

# The Right to Information and Panchayati Raj Institutions: Himachal Pradesh as a Case Study



...the right to information offers a key tool for ensuring that Panchayati Raj Institutions more effectively meet their goal of promoting participation and entrenching accountable government.



## COMMONWEALTH HUMAN RIGHTS INITIATIVE

Working for the *practical* realisation of human rights in the countries of the Commonwealth

# Commonwealth Human Rights Initiative

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**The Right to Information  
and  
Panchayati Raj Institutions:  
Himachal Pradesh as a Case Study**

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**Commonwealth Human Rights Initiative  
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# Introduction

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralise government to promote greater participation citizens in their own governance. This process of democratic decentralisation was set in motion with the Constitution (Seventy Third Amendment) Act passed by the Indian Parliament in 1992, which enabled decentralised governance through PRIs in rural areas.

PRIs function at the village, intermediate (block) and district level. Today there are approximately 2,34,030 Gram Panchayats at the village level, 6053 intermediate Panchayats at the block level and 535 Zila Panchayats at the district level. There are more than 31 lakhs elected representatives at all three tiers.<sup>1</sup> This is the largest representative base in a democracy anywhere in the world, developed or underdeveloped.

PRIs offer India's rural villagers a practical opportunity to participate in village planning processes, to engage with the various developmental schemes being implemented by the Government, and to interact with their elected representatives directly to ensure that their interests are being effectively served and their money properly spent.

While PRIs are an excellent initiative in theory however, practice has been less positive, as many PRIs have been criticised for poor representation, failure to implement the participatory decisions of their constituencies and mismanagement of funds. In this context, the right to information offers a key tool for ensuring that PRIs more effectively meet their goal of promoting participation and entrenching accountable government. Citizen participation in panchayat institutions is more meaningful when people have the information to make informed choices and participate in decision-making processes on the basis of actual facts, not rumours and half-truths.

In practice, the right to information provides that people should be able to access information from PRIs upon request, but also that PRIs have duty to proactively publish important information, for example, through sharing information in Gram Sabha meetings, by pasting information on notice boards, via the village loudspeaker or by publication in the official gazette or local newspapers.

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<sup>1</sup> Ministry of Panchayati Raj (MoPR), statistics provided at the 7th Roundtable Conference of the MoPR, current as at December 2004.

Unlike the states of Tamil Nadu, Goa, Rajasthan, Delhi, Madhya Pradesh, Karnataka, Assam and Jammu and Kashmir Himachal Pradesh did not have a general law granting access to information held by its government. But the Himachal Pradesh Panchayati Raj Act, 1994 (hereafter referred to as the PR Act 1994) includes several provisions which entitle people to access information from PRIs. More recently, Parliament passed a comprehensive information access legislation called The Right to Information Act, 2005 for the whole country (except Jammu and Kashmir) which came into force on 12 October 2005. The legislation is applicable to all government offices across the State, including PRIs in Himachal Pradesh. These laws are discussed in more detail in Part 2 of this document.

Recognising that considerable writing has already been dedicated to discussing the use of generic right to information laws by the public, this paper focuses specifically on analysing and promoting the information disclosure provisions contained in the State Panchayati Raj Act and related rules. The following legislation and rules have been reviewed in compiling this document:

- The Himachal Pradesh Panchayati Raj Act, 1994;
- The Himachal Pradesh Panchayati Raj (Amendment) Act, 2000;
- The Himachal Pradesh Panchayati Raj (Amendment) Act, 2001 ; and
- The Himachal Pradesh Panchayati Raj (General) Rules, 1997

It is hoped that the compilation of these provisions will provide a useful resource for: **citizens** who themselves wish to use these laws to gather information; **NGOs** working on strengthening panchayats; **elected representatives** who will be more aware of their roles and duties in providing information to the public; and concerned **government officials** who will be more aware of their roles vis-à-vis information disclosure.

# Part 1: Panchayati Raj Institutions in Himachal Pradesh

The Himachal region before 1947 consisted of thirty small princely states, all-independent of each other but under the suzerainty of the British Crown. Post-independence Himachal Pradesh was formed on 15 April 1948 with the merger of these thirty princely states and other neighbouring Himalayan regions. The state underwent a series of political and administrative changes, till 25 January 1971 when it became the eighteenth state of the Indian union.

About 90% of the 60.77 lakhs population (2001 census) of Himachal Pradesh lives in villages. A total of 20,118 villages are grouped into 75 community development blocks and further the blocks are grouped into 12 districts.<sup>2</sup>

Contextualising the historical evolution of Panchayati Raj, soon after the formation of the state, Himachal adopted the Punjab Village Panchayat Act, 1939, as the first step towards introduction of a Panchayat system in 1949. After independence, the State legislature passed the Himachal Pradesh Panchayat Raj Act in 1952. This Act authorised the State Government to establish a Gram Sabha for a village or a group of villages. This Act was repealed in 1968 when the State legislature passed a new panchayati raj legislation. The Himachal Pradesh Panchayati Raj Act 1968 incorporated the major recommendations of the Balwant Rai Mehta Committee aimed at strengthening the Panchayati Raj institutions.<sup>3</sup>

With a view to bring the Panchayati Raj system of the State in conformity with the 73rd Amendment Act<sup>4</sup> the Himachal Pradesh Panchayati Raj Act, 1994 was enacted in the State with effect from 23rd April 1994 by repealing the Act of 1968. The new law provides for Gram Sabhas, Gram Panchayats, Panchayat Samitis and Zila Parishads at village, block and district levels respectively. The Himachal Pradesh Panchayati Raj Act, 1994, was amended in 1997 to extend the Panchayati Raj system to the Fifth Schedule Areas<sup>5</sup> in the state in conformity with the

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<sup>2</sup> The twelve districts are - Sirmour, Solan, Shimla, Mandi, Kullu, Lahaul & Spiti, Hamirpur, Una, Kangra, Chamba, Bilaspur and Kinnaur.

<sup>3</sup> A committee headed by Balwant Rai Mehta, a Member of Parliament was constituted in 1957 in order to suggest an institutional set up to secure people's participation in two programmes (community development and national extension service programme). The study team's view was that without an agency at the village level which could represent the entire community and provide necessary leadership for implementing development programmes, there could be no real progress in rural development. The recommendations of this study team, favouring democratic decentralisation, accelerated the pace of constituting PRIs in all the states.

<sup>4</sup> Constitution (Seventy Third Amendment) Act, 1992 came into force on 24 April 1993. It is incorporated as Part IX in the Indian Constitution.

Provisions of the Panchayats (Extension to the Scheduled Areas) Act in 1996, passed by the Parliament. The amended legislation is known as the Himachal Pradesh Panchayati Raj (Second Amendment) Act, 1997 and it broadly follows the pattern of the 73rd Amendment Act.

Today, Himachal Pradesh has a three-tier panchayat system with 12 Zila Parishads, 75 Panchayat Samitis and 3243 Gram Panchayats constituted in this state with approximately 26,532 elected office bearers.<sup>6</sup>

## **Gram Sabha**

The Gram Sabha constitutes the most basic unit of decision-making in the PRI structure. The Gram Sabha area consists of a village or group of contiguous villages with a population of not less than one thousand and not more than five thousand. In case of scheduled areas, an area with a population of less than one thousand can constitute area Gram Sabha. A Gram Sabha<sup>7</sup> is established by a government order and consists of persons who are residents within the Sabha area and are entitled to be registered in the voters' list of that Gram Panchayat. The basic philosophy that underlies the concept of the Gram Sabha is that of participatory democracy. Gram Sabhas provide a local platform for people to meet and discuss local development problems and to monitor and evaluate the development and administrative actions of their elected representatives, thus ensuring transparency and accountability in local governance. Most importantly, a Gram Sabha provides an opportunity for the participation of all sections of the village- women, dalits, tribals and other marginalised groups- in planning and implementation of local development programmes.<sup>8</sup>

## **Up- Gram Sabha**

Besides Gram Sabhas, the state panchayat law also provides for Up-Gram Sabhas.<sup>9</sup> Up-Gram Sabhas are constituted for each ward of the Gram Sabha. All members of the Gram Sabha residing within the area of the ward are members of the Up-Gram Sabha.

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<sup>5</sup> Scheduled V areas refers to the Fifth Schedule of the Constitution of India which has provisions related to the administration and control of Scheduled Areas and Scheduled Tribes.

<sup>6</sup> For more information visit the website of the Panchayati Raj Department, Government of Himachal Pradesh at : <http://himachal.nic.in/pr/prstat.pdf>.

<sup>7</sup> In the Constitution (Seventy Third Amendment) Act, 1992, the term Gram Sabha has been defined as "a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level."

<sup>8</sup> PRIA (2003) Gram Sabha and Panchayats, New Delhi.

<sup>9</sup> Section 7(a), Himachal Pradesh Panchayati Raj (Second Amendment) Act, 2000.

## Gram Panchayat

Gram Panchayats are the smallest unit of elected local-self governance, situated at the village level. Each Gram Panchayat area is divided into not less than seven and not more than fifteen wards<sup>10</sup> and each ward elects one Panch. Every Gram Sabha elects the members of the Gram Panchayat. The number of members depends on the population of the Gram Sabha area. Pradhan is the directly elected head of the Gram Panchayat. An Up-Pradhan is also elected, who acts as the Pradhan's deputy. Every Gram Panchayat or a group of Gram Panchayats has a Secretary who is appointed by the Director. His duty is to assist the Pradhan or the Up-Pradhan in the discharge of their functions.

The Gram Sabha is a general body of electors, whereas the Gram Panchayat is an executive, elected body. The executive has to perform its duties as per directions given by the general body.

Each Gram Panchayat has Standing Committees as given below. These committees are constituted by the elected members:

- **Works Committee:** This committee is responsible for the execution of all developmental work of the Gram Panchayat; and
- **Budget Committee:** This committee is responsible for the preparation of the budget manual of the Gram Panchayat and submitting it to the Secretary.

## Vigilance Committee<sup>11</sup>

The PR Act 1994 also provides for the setting up of one or more Vigilance Committee(s). These committees consist of not less than five persons and are formed by those Gram Sabha members who are not members of the Gram Panchayat, to supervise the Panchayat works, schemes and other activities and to put up reports concerning them in its meeting.

The members of the Vigilance Committee(s) shall by consensus elect a Chairman from amongst themselves. This committee must meet at least four times each year. The Chairman shall convene the meeting. He is also responsible for maintaining the proceedings book of the Vigilance Committee. The Chairman or any other member can record the proceedings, which must be signed by all the members present.

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<sup>10</sup> Wards are territorial constituencies of the Gram Panchayat.

<sup>11</sup> Section 7(4), Himachal Pradesh Panchayati Raj Act, 1994.

## Proactive disclosure about how panchayats implement rural development schemes

The National Institute of Rural Development (NIRD)<sup>12</sup> has released a publication, “Implementation of Rural Development Programmes – Role of PRIs in the context of the Right to Information Act”,<sup>13</sup> which is meant to provide information to locals about how to access information from panchayats about all major rural development schemes run by the Ministry of Rural Development (MoRD). MoRD implements a number of rural development and poverty alleviation programmes, which support infrastructure in villages, offer employment and provide subsidised food grains, shelter and drinking water to villagers. It is primarily the responsibility of Panchayati Raj Institutions to implement these schemes. However, the implementation role of Gram Sabhas and panchayats at village, block and district levels in relation to these programmes is often not known by villagers, and in many cases is not even known by elected panchayat members themselves. The NIRD publication is intended to fill this information gap by disseminating information about the role of panchayats (particularly the Gram Sabha) in the implementation of rural development programmes. It is directed both at the public and at elected panchayat members. It also includes a chapter explaining the salient features of the RTI Act.

## Panchayat Samiti

A Panchayat Samiti is constituted for each block,<sup>14</sup> having jurisdiction over the entire block excluding those areas, which are included in the Municipality. Each Panchayat Samiti consists of:

- Directly elected members from territorial constituencies;
- Members of Lok Sabha and the State Legislative Assembly elected from the constituencies which wholly or partly fall within the block (ex officio);
- Members of Rajya Sabha who are registered as electors within the block (ex officio); and,
- One-fifth of the Pradhans of the Gram Panchayats (ex officio) in the Panchayat Samiti area by rotation.

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<sup>12</sup> NIRD is the national apex body for undertaking research, training, and action research and consultancy functions in the rural development sector. NIRD works as an autonomous organisation supported by the Ministry of Rural Development, Government of India.

<sup>13</sup> The publication can be obtained from NIRD – Address: Rajendranagar, Hyderabad – 500030; Tel: (040) 3400 8522/523/524; Website: [www.nird.org.in](http://www.nird.org.in).

<sup>14</sup> Blocks are administrative units for planning and development with regular budgetary allocations. Each block is headed by a Block Development Officer (BDO), who reports to the Deputy Commissioner, who is the administrator of the district.

Each Panchayat Samiti is headed by a Chairperson and a Vice Chairperson, who are elected by and from amongst the directly elected members. The Secretary of the Panchayat Samiti is the Block Development Officer (BDO).

The Panchayat Samiti has the following Standing Committees. The members of the Standing Committees are elected by the elected members of the Panchayat Samiti from amongst themselves.

- **General Standing Committee:** Responsible for establishment matters, communications, buildings, rural housing, village extension, relief against general calamities and water supply;
- **Finance, Audit and Planning Committee:** Responsible for functions relating to finances of Panchayat Samiti, framing of budgets, scrutinising proposals for revenue increase, examination of receipts and expenditure statements, consideration of all proposals affecting the finances of the Panchayat Samiti and general supervision of the revenue and expenditure, small savings schemes ; and
- **Social Justice Committee:** Responsible for promotion of education, economic, social, cultural and other interests of women, Scheduled Castes (SCs), Scheduled Tribes (STs), Backward Classes (BCs)<sup>15</sup> and other weaker sections of society, protection of such castes and sections from exploitation and social injustice, amelioration of the weaker sections and securing social justice to them.

## Zila Parishad

A Zila Parishad is constituted for each district,<sup>16</sup> which has jurisdiction over the entire district excluding those areas, which are included in a municipality. Each Zila Parishad consists of:

- Directly elected members from territorial constituencies;
- Members of Lok Sabha and State Legislative Assembly elected from the constituencies which wholly or partly fall within the district (ex officio);
- Members of Rajya Sabha who are registered as electors within the district (ex officio); and
- Chairpersons of all Panchayat Samitis in the district (ex officio).

Each Zila Parishad is headed by a Chairperson and a Vice Chairperson who are elected by

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<sup>15</sup> Backward classes are those classes of citizens other than the Scheduled Castes and Scheduled Tribes as may be identified and notified for the purposes of reservation for appointment to posts in public services under the State Government.

<sup>16</sup> A district is the basic administrative unit below the state level at which there is a measure of convergence of departments and implementation and coordination of Government schemes.

and from amongst the directly elected members. The Secretary of the Zila Parishad is the District Panchayat Officer (DPO).

The Zila Parishad has the following Standing Committees:

- **General Standing Committee:** Responsible for establishment matters, communications, buildings, rural housing and village extension, relief against natural calamities and allied matters;
- **Finance, Audit and Planning Committee:** Responsible for the finances of the Zila Parishad, framing of budgets, scrutinising proposals for revenue increase, examination of receipts and expenditure statements, consideration of all proposals affecting the finances of the Zila Parishad and general supervision of the revenue and expenditure of the Zila Parishad, plan priorities, allocation of outlays, implementation of guidelines issued by the government, regular review of planning programmes, evaluation of important programmes and small saving schemes;
- **Social Justice Committee:** Responsible for promotion of education, economic, social, cultural and other interests of SCs, STs and BCs, their protection from exploitation and social injustice, amelioration of the weaker sections and securing social justice for them;
- **Education and Health Committee:** Responsible for functions related to survey and evaluation of the educational activities of the Zila Parishad, planning of education in the district within the framework of the national policy and the national and state plans. Its functions also extend to areas such as health, hospital, water supply, family welfare and other allied matters;
- **Agriculture and Industries Committee:** Responsible for functions related to agriculture production, animal husbandry, contour bunding and reclamation, village and cottage industries, promotion of industrial development of the district.

## Part 2: Summary of Laws Governing RTI at the Panchayat Level

In a series of decisions since 1973 the Supreme Court of India has declared that the citizens' right to access information held by public authorities is a component of the fundamental rights to a) life and liberty and b) freedom of speech and expression.<sup>17</sup> This means people have a right to seek and receive information held by government bodies. The right to information also implies a positive obligation placed upon governments to disseminate information to the people. Generally, government held information is disclosed to the public in two ways:

- **Proactively:** Government bodies are required to actively publish and disseminate key categories of information, which are of general interest of the public such as their organisational structure, the kinds of services they provide, the norms of decision-making, important forms and procedures and other similar details. This information can be disclosed for example, by putting up notices or displaying information on notice boards, by publishing in the official gazette and newspapers or by reading out information in meetings or publishing documents on the Internet.
- **Upon request:** Government bodies must put in place simple, timely and inexpensive procedures to facilitate access to specific pieces of information upon request. Most commonly, specific officials within public bodies are given the responsibility for handling requests and providing information.

Clearly, it is imperative that the people have the right to access information from panchayats because they are local self-governing bodies which are closest to the people. Unlike the states which had enacted their own right to information laws,<sup>18</sup> Himachal Pradesh never enacted separate State right to information legislation which would provide a comprehensive right. Nonetheless, at the time of writing, Himachal Pradesh has the following laws/orders in place which are aimed at facilitating access to information held by panchayat bodies:

- Himachal Pradesh Panchayati Raj Act, 1994; and
- The Right to Information Act, 2005.

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<sup>17</sup> Articles 21 and 19(1) of the Constitution of India respectively.

<sup>18</sup> The nine states are Delhi, Maharashtra, Karnataka, Madhya Pradesh, Assam, Goa, Tamil Nadu, Jammu & Kashmir and Rajasthan.

## Panchayati Raj legislation

In order to facilitate accountability at the panchayat level, in 1997 the Government of India issued a circular recommending that each State may consider passing orders highlighting three different aspects of transparency in local governance. First, PRIs, especially Gram Panchayats, should display all vital information pertaining to development projects (especially receipt of funds and how they are being spent) in panchayat offices or on a prominent board outside the local school. Second, all relevant records should be open to inspection. Third, members of public should be able to obtain photocopies of documents pertaining to development projects as also matters of general public interest by paying a nominal charge. These should include in particular all bills, muster rolls, vouchers, estimates, and measurement books in relation to all construction activity, as also the criteria and procedure for selection of beneficiaries, and the list of beneficiaries under various welfare schemes implemented through the Panchayat.

Generally, these aspects of transparency, discussed above have been reflected in the Himachal Pradesh Panchayati Raj Act, 1994. The PR Act has a number of provisions related specifically to access to information by either the general public and/or elected representatives. These provisions are discussed in detail in Parts 3-5 of this document.

### A tool for Citizens to access information: E-Governance project of Himachal Pradesh

E-Governance is the application of electronic means in (1) interaction between government and citizens and government and businesses, as well as (2) in internal government operations to simplify and improve democratic government and business aspects of governance.<sup>19</sup> It is an important part of the process of strengthening democratic governance that requires developing of institutions and systems that are more responsive to the needs of the ordinary citizens. It helps in delivering government services and information to the public using electronic means. This will help in empowering the citizens through access to knowledge and information and make the working of the government more effective and efficient. There are examples of E-Governance initiatives in the delivery of basic services like health and education; social services including pension, registration of licenses and certificates; rural services, like accessing of land records; services in the agricultural sector that include weather forecast and information on market prices; redressal of public grievances etc.

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<sup>19</sup> Backus Michel (2001), E-Governance and Developing Countries, International Institute for Communication and Development (IICD) available at: <http://www.ftpiicd.org/files/research/reports/report3.pdf>

LokMitra - a Government-to-Citizen interface project formulated by the National Informatics Centre- Himachal Pradesh State Unit (NIC-HP) is one such initiative in Himachal. The pilot of the LokMitra Project has been implemented in Hamirpur district. Twenty-five information centres have been set up all over district. These centres are managed by unemployed youth selected by LokMitra Society on a self-sustaining basis. The basic objective is to provide various services to the people in rural areas such as facilitating communication of people's grievances to the authorities, asking of queries from public offices, accessing application forms for a variety of purposes, seeking details of development schemes, learning how to avail benefits under various welfare and development schemes etc. A nominal fee is charged from the users who avail themselves of this service.

## **The Right to Information Act 2005**

Parliament passed The Right to Information Bill in May 2005. This Bill received the President's assent on 15 June 2005. The Right to Information Act became fully operational from 12 October 2005, 120 days from the date on which it received the assent of the President.

### **Who and what is covered?**

Even though the RTI Act was passed by the Parliament, it covers not only government offices at the Centre, but also extends to the governments of the States and Union Territories and all agencies and bodies set up or substantially financed by them.<sup>20</sup> The Act allows access to information held by all 'public authorities' constituted or established by the Constitution or by a law made by either Parliament or the legislature of a state. This means that Panchayati Raj Institutions, which are established under Part IX of the Indian Constitution, are covered by the RTI Act. Panchayats being a creation of the State legislatures fulfil the second criterion as well. Furthermore the definition of the term 'public authority' under the RTI Act includes institutions of self governance. Panchayats and Municipal bodies constitute such local self governing bodies in rural and urban areas respectively. Panchayats at all three levels are therefore triply covered by the RTI Act.

Along with the information access provisions contained in the PR Act, the RTI Act gives citizens an additional tool to access information from these local bodies. Citizens can inspect works,

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<sup>20</sup> Section 2(h), Right to Information Act, 2005. However, the Act does not cover the State of Jammu and Kashmir, due to its special status under the Constitution.

documents and records, take notes, extracts or certified copies of documents or records, take certified samples of materials, and obtain information in electronic form from PRIs.<sup>21</sup>

## **What information is not covered?**

The Act specifies certain types of information which cannot be given to the public, referred to as 'exemptions'.<sup>22</sup> Key exemptions include: information whose disclosure would prejudicially affect the sovereignty, integrity, security or economic interests of India or relations with a foreign state; cabinet papers including deliberations of the Council of Ministers, Secretaries and other officers; information whose disclosure can endanger the life and safety of a person; information that would impede the process of an investigation or apprehension or prosecution of offenders; and disclosures which could constitute an unwarranted invasion of privacy of an individual.

However, even if requested information is covered by one of the exemptions in the law, the RTI Act requires that if the public interest in disclosure would be greater than the interests that may be protected by maintaining secrecy, such information must be disclosed.<sup>23</sup>

## **What information is proactively published?**

A key provision of the RTI Act is section 4(1) (b), which requires regular publication of a range of information by every public authority including Panchayats. Section 4(1)(b) also referred to as suo moto or proactive disclosure requires public authorities to publish key information on a regular basis, without waiting for a specific request from one or more citizens. Accordingly, panchayat bodies' at all three tiers must publish the following information:<sup>24</sup>

- The details of the PRI's functions and duties along with the powers of all officers and employees;
- Information regarding the rules, regulations, instructions, manuals and records used by panchayat employees for the discharge of any panchayat functions;
- A statement of the categories of documents held by it or under the control of the PRI's;
- A directory of the PRI's officers and employees;
- Monthly remuneration received by each of the PRI's officers and employees, including the system of compensation as provided in relevant regulations;

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<sup>21</sup> Section 2(j), Right to Information Act, 2005.

<sup>22</sup> Section 8(1) and s.9, Right to Information Act, 2005.

<sup>23</sup> Section 8(2), Right to Information Act, 2005.

<sup>24</sup> Section 4, Right to Information Act, 2005.

- Details of consultative committees set up by the PRI's for implementing its programmes;
- The budget allocated to each PRI, including the particulars of all plans, proposed expenditures and reports on disbursements;
- A detailed plan of the implementation of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes;
- Details regarding particulars of recipients of concessions, permits or authorisations granted;
- Details of the information available to, or held by PRI's or reduced in electronic form and the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room;
- The names, designations and other particulars of the Public Information Officers (PIOs) who are responsible for processing applications for information.

The law clearly states that proactive dissemination of the kinds of information listed above must be done cost effectively in the local language, and that the most effective method of communication in the local area must be used. The RTI Act specifies that information can be communicated to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means.<sup>25</sup> At the very least, the information must be available with the panchayat PIO for free inspection or at the cost price if it is in printed form.

### Proactive disclosure of information regarding Indira Awaas Yojana<sup>26</sup>

The Indira Awaas Yojana (IAY) scheme targets rural BPL families who are either totally houseless or live in unserviceable kutcha houses. Recently, the Central Ministry of Rural Development took out a half page advertisement in The Hindu national newspaper proactively disclosing information about the scheme. This is exactly the kind of information that needs to be published under s.4 of the RTI Act – and similar notices should be published and disseminated by panchayats in their local areas. The Ministry advised that under the scheme, assistance of up to Rs. 25,000 per house for plain areas and Rs. 27,000 per house for hilly/difficult areas will be given to a BPL family to construct a house. Importantly, the Ministry stated that a permanent waitlist of IAY beneficiaries will be prepared on the basis of the results of BPL Census 2002 for every Gram Panchayat so that the poor can know their year of allotment as a matter of right. The waitlist should be on display at every Gram Panchayat – another level of proactive disclosure. In case there is any complaint about the priorities of the list or exclusions from the list, people can appeal to the concerned officers at the block and district level. The objective is to make the selection process fully transparent and remove scope for malpractice.

<sup>25</sup> Section 4(4), Right to Information Act, 2005.

<sup>26</sup> Paid advertisement by the Ministry of Rural Development, The Hindu (Delhi edition), p.6, 10-03-06.

## What is the application process?

The RTI Act provides for the appointment of Public Information Officers (PIOs) in all offices and Assistant PIOs (APIOs) at each sub-divisional or sub-district level. APIOs have a duty to receive applications and pass them on to the relevant PIO. They act like a one-way post office and do not have an obligation to provide information to the citizens themselves under the RTI Act. The PIOs however are responsible for both receiving applications for information from citizens and providing such information if it is not covered by any exemption.

The Himachal Government has notified Rules for implementing the RTI Act throughout the State. According to the "Himachal Pradesh Right to Information Rules, 2006"<sup>27</sup> a person seeking information under the Act must make an application in Form 'A' (Annexure I) to the PIO/APIO accompanied by a fee of Rs. 10 per application. The PIO/APIO must then duly acknowledge receipt of the application and enter the particulars of the information request in Part I of the Application Register maintained for the purpose (Annexure V). Every application must be accompanied by a challan in support of payment of the application fees. More recently, the state government has included the provision that application as well as additional fees can be paid through bank drafts as well. Recently the State Government included demand drafts also as a mode of payment for application and additional fee vide notification no. Per(AR) F(7)-2/98-1d I dated 24th April 2006. Moreover, a separate application must be made in respect of each subject and in respect of each year to which the information relates. Notably, the RTI Act makes it clear that no application fee will be charged from applicants who belong to "Below Poverty Line" (BPL) families. Furthermore the applicant need not provide any reasons for seeking the information. Nor does the PIO have the power to demand an explanation from the citizen as to why he/she needs that information.

When the information sought is ready and requires payment of additional fees being the cost of providing the information (charges for photocopying or providing information on CD or floppies), the PIO/APIO must communicate to the applicant in Form 'B' (Annexure II) giving details of the additional fees to be paid. The particulars of information being supplied must be entered in Part II of the Application Register. The RTI Act makes it clear that no additional fee will be charged from applicants who belong to "Below Poverty Line" (BPL) families. When the information is ready the PIO/APIO must inform the applicant in Form 'C' (Annexure III). The information supplied will be in the language in which the requested record has been maintained.

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<sup>27</sup> The rules were notified vide memo No. PER(AR) F(7)-2/98-Vol.I dated 21 January 2006 issued by the Administrative Reforms Department, Government of Himachal Pradesh.

Regarding inspection of records, a person will have to apply in Form 'D' (Annexure IV) indicating the record to be inspected. An Inspection Register must be maintained with the PIO/APIO (Annexure VI) where details of the application for inspection must be recorded. Photography of records and documents during inspection is not allowed.

### Fees<sup>28</sup>

SL	Description of information	Price/Fees
1.	Fee along with application	Rs.10 per application
2.	Where the information is available in the form of a printed publication	Printed price of the publication
3.	Other than printed publication	Rs.10 per page of A-4 size or smaller and actual cost subject to minimum of Rs. 20 per page in case of larger size.
4.	Where information is available in electronic form and is to be supplied in floppy or CD	Rs. 50 per floppy and Rs. 100 per CD
5.	Fee for inspection of record/document	Rs. 10 per 15 minutes or fraction thereof

Every page of information supplied must be duly authenticated giving the name of the applicant (including below poverty line status if that is the case) and shall bear the dated signatures and seal of the concerned PIO/APIO supplying the information.

The fees/charges must be deposited in a government Treasury under the head of account: "0070 – OAS, 60 OS, 800 – OR, 11 – Receipt head under Right to Information Act, 2005." <sup>29</sup> Fees can also be given through bank drafts as well.

<sup>28</sup> Rule 5, Himachal Pradesh Right to Information Rules, 2006. It must be noted here that the additional fees prescribed by the Government of Himachal Pradesh are exorbitant. Neighbouring states of Punjab and Uttaranchal as well as the Central Government charge only Rs. 2 per page as photocopying charges under their Rules. Similarly in most states the first hour of inspection is free of cost and charges are levied only for the second hour and beyond.

<sup>29</sup> The Government of Himachal Pradesh has allowed payment of fees only through treasury challan and bank draft. This practice will only inconvenience people living in villages who do not have easy access to treasury challans or banks. Instead the State Government should amend the Rules to allow payment of fees in cash wherever cash receipt facility is available or through Indian Postal Orders, and non-judicial stamps which are recognised modes of payment in many states. The citizen should have the freedom to choose the mode of payment that is most convenient to him/her.

Applicants have the right to seek review of the additional fees charged by the PIO if they find it to be unreasonably high. The PIO has a duty to inform the applicant of the name and contact details of the Appellate Authority where an appeal seeking review of the fees can be filed.

### **Can decisions not to disclose information be reviewed?**

When a request for information is rejected by a PIO, the individual who asked for the information can appeal the decision. The first appeal is made to the officer 'immediately senior to the PIO' in the concerned public authority (commonly referred to as the Departmental Appellate Authority). This must be done within 30 days from the date of the refusal letter (or the date when a decision should have been made, if the applicant does not receive a response in time).<sup>30</sup> Under the RTI Act lack of any response from the PIO is equated with refusal to disclose information. An appeal can be filed with the appellate authority against such deemed refusal. No fee is payable for filing an appeal. The Departmental Appellate Authority must make a decision within 30-45 days.<sup>31</sup>

If the decision of the Departmental Appellate Authority is upheld, the requester can appeal to the appropriate Information Commission. If information has been denied by a public authority under the control of the State Government the appeal may be filed with the State Information Commission. In the case of public authorities under the control of the Central Government, appeals against refusals can be filed with the Central Information Commission.<sup>32</sup> The requester can also appeal to the Information Commission if he/she is unable to submit an information request because the PIO or the APIO refuse to receive it; or is unhappy with the form of access provided, or the fee charged; or if there is unreasonable delay in providing information. In fact, a citizen may move the appropriate Information Commission on about any matter relating to obtaining access to information under the Act, including a failure on part of the public authority to meet its proactive disclosure obligations.

Alternatively, a requester can make a complaint directly to the State or Central Information Commission under section 18(1) of the RTI Act in all circumstances mentioned above. Using this provision in effect can help reduce the appeals process by one step. Moreover, there is no compulsion on the citizen to exhaust the first appeal option before approaching the Information Commission. However the Information Commissions do not have any time limits for disposing of appeals. So it may be more fruitful to file an appeal before the Departmental Appellate Authority first in order to get a quicker response and then appeal to one of the Commissions, if necessary. The requester needs to weigh up his/her options and decide whether to make an appeal or a complaint.<sup>33</sup>

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<sup>30</sup> Section 19(1), Right to Information Act, 2005.

<sup>31</sup> Section 19(6), Right to Information Act, 2005.

<sup>32</sup> Section 19(3), Right to Information Act, 2005.

<sup>33</sup> Section 18(1), Right to Information Act, 2005.

In all appeals proceedings the burden of proving that the denial of information was justified lies on the PIO and the public authority he represents.

The memorandum of appeal/complaint to the Appellate Authority/Commission must contain the following information, namely:-<sup>34</sup>

- (i) Name and address of the appellant;
- (ii) Name and address of the PIO against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the PIO to whom the application was made;
- (vi) Prayer or relief sought;
- (vii) Grounds for the prayer or relief;
- (viii) Verification by the appellant; and
- (ix) Any other information which the Commission may deem necessary for deciding the appeal.

The appellant must submit four copies of the memorandum of appeal for official purpose. In addition every appeal made to the Appellate Authority/Commission must be accompanied by the following documents:<sup>35</sup>

- (i) Self attested copies of the orders or documents against which the appeal is being preferred;
- (ii) Challan in proof of the payment of the prescribed fee;
- (iii) Copies of documents relied upon by the appellant and referred to in the appeal; and
- (iv) An index of the documents referred to in the appeal.

The Himachal Pradesh Right to Information Rules further specify that on the date of hearing or on any other day to which the hearing may be adjourned, the parties must appear before the Appellate Authority/ Commission. If the appellant fails to appear on such date, the Appellate Authority/Commission may in its discretion either dismiss the appeal or decide the matter *ex parte* on merits.<sup>36</sup> Absence of the appellant during the hearing is likely to result in his/her case being disposed of without hearing his/her views..

The Information Commissions at the Centre and in all the States<sup>37</sup> are required to act as

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<sup>34</sup> Rule 6(1), Himachal Pradesh Right to Information Rules, 2006.

<sup>35</sup> Rule 6(3), Himachal Pradesh Right to Information Rules, 2006.

<sup>36</sup> Rule 6(5), Himachal Pradesh Right to Information Rules, 2006.

<sup>37</sup> Parts III and IV, Right to Information Act, 2005.

cheap, quick and most importantly, independent complaints and appeals bodies. The Commissions have been given broad powers to hear appeals and initiate inquiries<sup>38</sup> and also are tasked with regular monitoring of the law (including requisition of annual reports regarding implementation of the RTI Act from all public authorities under their jurisdiction). The Commissions can pass orders required to bring about compliance with the law, including ordering release of documents, appointment of PIOs and publication of specified information.<sup>39</sup>

The Himachal Pradesh Information Commission (which handles appeals and complaints relating to State Government public authorities) and the Central Information Commission (which handles appeals and complaints relating to Central Government public authorities) have both been set up and can be contacted at:

#### **Central Information Commission**

Mr. Wajahat Habibullah  
Chief Information Commissioner  
Block No 4, (5th floor)  
Old JNU Campus, New Delhi – 110011  
Ph: (011) 2671 7354  
Fax: (011) 2671 7352  
Email: whabibullah@nic.in  
Website: www.cic.gov.in

#### **Himachal Pradesh Information Commission**

Mr. P.S. Rana  
Chief Information Commissioner  
Room No. 222, Armsdale Building,  
H.P. Government Secretariat  
Shimla – 171002, Himachal Pradesh  
Ph: 0177- 2621904  
Fax: 0177- 2621154  
scic\_hp@nic.in

### **Can officials be penalised for non-compliance?**

Every PIO (or any other officer whose assistance the PIO requested while processing an application) can be penalised Rs. 250 per day up to a maximum of Rs. 25,000 for:

- Not accepting an application;
- Not giving information within time limits;
- Refusing to disclose information without reasonable cause;
- Knowingly giving incomplete, incorrect, misleading information;
- Destroying information that has been requested; and
- Obstructing furnishing of information in any manner.<sup>40</sup>

The penalty shall be imposed by the Central Information Commission or the State Information Commission, at the time of deciding any complaint or appeal.

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<sup>38</sup> Section 18, Right to Information Act, 2005.

<sup>39</sup> Section 18(8), Right to Information Act, 2005.

<sup>40</sup> Section 20, Right to Information Act, 2005.

## APIOs, PIOs and Departmental Appellate Authorities in the Panchayati Raj Department, Government of Himachal Pradesh<sup>41</sup>

Public Authority: Level of Government	Designation of Assistant PIO	Designation of PIO	Designation of Appellate Authority
State level		Deputy Director (Panchayati Raj)	Joint Director-cum-Joint Secretary (Panchayati Raj)
District level <sup>42</sup>	Superintendent, District Panchayat Officer	District Audit Officer, District Panchayat Office	District Panchayat Office
Block level	Sub Inspector (Panchayat)	Inspector (Panchayat)	Executive Officer-cum- BDO, Panchayat Samiti



<sup>41</sup> For details see website of Government of Himachal Pradesh at: <http://www.rti.gov.in/Members/himachal/panchayatiraj>.

<sup>42</sup> Office Order (No. PCH-HB (15)7/2005-RTI) issued by the Panchayati Raj Department, Government of Himachal Pradesh in February 2006. This order relates to the designation of PIOs, APIOs and Departmental Appellate Authorities at the district and block level to function under the provisions of the Right to Information Act, 2005.

## **Part 3: Disclosure of information at Gram Panchayat level**

Many right to information laws require governments to routinely publish and share information of general relevance with citizens, including updates about programmes, implementation of projects, budget, structure, norms and functions without their having to make a formal application. The PR Act of 1994 also places several proactive disclosure obligations on Gram Panchayats.

### **Proactive disclosure in Gram Sabha Meetings**

To exercise their powers and functions properly, Gram Sabha members need to be proactively informed about the various development activities taking place in the panchayat, as well as the finances and schemes available for the benefit of villagers. This information enables people to take active part in village-related affairs and especially in holding the elected representatives of the Gram Panchayat accountable. The PR Act 1994 requires the sharing of panchayat information with the public in the periodic meetings of the Gram Sabha. These periodic citizens meetings enable people to come together on a common platform in order to discuss the working of the local bodies.

Earlier, the PR Act 1994 required that at least two general meetings of the Gram Sabha<sup>43</sup> be held every year, one in summer and the other in the winter. However, with the passage of the Himachal Pradesh Panchayati Raj (Second Amendment) Act, 2000, the number of Gram Sabha meetings to be held in a year has been increased to four. This has been mainly done to secure maximum participation of people in the meetings of the Gram Sabha. The dates for the Gram Sabha have been fixed on the first Sunday of January, April, July and October of every year. Every Gram Sabha meeting must be held at the Gram Panchayat headquarters and must be presided over by the Pradhan and in his/her absence by the Up-Pradhan. The notice for a Gram Sabha meeting must be given by the Pradhan to all the members of the Gram Sabha at least fifteen days before the date of the meeting. It must also be pasted on the notice board of the Gram Panchayat and at other conspicuous places within the Gram Sabha area as decided by the Pradhan.<sup>44</sup> The copy of the notice of the meeting must also be sent to the BDO for his/her information and necessary action.

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<sup>43</sup> Section 5, Himachal Pradesh Panchayati Raj Act, 1994.

<sup>44</sup> Rule 9, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

The primary functions of Gram Sabha<sup>45</sup> are to consider the following matters, and make recommendations and suggestions to the Gram Panchayat, namely,

- To approve the annual budget of the Gram Panchayat;
- To consider and take appropriate action in respect of the annual statement of accounts of the Gram Panchayat;
- To consider the report of the administration of the preceding financial year;
- To consider the last audit notes and the replies, if any;
- To approve plans, programmes and budget prepared by the Gram Panchayat for economic development and social justice; and
- To authorize, after being satisfied, the issuance of utilisation certificates of funds spent on the implementation of the plans, projects and programmes of the Gram Panchayat.

The proceedings register, recording the proceedings of every Gram Sabha meeting must be maintained by the Panchayat Secretary. He must send an attested copy of the proceedings to the concerned BDO within a fortnight of the meeting. It is the duty of the BDO to ensure that updated records of the proceedings for every Gram Sabha in his jurisdiction are kept in his office.<sup>46</sup>



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<sup>45</sup> Rule 18, The Himachal Pradesh Panchayati Raj (General) Rules, 1997; read with Section 7, Himachal Pradesh Panchayati Raj Act, 1994.

<sup>46</sup> Rules 10 & 11, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

### **Monitoring of Gram Panchayats through Vigilance Committee**

As discussed in Part 1 of this document, Gram Sabhas in Himachal Pradesh have been empowered to constitute Vigilance Committees to supervise the Gram Panchayat works, schemes and other activities and to put reports concerning them in its meetings as well as send a copy of the report to the BDO.

Vigilance Committees must be formed by the Gram Sabha in its first general meeting after the general elections and the constitution of the Panchayat. The term of the Vigilance Committees is for two and a half years, after which the Gram Sabha in its general meeting must again form one or two Vigilance Committees for the remaining term of the Gram Panchayat. The Vigilance Committee(s) must place its reports, concerning any office bearer of the Panchayat, besides other matters relating to the schemes and other activities of the Panchayat, before the Gram Sabha in its general meeting and a copy of the report should be sent to the BDO for action.<sup>47</sup> After examining the report sent by the Vigilance Committee, the BDO should initiate such immediate action as may be required and should inform the vigilance committee in this regard. In case the Vigilance Committee is not satisfied with the action taken by the BDO, or the latter does not take/initiate action within 30 days from the receipt of the report, the Vigilance Committee may report the matter to the Deputy Commissioner and thereafter to Director for necessary immediate action.

Notably, the PR Act specifically provides that the Vigilance Committees have the right to inspect the documents, work and records and record statements of persons to ascertain the truth. Vigilance Committee(s) shall also have the right to take certified copies of any document from the Panchayat.

### **Ensuring accountability by Gram Sabha through the no-confidence motion**

The Gram Sabhas in Himachal Pradesh have also been given the powers to pass a no-confidence motion against the Pradhan or Up-Pradhan.<sup>48</sup> In order to remove the Pradhan or the Up-Pradhan or both, a notification signed by at least one-fifth of the members must be delivered in person to the BDO. The latter must then serve the Pradhan with the copy of

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<sup>47</sup> Rule 19, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>48</sup> Rule 127, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

the no-confidence motion and he/she shall be asked to place his/her defence and explanation before the Gram Sabha meeting. This meeting must be convened by the BDO within 30 days from the receipt of the notice. The BDO must specify the date, time and place of the meeting and will also preside over it. If the no confidence motion is brought against the Up-Pradhan the BDO must send a copy of the notice to the Pradhan of the Gram Panchayat with the direction to call a Gram Sabha meeting under his Chairmanship.

### **Proactive disclosure by Gram Panchayats**

Besides sharing information with the public in Gram Sabha meetings, information is also proactively disclosed by the Gram Panchayat in its own monthly meetings. Though these meetings of Gram Panchayat<sup>49</sup> are open to the public, yet due to the fact that they are predominantly attended by members, in practice this means that the information is shared mainly with elected representatives of the Gram Panchayat. These meetings must be held at least once a month at the Gram Panchayat office at such time as the Pradhan may fix.

The Proceedings Register must be maintained by the Panchayat Secretary in Hindi in Devnagri script. Proceedings of meetings<sup>50</sup> must be signed by the Pradhan or the person presiding over the meeting, besides the members present at the end of the meeting. Agenda items in every Gram Panchayat meeting include:

- Confirmation of account of constructions and development works;
- Details of income and expenditure of the preceding month in respect of each item;
- Income and expenditure statements of the ongoing works in the Gram Panchayat in Form 34.<sup>51</sup>

### **Disclosure of information relating to lease and sale of any property or public place**

The PR Act provides that a panchayat may lease out or sell any property or public place<sup>52</sup> belonging to or vesting in it, if it can be leased out profitably. All sales or lease must be by auction after giving publicity. This can be done by displaying an auction notice in Hindi on the notice board or by beating of drums in the locality. This must be done in order to enable the

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<sup>49</sup> Section 9, Himachal Pradesh Panchayati Raj Act, 1994.

<sup>50</sup> Rule 97, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>51</sup> See Annexure VII

<sup>52</sup> Rule 121, The Himachal Pradesh Panchayati Raj (General) Rules, 1997; read with Section 119, Himachal Pradesh Panchayati Raj Act, 1994.

panchayats to invite objections from the affected persons within the period of 30 days before acquiring or holding any property. This is an important provision that provides affected persons space to make their objections public.

## **Publication of general orders<sup>53</sup>**

The general orders include matters related to prohibition and regulation of certain activities, which can affect public health and sanitation within the Panchayat area. Some of the issues on which Gram Panchayats may issue orders include prohibit the use of water of a well, pond or other excavation suspected to be dangerous or public health; regulate or prohibit the watering of cattle or bathing or washing at or near wells, ponds or other excavations reserved for drinking water among others.

The Gram Panchayat shall pass in its meeting a resolution of its intention to enforce all or any of the provisions of section 13 of the PR Act 1994 which relate to general orders. The notice containing the contents of the resolution must be displayed on the notice board of the Gram Panchayat and at some other conspicuous places in the Sabha area for inviting objections and suggestions from the inhabitants of the Panchayat area within fifteen days. After the expiry of the time limit of fifteen days, the Gram Panchayat shall pass another resolution in its subsequent meeting to make a final general order, to enforce the provisions of section 13 after considering the objections and suggestions if any. The copy of the final general order passed by the Gram Panchayat shall be displayed on the notice board of the Gram Panchayat and at some other conspicuous places in the Sabha area.

## **Disclosure of information related to judicial matters by Gram Panchayat**

Gram Panchayats in Himachal Pradesh have been empowered to hear and decide cases relating to minor offences under the Indian Penal Code (IPC), the Vaccination Act, 1880, the Cattle Trespass Act, 1878, the Himachal Pradesh Juveniles (Prevention of Smoking Act), 1952 and the Public Gambling Act, 1867 and also to hear and decide applications for maintenance under section 125 of the Code of Criminal Procedure (Cr.P.C.). A list of offences cognizable by a Gram Panchayat is given in Annexure IX. Judicial records are created at the Gram Panchayat level when the Gram Panchayat tries these cases.

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<sup>53</sup> Rule 37, The Himachal Pradesh Panchayati Raj (General) Rules, 1997, read with Section 13, Himachal Pradesh Panchayati Raj Act, 1994.

The PR Act provides that Gram Panchayats must disclose information related to judicial proceedings, which take place at the Gram Panchayat level. The PR Act also specifies that any person may institute a case, a suit or a proceeding before a Gram Panchayat by an oral or written application to the Pradhan and at the same time must pay the prescribed fee as given below. A weekly list of suits, cases and proceedings with the names of parties and the dates on which they are to be heard should be displayed outside the office of the Gram Panchayat for general information.<sup>54</sup>

The following fees in cash are charged by the Gram Panchayat before entertaining any case, suit or proceeding:-

Civil Suits	Fees to be charged
When the amount or value of the subject matter in dispute does not exceed Rs. 500/-	Rs. 10/-
When it exceeds Rs. 500/-	Rs. 2/- for every one hundred rupees or fraction thereof
Criminal cases	
Criminal complaints	Rs. 5/-
Miscellaneous applications in a suit, case or proceedings	Rs. 2/-

Every application for obtaining a copy of the judicial records of the Gram Panchayat must be made to the Pradhan or Up-Pradhan along with a fee of Rs. 2, while the copying fee is charged at the rate of Rs. 3 for every two hundred words, which is payable in advance.<sup>55</sup> The Pradhan or in his absence the Up-Pradhan is responsible for getting the copy prepared by the Panchayat Secretary on plain paper, certifying it as a true copy under his signature and seal and delivering it to the applicant or his authorised agent and also refunding the balance, if any left out of the advance, after meeting the copying charges.<sup>56</sup> Fees must be paid in cash to the Panchayat Secretary and in his absence to the Pradhan, who will credit them to the Sabha fund and give a receipt.<sup>57</sup>

Records of every criminal, civil or revenue case decided by a Gram Panchayat must be consigned to the general record room at the district or sub-divisional headquarters one year

<sup>54</sup> Section 53, Himachal Pradesh Panchayati Raj Act, 1994; read with Rule 60, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>55</sup> Rule 65, The Himachal Pradesh Panchayati Raj (General) Rules, 1997; read with Rule 66, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>56</sup> Rule 67, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>57</sup> Rule 68, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

after they have been closed. Such records must be kept and destroyed in accordance with the Destruction of Records Act, 1917 and the rules made in relation to the Act.<sup>58</sup> Moreover, all judicial and non-judicial registers and books maintained by a Gram Panchayat when finished must be kept in the Gram Panchayat office for two years after which they should be consigned to the general record room of the office of the Sub-Divisional Officer (Civil).

The PR Act also provides for inspection of the record of a case, suit or proceeding which is pending or which has been consigned to the records room. These can be inspected by a party to the case free of charge. In case, any other person wants to inspect such record, he/she must obtain the permission of the Chairman of the bench before whom the case, suit or proceeding is pending, or Pradhan of the Gram Panchayat, if it has been decided, by presenting an application stating the nature of interest for the protection of which inspection is sought.<sup>59</sup> After the permission is granted, inspection will be allowed on payment of an inspection fee, of Rs.2 for the first hour and Re. 1 for every subsequent hour. The fee must be paid in cash with the application for inspection to the Pradhan or Up-Pradhan who shall credit it to the Sabha fund and give a receipt.<sup>60</sup> The inspection should be made during the office hours in the office of the Gram Panchayat.<sup>61</sup> The use of pen and ink during inspection is prohibited. Inspection of any record can be made only in the presence of Secretary of the Gram Panchayat.<sup>62</sup>

### **Registers to be maintained by Gram Panchayat<sup>63</sup>**

1. Register of Civil Suits (Form-20)
2. Register of Criminal Cases (Form-21)
3. Register of Revenue Proceedings (Form- 22)
4. Register of Execution of Decree (Form-26)
5. Register of Recovery of Fines (Form-27)
6. Register of Diet Money<sup>64</sup> (Form-28)
7. Register of Processes and Summons of Gram Panchayat (Form-29)
8. Book of Receipt for Money Received (Form-30)

In addition to the fact that these registers can be inspected and photocopies can be taken under the PR Act, the RTI Act, 2005 also provides an additional tool whereby citizens can access panchayat-held information.

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<sup>58</sup> Rule 90, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>59</sup> Rule 91, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>60</sup> Rule 92, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>61</sup> Rule 93, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>62</sup> Rule 94, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>63</sup> Rule 89, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>64</sup> Diet money includes (a) daily allowance and (b) travelling expenses as reimbursement to the witnesses for the expenses incidental to their attendance before the Gram Panchayat.

## Information Support by Secretary of Gram Panchayat

The Secretary<sup>65</sup> of the Gram Panchayat under the overall supervision of the Pradhan and in his absence the Up-Pradhan is responsible for the custody and maintenance of records and registers of the Gram Panchayats, the list of which is given below:<sup>66</sup>

1. Stock Register of Gram Panchayat (Form-1)
2. Stock Register of Receipt Book (Form-2)
3. Form of Receipt (Form-3)
4. Library Stock Register (Form-4)
5. Library Issue Register (Form-5)
6. Stock Material Register (Form-6)
7. Execution of Development Works Register (Form-7)
8. Muster Roll Issue Register
9. Grants-In-Aid Register (Form-8)
10. Ration Cards Register (Form-9)
11. Birth Registration Register
12. Death Registration Register
13. Marriage Registration Register (Form-10)
14. Immovable Property Register (Form-11)
15. Dak Receipt Register (Form-12)
16. Dak Despatch Register (Form-13)
17. Cash Book (Form-14)
18. Ledger (Form-15)
19. Tax Register (Form-16)
20. Proceedings Book (Form-17)
21. Inspection Register (Form-18)
22. Register of Population
23. Pariwar Register (Form-19)
24. Budget estimates on the form as may be prescribed by the State Government
25. Any other records/registers, prescribed by the Director from time to time.

<sup>65</sup> Earlier Panchayat Secretaries of Gram Panchayats were state government employees, appointed by the Director of the Panchayat Department. The Government has now declared the cadre of Panchayat Samitis as dying cadre and has authorized panchayats to appoint Panchayat Sahayaks against the vacant posts of Panchayat Secretaries. The Panchayat Secretaries are regular employees of the government whereas Panchayat Sahayaks are appointed by the Gram Panchayat on contract basis. Panchayat Sahayaks are paid remuneration out of the government grant @Rs. 600/- per month which is increased to Rs. 10000/- after completion of training. Presently there are 3243 Gram Panchayats and 1095 Panchayat Secretaries posted. There are approximately 1942 Panchayat Sahayaks posted in 1942 Gram Panchayats. In the remaining 206 Gram Panchayat, the process of appointment of Panchayat Sahayaks has been initiated, so that every Gram Panchayat will have either one Panchayat Secretary or a Panchayat Sahayak.

<sup>66</sup> Rule 34, The Himachal Pradesh Panchayati Raj (general) Rules, 1997.

### **Proactive disclosure related to Pariwar Register**

One of the duties of the Panchayat Secretary is to maintain a village-wise record of the population, based on the last preceding census called a Pariwar Register. The relevant figures of the census (published) must be made available to the Panchayat Secretary by the BDO duly authenticated.<sup>67</sup> A Pariwar Register<sup>68</sup> must be prepared for every Gram Sabha in Form 19, containing the names and particulars of all persons, family-wise, residing in a village, which forms part of the Sabha area. The register must be prepared by the Panchayat Secretary and verified by the Panchayat Inspector of the concerned Block.

At the close of each calendar year, the entries in the Pariwar Register must be revised and all entries pertaining to births, deaths and marriages must be made in the register which had taken place during the preceding year i.e. up to 31 December. In the event of division of the family, separation of the family can only be entered on the recommendations of the BDO.

The register must be revised and brought up-to-date by 31st January each year and public notice must be issued to that effect- -The register has been revised;  
-The revised register is available for public inspection for fifteen days (excepting public holidays) between 10 am to 5 pm in the office of the Gram Panchayat; and -If any objection has to be made with regard to any entry or omission in the register, this can be made to the Secretary of the Gram Panchayat within the said period of fifteen days. The notice must be pasted in the Gram Panchayat office and other conspicuous place in the Sabha area.

### **The Right to Information and the National Rural Employment Guarantee Act (NREGA) 2005**

The NREGA is one of the country's most ambitious anti-poverty programmes ever, which provides a legal guarantee of 100 day's work in a financial year to India's rural households whose adult members are willing to do unskilled manual labour. At present a total of 200 most backward districts have been identified across the country for the first phase of implementation of NREGA. The programme will be extended to all 600+ districts by 2009. NREGA requires the formulation of a Rural Employment Guarantee

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<sup>67</sup> Rule 20, The Himachal Pradesh Panchayati Raj (general) Rules, 1997.

<sup>68</sup> Rule 2, The Himachal Pradesh Panchayati Raj (general) Rules, 1997.

Scheme (REGS) by each State Government. The purpose of the scheme is to give effect to the legal guarantee of work. In order to facilitate the design the implementation of REGS, the Ministry of Rural Development, Government of India has brought out a detailed set of operational guidelines, which can be interpreted as a broad operational framework.<sup>69</sup>

In Himachal Pradesh this programme is operational in Chamba and Sirmaur districts. An amount of Rs. 683.64 lakh has been earmarked in the financial year 2006-07.

Commitment to transparency and accountability runs throughout the NREGA, which was enacted soon after The Right to Information Act, 2005 became fully operational throughout the country. There is a separate chapter on Transparency and Accountability: Role of the State in the Operational Guidelines documents. The key points stated here are as follows:

- Request for copies of Rural Employment Guarantee Scheme (REGS) related documents submitted under NREGA should be complied with within seven days. All the documents are in public domain and no information should be refused by invoking Section 8 of the RTI Act.
- Key documents related to NREGA should be proactively disclosed to the public without waiting for anyone to 'apply' for them. A list of such documents should be prepared by the State Employment Guarantee Council, and updated from time to time.
- Whenever, feasible, these documents should be made available on the Internet.
- Public access to key records and information must be ensured at all levels. Some of these include: updated data on demand received; registration; number of job cards issued; list of people who have demanded and been given/not given employment; funds received and spent; payments made; works sanctioned and works started; cost of works and details of expenditure on it; duration of work and person-days generated; reports of local committees; copies of muster rolls
- REGS- related accounts of each Gram Panchayat should be proactively displayed and updated twice a year. Summary accounts should be displayed through various means, including paintings on the walls at the Panchayat Bhawan, postings on notice boards and publication in Annual Reports available at cost price.

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<sup>69</sup> For more information visit the website of Ministry of Rural Development, Department of Rural Development, Government of India at: [www.rural.nic.in](http://www.rural.nic.in) or [www.nrega.nic.in](http://www.nrega.nic.in).

- Report Cards on local works, employment and funds should be posted by the Gram Panchayats on its premises and by the Programme Officer<sup>70</sup> at the Panchayat Samiti/Programme Officer's office, and for the whole district by the District Programme Coordinator<sup>71</sup> at the District Programme Coordinator/Zila Parishad office.

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<sup>70</sup> Under the NREGA a Programme Officer will be appointed at the block level with necessary support staff for facilitating implementation at the block level. He/she will act as a 'coordinator' for REGS at the block level and will not be below the rank of the Block Development Officer.

<sup>71</sup> Under the NREGA, the state government will designate a District Programme Coordinator, who can either be the Chief Executive Officer of the Zila Parishad, or the District Collector, or any other district-level officer of appropriate rank. This person will be responsible for the overall coordination and implementation of the scheme in the district.

## **Part 4: Proactive Disclosure by Panchayat Samitis and Zila Parishads**

This section discusses the proactive disclosure of information at the Panchayat Samiti and Zila Parishad level. The upper two tiers of the panchayat system are discussed together because of the similarity of the relevant provisions in the PR Act 1994.

The right to access information is particularly important at the levels of the panchayat administration because all information, plans, reports and the like from Gram Panchayats are collated by the upper panchayat tiers. Furthermore, funds transferred by Central or State Governments related to works, schemes and projects are reallocated to Panchayat Samitis and Gram Panchayats by the Zila Parishads. Hence, people need information from these bodies if they are to know how resources are being allocated by the Government and disbursed and utilised down the line. Of course, since the people elect the upper two tiers of panchayats as well, these tiers should be equally accountable to them and need to be transparent in their functioning.

### **Proactive disclosure relating to meetings**

According to the PR Act, the Panchayat Samiti<sup>72</sup> and the Zila Parishad<sup>73</sup> must hold their ordinary meetings at their respective headquarters at least four times in each year for the transaction of business. The Act also specifies that there should not be a gap of more than three months between two meetings. The notice of every meeting specifying the time and date and the business to be transacted must be sent to every member of the Panchayat Samiti and Zila Parishad and exhibited at the office of the two tiers not less than ten clear days before an ordinary meeting. In the case of special meetings a notice may be given before seven clear days.<sup>74</sup>

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<sup>72</sup> Section 80, Himachal Pradesh Panchayati Raj Act, 1994.

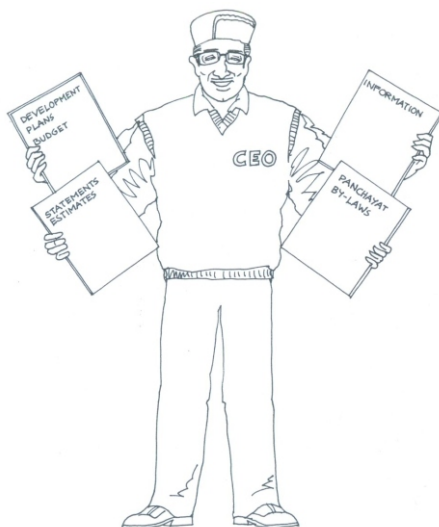
<sup>73</sup> Section 91, Himachal Pradesh Panchayati Raj Act, 1994.

<sup>74</sup> The Chairman or in his absence the Vice Chairman may convene a special meeting of the Panchayat Samiti if he/she receives a written requisition from at least one-third of its total members. Special meetings may also be convened if the Chairman or in his/her absence the Vice-Chairman finds it necessary to do so. The Zila Parishad or the Deputy Commissioner may also require the Panchayat Samiti to hold special meetings. Such meetings must be held within two weeks of receiving such a requisition. For special meeting of the Zila Parishad, the requisition has to be made in writing by not less than one-third of the total members of the Zila Parishad, or if required by the Government or the Director

The minutes of the proceedings<sup>75</sup> of a Panchayat Samiti/Zila Parishad meeting must be recorded in Hindi in Devnagri script in the proceedings book to be maintained by the BDO in his/her capacity as the Secretary of the Panchayat Samiti. Similarly in the case of the Zila Parishad the DPO has the responsibility to record and maintain the minutes of the meetings. The BDO and the DPO are the custodians of the respective proceedings books. A copy of the proceedings of every meeting, duly attested by the BDO, must be sent to the concerned Chairman of the Zila Parishad and other officers of the concerned Departments within seven days from the date of holding the meeting. Similarly a copy of the proceedings of every Zila Parishad meeting, duly attested by the DPO, must be sent to the Director of Panchayati Raj within ten days from the date of meeting and to the concerned heads of departments and District Officers(s).

The agenda of each meeting will include the following:

- Proceedings of the last meeting will be read at the subsequent meeting;
- Accounts of the past months shall be presented for the consideration and approval of the Panchayat Samiti/ Zila Parishad;
- Item-wise income and expenditure statement of the ongoing development works being executed by the Panchayat Samiti/Zila Parishad must be placed in the meeting on Form-34 for consideration and approval.



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<sup>75</sup> Rule 97, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

## Part 5: Access to Information on Request

This section deals with the procedure for applying for information from the Panchayati Raj Institutions at the three-tiers under the PR Act 1994. (This is in addition to the procedure for accessing information created by the RTI Act 2005 which applies to PRI's as well).

### Procedure for inspection and granting of copies of records<sup>76</sup>

The PR Act of 1994 provides that certain records of the panchayats can be inspected or photocopies can be obtained by putting in an application to the concerned official. Any person can apply for the copies of the following records of a panchayat:

- All leases, agreement, resolutions of the panchayat;
- All final orders passed by the panchayat or its officer or any matter, which affects the applicant (including recommendations made by some other person to explain the meaning of the final order);<sup>77</sup> and
- Entries of Pariwar Register.

In order to obtain a copy of a panchayat record, a person must make an application to the Pradhan of Gram Panchayat or Chairman of Panchayat Samiti or Zila Parishad, stating the purpose for which copy is required and it must be accompanied with a fee of Rs. 2.<sup>78</sup> Copying fee is charged at the rate of Rs.3 for every page, which must be paid in advance before making the copy.<sup>79</sup>

The Secretary of the panchayat has been given the responsibility to get the copy prepared, certify it as a true copy under his signature and seal and deliver it to the applicant or his duly authorised agent.<sup>80</sup> In case the Secretary prepares the copy of the record, he is entitled to get

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<sup>76</sup> Section 195, Himachal Pradesh Panchayati Raj Act, 1994; read with Rule 149, The Himachal Pradesh Panchayati Raj (general) Rules, 1997.

<sup>77</sup> A crucial difference between this access provision and that of the RTI Act is that this provision allows access to information only if it relates to the applicant. A third person may be denied access to the same information under the PR Act 1994. However under the RTI Act any citizen living in any part of Himachal Pradesh can ask information from any panchayat and obtain it within 30 days unless such information is covered by one or more exemptions to disclosure.

<sup>78</sup> Rule 65, The Himachal Pradesh Panchayati Raj (general) Rules, 1997. This provision is again different from the RTI Act. Section 6(2) of the RTI Act states that there is no need for an applicant to give reasons as to why he/she wants the information. Instead information should be provided to the applicant as a matter of right without seeking any explanation.

<sup>79</sup> Rule 66, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

<sup>80</sup> Rule 67, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

50% of the copying fees and the remaining 50% is deposited in the Sabha fund. If the photocopies of the records are provided, the copying fee after deducting the photocopy charges must be deposited in the Panchayat Fund.<sup>81</sup>

Any person may apply for inspection of the records (including bills, muster rolls, vouchers, estimates and measurement book) of the panchayat or any of its committees, to the Pradhan of the Gram Panchayat or Chairman of the Panchayat Samiti or Zila Parishad, as the case may be. The inspection fee is Rs. 2 for the first hour and one rupee for any subsequent hour for every record inspected. The inspection shall be made during the office hour in the panchayat office.<sup>82</sup> The use of pen and ink during the inspection is prohibited. Inspection of any record shall be made in the presence of officer/official of the panchayat.

The fee shall be paid in cash with the application to the Secretary or ex-officio Secretary of the panchayat, who shall deposit it in the Panchayat Fund and give a receipt with his signature.

## **Penalty for not giving information or giving false information**

A penalty for unreasonable delay or withholding information is crucial for an access law to have real meaning. Lack of penalty can weaken the whole foundation of an access regime. Without the threat of penalties it can be easy for resistant government officials to subvert the purpose of the law. According to the PR Act 1994, if an authorised person does not provide information or knowingly gives wrong information, then on being proved and convicted he/she has to pay a fine, the maximum limit of which is Rs. 250.<sup>83</sup> In addition, if any person who without authority removes, destroys, defaces or otherwise obliterates any notice exhibited or any sign or mark erected by a panchayat and if convicted has to pay a fine, the maximum limit of which is Rs. 50.<sup>84</sup>

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<sup>81</sup> Every panchayat must establish a fund called Panchayat Fund which will consist of all sums received by the panchayat. These funds are deposited with the nearest government treasury or sub-treasury of the post office or co-operative bank or scheduled bank.

<sup>82</sup> Rule 92, The Himachal Pradesh Panchayati Raj (general) Rules, 1997.

<sup>83</sup> Section 155, Himachal Pradesh Panchayati Raj Act, 1994.

<sup>84</sup> Section 154, Himachal Pradesh Panchayati Raj Act, 1994.

## Overriding effect of the Right to Information Act

With the enactment of the RTI Act, 2005, all the documents mentioned above can be accessed by citizens, since these do not fall within those records which have been exempt from being disclosed as per s.8 of the Act. Moreover s. 22 of the RTI Act specifies that this Act will have overriding effect on any other law for the time being in force which includes the PR Act as well. Given below is a comparative table in relation to the various access provisions contained in the two laws.

	<b>PR Act, 1994</b>	<b>RTI Act, 2005 (as per state government rules)</b>
Application fee	Rs. 2	Rs. 10
Photo copy fees	Rs.3 per page	Rs. 10 per page of A4 size and Rs 20 per page for larger size
Where information is available in electronic form and is to be supplied in floppy or CD	No provision	Rs. 50 per floppy and Rs 100 per CD
Inspection fee	Rs.2 for first hour and Re1 for subsequent hour	Rs 10 per 15 minutes fraction thereof
Modes of fee payment	Cash with receipt for subsequent hour	Treasury challan and bank draftor
Penalty	Up to a maximum of Rs. 250	At the rate of Rs. 250 per day up to a maximum amount of Rs. 25,000.
Purpose for which information is required to be mentioned in the application	Yes	No

## Part 6: Proactive Disclosure around Panchayat Elections

Elections provide the essential democratic space for people to elect a person of their choice who will then represent them and strive to fulfil their needs and interests. Elections at the panchayat level are a key point of participation in local governance processes. Information is an essential requirement of the people if they are to meaningfully exercise the most basic of their democratic rights. Better-informed voters mean better-informed choices, more responsive panchayat members and better governance.

Elections to panchayat bodies take place every five years.<sup>85</sup> The Himachal Pradesh State Election Commission<sup>86</sup> is responsible for the superintendence, direction and control of the preparation of electoral rolls. The State Election Commission is also responsible for, the conduct of, elections to panchayats at all levels. The first elections to establish the three-tier Panchayati Raj system in the state were held in December 1995. The most recent panchayat elections were held in December, 2005 and the presently elected office bearers started functioning from 23 January 2006. The next round of election is due in 2011.

A review of State panchayat regulations shows that information related to panchayat elections is usually disclosed proactively, especially with respect to preparation and publication of electoral rolls, publication of election programme, nominated candidates and election results.

### Publication of electoral roll in draft

As soon as the electoral roll of a constituency is made ready, the District Election Officer (Panchayats) must publish it in draft, together with a notice in Form-I and make available copies for inspection at his office and in the office of Gram Panchayat, Panchayat Samiti and Zila Parishad.

In addition, the notice must be given publicity through newspapers having largest circulation in the area, All India Radio (AIR), by beat of drum in constituency and by displaying copies of such notice in the office of the District Election Officer (Panchayat) and at the office of Gram Panchayat, Panchayat Samiti, Zila Parishad and at other conspicuous places where the public has free access.<sup>87</sup>

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<sup>85</sup> Article 243K of the Constitution states that "Panchayat elections are to be held regularly. The conduct of local elections is entrusted to the State Election Commission."

<sup>86</sup> The Commission consists of a State Election Commissioner who is appointed by the Governor.

<sup>87</sup> The Electoral Rolls of Himachal Pradesh covering 42 lakh electors have been published in Hindi, on the HP government website (<http://ceohimachal.nic.in/pscd/pdf.html>) and can be searched by name, polling station and serial number.

## Inspection of electoral roll and connected papers<sup>88</sup>

According to the election rules made under the PR Act 1994, every person will have the right to inspect papers related to electoral rolls and get attested copies on payment of Rs.5 per page against cash receipt.

## Account of Election Expenses and lodging of account<sup>89</sup>

Every candidate at an election of member of Zila Parishad must, either by himself/herself or by his/her election agent, keep a separate and correct account of all expenditure in connection with the election between the dates on which he/she was nominated and the date of declaration of the result. Both dates are included for the calculation of the entire period. The total expenditure must not exceed the ceiling limit prescribed by the State Government in consultation with the State Election Commission.

Moreover, every contesting candidate must, within thirty days from the date of election of the successful candidate, lodge with the officer appointed by the State Election Commission an account of his election expenses which must be a true copy of the account maintained by him/her or his/her election agent.

## Publication of office bearers of Panchayats

Immediately after the declaration of result, it is the duty of the Deputy Commissioner, to publish the names of office bearers of Panchayats<sup>90</sup> whether or not chosen by direct election, in the official gazette. A copy of the same must also be displayed on the notice board of the Panchayat. This requirement applies to all Panchayats at all three levels.



<sup>88</sup> Rule 26, Himachal Pradesh Panchayati Raj (Election) Rules, 1994.

<sup>89</sup> Section 121-A&B, The Himachal Pradesh Panchayati Raj (Amendment) Act, 2000.

<sup>90</sup> Section 126, Himachal Pradesh Panchayati Raj Act, 1994; and Rule 124, The Himachal Pradesh Panchayati Raj (General) Rules, 1997.

**Form A**  
**Application for Information under**  
**The Right to Information Act, 2005**

To

The Public Information Officer / Assistant Public  
Information Officer  
(Name of the Department from which the information is sought)

(a) Subject matter of the information

---

(b) Period to which the information relates.

Month & year

---

(c) Description of the information required

(d) File No. if available

(e) Whether the applicant claims exemption  
as below poverty line family, if yes, attach proof

---

(f) Original Treasury Challan No  
amount and date of depositing application fee under rule 4 be attached.

Applicant

Name:.....  
Address:.....  
Telephone No:.....

**Form B**  
[See rule 3(3)]

**From**

**Designation of the Public Information Officer / Assistant Public Information Officer**

[Department-----]

To,

.....  
.....  
.....

(Name & Address of the applicant)

**Reference: Application No**..... **Dated**.....

**Subject:**.....  
.....

**Sir,**

1. Please refer to your application dated-----referred to above. The information required by you consists of----pages and printed publication cost Rs----- . The additional fee for supplying this information to you is Rs.----- . In case you desire the information to be sent to you by post, an additional amount of Rs.-----will need to be deposited.
2. You are required to deposit the aforesaid amount of the additional fee in a Government Treasury under Head-----through challan and send a copy thereof to the undersigned.
3. If you are not satisfied with the amount of additional fee levied, you have a right to prefer appeal to-----within a period of 30 days.

**Public Information Officer / Assistant Public Information Officer**

**Tel No**.....

**Form C**

[See rule 3(3) & 6(i)]

**From**

**Designation of the Public Information Officer /  
Assistant Public Information Officer**

[Department-----]

To,

.....  
.....  
.....

(Name & Address of the applicant)

**Reference: Application No..... Dated.....**

**Subject:.....**  
.....

**Sir,**

1. Please refer to your application dated-----referred to above.
2. The information required by you is ready. You are directed to collect the information from the officer of the undersigned on any working day of the week during 12.00 to 3.30 p.m.

**Public Information Officer/ Assistant Public Information Officer**

**Telephone No.....**

**Form D**  
[See rule-4 (1)]

**Application for Inspection  
under the Right to Information Act, 2005**

**To  
The Public Information Officer/Assistant Public  
Information Officer**

(Name of the Department from which the inspection is sought)

- (a) Subject matter of the information :.....
- (b) Period to which the information relates. :.....  
Month & year
- (c) Description of the information required :.....
- (d) File No. if available :.....
- (e) Whether the applicant claims exemption  
as below poverty line family,  
if yes, attach proof :.....
- (f) Original Treasury Challan No amount  
and date of depositing application fee  
under rule 4 be attached. :.....

**Applicant**

**Name:.....**  
**Address:.....**  
**Telephone No:.....**

## Register of Applications for Information under the Right to Information Act, 2005

### Part - I

Sl. No.	Name & full postal address of the applicant	Whether below poverty line (BPL)	Date of receipt of application	Tentative date on which the record would be ready	Mode by which the information is sent	Treasury challan No. and date	Signature of PIO
1	2	3	4	5	6	7	8

### Part -II

Actual date when the information is ready	Number of actual pages	Amount of additional fee	Signature of applicant with date in token of receipt if the information is delivered in person or if the information is sent by post its particulars and date
9	10	11	12

## **Inspection Register under the Right to Information Act, 2005**

Sl. No.	Name & full postal address of the applicant	Whether below poverty line (BPL)	Subject Matter of information	Particulars of record to be inspected	Time Taken From..... To.....	Amount of fee charged	Signature of applicant
1	2	3	4	5	6	7	8

**Form-34**

[See Rules 18 (3), 27 (3), 97 (5) &amp; 105 (5)]

Proforma for placing the Income and Expenditure Statement of on-going development works in the meeting of panchayats

1. Date of meeting of Panchayat -----
2. Name of Work -----
3. Name of Scheme -----
- 
4. Date on which work started -----
5. Latest position of work -----
6. Sanctioned amount -----
7. Detail of expenditure -----
8. Total expenditure -----

Material :

Sl No	Date	Detail of Material	Source of purchase	Material Received			Material actually used (Qty)	Expenditure on Material
				Qty (A)	Rate (B)	Account (C)		
1	2	3	4	5			6	7

Wages :

SL	Muster Roll	Month	Working days of un-skilled	Working day of skilled laboures	Amount paid to un-skilled labourers	Amount paid to skilled labourers	Total Expense
1	2	3	4	5	6	7	8

## **Functions of the three-tier Panchayati Raj Institutions**

### **Functions of Zila Parishad**

1. Control, co-ordinate and guide, the Panchayat Samiti and Gram Panchayat within the district;
2. Co-ordinate and consolidate the Panchayat Samiti plans;
3. Co-ordinate the demands for grants for special purpose received from the Panchayat Samiti and forward them to the State Government;
4. Secure the execution of the plans, projects schemes, or other works common to two or more Panchayat Samitis in the district;
5. Advise the State Government in the developmental activities, social forestry, family welfare, welfare of the disabled, destitute, women, youth and children and sports;
6. Exercise and perform such other powers and functions as the State Government may, confer on or entrust to it.

### **Functions of Panchayat Samiti**

1. Integrated Rural Development, Agriculture, Social Forestry, Animal Husbandry and Fisheries, Health and Sanitation, Adult Education, Communication and Public Works, Co-operation, Cottage Industries, Welfare of Women, Youth and Children, Welfare of disabled and the destitute and welfare of Backward Classes, family planning and sports and rural employment programmes;
2. Provision of emergency relief in cases of distress caused by fires, floods, drought, earthquake, scarcity, locust, swarms, epidemics and other natural calamities;
3. Arrangement in connection with local pilgrimage and festivals;
4. Management of public markets, public melas and exhibitions; and
5. Any other function with the approval of the State Government or Zila Parishad

### **Functions Of Gram Panchayats**

1. Sanction, conservancy and prevention and abatement of nuisance;
2. Construction, repair and maintenance of public wells, ponds tanks and conventional/traditional source of water;
3. Construction and maintenance of village paths, mule roads and rural roads, culverts, bridge and bunds which are not constructed or maintained by the Public Works Departments;

4. Construction maintenance and cleaning of public streets, latrine, drains tanks, well and other public places;
5. Regulating the construction of buildings, latrines, urinals, drains and water closet;
6. Collection and disposal of refuse and earmarking places for dumping of refuse;
7. Filling of disused wells, in sanitary ponds pools, ditches and pit and conversion of step wells into sanitary well;
8. Lighting of village street and other public places;
9. Removing of obstructions and projections in public streets or places and in sites not being private property or which are open to use of public, whether such sites are vested in the panchayat or being to the State Government;
10. Management of public land and management and development of village site grazing land and other land vested in or under the control of the Gram Panchayat;
11. Maintenance of ancient and historical monument other than those declared by or under law made by parliament to be national importance;
12. Maintenance of Gram Panchayat property;
13. Plantation and preservation of Panchayat Forests; 14. Regulating places for disposal of dead bodies, carcasses and other offensive matters;
15. Disposal of unclaimed corpuses and carcasses;
16. Regulation of sale and preservation of meat;
17. Establishment and management of cattle ponds and maintenance of records relating the cattle;
18. Establishment, management and regulation of markets and fair; and
19. Maintenance of records of birth, deaths and marriage."

**Schedule - III**

(See section 32)

**Offences cognizable by a Gram Panchayat**

No.	Name of Act/ Code	Offence	Section
1.	Indian Penal Code	Committing affray	160
2.	-do-	Absconding to avoid service of summons or other proceedings	172
3.	-do-	Obstructing service or publicising of summons issued by lawful authority	173
4.	-do-	Refusing oath or affirmation when duly require by a public servant	178
5.	-do-	Refusing to answer a public servant authorised to question	179
6.	-do-	Refusing to sign statement	180
7.	-do-	Intentional insult or interruption to a public servant sitting in judicial proceeding	228
8.	-do-	Offences relating to weights and measures mentioned in Chapter XIII	264-267
9.	-do-	Negligently doing an act dangerous to human life	269
10.	-do-	Defiling the water or public spring or reservoir	277
11.	Indian Penal Code	Danger of obstruction in public way or line of navigation	283
12.	-do-	Dealing with fire or any combustible matter as to endanger human life etc.	285
13.	-do-	Dealing with any explosive substance as to endanger human life etc.	286
14.	-do-	Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair	288
15.	-do-	Negligent conduct with respect to any animal	289

No.	Name of Act/ Code	Offence	Section
16.	-do-	Committing a public nuisance	290
17.	-do-	Obscene acts and songs	294
18.	-do-	Voluntarily causing hurt	323
19.	-do-	Voluntarily causing hurt on provocation	334
20.	-do-	Wrongfully restraining ay person	341
21.	-do-	Assault or use of criminal force otherwise than on grave provocation	352
22.	-do-	Theft where the value of the property stolen does not exceed Rs. 250/-; provided that no Gram Panchayat shall take cognizance of any such complaint if the accused	379
		(i) has been previously convicted of an offence under Chapters XII or XVII of the Indian Penal Code punishable with imprisonment of either description for a term of three years or upwards; or (ii) has previously been fined for theft or receiving or retaining stolen property by any Panchayat; or (iii) is a registered habitual offender under any law for the time being in force; or (iv) has been bound over to be of good behaviour in proceedings instituted under section 109 or 110 of Criminal Procedure Code, 1973 (V of 1974); or (v) has had an order or restriction passed against him under the Himachal Pradesh Restriction of Habitual Offenders Act, 1973 (9 of 1974); or (vi) has been previously convicted for gambling.	
23.	-do-	Dishonest misappropriation	403i*
24.	Indian Penal Code	Criminal breach of trust	406*
25.	-do-	Dishonestly receiving or retaining stolen property	411*

No.	Name of Act/ Code	Offence	Section
26.	do-	Cheating	417*
27.	-do-	Mischief when the damage or loss caused does not exceed fifty rupees in value	426
28.	-do-	Mischief and thereby causing damage to property or loss of Rs. 50 or exceeding Rs. 50 in value.	427
29.	-do-	Maiming of animal of the value of Rs. 10	482
30.	-do-	Mischief by killing or maiming a cattle etc. of any value or any animal of the value of Rs. 50	429
31.	-do-	Criminal trespass	447
32.	-do-	Insult intended to provoke breach of the peace	504
33.	-do-	Punishment for criminal intimidation etc.	506
34.	-do-	Uttering any word or making any gesture intended to insult the modesty of a woman	509
35.	-do-	Misconduct in public by a drunken person	510
36.	The Vaccination Act, 1880 (Act XIII of 1880)	Punishment of offences covered by clauses (a), (b) and (d) of section 22	22 except clause (c)
37.	The Cattle Trespass Act, 1871	Forcibly opposing the seizure of cattle or rescuing the same	24
38.	-do-	Causing damage to land or crops or public roads by pigs	26
39.	The Himachal Pradesh Juveniles (Prevention of Smoking) Act, 1952	Penalty for selling tobacco to children	3
40.	-do-	Seizure of tobacco from juvenile in a public place	4
41.	The Public Gambling Act, 1867 (II of 1867)	Penalty for owning or keeping or having charge of gambling house	3
42.	-do-	Penalty for being found in a gambling house	4
43.	-do-	Penalty on persons arrested for giving false names and addresses	7

No. Name of Act/ Code	Offence	Section
44. -do-	Offences under sections 22, 158 and 187 under this Act.	

# CHRI Programmes

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. In addition to its broad human rights advocacy programme, CHRI advocates for access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

**Human Rights Advocacy:** CHRI makes regular submissions to official Commonwealth bodies and member governments and when needed, conducts fact finding missions. Since 1995, CHRI has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit also ensures that human rights issues are in the public consciousness.

## ACCESS TO INFORMATION

**Right to Information:** CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity, as well as advocating with policy makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India and provides legal drafting support and inputs in Africa. In the Pacific, CHRI works with regional and national organisations to catalyse interest in access legislation.

**Constitutionalism:** CHRI believes that constitutions must be made and owned by the people and has developed guidelines for the making and review of constitutions through a consultative process. CHRI also promotes knowledge of constitutional rights and values through public education and has developed web-based human rights modules for the Commonwealth Parliamentary Association. In the run up to elections, CHRI has created networks of citizen's groups that monitor elections, protest the fielding of criminal candidates, conduct voter education, and monitor the performance of representatives.

## ACCESS TO JUSTICE

**Police Reforms:** In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** The closed nature of prisons makes them prime centres of violations. CHRI aims to open up prisons to public scrutiny by ensuring that the near defunct lay visiting system is revived.

**Judicial Colloquia:** In collaboration with INTERIGHTS, CHRI has held a series of colloquia for judges in South Asia on issues related to access to justice, particularly for the most marginalised sections of the community.

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralize government to promote greater participation by ordinary people in their own governance. This process of democratic decentralisation was set in motion with the 73rd Constitutional Amendment Act passed by the Indian Parliament in 1992, which enabled decentralised governance through PRIs in rural areas.

PRIs offer India's rural villagers a practical opportunity to participate in village planning processes, to engage with the various developmental schemes being implemented by the Government and to interact with their elected representatives directly to ensure that their interests are being effectively served and their money properly spent.

In this context, the right to information offers a key tool for ensuring that PRIs more effectively meet their goal of promoting participation and entrenching accountable government. Citizen participation in panchayat institutions will be more meaningful when people have the information to make informed choices and participate in decision-making processes on the basis of actual facts.

It is hoped that the compilation of these provisions will provide a useful resource book for citizens who themselves wish to use these laws to gather information...



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