

Report Card on the Performance of Information Commissions in India, 2021-22

Key Findings

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I. Introduction

The Right to Information (RTI) Act, 2005 has been one of the most empowering legislations for the citizens of India. It has been used extensively by people on a range of issues – from holding the government accountable for delivery of basic rights and entitlements to questioning the highest offices of the country. The law has initiated the vital task of redistributing power in a democratic framework. Estimates suggest that every year 40 to 60 lakh² RTI applications are filed in India.

The COVID 19 pandemic highlighted the urgent need for accurate and easy-to-access information on availability of hospital beds, essential drugs and medical equipment like ventilators in health facilities. The pandemic, coupled with high levels of unemployment and rising inflation, has made millions of families more dependent on the government for delivery of basic goods and services than ever before. Experience globally shows that access to relevant information is critical to ensure that people are able to hold governments accountable and access their rights and entitlements.

In the current scenario, information commissions have a vital role to play in safeguarding and facilitating people's fundamental right to information. Under the RTI Act, information commissions (ICs) have been set up at the central level (Central Information Commission) and in the states (state information commissions).

Commissions have wide-ranging powers including the power to require public authorities to provide access to information, appoint Public Information Officers (PIOs), publish certain categories of information and make changes to practices of information maintenance. The commissions have the power to order an inquiry if there are reasonable grounds for one, and also have the powers of a civil court for enforcing attendance of persons, discovery of documents, receiving evidence or affidavits, issuing summons for examination of witnesses or documents. Section 19(8)(b) of the RTI Act empowers information commissions to *"require the public authority to compensate the complainant for any loss or other detriment suffered"*. Further, under section 19(8) and section 20 of the RTI Act, information commissions are given powers to impose penalties on erring officials, while under Section 20(2), commissions are empowered to recommend disciplinary action against a PIO for "persistent" violation of one or more provisions of the Act.

In a judgment dated February 15, 2019, the Supreme Court³ held that information commissions are vital for the smooth working of the transparency law: *"24)in the entire scheme provided under the RTI Act, existence of these institutions [ICs] becomes imperative and they are vital for the smooth working of the RTI Act."*

This initiative is part of an effort to undertake ongoing monitoring of the performance of information commissions across the country with the objective of improving the functioning of commissions and strengthening the RTI regime. Seventeen years after the RTI Act was implemented, experience in India,

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² Peoples' Monitoring of the RTI Regime in India, 2011-2013 by RaaG & CES, 2014

³ Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018) <https://snsindia.org/wp-content/uploads/2022/04/Judgment.pdf>

also captured in various national assessments⁴, suggests that the functioning of information commissions is a major bottleneck in the effective implementation of the RTI law. Large backlog of appeals and complaints in many commissions across the country have resulted in inordinate delays in disposal of cases, which render the law ineffective. One of the primary reasons for the backlogs is the failure of central and state governments to take timely action to appoint information commissions to the Central Information Commission and state information commissions, respectively. Performance of information commissions, in terms of exercising their powers to ensure proper implementation of the law, has been a cause of great concern to the RTI community. Commissions have been found to be extremely reluctant to impose penalties on erring officials for violations of the law. Unfortunately, the transparency watchdogs themselves have not had a shining track record in terms of being transparent and accountable to the people of the country.

The need to scrutinize the functioning of information commissions now is perhaps greater than ever before. Welfare schemes and programmes funded through public money are the sole lifeline of millions who have suddenly lost income-earning opportunities. If the poor and marginalised affected by the public health emergency are to have any hope of obtaining the benefits of government schemes, they must have access to relevant information. At a time when incentives for secrecy are great, and the scope for discretionary actions wide, the role of information commissions is crucial to ensure that people can obtain information on healthcare facilities, social security programs and delivery of essential goods and services meant for those in distress.

The key findings of the report titled, 'Report Card on the Performance of Information Commissions in India, 2021-22' prepared by Satark Nagrik Sangathan (SNS) are given below.

II. Methodology

The report is primarily based on an analysis of information accessed under the RTI Act, from 29 information commissions⁵ across India. A total of 145 RTI applications were filed with state information commissions (SIC) and the Central Information Commission (CIC). The information sought included:

- Number of commissioners serving in each commission for the period July 1, 2021 till June 30, 2022 and their backgrounds;
- The number of appeals and complaints registered, disposed, returned by each IC for the period July 1, 2021 till June 30, 2022;
- Number of appeals and complaints pending before each IC on December 31, 2021, March 31, 2022 and June 30, 2022;
- The quantum of penalties imposed by each IC, and the amount recovered, for the period July 1, 2021 till June 30, 2022;

⁴ 'Report Card of Information Commissions 2020-21', Satark Nagrik Sangathan, 2021; 'Report Card of Information Commissions 2019-20, SNS & CES, 2020; 'Status of Information Commissions in India during Covid-19 Crisis, May 2020', SNS & CES, 2020; 'Report Card of Information Commissions in India 2018-19', SNS & CES, 2019; 'Report Card of Information Commissions in India', SNS & CES, 2018; 'Tilting the Balance of Power - Adjudicating the RTI Act', RaaG, SNS & Rajpal, 2017; 'Peoples' Monitoring of the RTI Regime in India', 2011-2013, RaaG & CES, 2014; 'Safeguarding The Right To Information', RaaG & NCPRI, 2009 (Executive summary). All of these can be accessed from <https://snsindia.org/rTI-assessments/>

⁵ For the purpose of the study 29 ICs were covered, including the Central Information Commission which have been set up under the RTI Act, 2005

- The quantum of compensation awarded by each IC, for the period July 1, 2021 till June 30, 2022;
- Number of cases in which disciplinary action was recommended by each IC;
- Latest year for which the Annual Report of the IC has been published.

Each of the RTI applications was tracked to assess the manner in which these applications were dealt with by the ICs, as information commissions are also public authorities under the RTI Act.

In addition, information has also been sourced from the websites and annual reports of information commissions. The report also draws on findings and discussions of previous national assessments of the RTI regime.

III. Key findings

1. Vacancies in Information Commissions

Under the RTI Act, information commissions consist of a chief information commissioner and up to 10 information commissioners. For the commissioners of the CIC, the selection committee comprises the Prime Minister (Chairperson), the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister, while for commissioners of SICs, the selection panel consists of the Chief Minister (Chairperson), the Leader of Opposition in the Legislative Assembly and a Cabinet Minister.

Successive assessments of the functioning of information commissions have shown that appointments to commissions are not made in a timely manner, resulting in a large number of vacancies.

In February 2019, the Supreme Court, in its judgment⁶ on a PIL regarding non-appointment of information commissioners, ruled that the proper functioning of commissions with adequate number of commissioners is vital for effective implementation of the RTI Act. The Court held that since the law stipulates that information commissions should consist of a Chief and upto ten commissioners 'as may be deemed necessary', the number of commissioners required should be determined on the basis of the workload. In fact, the judgment emphasized that if commissions do not function with adequate number of commissioners, it would negate the very purpose of enacting the RTI law.

The assessment found that several ICs were non-functional or were functioning at reduced capacity as the posts of commissioners, including that of the chief information commissioner, were vacant during the period under review. This is particularly concerning given the humanitarian crisis induced by the COVID 19 pandemic, which has made people, especially the poor and marginalised, even more dependent on government provision of essential goods and services like healthcare, food and social security. Without access to relevant information citizens are unable to get their rights and entitlements and corruption thrives.

1.1 Non-functional information commissions

Three information commissions were found to be non-functional for varying lengths of time for the period under review as all posts of commissioners were vacant. **Two commissions were found to be completely defunct at the time of compilation of this report.** In the absence of functional

⁶ Anjali Bhardwaj and others v. Union of India and others (Writ Petition No. 436 of 2018), <https://snsindia.org/wp-content/uploads/2022/04/Judgment.pdf>

commissions, information seekers have no reprieve under the RTI Act if they are unable to access information as per the provisions of the law.

Jharkhand: The Chief Information Commissioner of the Jharkhand SIC, demitted office in November 2019. Subsequently the lone information commissioner was also made the acting Chief, although no such explicit provision exists under the RTI Act. However, upon the completion of the tenure of the commissioner on May 8, 2020, the information commission has been without any commissioner, effectively rendering it completely defunct. For the last **29 months**, people seeking information from public authorities under the jurisdiction of the Jharkhand SIC have had no recourse to the independent appellate mechanism prescribed under the RTI Act if their right to information is violated.

Tripura: The information commission of Tripura became defunct on **July 13, 2021** when the sole commissioner, who was the Chief, finished his tenure. It has now be defunct for the last **15 months**. Since April 2019, this is the third time the commission has become defunct. It was defunct from April 2019 to September 2019, then from April 2020 to July, 2020 and now again since July 13, 2021.

Meghalaya: The information commission of Meghalaya was defunct from **March 1, 2021 to November 30, 2021** i.e. a period of **9 months**, as the only commissioner, who was the Chief, finished his tenure and the government failed to appoint a new Chief in a timely manner.

1.2 Commissions functioning without a Chief Information Commissioner

Currently, in 2 information commissions in the country (Jharkhand and Tripura) all posts of information commissioners, including that of the Chief, are vacant and another **four commissions are functioning without a chief information commissioner**. The absence of a chief information commissioner has serious ramifications for the effective functioning of the ICs since the RTI Act envisages a critical role for the Chief, including, superintendence, management and direction of the affairs of the information commission. Through the pandemic and the ensuing lockdowns, the role of the Chief become particularly significant as important decisions regarding management of the affairs of the commission were to be taken, a role envisaged for the Chief as per the RTI Act.

Manipur: The SIC of Manipur has been functioning without a Chief for **44 months**, since February 2019. While one of the commissioners has been given charge of the Chief commissioner, no such legal provision exists in the law.

Telangana: After the bifurcation of Andhra Pradesh, and creation of the state of Telangana in 2014, the state information commission was constituted in 2017. The Chief demitted office in August 2020 and since then an existing commissioner was functioning with the additional charge of the Chief, though there is no such explicit provision in the law, till his retirement in August 2022. **Since August 2022**, the SIC has been functioning without a Chief.

West Bengal: The SIC of West Bengal has been functioning without a chief since June 7, 2022 i.e. a period of **4 months**.

Andhra Pradesh: The Chief of the Andhra Pradesh SIC demitted office on July 6, 2022 and since then an existing commissioner has been given the charge of the Chief, though there is no such explicit provision in the law.

Nagaland: The SIC of Nagaland functioned without a Chief for **25 months** from January 2020 till February 2022.

Odisha: The SIC of Odisha functioned without a chief for a period of nearly two months between August and October 2021.

Uttarakhand: The SIC of Uttarakhand functioned without a chief for a period of nearly 8 months between May 2021 and January 2022.

Gujarat: The SIC of Gujarat functioned without a chief for a period of nearly 4 months between August 2021 and December 2021.

1.3 Commissions functioning at reduced capacity

Under the RTI Act, information commissions consist of a chief information commissioner and up to 10 information commissioners. Several information commissions have been functioning at reduced capacity. The non-appointment of commissioners in the ICs in a timely manner leads to a large build-up of pending appeals and complaints.

Maharashtra: The SIC of Maharashtra has been functioning with just five information commissioners, including the Chief, for the past several months. Due to the commission functioning at a severely reduced strength, the number of pending appeals/complaints has risen at an alarming rate. While as of March 31, 2019, close to 46,000 appeals and complaints were pending, the backlog as of May 2021 increased to nearly 75,000 and reached an alarming level of nearly one lakh by June 2022! A more than 100% increase in the backlog in 3 years. Due to the large backlog and reduced strength, the assessment shows that it would take the SIC an estimated 5 years and 3 months to dispose an appeal/complaint (see table 3). The apex court, in its judgment in February 2019, had observed that given the large pendency in the SIC, it would be appropriate if the commission functioned at full strength.

Central Information Commission: In December 2019, when there were 4 vacancies in the CIC, the Supreme Court had directed the central government to fill all vacancies within a period of 3 months⁷. However, the government did not comply and appointed only one new commissioner and elevated an existing commissioner to the post of Chief. By September 2020, the Chief and another commissioner finished their tenure and a total of 6 posts, including that of the Chief, fell vacant. In November 2020, three new commissioners were appointed and an existing commissioner was made the Chief bringing the number of vacant posts to three. In the CIC three posts of commissioners continue to be vacant even though the backlog of appeals/complaints currently stands at nearly 26,800 cases.

Karnataka: In its February 2019 judgment, the Supreme court taking cognizance that the commission had a backlog of 33,000 appeals/complaints directed the Government of Karnataka to ensure that the Commission functions at full strength of 11 commissioners. As of June 2022, the backlog has only marginally reduced and currently stands at more than 30,000. Till April 2022, the commission functioned with 3 posts lying vacant. After the appointment of three new commissioners and the retirement of an incumbent commissioner, the SIC is now functioning with a total strength of 10 commissioners including the Chief.

Bihar: The Bihar SIC is functioning with just 4 commissioners for the last several months despite a backlog of more than 21,000 appeals and complaints.

⁷ Order dated December 16, 2020 in MA 1979 of 2019

Odisha: The Odisha SIC is functioning with 5 commissioners despite having a large pendency of nearly 20,000 appeals and complaints. The assessment shows that the estimated waiting time for an appeal/complaint to be disposed is 5 years and 4 months (see table 3).

West Bengal: The West Bengal SIC is functioning with just 2 commissioners despite a backlog of more than 10,000 appeals and complaints. For a period of about 3 months starting from June 2022, the commission was reduced to a single commissioner when the Chief retired and no new commissioner was appointed. One commissioner was appointed in September 2022. The post of the Chief and the 8 other posts of commissioners continue to remain vacant. The report estimates the West Bengal SIC to have the longest waiting time for disposal of an appeal/complaint.

2. Number of appeals & complaints dealt with by ICs

2,12,443 appeals and complaints were registered between July 1, 2021 and June 30, 2022 by 25 information commissions for which relevant information was available. During the same time period, **2,27,950** cases were disposed by 27 commissions for which information could be obtained.

The SICs of **Jharkhand** and **Tripura** were defunct during this time-frame and therefore, could not provide details of appeals/complaints registered and disposed. The SIC of **Tamil Nadu did not provide requisite information** under the RTI Act regarding the number of appeals and complaints dealt with by the IC stating that the information could be provided only *“after getting the approval of state Legislative Assembly”*, though no such provisions exists in the RTI Act. However, details of number of matters disposed could be located on the TN SIC website. The **Gujarat** SIC provided figures under the RTI Act on the number of appeals and complaints registered by the IC but those appeared to be incorrect as they did not tally with the total pendency and disposal and though the inaccuracies were pointed out in submissions to the appellate authority, resolution is still awaited.

SIC of **Maharashtra** registered the highest number of appeals and complaints (48,174) followed by **Uttar Pradesh** (34,567) and **Karnataka** (26,694) during the period under review. The **CIC** registered 19,822 appeals/complaints. The **UP** SIC disposed the highest number of cases (39,352) followed by the **CIC** (30,302) and **Karnataka** (25,710).

The commission-wise break up of appeals and complaints registered and disposed is given in Table 1 (next page).

**Table 1: Appeals and complaints registered and disposed by Information Commissions
July 1, 2021 to June 30, 2022**

S. No.	Information Commission	Appeals & complaints registered	Appeals & complaints disposed by passing orders
1	Uttar Pradesh	34,567	39,352
2	CIC	19,822	30,302
3	Karnataka	26,694	25,710
4	Maharashtra ^①	48,174	19,149
5	Tamil Nadu	Not available	17,311
6	Rajasthan	13,601	17,183
7	Bihar	11,641	10,027
8	Telangana	7,169	9,267
9	Madhya Pradesh	8,413	9,005
10	Andhra Pradesh	6,044	8,055
11	Haryana	7,632	8,044
12	Punjab	7,209	7,067
13	Chhattisgarh	7,040	6,749
14	Gujarat	Not available	6,660
15	Kerala	2,929	5,110
16	Odisha	4,980	3,731
17	Uttarakhand ^②	2,028	2,320
18	Assam	1,024	1,149
19	Himachal Pradesh	542	634
20	West Bengal	1,662	426
21	Arunachal Pradesh	639	287
22	Goa	365	230
23	Manipur	146	100
24	Sikkim	44	32
25	Meghalaya	55	31
26	Nagaland	13	12
27	Mizoram	10	7
28	Jharkhand	SIC Defunct	SIC Defunct
29	Tripura	SIC Defunct	SIC Defunct
	Total	2,12,443	2,27,950

Notes- ^① Received appeals/complaints excludes month of April 2022 ^② April 2021 to Aug 2022

3. Backlogs in Information Commissions

3.1 Pending appeals and complaints

The number of appeals and complaints **pending on June 30, 2022 in the 26 information commissions, from which data was obtained, stood at 3,14,323**. The backlog of appeals/complaints is steadily increasing in commissions. The 2019 assessment had found that as of March 31, 2019, a total of 2,18,347 appeals/complaints were pending in the 26 information commissions from which data was obtained which climbed to **2,86,325** as of June 30, 2021. The commission-wise break-up of the backlog of appeals and complaints is given in Table 2.

Table 2: Backlog of appeals & complaints in information commissions		
S. No.	Information Commission	Pending as of June 30, 2022
1	Maharashtra	99,722
2	Uttar Pradesh	44,482
3	Karnataka	30,358
4	CIC	26,724
5	Bihar ^①	21,346
6	Odisha	19,832
7	Rajasthan	13,188
8	West Bengal	10,339
9	Chhattisgarh	10,301
10	Telangana	8,902
11	Kerala	6,360
12	Madhya Pradesh	5,929
13	Punjab	4,671
14	Haryana	3,661
15	Gujarat	2,858
16	Andhra Pradesh	2,814
17	Uttarakhand ^②	1,941
18	Arunachal Pradesh	337
19	Assam	271
20	Himachal Pradesh	162
21	Manipur	61
22	Goa	41
23	Nagaland	12
24	Sikkim	9
25	Meghalaya	2
26	Mizoram	0
27	Tamil Nadu	Not available
28	Jharkhand	SIC Defunct
29	Tripura	SIC Defunct
	Total	3,14,323
Notes- ^① Pending as of 6-10-2022 ^② Pending as of 23-8-2022		

Maharashtra SIC with an alarming backlog of nearly **1,00,000 (one lakh)** had the highest number of appeals/complaints pending as of June 30, 2022. This was followed by the **UP SIC at nearly 45,000**, **Karnataka at 30,358** and the **CIC at 26,724**. The SIC of Tamil Nadu did not provide the requisite information under the RTI Act claiming that that information could not be provided without the approval of the legislative assembly. This information could also not be located on the TN SIC website.

3.2 Estimated time required for disposal of an appeal/complaint

Using data on the backlog of cases in ICs and their monthly rate of disposal, the time it would take for an appeal/complaint filed with an IC on July 1, 2022 to be disposed was computed (assuming appeals and complaints are disposed in a chronological order). The analysis presented in Table 3 shows that the **West Bengal SIC would take 24 years & 3 months to dispose a matter**. A matter filed on July 1, 2022 would be disposed in the **year 2046** at the current monthly rate of disposal! In **Odisha and Maharashtra SICs, estimated time for disposal is more than 5 years** and in **Bihar more than 2 years**.

Table 3: Estimated time required for disposal of appeal/complaint		
S. No	Information Commission	Estimated time for disposal of appeal/complaint filed on July 1, 2022
1	West Bengal	24 years & 3 months
2	Odisha	5 years & 4 months
3	Maharashtra	5 years & 3 months
4	Bihar ^①	2 years & 2 months
5	Chhattisgarh	1 year & 6 months
6	Kerala	1 year & 3 months
7	Uttarakhand ^②	1 year & 2 months
8	Karnataka	1 year & 2 months
9	Uttar Pradesh	1 year & 2 months
10	Arunachal Pradesh	1 year & 2 months
11	Nagaland	1 year
12	Telangana	1 year
13	CIC	11 months
14	Rajasthan	9 months
15	Punjab	8 months
16	Madhya Pradesh	8 months
17	Manipur	7 months
18	Haryana	5 months
19	Gujarat	5 months
20	Andhra Pradesh	4 months
21	Sikkim	3 months
22	Himachal Pradesh	3 months
23	Assam	3 months
24	Goa	2 months
25	Meghalaya	no waiting
26	Mizoram	no waiting
27	Tamil Nadu	no info on pendency
28	Jharkhand	SIC Defunct
29	Tripura	SIC Defunct
Notes:- Based on backlog as of ^① 6-10-2022 ^② 23-8-2022		

The estimated time required for disposal of an appeal/complaint in the **CIC was 11 months**. The assessment shows that **12 commissions** would take 1 year or more to dispose a matter, which is considerably higher than the figure from the 2020 assessment wherein it was found that 10 commissions would take more than a year. Unless this concerning trend is arrested, the very purpose of the RTI Act i.e. time-bound access to information, stands to be defeated.

The long delays in disposal of cases can be attributed largely to two factors: vacancies in commissions (discussed above) and tardy rate of disposal by commissioners. While some commissions have fixed annual norms for disposal for themselves (the CIC has set a norm of 3,200 cases per commissioner annually), most information commissions have not adopted any norms regarding the number of cases a commissioner should deal with in a year.

In information commissions like West Bengal, both factors clearly appear to be at play. The SIC was functioning with just one commissioner for about 3 months between June & September 2022 and is currently functioning with only 2. In terms of disposal, the SIC disposed only 426 cases between July 1 2021 to June 30, 2022 (table 1) – an average of less than 36 cases a month!

4. Penalties imposed by Information Commissions

The RTI Act empowers the ICs to impose penalties of upto Rs. 25,000 on erring PIOs for violations of the RTI Act. The penalty clause is one of the key provisions in terms of giving the law its teeth and acting as a deterrent for PIOs against violating the law. Whenever an appeal or a complaint shows that one or more of the violations listed in the RTI Act has occurred, the commission should initiate penalty proceedings under section 20. The Act requires the commission to give the PIO an opportunity of being heard before imposing penalty (commissions usually issue a show-cause notice asking PIOs to show cause why penalty should not be levied).

The assessment found that ICs imposed penalty in an extremely small fraction of the cases in which penalty was imposable. In fact, commissions appear to be reluctant to even ask the PIOs to give their justification for not complying with the law.

For the period July 1, 2022 to June 30, 2022, a total of **3,887 show cause notices** were issued to PIOs under the penalty clause of the Act, by the 15 commissions which provided relevant information. The SIC of Haryana issued the maximum number (1,891) followed by Punjab (839). The SIC of Himachal Pradesh stated that though information is not maintained by the SIC on the number of show cause notices issues, the notice for hearing of cases sent to public authorities mentions that the PIO should *“show cause as to why action under section of the RTI Act, 2005 may not be initiated against him for not disposing of RTI application as per provisions of Act...”* The SICs of Gujarat and Nagaland stated that they had not issued any notices under section 20, even though they imposed penalty in multiple cases. The CIC and SICs of Bihar, Chhattisgarh, Karnataka, Madhya Pradesh, Rajasthan, Uttar Pradesh and Uttarakhand stated that they did not maintain this information. The SIC of Maharashtra provided incomplete information while the Odisha commission did not provide any reply.

The SICs of Jharkhand and Tripura were defunct during the period under review.

In terms of penalty imposition, of the 24 commissions which provided relevant information, **penalty was imposed in a total of 5,805 cases**. Penalty **amounting to Rs. 3.12 crore** was imposed by 23 commissions during the period under review.

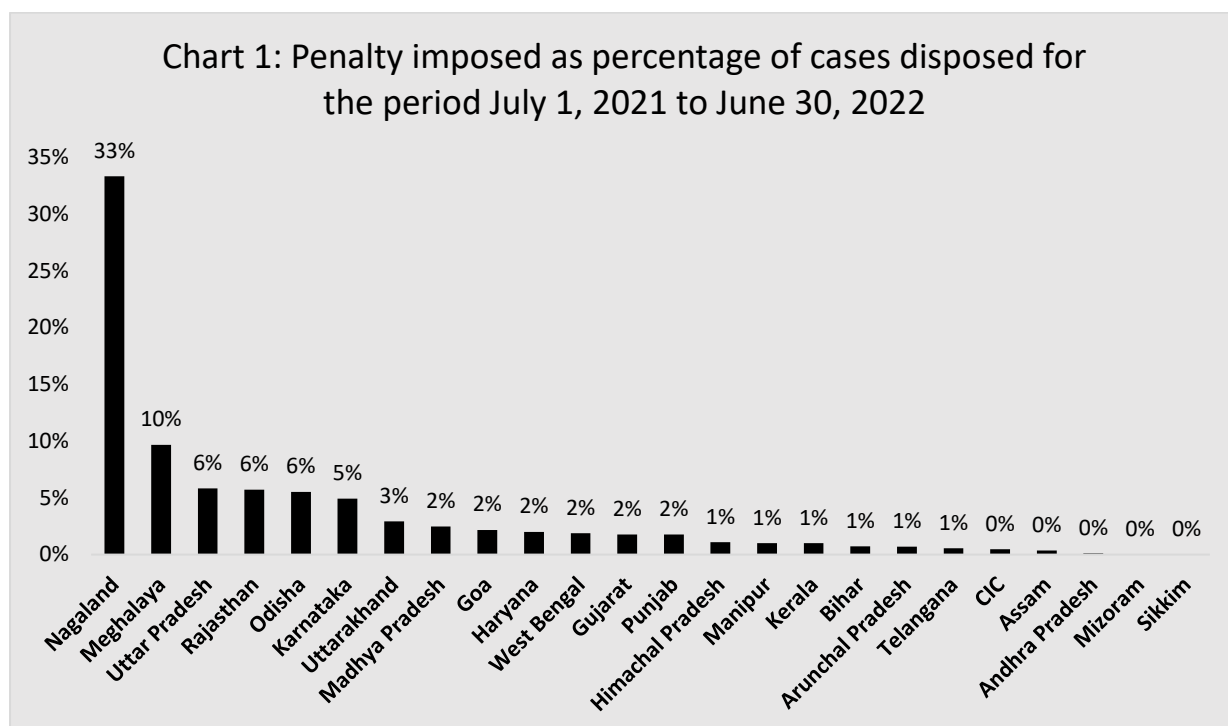
The commission-wise details are provided in table 4 (next page).

Table 4: Details of penalty imposed by ICs (July 2021- June 2022)			
S. No.	Information Commission	No. of cases where penalty was imposed	Amount of penalty imposed (in Rs.)
1	Karnataka	1,265	1,03,99,000
2	Madhya Pradesh	222	47,50,000
3	Haryana	161	38,81,000
4	Rajasthan	980	34,91,500
5	Odisha	206	22,77,000
6	Bihar	73	18,05,000
7	Punjab	125	12,57,500
8	Uttarakhand ①	68	8,44,250
9	CIC	142	7,51,600
10	Gujarat	118	7,16,500
11	Kerala	51	2,75,250
12	Telangana	52	2,00,000
13	West Bengal	8	1,85,000
14	Nagaland	4	92,250
15	Himachal Pradesh	7	67,500
16	Goa	5	59,000
17	Andhra Pradesh	9	55,000
18	Arunachal Pradesh	2	50,000
19	Assam	4	20,750
20	Manipur	1	17,250
21	Meghalaya	3	6,000
22	Mizoram	0	0
23	Sikkim	0	0
24	Uttar Pradesh	2,299	not maintained
25	Jharkhand	SIC defunct	SIC defunct
26	Tripura	SIC defunct	SIC defunct
27	Chhattisgarh	refused info	refused info
28	Maharashtra	Not available	Not available
29	Tamil Nadu	refused info	refused info
	TOTAL	5,805	3,12,01,350
Note- ① pertains to April 2021 to August 2022			

In terms of the quantum of penalty imposed, **Karnataka was the leader (Rs. 1.04 crore), followed by Madhya Pradesh (Rs. 47.50 lakh), and Haryana (Rs. 38.81 lakh)**. While the SIC of UP imposed penalty in the highest number of cases (2,299), they stated that information on the amount of penalty imposed was not maintained by them.

The SIC of Chhattisgarh denied information stating that under the prevailing state rules, in one application information on only one topic could be sought. The SIC of Tamil Nadu stated that though the information sought under the RTI Act has been prepared, however it can be furnished “only after getting the approval of the State Legislative Assembly”!

Analysis of the figures for 24 ICs (which provided information on both the number of cases disposed and the number of cases where penalty was imposed) shows that penalty was imposed in just **3% of the cases disposed by the ICs.**



Note: Uttarakhand data is for April 2021 to August, 2022

A previous assessment⁸ of a random sample of orders of information commissions had found that on average **59% orders recorded one or more violations listed in Section 20 of the RTI Act.** If this estimate of 59% is used, penalty would be potentially imposable in **1,08,997** cases out of the **1,84,741** cases disposed by the 24 ICs. Penalties were therefore imposed only in 5% of the cases where penalties were potentially imposable! The ICs **did not impose penalties in 95% of the cases where penalties were imposable.**

Non imposition of penalties in deserving cases by commissions sends a signal to public authorities that violating the law will not invite any serious consequences. This destroys the basic framework of incentives built into the RTI law and promotes a culture of impunity.

5. Transparency in the functioning of information commissions

Much of the information sought as part of this assessment should have been available in the annual reports of each commission. Section 25 of the RTI Act obligates each commission to prepare a “report

⁸ ‘Tilting the Balance of Power - Adjudicating the RTI Act’, RaaG, SNS & Rajpal, 2017

on the implementation of the provisions of this Act” every year which is to be laid before Parliament or the state legislature. Since RTI applications seeking information about the latest annual reports were filed in July 2022, it would be reasonable to expect that annual reports upto calendar year 2021 or financial year 2021-22 would be available.

However, the performance of many ICs, in terms of publishing annual reports and putting them in the public domain, was found to be dismal. Table 6 provides the IC wise details of the publication of annual reports and the availability of the reports on the websites of the respective ICs. The analysis revealed that despite the statutory obligation, many of the commissions have not published their annual reports. **20 out of 29 ICs (69%) have not published their annual report for 2020-21. Only the CIC and SICs of Arunachal Pradesh, Assam, Chhattisgarh, Gujarat, Mizoram, Sikkim and Uttar Pradesh have published their annual report for 2021 and made them available on the official websites.**

The SICs of Andhra Pradesh and Telangana have not published their annual report since the constitution of the respective SICs in 2017, following the bifurcation of the erstwhile state of Andhra Pradesh.

The SIC of Karnataka did not provide information under the RTI Act, and the latest annual report which could be located on their website was of 2016-17.

In terms of availability of annual reports on the website of respective ICs, **15% of ICs have not made their latest annual report available on their website.**

Table 6: Availability of annual reports of ICs			
S. No.	Information Commission	Year of last publication	Available on website
1	Andhra Pradesh	Not published since SIC constituted in 2017	
2	Arunachal Pradesh	2020-21	Yes
3	Assam	2020-21	Yes
4	Bihar	2017-18	Yes
5	Chhattisgarh	2021	yes
6	CIC	2020-21	Yes
7	Goa	2019	Yes
8	Gujarat	2020-21	Yes
9	Haryana	2020	Yes
10	Himachal Pradesh	2018-19	No
11	Jharkhand	2018	Yes
12	Karnataka	2016-17	yes
13	Kerala	2019-20	no
14	Madhya Pradesh	2020	Yes
15	Maharashtra	2019	Yes
16	Manipur	2020-21	No
17	Meghalaya	2019	No
18	Mizoram	2020-21	Yes
19	Nagaland	2019-20	Yes
20	Odisha	2017-18	Yes
21	Punjab	2019	Yes
22	Rajasthan	2020	Yes
23	Sikkim	2020-21	Yes
24	Tamil Nadu	2019	Yes
25	Telangana	Not published since SIC constituted in 2017	
26	Tripura	2018-19	Yes
27	Uttar Pradesh	2020-21	Yes
28	Uttarakhand	2017-18	Yes
29	West Bengal	2020	Yes

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