

Interview with Mr. Sumit Mullick, ex-Chief Information Commissioner, Maharashtra¹

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Introduction for Mr. Sumit Mullick:

Mr. Sumit Mullick is an ex-Information Commissioner of the State of Maharashtra. Mr. Mullick joined the IAS in 1982 after a Masters in Economics and Development Studies from the University of Wales and an MBA from the Indian Institute of Management, Bangalore. He served as the Chief Secretary of Maharashtra and was appointed as the Chief Information Commissioner of the state in May 2018. He retired in early 2023.

The Chief Information Commissioner is the head of the Information Commission of a state, which has to be constituted as per the Right to Information (RTI) Act, 2005. The State Information Commission is the Second Appellate Authority for RTI and is responsible for supervising the overall working of the Act. The State Chief Information Commissioner is the senior-most authority on RTI in the state.

¹ As transcribed from the audio recording; not edited

Q. So the first question I had was, what role does the information commission play in ensuring the effective implementation of the RTI act in Maharashtra or or in any state, basically in India. What role does the information commission play?

A. The short answer is everything. I'll elaborate on that, one rule is, of course, the information commission is the second appellate authority, Right? You got the PIO then After that, if the applicant is not happy with the information that he got from PIO, or if he's not got any information at all or he hasn't even received a reply at all, then he can go in, first appeal, to the first appeal authority, usually the boss, the departmental boss of the PIO. And if the applicant is still not happy, then he comes in second appeal. So then our job is to then, uh uh hear the second appeals and to ensure that if the applicant is entitled to the information, that doesn't applicant is not, barred from the information. So in section eight, you have these various provisions, so you know it is copyright, or it is state security if it is, information, so that information should not be given. So that's one. Make sure the Information Commission is that the second appeal should be disposed of, and the APP should get the information. If he is, he or she is entitled to information second and the and the second is, we have penal versions. We have penal versions. So the penal versions we can use, based on our discretion, of course. And based on whether there's any malintent or if there's any, serious lapse on the part of the PIO that we can fine them the fines, maximum ₹25,000 which has not been rise since, 2005 since act was implemented. And we can also start a department of inquiry. And three is that if the applicant has incurred a lot of harassment, mental harassment, physical harassment, and trying to obtain the information which is right and which he should have got and give, uh, compensation, which is unlimited. Even though the fine is limited to ₹25,000 the composition is unlimited. We can give as much as we want. That's two, three. Is that, uh we can take a, we we overall supervise the working of the act.

Q. How is that working in the state. How many applications have been filed at And how many officers How many have been disposed of within the time?

A. How many, first appeals are there, you know, the overall, supervision. So we do a stock taking, we do an audit from time to time. One is a compulsory report that we send every year to the assembly. The Legislative assembly. Which gives what I'm just telling you how many applications have been filed in every office and how many have been disposed of a time. Um and how many cases did the applicant get the information and how many cases they did not get the information. What penalties? I all that So we supervise, supervise. And, then, of course, the the rest will be covered on the other questions that you asked. We also have to educate the public so that we have a budget for training, training and having training programmes for the, I OS for the first authorities. And then, uh then also you also cover this And one of the questions is that we ensure that, Section four, the suo moto, disclosures I think they're 18 points and that is 18 points is the minimum. It can be more than that. So that is then published on the website. So the basic idea of this, if the information is already there in the public domain, so that will automatically not automatically reduce the number of applications. So there you are. We do other things and to ensure that the act is properly

implemented, right. If you have some questions, I'll be happy to take that also. Sorry if you have any sub questions.

Q. So we can move to the the one about the suo moto disclosure. Then, since you mentioned that, my question was related to that, that what measures are in place to encourage this proactive disclosure and is therefore full compliance by government agencies or what can be done when they don't comply fully with that.

A. So this, Section four that that is extremely important, extremely important because that, basically, if it is properly, if it's if it is implemented in the proper spirit. So everything that that particular office or that particular department or that particular agency, the particular corporation or particular municipality. Whatever, uh, does how much money it gets. What is the budget? What are the various schemes is taken up, who's working in the office and, how much is being spent on establishment? Everything is covered.

Everything is covered under the 18 points. Then we, try to ensure that every every office and department that, publishes these 18 points on the website. Now, most of the departments have done it. They've done it, they've done it. But the point is, um the luck is that it is not updated. They might have done it five years ago, and they not updated it. So I asked orders that this website should be updated every six months. No. Yeah. I don't think it is deliberately not being updated. the the the one of the points. The basic point is that the RTI, um, act involves extra work for the officers by the PI Os for the first authorities. The RTI act has not provided any extra personal, uh to for the implementation of the act at that level. So then they have to go through their all their existing duties or the existing liabilities or the existing work and plus do this. So then sometimes it gets overlooked. but But the point is that, the section 4 18 points, which are covered in section four are very important, and we try to ensure that they are all No, that, it is They've all put up all the information required on the website. Now, what do we do if it is not being done? that we write to the chief secretary, the chief secretary is the head of the bureaucracy, and then we tell them to take action against the concerned. officer. Now, the concerned officer will not be the PIO. I say it will be the secretary of the department or the secretary of the department, even though, as he or she has not mentioned the act being the head of the department, that the secretary has a responsibility.

Q. Yep. Thank you for that. my next question was, how has the act evolved since its inception in 2005? And what significant changes or amendments have been made to it to enhance its impact on transparency and governance in 2005

A. Since 2005, The, the act has been amended, and it has not evolved. What is the opposite of evolved? It's gone backwards. They have reduced the term. this is government. They reduced the term of the information commissioners from that of five years to three years. Right. Then they reduced the status of the chief information Commissioner. When I was chief information commissioner had the status of a Supreme Court judge, they reduced that to, uh I think, Cabinet Secretary, which is much lower. And they reduced the status of the information commissioners to that of a, chief secretary of a state. So then automatically all your perks and

privileges and status all goes down, and so it has become less attractive. So now, the number of applicants the, the type of applicants are changed. Earlier, there were more high level officers who are retired. they applied to Now you have more lower level officers who are applying. So that is the one change that the act has made. No one change that has been made in the act. Now the the rules are being made from time to time under the act by the state government. And now this rule making power has also been taken away by the, central government. The central government will now make the rules. But the rules that we made to basically to streamline the provisions of the act like, for instance, one rule we made that, RTI application should not be more than 100 and 50 words stating clearly what information is required. Earlier, they used to write pages of paper they used to spend on, uh um, trying to explain what they want. So that took up a lot of time, and that was very dysfunctional. So that is why I want to come for a rule that we made. Other rule that we made is that, um um to make the act more effective. every Monday in the afternoon, every office in the state will allow anybody to come examine the, do our files and can take the Xerox papers whether that person has applied under RTI or not. OK, that that was the, um sort of liberal sort of rule that we made. So anyone can come see whatever they want and and then take the copies after the payment, of whatever information that person requires. So the rules are being made. So that's how it evolved the act. basically, the the, status of the information commissioners and the chief information commissioners come down. The tenure has come down, but under the act where these rules have been made from time to time to make the act, more streamlined make the implementation of the act more streamlined.

Q. Yes.my next question was, could you share some key statistics or any success stories that have highlighted the impact of the RTI act and in fostering transparency within government institutions?

A. So any The idea of the act is one that every democracy, every democracy as a democracy only a name still has to have some act or some legislation like the Information Act and other places. It is called the Anti-corruption Act. It is called the Transparency Act, et cetera. And then, um the the seeds of the information Act are there in the there in the constitution in the fundamental rights in the, freedom of expression. The argument is that you cannot express unless you have data and information. Otherwise, what will you express? If you know nothing, you can express nothing. Only after you get information. Then this right to expression has any value. so now the very fact that every government office on semi government office or any NGO which has funded by the government or any, um uh you know, like even for instance, a lot of these clubs, they have been given land by the government, you know, and then Bombay, you have all these clubs like Cricket Club of India. You got the club. So the land has been given by the government. So that is construed as being. The club has been substantially financed by the government, so therefore, they will also come under the provisions of the act. so the fact that, uh, the RTI act is there, then automatically, at least on paper, corruption comes down because every officer knows that whatever that he or she is writing on file signing the file will one day perhaps come out in the

public domain so they automatically become very careful. So my view is that corruption it has come down.

And then the second is, the success stories are there are multitudes. the multi success stories. now you have to understand you can probably divide up these rti applicants into three types. OK, the, the the RTI applicants who filed the maximum number of cases are the RTI actors. This is how the act is being misused. In fact, so these are some activists have large offices and the employer, they are more employees than I had. And then they file thousands, if not tens of thousands of applications throughout the state or in a city on a city like Bombay now, The type of applicants they, applications they filed are also typical. They want to know the details of all the works taken up, work by work. How much money being spent to then They want to have copies of all the bills. They want to have a copy of all the tender notices. They want a copy of all the, measurement books of the materials used et cetera, and, uh so approximately. I think about 90% of the 85 to 90% of all the applications. Se second appeals at least that come to me who were from this category? 85 to 90%. OK, about 10%. 10 10% would be, RTI applicants who want information for their own personal use. Like, for instance, they want they want to find out a property document which they lost. Or they want to find out the details of the Lake City bills and why they've been charged so much or they want to find out. that, so this would be this personal thing would be, getting a percentage is gonna be mixed up, because now I'm going to cost 100%. But you got the idea. So this is about 10% and now there are about two or 3% to use the act for revenge. Like if a lawyer gets dismissed. So he holds a grudge against, all the, his bosses. So he goes on filing RTI applications. sometimes 100 of them, 200 of them against the bosses. they ask details about the boss' qualification. They ask details about the bosses. How how often does he come to office? His attendance workers? Everything. This is just to harrass. The bosses two or 3% are like that. Now that the last category is a genuine public interest, a person doesn't have any personal interests at all. He's not an RT I activist or he could be an activist, but he does not ask for information which will which will, which is going to be misused? He will ask. He will ask for information. regarding uh um, let's say in Bombay how many how many billboards have are there in Bombay and for how many billboards have permission been given how many billboards where permission has not been given have been taken down. So that was, it's, that's in public interest. There's no personal interest that you can think about that. But this, unfortunately, is less than 1% of all the applications that come 1% is uh, less than 1%. Is is very unfortunate, because the art act when it came out, the whole idea was that it should be used for public purposes. I

t should be for public interest when the RTI came out there was, a lady called Aruna Roy. she was, an iAS officer from Rajasthan. Got it. So at that time, there were a lot of these, scarcity works being taken up. You know, like, if there's a drought here, then the labourers don't have any work to do on their fields, so they'll starve. So the government then provides them, employment. They have to make roads. They have to make tanks. They plant trees, they, um and they and then they paid for that. A minimum wage. So then, in many cases, a lot of money is syphoned off and the wages which the, labour is entitled to, that labour doesn't get it. So then, then started this campaign to examine all the reports, all the registers, all the because the labourers use I. We also don't know how much money they're signing for. So this,

we sign for 100 using a thumb, but they might get only 50 rupees. So then that started our guess. that was it was done for a very genuine public cause it was done to make sure that No exploitation, but But overall, the RT I it has had a positive impact, even if it is being misused, even though it has attracted a lot of blackmailers and extortionists, even then, it has had a it had a positive role. It has a positive impact, right?

Q. And how? How does the information Commission then, differentiate these genuine cases of public interest from the rest of the applications that they receive? So how do you How do you philtre through all the applications to find the the one that is genuine?

A. normally what I did, you, you know, like in the high court and the Supreme Court and even district courts, where the judges have discretion to decide which cases we take up first, which are more important cases, Other cases, they take up later this what is called the board, practise that we followed. It was done on a chronological basis because that's a fairest That's fair. But then once you realise that a lot of these, um uh appeals that come to one are and they have been used for misuse. So I I tended to not hear those cases. Not here, not with them and then take a piece where I think the person has a genuine reason either in public interest or even his own personal interest. Got some general reason, like, the number of prisoners who are in jail. So can we set up video conferencing with them? So they want documents, to fight the case, which is not getting and and they're rotting in jail. So then that's the top, right? So I take that up first. So then, anything in the public interest? I'll take that off immediately. First and other others, which are of, personal interest. But it it's not not a not a misuse of the act. Those will take up, and then I'll take I may or may not take up cases, which are which. I realise, the person is either a blackmailer or extortionist.

Q. All right, So if you reject those cases, do they do they appeal to a higher authority, or do they let go of that?

A. No authority, there is no higher authority. You see this section? I I forgotten with section section 26 or 28 of the act. It says that no high court. No Supreme Court, No court in the land can interfere with my judgments. However, however, there's something called, uh writ petitions. There are four writs cri Mandela's Habeus corpus and one other. So then, the high court can then take up, take up of this point that you raised that his case is not being heard. It can be taken up as a written petition in the high court, and the high court can give directions to take up this case. But so far, that has not happened.

Q. All right. the question I had was, What role do you think public awareness and advocacy plays in the success of the RTI Act?

A. it has a it's it's it's of paramount importance, to bring about the first year to bring about the public awareness so that we have various training programmes. And then we have these various NGO S, so they have regular training programmes to train the public, and they help the public in drafting the RT applications and explaining the the procedures of the RTI

application, even though there's not much to explain because the RTI act is one of the simplest acts that you can think of. And, you just have to pay 10 bucks and you can even file online 100 and 50 words, and you have to get your reply within 30 days. And if you're not satisfied, you can file a first appeal. within three months, and then you have to get a reply within 45 days. So it's very streamlined, extremely streamline. but even then, just to build up enthusiasm, we have training programmes, regular training programmes, to explain to the public and then with whoever comes, like, I have a lot of interns and then I deal with yes. So I tell them to file a applications for genuine public purposes, file applications about potholes in front of the road file applications where the garbage is not being lifted. File application about the quality of the water from the tap file application about, how much, budget does your or your municipal have involved how how it is being spent and things that concern the public, that concern. You also need to file applications. So that, uh hopefully At one point in time, applications in public interest will outnumber the applications which are filed for, by extortionists and blackmailers.

Q. Yeah, So, in your opinion, what are the the major challenges? Obstacles that hinder the realization of the the success of the act

A. it is basically at this point, these professional RTI activists who basically use the act in order to, um in order to extract money because, see, the Modus Operandi is like that. So they will get all the documents which run into thousands for each work, individual work, all the documents. Then they'll go through all the documents very, very carefully, and they have a whole team to do that. And then they will find a gap somewhere they will find mistakes. And then after that, they will extort money from both the the municipal engineer who passed the bills as well as from the contractor. so these applicate this is, one of the major obstacles in the this is creating a backlash against the act because the number of blackmailers and extortionists, you know, the complaints that come to one, are increasing and they clog up the clog up the pipelines. So, like, for instance, when I left office in all my commissions across the state, I had seven benches. Seven on the eight. they were one lac 100 thousand appeal spending, which is a huge number, is going up all the time, so they're clogging up the system. So one person who was waiting for a second appeal to hurt and he's got a genuine reason he's not being hurt system been up. And this is also created a backlash against that of the the actors got a bad name. It is being used for by extortionists and blackmailers. That I think is the biggest obstacle.

Q. All right. Oh, is there any issue of Reprisal when taking on powerful officials in an RT I And what? What is the recourse for that? How are people protected against powerful officials?

A. Um, I haven't come across any precedents. What has happened? What can happen is that See, this is, um again, I told blackmailing if a person is being blackmailed, so then there's quite often there's violence. And then there have been cases which RTI activists have been killed in the past. Now we don't go into the fact whether that person is a blackmailer or not. A

person has been killed, so and that person was rti activist. So then we we feel that we basically have to do something about it. We, the commission. So then we follow up the case, we write to the head of the police. We write to the chief Secretary and say that this is a party activist who have been killed. So can we ensure that the culprit are apprehended and brought to book, and then we follow up the case, right?

Q. how effective are the the mechanisms for redress of an appeal under the act? And what other things that have the steps that have been taken to streamline this process in Maharashtra?

A. That I think I discussed it earlier. the one is that you see that Maharashtra, it's a big state, and, uh, the act allows for 10 information commissioners and one chief Information Commissioner. Great. 11. And now, this figure of 11 is for every state in the country whether it's big, small, medium ugly, beautiful et cetera, Right? And now, Maharashtra has created only seven commissioners and one chief information commissioner. So the process for creating another three posts that is in the pipeline, it has to go through a process. and it goes to the cabinet for a decision. So I asked for three more posts. And if I remember correctly oranga and Bombay because this is where the maximum pendencies are. So that will certainly streamline the, act and, bring down the pendency. Then, um, second thing is that you have we have had we coordinate with other information commissioners from other states. So in our meetings, we have been writing to the central government that the, penalty that's levied that has to be revised upwards because that came out in 2005 when a penalty was 25,000. Yeah, I do the maths, let's say that you have a annual inflation of 5% a year, So on that basis, after 18 years, we will now be 18 years. How much will the penalty be at the compound rate of 5% per year should be higher much higher, much higher. So then it should basically be linked to the wholesale, inflation index. It should be, and the penalty has to keep on being revised upwards. Then the second thing is, the first appellate authority is let off scot free. He in the act is no provision for penalising him so that also and that is why the first authorities often take their responsibility very lightly, so that you've we have recommended to the government of India to make an amendment. So the first appellant authority there also penal provisions against that gentleman. But now the government has so far not done anything on these suggestions. Well, let's hope they are mulling over them, right?

Q. I just have one last question. Which was, If you do you have any advice or suggestions to RTI activists or individuals on how they should better use the act to get the best response or things that they should avoid doing

A. well, simple enough, file more RTI applications in public interest. The subjects which are public interest don't, misuse the act. And that's the only advice I can give. No, that's the only advice that's required Actually, if this is done, that will solve all the other problems.

Q. That sounds true. that's all the questions I have for now. Thank you so much for answering them.

A. Great. So best of luck. And if you want and you have my number. So in case you anything else you want to ask if you haven't asked. You're welcome to send me a message.

Q. All right. Thank you so much.

A. All right, take care. Bye bye.