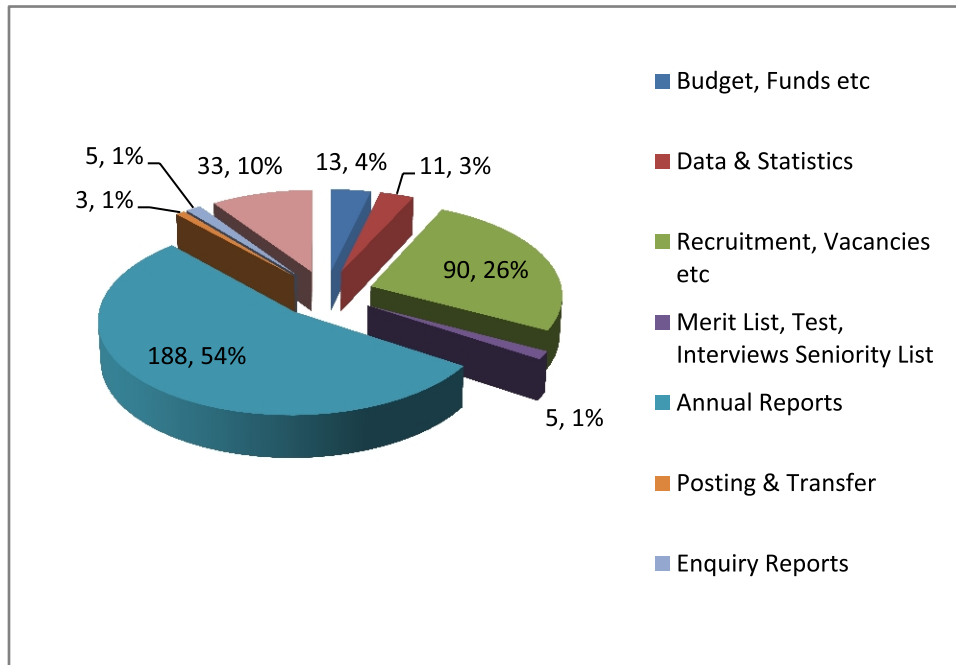
Education	Police	Health	Distt & Session Court	C&W	Establishment & Admin	RTI Commission	Agriculture	Authorities	Local Government	DCO's	Others
325	93	124	19	24	26	14	18	15	15	60	358



Information Wise Analysis 2016:

In 2016, the trend of information took another turn. Out of total number of 347 information requests submitted till the end of January 2016, 54 % of information requested was for Annual Reports followed by 26% regarding recruitment and vacancies. However, documents, certificates and report counted for 10% and information on budget and funds 4% remained the concern of citizen at large.

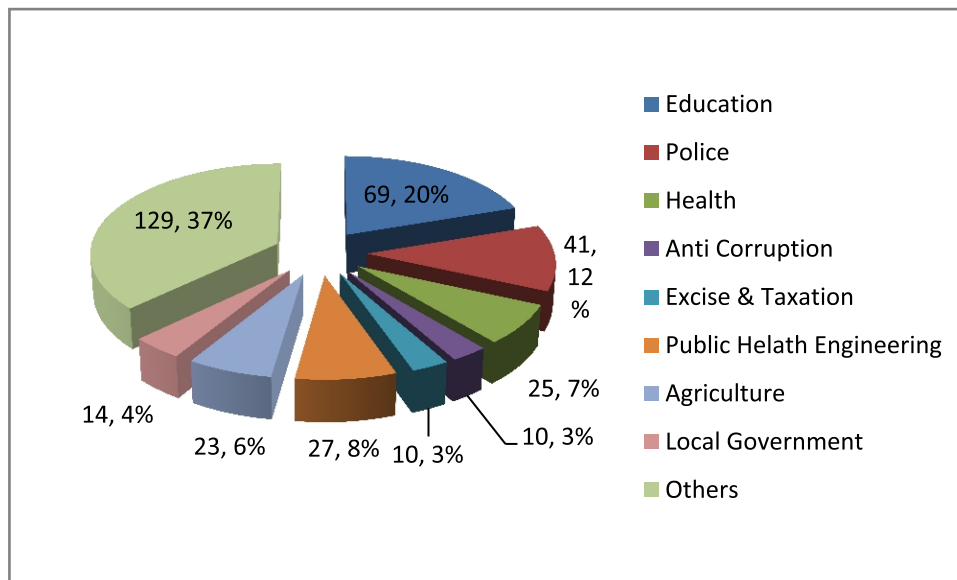
Budget, Funds etc.	Data & Statistics	Recruitment, Vacancies etc.	Merit List, Test, Interviews Seniority List	Annual Reports	Posting & Transfer	Enquiry Reports	Documents, Certificates, Reports
13	11	90	5	188	3	5	33



Department Wise Analysis 2016:

Data available till end of January 2016 showed the similar trend whereby 20% of the information was requested from education department followed by 12% from Police Department. However, during this period 7% information requests also pertained to Public Health Engineering and Agriculture Department which were not significant during the past two years. During this period 37% percent complaints were from other departments.

Education	Police	Health	Anti-Corruption	Excise & Taxation	Public Health Engineering	Agriculture	Local Government	Others
69	41	25	10	10	27	23	14	129



Conclusion:

Proactive disclosure of the information is essence of KP RTI Act, 2013 which is clearly mentioned under Section 4 & 5. Public bodies are supposed to disclose the information in order to strengthen this Act. They have to ensure periodicity of the dissemination of the information so as to institutionalize the disclosure mechanism as envisaged in the Act. Ultimately it is the robust and dynamic interface between citizen and government through proactive disclosure which would ensure accountability and transparency within the government bodies.

In this regard under section 4, KP RTI Commission has to prepare relevant rules and regulations to be implemented. However, it seems that Commission has not taken appropriate measure to ensure this important aspect of the Act.

The detailed analysis of the complaints since the establishment of the RTI Commission speaks a lot about the inherent deficiency to proactively disclose the information on part of public offices.

On one hand it highlights that the most sought after information is from Education department followed by Health, Police and DCO's. On the other hand the analysis highlighted that majority of information requested is regarding recruitment, vacancies and appointments made in different departments, followed by information regarding different data and statistics. There are considerable numbers of information requests regarding merit lists, seniority list etc.

This analysis clearly indicates that all the information requested is not as such which could not be proactively disclosed by the relevant departments. Under the specific provisions of the KP RTI Act, as mentioned earlier, all the departments are bound to disclose this kind of information proactively.

However, despite the fact that almost three years have passed since the promulgation of this Act, the change, expected from these public offices has not been significant or which could have an impact upon the lives of the ordinary citizen in getting the information. Public department's inability to provide information not only deprives the citizens of their constitutional right but also enables the environment where transparency and accountability both are questionable. Moreover, the time and resources used for providing the information to the requester is enormous. Irony is that the public departments have failed to realize both the efficacy of proactive disclosure and ultimate utilization of resources.

There is dire need firstly, to change the mind set which is prevailing among the public officers who are not ready to depart from the status-quo and are continuing with the draconian laws such as Official Secrets Act, 1923 and E&D Rules. Secondly, new strategies should be devised in order to train the PIO's to make them understand the efficacy of disclosing maximum information in order to avoid influx of information and wastage of time and resources required to handle these requests. Thirdly, efforts should be made to strengthen the role of KP RTI Commission whereby they could effectively influence the public departments and in case of any violation of the any provision under the Act, could inflict penalties upon the violators.

This provision would not only help and support overwhelming majority of activists who strive hard to demand transparency and accountability from public offices but would also encourage masses to participate effectively in the decision making processes.



Centre for Governance and Public Accountability (CGPA) is not for profit, non-governmental, civil society organization. CGPA strives for inclusive development and promotion of peace through right based and governance focused approaches. CGPA is registered under Society Registration Act XXI of 1860.