

**Re: Orissa Information Commission- Stop duplicity on website**

**Wednesday, 5 August, 2009 12:18 AM**

**From:** "Chitta Behera" <chittabehera1@yahoo.co.in>

**To:** "Bhagaban Prakash" <drbhagban@yahoo.com>

**Cc:** youngindia@hotmail.com, pradippradhan63@gmail.com

Dear Dr.Prakash,

Sorry for the delay in response caused due to ORTEL cable problem. Frankly speaking, you are the first senior person in Orissa, who is at least trying to open a channel of communication with me and like-minded friends on the very issues which we have been raising on RTI regime in the State right since the day the Act came into force by way of notification of State Rules on 1<sup>st</sup> Oct. 2005. And I won't commit an exaggeration if I say, we then cherished and do so now with great conviction, what you hold forth as an ideal course of joint and cooperative action- "how you and the Commission can work together more meaningfully for the common cause". But you need to ascertain from the Commission's quarters whether they ever wanted it. Pradip, who has been in the forefront of the RTI campaign right since its inception and who respects you, can apprise you graphically and exhaustively the minutia of our long series of efforts, individual and collective, to contact and talk to not only the Commissioners, but also Governor and State Government on the contentious issues concerning the congenitally flawed RTI regime thrust in our State by the State Government with the Commission acting as its abettor and collaborator. In proof of such efforts undertaken, he can provide you with copies of the memoranda and representations that he and his group submitted to above authorities, all in crystal clear writing, on umpteen occasions in course of more than four years last. He can also additionally apprise you of the kind of response or of its lack as the case may be he received from them on each occasion.

And, at this stage please allow me to pass an observation that might seem an undue over-action on my part to slight, or disparage your otherwise well-intentioned initiative to play an honest arbiter in the apparently unwholesome situation of today marked by conflicts and controversies. Before counseling either party to restrain or relax or to proceed in a conciliatory manner, one barely needs to get abreast of, at least in essentials, what has already gone by during the several years last on each side. In want of such a bare homework, I am afraid, you can't inch even a whit forward in the direction of a resolution worth the name.

Next, I fully subscribe to your next concern, "And since a well known civil society leader is now a Commissioner this should be an added advantage for us. So, why can't we sit together and even plan together?" The concerned civil society leader, if he really thinks so about himself, there is now, I believe, a rare, but challenging opportunity for him to prove his salt by way of listening to and addressing to what the rest of the civil society brotherhood are saying or have to say on the thorny issues that bleed RTI Act of its élan vital in our State.

You are again right in reminding me, "As regards the words and language, you may recall that a few participants in the PRIA sponsored workshop including Supriya had expressed reservations

about the strident language and mentioning names of persons at some places of the report and the need for editing. I had endorsed the view and stated that activists often love to use strong language and a research document will be better without it". But did I ever defend myself and say that they were wrong in taking the strident language of my draft to task? Not at all. And never can I say so. As the principal investigator of the project I wrote its draft report in my own fashion, and it was upto the editors at PRIA office to rejig its contents and language so as to suit their overall purposes. And to the pleasure of you, me, Supriya et al, they fine-tuned it so as to cure its 'strident' form while preserving the quintessence of the findings. You may like to see and comment on the publication of the final report, presently available at PRIA office at Bhubaneswar. Esteemed Dr.Prakash, I do believe, even semantics should have an ethics of its own. A protagonist or a respondent should furnish as much particulars i.e. name, place and date etcetera as possible in his averment while contesting the other party, so that the third party, irrespective of his/her relation to the contentious matter, while going through it, could be instantly and sufficiently apprised on the matter as a whole and might possibly be enabled thereby to take an informed position, that conduces to a proper resolution of the dispute concerned. For instance, if an opponent of Emergency would have said 'Prime Minister of India is a great dictator,' instead of saying 'PM Indira Gandhi is a great dictator', it won't have served any purpose worth the name. Rather it would have generated a counterproductive, generic meaning as if every PM of India was and would be a great dictator. However, when the person says by name, 'PM Indira Gandhi' was a great dictator, he implicitly conveys the message that no PM except Indira Gandhi was a dictator and further, no PM should ever be a dictator like Indira Gandhi in future. Needless to reiterate before a learned person like you the critical significance that a sufficiently informed debate, rich in particulars, could play in advancing the frontiers of scientific knowledge throughout history, be it, in natural sciences, social sciences or even jurisprudence. Looking even from a simpleton's standpoint, if I merely keep on listing out this error or that without naming the person or authority under whose aegis all this took place, is it going to solve in any manner the problem that vexes me, you and public at large? By way of summing up what I said just now on the front of semantics, let me re-affirm that I, just like you or any other person, have both the right and the duty to express the self in the manner, which one considers congenial to him or her. And it is upto the audience or readership to separate the chaff from the wheat. And mind you, owing to my strict adherence to such an ethics in an public debate, I didn't react at all to Mr.Venkat (do you know him?) when he hurled a retaliatory epithet 'lunatic' against me; rather I putting that semantics aside focused on treating the counterpoints whatsoever raised in course of his rejoinder.

Your fervent wish that there should be at least 3 judges in a State Commission with the third one hailing from the judiciary is grounded on the following rationale, "*Yet my fear is- a one- person-commission will have no check and balance. Three minds are always better than one and five are better than three. My view is, the idea of a two member Commission is faulty and flawed from the start in terms of administration of justice. Quick decisions can't be taken when one disagrees with the other leading to a stalemate*". First of all, your apprehension, if read in the context of Orissa, is completely unfounded. There are several decisions made by a single-bench Commissioner like Prof.Radhamohan or Mr.Jagadanand, which were not only faulty in terms of law, and drafted in a casual, sub-standard language, though Mr.D.N.Padhi, the Chief Commissioner was not there around to poke his nose. Pitifully enough, the same thing is equally true of some decisions made by Mr.D.N.Padhi in a single bench, where neither

Prof.Radhamohan nor Mr.Jagadanand had any presence or role to play at all. And as I already told you, such decisions are marked not only by fatal errors of judgment arising from a casual or flawed reading of the RTI Act, but also puerile mistakes in counting the number of days, mentioning properly the names and particulars of the appellants/respondents, penning down normally intelligible and grammatically correct orders and so on and so forth. So it is not your hypothesis as such of a quarrelsome equation arising between two Commissioners, but an abject failure of each Commissioner to take the Act seriously and act upon it meticulously and judiciously in respect of their two primary statutory functions, namely adjudication and drafting the annual reports (mind you, there is no third such function), which is responsible for the chronic malaise that has affected the Commission since inception. And that is where they need to refresh, reform, and renew themselves, just to match the job they are assigned to and the privileges conferred on them. And please don't mind, if you skip this all-important consideration, which I have been pleading for with all the wit and 'stridence' at my command, and instead, get bogged down in the much less relevant aside concerning the numbers of Commissioners we should have, maybe, we are doomed to a more calamitous situation than the present one. First of all, the house, which is in a state of great disarray today despite the huge cost that goes into its maintenance willy-nilly, needs to be set in order before we decide how many residents can be allowed in.

And as regards your suggestion that the justice can't be possibly miscarried by a trio, there is no such provision in RTI Act to mandate every decision to be arrived at by a 3-member bench. And from the financial point of view and as well from a consideration of growing backlog of cases in every Commission, the mandate for a 3-member bench to decide every case won't be feasible either. In no Court, be it Supreme Court or High Court, let alone any lower Court, is there an obligatory provision for every hearing to be made by a 3-member bench. My humble plea to you, Dr.Prakash, is to make a suggestion only after being sure about its permissibility under the existing Act, financial feasibility and 'best practice' instance if any followed elsewhere.

Without belittling a whit the merit of your proposal, which I had initially cherished, for inducting a person from the judiciary as the third member of the Commission, I would like you to understand first of all the critical nuance underlying Section 12(4) of RTI Act, which runs as follows and which applies to a State Commission *pari passu* as well under the corresponding Section 15(4):

***“(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.”***

Plainly speaking, what all it means is that no matter how many Commissioners are made to join in the Commission, all of them are to act under the 'general superintendence, direction and management of the affairs' to be exercised by the Chief Information Commissioner. Thus, given your suggestion for a 3-member Commission, and with the present set of circumstances remaining unaltered as before, we may in all likelihood land up in a quixotic situation, that can be likened to a School where the Headmaster being a blockhead is joined in by a group of teachers and assistant teachers who are nevertheless brilliant at their job. This is however not to

say that I consider Mr.D.N.Padhi a blockhead and others including your would-be judicial member brilliant. As a matter of fact, given the inherently flawed State RTI Rules-2005 coupled with an orchestrated mishmash of jurisdictions and roles between State Government and Commission right since inception, for which the cunning machination of the State Government was squarely instrumental, the inevitable happened. Poor and innocent chaps like Mr.D.N.Padhi or Prof. Radhamohan, who of course prized the newly acquired glare and glory that accompanied the high profile posts of a Chief Commissioner or State Commissioner more than the burdens such posts carried, fell an easy prey to the grand conspiracy of the State. To help you follow what I hint at, I would like you again to turn the pages of RTI Act, where a meticulous scheme of division of labour between the Government and Commission has been laid down in a language, which is simple and clear even to a layman. Apart from the elaborate provisions made under Sections 18, 19 and 20 that assign an adjudicatory authority to the Commission in respect of complaints and appeals from the public, the Section 25 delineates the functions of the Commission in the capacity of a reporting authority (How to draft an annual report on the state of RTI in a State, the contents thereof and sources and methods of collection of the information to be incorporated into the said report). As regards the role of State Government, apart from the items on and manner in which Rules need to be framed and notified by it under Section 27, its remaining functions have been clearly, and as well discretely dealt with under Section-26, the sum and substance of which is to entrust to it all those powers and obligations which are barely necessary for implementation of the Act at every level throughout the State. Thus briefly stated, the Commission has been conceived as an adjudicatory and reporting authority while State Government an executive authority. But pathetically enough, here is where the State Government has gone visibly wrong by way of letting out its legitimate domain (Section 26) and the budgetary provision incidental thereto to the Commission, while the Commission in addition to its legitimate domain of adjudication and report drafting, invited and took over, quite gleefully enough for reasons best known to themselves, the 'overburden' (to use your oft repeated expression) of this additional, nay, extra-jurisdictional domain that, as already mentioned, legitimately belonged to the State Government. For instance, you can't name a single Commission Central or State in the whole country, which neglecting its obligatory functions as mentioned above remains busy around publishing and circulating of booklets, FAQs, posters, banners or such other dissemination material on the RTI Act, or around involving the NGOs of their choice to carry forward an RTI campaign in the State, a task which is entrusted to State Government, as already mentioned, under Section 26 of the Act. While I say 'setting the house in order' or removing the functional anomalies, I mean this much only- Commission ought to mind its own business (Sections 18,19,20 and 25), while the State Government theirs (Sections 27 and 26). Unless and until the authorities of State Government and that of the State Commission acting at tandem correct the congenital anomaly that has crippled the RTI regime of our State during all these years, any talk of rightsizing or downsizing or even replacing the existing Commissioner duo is sure to prove counterproductive. I think, keen as you are on the urgency of taking the common cause of RTI forward involving all the stakeholders, you may share the above finding with 'half a dozen of your friends' who may be presently acting as Information Commissioners elsewhere across the country to ascertain its rationale.

But I hasten to place my sad reaction on your silence around a very critical finding that I drew your attention to. With only two Commissioners in place in Orissa, our State Commission is the most spendthrift amongst all while its output in terms of its legitimate domain the worst. Such a

painful paradox is morally abominable insofar as Orissa, the poorest State in the country has a miserable exchequer to its discredit too. The moot point that ought to concern all of us is, how to economise the existing, disproportionately bloated State expenditure for the Commission to a barely indispensable minimum while optimizing the output from its performance on the front of its mandatory functions.

I would like to observe on your frequent reference to the so-called 'civil society', from which Prof.Radhamohan the erstwhile Commissioner or Mr.Jagadanand the present incumbent hailed and which thanks to them makes its vibrant presence felt all across the country. Firstly, civil society is a nebulous and amorphous formation co-extensive with, so to say, the entire population of a society, and is therefore difficult of definition or recognition in terms of its ends or means. The position taken by one civil society group on any issue may simply run diametrically opposite to that of another. Just to exemplify, while the State Government of Orissa had, in the initial phase, announced an exorbitant fee regime (such as Rs.20/- as application fee, Rs.5/- as cost of information per page, Rs.40/- as 1<sup>st</sup> appeal fee, and Rs.50/- as 2<sup>nd</sup> appeal fee etc.), myself, Pradip and a few others had stoutly protested against it, while a civil society group called CYSD, Bhubaneswar (of whose Member-Secretary was Mr.Jagadanand then) not only welcomed but also propagated through posters and leaflets the said fee regime. Where was then the united, indivisible face of the so-called civil society? Another example, and this one from Prof.Radhamohan's dossier in the capacity of a State Commissioner. One fine morning everybody could see that the photo-gallery of Commission's website was studded with big, big photographs of Mr.D.N.Padhi and Prof.Radhamohan coupled with their respective spouses, giving a very ugly impression to public viewers all over the country. Only after our strident and satirical series of caveat spanning several months on end the said photographs, to the relief of all, were removed. Maybe, in this case the decision was Chief Mr.D.N.Padhi's to place such family albums on the website of the Commission. But why did Prof.Radhamohan, a man from civil society concede to a decision, which is prima facie obnoxiously offensive to the civil society at large? So, we in our day-to-day business need to follow two timeworn, golden maxims, 'Proof of prodding lies in eating' and 'All that glitters is not gold'.

It is really worth emulating from you, when you, without a shred of pretence, complimented me for my knowledge on RTI. As a matter of fact, it is not 'knowledge' as such which is distinct about me or Pradip or Ansari or other such likeminded friends. In fact when the RTI Act commenced, we were big zeroes, but what distinguished us from the then RTI mongering crowd is the bare fact that we in right earnest started zeroing on it with an hero's passion, which has in fact been standing us in good stead over all these years. And we guarantee, any amateur, any novice, provided he or she is fired with that passion or that spirit to see that RTI really makes a common man feel sovereign, would turn into an unfailing RTI facilitator much sooner than if he/she were to learn it scholastically just to become another RTI pedant.

Please excuse me, if I bored or killed your precious time.

Chitta Behera, dated 3<sup>rd</sup> Aug. 2009

--- On Fri, 31/7/09, Bhagaban Prakash <drbhagban@yahoo.com> wrote:

From: Bhagaban Prakash <drbhagban@yahoo.com>  
Subject: Re: Orissa Information Commission- Stop duplicity on website  
To: chittabehera1@yahoo.co.in  
Date: Friday, 31 July, 2009, 3:05 PM

My Dear Chitta,

Thanks for your prompt response and an almost clinical analysis of my letter. I wrote in right earnest to the three of you because of the proactive role u have been playing on the issue for quite some time and how you and the Commission can work together more meaningfully for the common cause. To me RTI is a movement as well as a product of civil society and we need to work together for its effective implementation.. And since a well known civil society leader is now a Commissioner this should be an added advantage for us. So, why can't we sit together and even plan together?

As regards the words and language, u may recall that a few participants in the PRIA sponsored workshop including Supriya had expressed reservations about the strident language and mentioning names of persons at some places of the report and the need for editing. I had endorsed the view and stated that activists often love to use strong language and a research document will be better without it.. However I do not want to enter into any argument on this or on semantics.

Let me admit without hesitation that your knowledge on the subject is better and more detailed than mine. I also agree with you and support the need for periodic social audit of the performance of the Commission. I believe that a proactive, responsive Commission and a vibrant, assertive civil society are the best bet for the RTI to produce results.

Your comparative analysis of Orissa and Gujarat is revealing and I would like to study it further, for, half a dozen of my friends in different states are working as either CIC or SICs and I have heard from many of them being overburdened and overworked. Yet my fear is- a one- person-commission will have no check and balance. Three minds are always better than one a five are better than three. My view is, the idea of a two member Commission is faulty and flawed from the start in terms of administration of justice. Quick decisions cant be taken when one disagrees with the other leading to a stalemate. In Orissa we should have atleast three and the third one must be from judiciary-preferably a person known for judicial activism.

With all the best wishes.

**Dr Bhagbanprakash**

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**From:** Chitta Behera <chittabehera1@yahoo.co.in>  
**To:** FoodrightsOrissa <foodrights@rediffmail.com>; Bhagaban Prakash <drbhagban@yahoo.com>  
**Sent:** Friday, July 31, 2009 2:26:47 AM  
**Subject:** Re: Orissa Information Commission- Stop duplicity on website

Dear Dr. Bhagban Prakash,

A pleasant surprise, in deed! Thanks for your seasoned advice, the kind of which, hopefully, we shouldn't get deprived of in days to come. Before reflecting on the core of your advice, let me deal with a factual error that has, somehow, unwittingly perhaps, crept into your observation. You have held, "The Commission is overworked as there are only two in place of nine sanctioned positions", to mean as if every Information Commission is mandated to consist of such numbers of Commissioners right since the day of its constitution. As a matter of fact, the Section 12-2 (relating to Central Commission) and Section 15-2 (relating to State Commission) read as hereunder-

**(a) the Chief Information Commissioner; and**

**(b) such number of Information Commissioners, not exceeding ten, as may be deemed necessary.**

I think, after going through the underlined expressions, you won't again stick to your phrase 'sanctioned positions'. Now the question arises, how many further Information Commissioners besides the Chief are 'deemed necessary' for Orissa? I think, it can best be settled by a reference to the quantity and quality of the decisions the existing two Commissioners bring out per month/annum coupled with an obvious consideration for the fragile exchequer of the State. While you won't disagree about the merit of the second consideration, we ought to adopt an objective criterion to sort out the first one, i.e. the one relating to quantity/quality of the decisions they bring out in respect of their chief statutory function, that is, adjudication of complaints and appeals. Again, what could be that objective criterion, in absence of any independent evaluation/social audit of the performance of Orissa Commission ever done by any quarter to this day? To my mind, by default, there can't be a better criterion on this count than a comparison of Orissa Commission with some other State Commissions in the country, which were constituted almost simultaneously with Orissa's.

For instance, both Gujarat and Rajasthan have each employed only a single Commissioner till date in place of Orissa's two, but disposed of as many as 198 and 152 cases respectively in a single month (March 2008), in a striking contrast to Orissa's meager 35 cases during the said month. On an average a Commissioner of Orissa as such disposes of hardly 18 cases per month, which is, so to say, 11<sup>th</sup> fraction of what Gujarat Commissioner does and nearly 14<sup>th</sup> fraction of what the Rajasthan Commissioner does. Assuming that Orissa Commission gets staffed with what you erroneously called the 'sanctioned' strength (i.e. 9 more), and given the current rate of its disposal, the total monthly disposal by the would-be 11-member Orissa Commission would still lag behind that of the single-member Commission of Gujarat. But ironically enough, the expenditure for the low performing Orissa Commission is the highest among the State Commissions in the country. Again, back to the comparison with Gujarat and Rajasthan, they spent only Rs.40 lakh and Rs.35 lakh for their respective Commissions for the year 2007-08,

while Orissa spent as much as Rs.2 crore 70 lakh for its Commission during the said year, which is roughly 7 times that of Gujarat and 8 times that of Rajasthan. Even other States, which have employed larger numbers of Commissioners than Orissa's two, have spent much less than Orissa. It is still a greater irony, while a prosperous State like Gujarat spent much less for its Commission than what it could have for obvious reasons, Orissa, by far the poorest State in the country didn't mind going on a spending spree for its Commission, least bothering about any cost-benefit calculus.

Now another observation of yours goes, "The RTI Commissions all over the country are in an evolving, nascent stage, facing teething troubles and handicapped by stereotyped personnel who have arrived in their new work stations with old baggage and habits". I fully subscribe to the spirit of your contention. But that doesn't license the State Government to allocate a huge army of clerics and super-clerics to the Orissa Information Commission at a great cost to the public exchequer, just for producing a mind-boggling mess. You shall be simply surprised to know, there are as many as 37 nos. of Staff working under low performing Orissa Commission, while its better performing counterparts at Gujarat and Rajasthan are managing with only 15 and 8 respectively. And as for the composition of the staff strength of Orissa Commission, there are 1 Secretary, 1 Registrar, 2 Law Officers, 1 Legal Facilitator, 1 Court Master, 1 Scrutinizer-cum-Shirastadar, 4 Personal Assistants, 3 Private Secretaries, 6 Data Processors, 1 Section Officer and 3 Asst. Section Officers besides a host of menial workers and two Commissioners. You would wonder to know, the staff strength of Orissa Commission is exactly the same as that of the Central Commission i.e. 37 nos. Despite this equality in size between the two and near equality in terms of pay and perks between them, I have consciously avoided any comparison of Orissa Commission's performance with that of Central Commission, since by any reckoning, the former is a molehill before the latter, a mountain. And further, if you juxtapose this gargantuan apparatus of Orissa Commission to the miserable output in terms of its two principal statutory functions, namely decisions on complaints and appeals and production of annual reports, you shall be simply shocked. I don't mean only error of judgment, which is after all there in plenty, but numerous silly, puerile omissions and commissions in respect of bare facts, plain arithmetic and grammar of language that colour the decisions and reports of the Commission. The moot point arises, why should there be at all a huge, standing army of well salaried clerics and super-clerics at the beck and call of two Commissioners as their Commanders, if the net stuff produced by their combined exercise is simply unreadable, nay nauseating! So far my knowledge goes, no Commission in the country Central or State level has consumed so much of public money just to discharge every time, at intervals, heaps of garbage unbearably smelly and stinking.

The next, perhaps the strategic part of your suggestion runs thus, "I think if we have any genuine concern, let us first talk to the CIC and the SIC before taking any position that might weaken and estrange them further, because people like u are their real source of strength". Please don't mind, I like to throw back this suggestion of yours to you again. Please recollect that a few months back, you had presided over a one-day PRIA-sponsored workshop on RTI at Bhubaneswar, where Prof. Bimalendu Mohanty was also present on the dais alongside of you. A PRIA-sponsored study on the state of RTI in Orissa was released and its salient findings presented by Mr.Pradip Pradhan and Mr.Ranjan Rout followed by discussions by other friends like Mr.N.A.Shah Ansari. There itself, if you can correctly recall, you had, on my persuasion,

agreed to take up with the Commission the issues raised in that Report, which to our great satisfaction, was described by you as 'brutally frank'. Several months on, today we are yet to know what happened to your said promise? We are however still hopeful that you shall take up in right earnest the very issues of that report around which we not only critiqued the State Commission, but also the entire batch of State actors that include Speaker, Governor, Chief Justice of High Court, State Government and above all the State nodal agency Dept. of I&PR, Orissa.

The next concern of yours, which I wish to treat here, is found in your opening passage, "I find the use of words and language in the mail and reports a bit strident which some times turns personal. If u could avoid it, it would raise the level of debate to a higher plane without any acrimony or rancour". Can you exemplify where I turned 'personal' and against whom? If you kindly recall, in one of my 'strident' features published to commemorate the 4<sup>th</sup> anniversary of RTI enactment on 15<sup>th</sup> June 2005, I called all the five State actors- Governor, State Government, Speaker, Chief Justice High Court and State Commission- a 'Gang of Five', who by their numerous acts of omission and commission ultra vires the parent Act are pushing the historic legislation called RTI Act to a slow but sure demise. And I still subscribe to the wisdom of that epithet used against the said club of five, in want of a better one. Please tell, whose 'person' I invaded. Then, as regards your advice that my manner of debate ought to rise above 'acrimony' (bitterness or ill feeling) or 'rancour' (bitter feeling), kindly explicate your concern with reference to the specific words or expressions occurring in the text of my mails or articles. It would be greatly educative indeed for me to learn by way of such targeted pointers from you, since I believe sincerely, no person should be his own judge, and always keep ready to be judged by others. It would be still better, if you believe the contents of my postings to be true, can you kindly exemplify by way of an illustration, how the said very contents could have been articulated more modestly so as to hit the target as it was in fact hit through my 'acrimonious' and 'rancorous' verbiage. Believe me, I am a great learner and at the same time greatly 'acrimonious' and 'rancorous' about one thing in myself, i.e. I am not able to learn as fast I aspire to in the heart of my hearts.

Last but not the least, you have mentioned about Venkat's mails, which in fact crisscrossed that of mine, Pradip, Ansari and a few others last week. After all, having discovered a great RTI zealot in him, we asked him and many others through mail for his location, or at least mobile number, so that we could ring him and befriend him for continuing the discussion on RTI related matters otherwise than through the nebulous world of internet. But alas! No body could supply the same. From your mail, I feel hopeful, you know him in person. If so, you may pass this response to him for his next bout of reaction, every word of which would be read with a lot of fun to our benefit.

Looking forward to a further course advice from you,

Chitta Behera, 31<sup>st</sup> July 2009 *N.B. I have added the email ID of Mr.N.A.Shah Ansari (youngindia@hotmail.com) to this mail, since you have intended to address him too.*

--- On Thu, 30/7/09, Bhagaban Prakash <drbhagban@yahoo.com> wrote:

From: Bhagaban Prakash <drbhagban@yahoo.com>  
Subject: Re: Orissa Information Commission- Stop duplicity on website  
To: "FoodrightsOrissa" <foodrights@rediffmail.com>  
Cc: chittabehera1@yahoo.co.in  
Date: Thursday, 30 July, 2009, 4:50 PM

My Dear Chitta, Pradeep, Shah Ansari ,

I almost regularly see your mails on RTI and really admire your courage and zeal in raising many important issues. Last week I saw Venkat's response also. One of the objectives of RTI is to raise public awareness and you are doing it excellently well. I have only one observation to share with you if you care to listen and then feel free to reject it if you don't agree. I find the use of words and language in the mail and reports a bit strident which some times turns personal. If you could avoid it, it would raise the level of debate to a higher plane without any acrimony or rancour. The RTI Commissions all over the country are in an evolving, nascent stage, facing teething troubles and handicapped by stereotyped personnel who have arrived in their new work stations with old baggage and habits. Many Commissions do not have even a single Member from civil society and almost all of them are headed by very senior/retired bureaucrats.

In this context, Orissa, fortunately is a healthy exception. Here, from the very beginning, we had an eminent member of civil society appointed as a Commissioner who was succeeded by another CS best face, thereby establishing a healthy convention. So in essence, half of the skies in the OIC belongs to the CSOs. Tomorrow, one of you may be offered this responsibility and that would be a matter of pride and pleasure for all of us. I also know persons like you have high expectations from the RTI Commissioner because he represents you and me and will one day return to us. I recognise there may be lapses on either side. The Commission is overworked as there are only two in place of nine sanctioned positions. I think if we have any genuine concern, let us first talk to the CIC and the SIC before taking any position that might weaken and estrange them further, because people like you are their real source of strength. The relationship between the OIC and the CBO/CSOs need not be always adversarial. That does not mean you would not raise issues. What I wish to see is a better mutual understanding as the objective of both of you is the same and you can strengthen each other as well as the affected people whose cause you want to promote. This will be a win win for everybody. I will be very happy and grateful if the Commissioner and you find any merit in this suggestion.

**Dr Bhagbanprakash**

**From:** FoodrightsOrissa <foodrights@rediffmail.com>

**To:** pratapmohanty@gmail.com; pravatsancharr@yahoo.com; pratap\_k\_mohanty@yahoo.co.in; prdirsp@ori.nic.in; projectswarajya@sify.com; prsec@ori.nic.in; ptadiptahre@yahoo.com; pyarimohan@yahoo.co.uk; rabikanungo@rediffmail.com; radhamohan\_cwsy@yahoo.com; rajaram.satapathy@timesgroup.com; rajarini@indiatimes.com; rajeshtandon@pria.org; rajesh\_nayak\_2000@yahoo.com; rajib.mohanty@rediffmail.com; ranjanpanda\_mass@rediffmail.com; pacindia@vsnl.com; pallishreeo@hotmail.com; pallivikash@yahoo.com; panchavati.society@rediffmail.com; panda\_prakash@yahoo.co.in; panigrahirekha@gmail.com; panilucknow@rediffmail.com; parama\_oct@rediffmail.com; parivartan@parivartan.com; parivartan\_india@rediffmail.com; parivarttan@yahoo.co.in; parshuramray@yahoo.com; parthajena@rediffmail.com; paryabekhyak@gmail.com; patnaik\_101@hotmail.com; patnaikprasanta@gmail.com; peaceunison@hotmail.com; pecuc@hotmail.com; pioneer@del2.vsnl.net.in; pipardkl@sancharnet.in; pkjena@yahoo.com; planbbsr@sancharnet.in; pmajhi@sansad.nic.in; pmajhi2005@yahoo.co.in; pmishra@oxfam.org.uk; pmosb@pmo.nic.in; pmk1504@gmail.com; poonam.kaur2@gmail.com; pradiptahre@yahoo.com; praful\_sahoo@yahoo.com; prafulla\_prafulla@rediffmail.com; prafulladas@gmail.com; prafullaratha@yahoo.com; pragati@manushi-india.org; pragati@sancharnet.in; pragativadi@yahoo.com; pragyancbsetutorial@yahoo.co.in; prajatantra2003@yahoo.com; prakash.kardaley@gmail.com; pramilaswain@yahoo.co.in; pranati.nayak@hp.com; pranayaparida@gmail.com; prasanna@ori.nic.in; prashantbhush@gmail.com; puspac\_mkg@yahoo.co.in; righttofoodscase@hrln.org; rozgar@gmail.com; rrcorissa@rediffmail.com; rrosocial@rediffmail.com; rs-cpers@sansad.nic.in; rti-orissa-watch@gmail.com; ruben.banerjee@gmail.com; S-Pattagnayak@dfid.gov.uk; S-Pattanayak@dfid.gov.uk; samadhan09@rediffmail.com; copheeorg\_jptn@rediffmail.com; cmo@ori.nic.in; cpsw@rediffmail.com; cs@pon.nic.in; csori@ori.nic.in; ctk\_committe@sancharnet.in; dalitfoundation@vsnl.net; das\_aravind@rediffmail.com; daskpramod@sify.com; debarati.datta@aifoundation.org; dharitri@sancharnet.in; dhanadam@gmail.com

**Cc:** dhirenkroy@rediffmail.com; dhrmintern@pwtm.org; dhrubasahoo@gmail.com; diakonia\_India@ortel.net; diana.siddiqui@aifoundation.org; digambar46@yahoo.co.in; dilipkumar.bhanja@undp.org; dillip64@rediffmail.com; dillipceera@yahoo.co.in; dipakurup@gmail.com; dipmoni@pwtm.org; dipmoni123@rediffmail.com; disha\_deep@rediffmail.com; disha\_msw@rediffmail.com; dishapradeep@yahoo.com; dknanda@ori.nic.in; drbhagban@yahoo.com; drcsundargarh@yahoo.com; drdebasis2002@yahoo.co.in; drjayant\_06@rediffmail.com; drrajamuzaffar@gmail.com; drumasankarpatro@yahoo.co.in; dsatpathy@yahoo.com; dsdondapati@gmail.com; dsinghbabu@hotmail.com; dstsec@ori.nic.in; easterntimes@sify.com; editor@indiancurrents.com; fesangul@hotmail.com; fes.angul@gmail.com; fianindia@yahoo.com; finalsolution@yahoo.com; forestrightorissa123@rediffmail.com; franklin\_joseph@wvi.org; franbosedb@gmail.com; frafull\_barik@rediffmail.com; ganesh.puranik@gmail.com; gangabhushan@gmail.com; gangadharpanda@gmail.com; gangavidya@mssrf.res.in

**Sent:** Thursday, July 23, 2009 5:11:11 PM

**Subject:** Orissa Information Commission- Stop duplicity on website

## **Orissa Information Commission: Stop duplicity on website!**

This is with regard to Mr.Chitta Behera's mail dated 18<sup>th</sup> July circulated on both e-groups OREGS and Common Concern pointing out how Orissa Information Commissioner failed to compute the number of days (39 as counted from the date of receipt of application 22.1.09 to the date of PIO's first response 05.3.09) and exonerated

the PIO by from all manner of penalty on the ground that there was no delay. To corroborate his statement, Mr.Behera gave the reference to the particular decision available on Commission's website, which many readers including myself, Mr.Ansari and Mr. Suvendu downloaded and thereby ascertained the veracity of Mr.Behera's pointer. Even Mr.Venkat Mallick, who took exception to Mr.Behera's critical remarks on Orissa Information Commissioner in this context, is supposed to have read that decision in toto, as evident from his admission on OREGS mail before Suvendu on 22<sup>nd</sup> instant, "Point of concern of everyone was a delay of 9 days". A preserved copy of the downloaded PDF file of the said decision as signed by the Commissioner can be accessed at <http://www.box.net/shared/hhofiyj0bp>.

However, to my dismay, on receiving a mail from Mr. Venkat (whom I don't know so far in person) I checked the Commission's link to the above decision <http://orissasoochanacommission.nic.in/C.C.%20519%20of%202008.pdf> and found its Para-2 reworked and insertion of such bracketed expressions (italicized) at 2 places made therein as 'application dated 18.12.2008 (*to be read as 18.1.2008*)' and 'received on 22.01.08 (*to be read as 22.02.08*)'. Though there is no meaning of the expression 'to be read as' under the RTI Act as such, it seems it has been inserted to show a drastically reduced number of days from the date of application to that of the PIO's first response (from 22.02.08 to 05.03.08= only 9 days).

Whatever may be the reason, the pertinent question of the hour is, whether the Commission can unilaterally do such afterthought operations on the signed and stamped texts of decisions already uploaded to the website without notifying any errata in the prescribed manner? If that be allowed, any public authority, from Panchayat to Prime Minister's Office can manipulate the contents of its decisions and documents at any time and in any manner to suit its convenience and more importantly, to protect itself from the resentment, if any, of the vigilant public. As a matter of fact, the above kind of manipulation comes under the malpractice, namely 'giving incorrect, incomplete or misleading information' (Section 18 1-e) or 'destroying the information' (Section 20), which is punishable under the RTI Act. However, the Act gives the power to the Commission to punish a PIO for such a malpractice; so the million-dollar question for all of us, who shall punish the Commissioners if they themselves do it.

Thanks  
Pradip Pradhan  
State Convener  
Right to food campaign, Orissa  
M-99378-43482