

# The Right to Information and Panchayati Raj Institutions: Uttar 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.



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

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# Introduction

Panchayati Raj Institutions (PRIs) in India are a homegrown effort to decentralise government to promote greater participation of 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<sup>1</sup>, which enabled decentralised governance through PRIs in rural areas. It is incorporated as Part IX of the Constitution of India. The Constitution (Seventy Third Amendment) Act came into force on 24 April, 1993. Within one year, most states had passed their conformity legislations.

PRIs function at the village, intermediate (block) and district level. Today, throughout the country there are approximately 2,34,030 Gram Panchayats<sup>2</sup> at the village level, 6053 intermediate panchayats at the block level and 535 district panchayats and a total of about 31 lakhs elected representatives at all three tiers and of these one-third are women<sup>3</sup>. This is the largest representative base in a democracy anywhere in the world, developed or underdeveloped.

PRIs offer citizens living in rural areas a practical opportunity to participate in village level decision making and 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 effectively served and their money properly spent.

While PRIs are an excellent initiative in theory, reality 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 efficient and effective government. Citizen participation in panchayat

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<sup>1</sup> This Amendment to the Indian Constitution visualized panchayats as the third tier of governance in the federal polity. However, the Constitution (73rd Amendment) Act, 1992 does not apply to Schedule V and VI areas of Assam, Tripura, Meghalaya, and Mizoram, Nagaland, hill areas of the state of Manipur for which District Councils exist and the district of Darjeeling in West Bengal. The Amendment Act has not yet been extended to Jammu and Kashmir.

<sup>2</sup> The word "panchayat" is a traditional one, referring to the five elders in a village who mediated conflict and spoke on behalf of all residents of a village in pre-modern times. While the word has been retained for use after the 73rd Amendment to the Constitution, the meaning is now a formal one referring to a body not always consisting of five persons- elected according to law. Further the word is used for the three tiers of local administration brought in by 73rd Amendment Act the highest being the district or Zila Panchayat. The lowest is the Gram Panchayat which may consist of one or more villages. All adult citizens of villages constitute the Gram Sabha, which then becomes the basic unit of democracy. In between is a co-coordinating level the block panchayat. The powers that these panchayats enjoy are enshrined in the laws enacted by each state in India.

<sup>3</sup> Ministry of Panchayati Raj (MoPR), statistics provided at the 7th Roundtable Conference of the MoPR, current as in December 2004.

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, not rumours and half-truths.

In practice, the right to information means that people should be able to access information from PRIs upon request, and that PRIs have a 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 and local newspapers.

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 Panchayati Raj Act and related rules operational in the State of Uttar Pradesh. The following Acts and Rules have been referred to while preparing this document:

- ◆ *The Uttar Pradesh Panchayat Raj Act, 1947;*
- ◆ *The Uttar Pradesh Panchayat Raj Rules, 1947;*
- ◆ *The Uttar Pradesh Panchayats (Determination and Publication of the Number of Persons belonging to Backward Classes) Rules, 1994;*
- ◆ *The Uttar Pradesh Panchayat Raj (Delimitation of Territorial Constituencies for Election of Members) Rules, 1994;*
- ◆ *The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961;*
- ◆ *Uttar Pradesh Panchayat Raj (Election of Members, Pradhans and Up-Pradhans) Rules, 1994;*
- ◆ *The Uttar Pradesh Panchayat Raj (Registration of Electors) Rules, 1994;*
- ◆ *The Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Election of Members) Rules, 1994;*
- ◆ *The Uttar Pradesh Kshetra Panchayats (Election of Pramukhs and Up-Pramukhs and settlement of Election Disputes) Rules, 1994;*
- ◆ *The Uttar Pradesh Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and settlement of Election Disputes), Rules, 1994.*

It is hoped that the compilation of these provisions will prove to be a useful resource for **citizens** who wish to use these laws to gather information from panchayats; **NGOs** working on strengthening panchayats; **elected representatives** who will be more aware of their roles and duties in seeking information from their own panchayats and providing such 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 Uttar Pradesh

Uttar Pradesh (UP) with a population of 16.62 crores as per the 2001 Census is the most populous state of the country. It covers 2,40,928 sq.kms and accounts for 7.3 per cent of the total area of the country which makes it the fifth largest state. About 79% of the states population resides in rural areas. The majority of UP's villages are small in size, with an average population of 3,194 persons per panchayat.<sup>4</sup> Uttar Pradesh was bifurcated in the year 2000 when the Himalayan portion of the state – the Garhwal and Kumaon divisions – were formed into a new state called Uttarakhand which has been recently renamed as Uttarakhand.

Uttar Pradesh operates a three-tier panchayat system, which is intended to bring government closer to the people. UP has approximately 52,000 Gram Panchayats at the village level covering 97,134 inhabited villages, 813 Kshetra Panchayats at the intermediate (block) level and 70 Zila Panchayats at the district level. The 70 districts<sup>5</sup> have been grouped into 17 divisions.<sup>6</sup> Additionally, there is the Gram Sabha, which is the basic unit in the Panchayati Raj mechanism.

Before independence, the provincial government had enacted the first village panchayat act in 1920 which set up village level bodies to assist in the administration of civil and criminal justice, and also to effect improvements in sanitation and other common concerns of villages. The panches were however, appointed by the District Collector. With the attainment of independence, the state government enacted the *United Provinces*<sup>7</sup> Panchayati Raj Act, 1947. This provided for the election of the panchayat presidents, besides expanding the powers and functions of the bodies. Under the Act of 1947, three bodies, the gaon sabha, the gaon panchayat and the panchayat adalat (to settle disputes) were created. The gaon sabha was

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<sup>4</sup> See website at: [http://planning.up.nic/articles/Poverty\\_Alleviation\\_through\\_RD.pdf](http://planning.up.nic/articles/Poverty_Alleviation_through_RD.pdf)

<sup>5</sup> The 70 districts are: Meerut, Bagpat, Ghaziabad, Gautam Buddha Nagar, Bulandshahr, Saharanpur, Muzaffarnagar, Agra, Aligarh, Hathras, Etah, Mainpuri, Mathura, Firozabad, Bareilly, Badaun, Pilibhit, Shahjahanpur, Moradabad, Jyotiba Phule Nagar, Rampur, Bijnor, Kanpur Nagar, Kanpur Dehat, Farrukhabad, Kannauj, Etawah, Auraiya, Allahabad, Kaushambi, Fatehpur, Pratapgarh, Jhansi, Lalitpur, Jalaun, Hamirpur, Banda, Chitrakoot, Mahoba, Varanasi, Chandauli, Ghazipur, Jaunpur, Mirzapur, Sonbhadra, Sant Ravidas Nagar, Gorakhpur, Maharajganj, Devaria, Kushinagar, Basti, Sant Kabir Nagar, Siddharth Nagar, Azamgarh, Mau, Ballia, Lucknow, Raebareli, Hardoi, Unnao, Sitapur, Lakhimpur Kheri, Faizabad, Ambedkar Nagar, Sultanpur, Barabanki, Gonda, Balarampur, Bahraich, Shravasti.

<sup>6</sup> The 17 divisions are: Agra, Azamgarh, Allahabad, Kanpur, Gorakhpur, Chitrakoot, Jhansi, Devipatan, Faizabad, Bareilly, Basti, Mirzapur, Moradabad, Meerut, Lucknow, Varanasi, and Saharanpur.

<sup>7</sup> The name United Provinces was changed to the present Uttar Pradesh on 12 January 1950.

required to meet twice in a year after the two major harvests, and to pass the budget of the panchayat. It could remove the gaon panchayat pradhan and up-pradhan by a two-thirds majority. The panchayat members were elected by the members of the gaon sabha for a term of three years.

Unlike most other states in India, Uttar Pradesh did not enact new panchayati raj legislation to conform to the 73rd Constitution Amendment. It amended the two existing laws, namely, the United Provinces Panchayat Raj Act, 1947<sup>8</sup> and the Uttar Pradesh Kshettra Samiti and Zila Parishad Adhiniyam, 1961, incorporating provisions to conform to the 73rd constitutional amendment. The amended laws came into force on 22 April, 1994. Under the amended legislation the State continues to have a three-tier panchayati raj system – gram panchayat at the village level, kshettra panchayat at the khand (block) level and zila panchayat at the district level.

## **Gram Sabha**

The aim of Panchayati Raj is to empower people at the grassroots level so that they participate in the developmental process. Gram Sabha, the general assembly of the village (consisting of all eligible voters), has been made the soul of the panchayat institutions. It is the Gram Sabha, which based on needs assessment, decides what developmental work is to be undertaken by panchayats. The Gram Sabha members can question and scrutinise the decisions of the panchayats in their meetings and discuss the annual financial statements of accounts and expenditure of Gram Panchayats.

The U.P. Panchayat Raj Act provides that a Gram Sabha be established for a village or a group of villages by a state government notification and be named after the village having the largest population.<sup>9</sup> Soon after the publication of this notification, a list of the Gram Sabhas constituted and established in each tehsil, must be published at the tehsil headquarters and at the office of the District Panchayat Raj Officer. A copy must also be put up at the office of the Panchayat Secretary.<sup>10</sup>

The law requires every Gram Sabha to hold two general meetings in each year, one soon after harvesting the kharif crop (called the kharif meeting ordinarily held on 26 January as decided by the state government though it is generally held during the months of January- February),

<sup>8</sup> This Act was passed by the United Provinces Legislative Assembly on 5 June 1947 and the United Provinces Legislative Council on 16 September, 1947 and received the assent of the Governor General of the Dominion of India on 7 December, 1947 and published in the U.P. Government Gazette, dated 27 December 1947.

<sup>9</sup> Section 3, U.P. Panchayat Raj Act, 1947.

<sup>10</sup> Rule 3, U.P. Panchayat Raj Rules, 1947.

and the other soon after the harvesting of the rabi crop (called the rabi meeting ordinarily held on 15 August as fixed by the state government, though it is generally held in the month of August). These meetings are presided over by the Pradhan who is the elected head of the concerned Gram Panchayat. In case of an extraordinary general meeting, the Pradhan at any time may, or upon a requisition in writing by not less than one-fifth of the total members of Gram Sabha shall, within 30 days from the receipt of such requisition, call such a meeting.<sup>11</sup>

## Gram Panchayat

The Gram Panchayat is an elected body constituted by the Gram Sabha members from amongst themselves. It consists of a Pradhan and number of Panches (ranging from nine to fifteen). The number of Panches is dependent on the population taking Gram Sabha to be a multi-member single constituency, namely:<sup>12</sup>

Population	Number of Panches
For population up to 1000	Nine
For population exceeding 1000 but not exceeding 2000	Eleven
For population exceeding 2000 but not exceeding 3000	Thirteen
For population exceeding 3000	Fifteen

For the purpose of election of Gram Panchayat members, every Gram Panchayat area is divided into territorial constituencies. Each territorial constituency is represented by one member in the Gram Panchayat.

Every Gram Panchayat must constitute the following Committees in order to provide support in carrying out its functions:

- ◆ **Niyojan evam Vikas Samiti** or the planning and development committee responsible for preparing the Gram Panchayat plan and also carry out functions related to agriculture, animal husbandry and poverty alleviation;
- ◆ **Nirman Karya Samiti** or the construction works committee responsible for construction related activities;
- ◆ **Shiksha Samiti** or the education committee responsible for primary education, higher primary education, informal education, literacy;
- ◆ **Swasthya evam Kalyan Samiti** or health and welfare committee responsible for medical

<sup>11</sup> Section 11 (1), U.P. Panchayat Raj Act, 1947.

<sup>12</sup> Section 12, U.P. Panchayat Raj Act, 1947.

treatment, health, family welfare related work, social welfare, women and child welfare related plans, welfare of Scheduled Castes (SCs), Scheduled Tribes (STs) and backward classes;

- ◆ **Prasashanik Samiti** or the administrative committee responsible for employees and ration shops;
- ◆ **Jal Prabandhan Samiti** or the water management committee responsible for drinking water and taps.

Every committee consists of a Chairman and six other members elected by the Gram Panchayat members from amongst themselves. It is the Pradhan, Up-Pradhan or any other member of Gram Panchayat who is the Chairman of any committee. Each committee however, must have at least one woman member, one member belonging to the Scheduled Castes or Scheduled Tribes and one member belonging to Backward Classes.<sup>13</sup>

## **Nyaya Panchayat**

The U.P. Panchayat Raj Act provides for the establishment of Nyaya Panchayats for each circle.<sup>14</sup> At present Uttar Pradesh has around 81 35 Nyaya Panchayats. Each Nyaya Panchayat is composed of members of Gram Panchayats (10 – 25) and the total numbers of Panches are selected amongst the Gram Sabhas concerned as below:

- ◆ In the case of Nyaya Panchayat comprising two Gram Sabhas, five Panches must be appointed from each Gram Panchayat concerned;
- ◆ In the case of Nyaya Panchayat comprising of three Gram Sabhas, three Panches must be initially appointed from each Gram Panchayat concerned and the remaining Panch from the Gram Sabha with the highest population;
- ◆ In case of a Nyaya Panchayat comprising of more than twelve Gram Sabhas, one Panch will initially be appointed from each Gram Panchayat concerned and the remaining Panches must be appointed one each from the Gram Sabhas on the basis of their population;
- ◆ In all other cases, two Panches must initially be appointed from each Gram Panchayat and the remaining Panches must be appointed one each from the Gram Sabhas on the basis of their population.

A person is eligible to be appointed as a Panch of the Nyaya Panchayat if he/she is able to read and write Hindi and is above 30 years.<sup>15</sup> The term of every Panch of a Nyaya Panchayat begins on the date of his/her appointment and expires with the Gram Panchayat, from which

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<sup>13</sup> Section 29, U.P. Panchayat Raj Act, 1947.

<sup>14</sup> For the purpose of establishing Nyaya Panchayats, the UP PR Act provides that each district is divided into circles. Each circle comprises as many areas subject to the jurisdiction of the Gram Panchayat, provided that the areas as far as possible are contiguous. A Nyaya Panchayat is established for each such circle.

he/she was appointed. The District Magistrate based on the directions issued by the Director of Panchayats must determine the following:

- ◆ The number of circles into which a district is divided for establishing Nyaya Panchayats;
- ◆ The area to be included in each circle.

After this, the District Magistrate must prepare a list of circles for Nyaya Panchayats and publish it at the tehsil headquarters, at the office of the District Panchayat Officer and at the office of the Panchayat Secretary. Similarly the list of total number of Panches fixed for each Nyaya Panchayat and the number of Panches to be appointed from each Gram Panchayat must be prepared by the District Magistrate and published at the same offices as mentioned earlier. The Act further provides that the Panches of each Nyaya Panchayat must elect from amongst them two persons as the Sarpanch and the Sahayak Sarpanch, They should have the ability to record proceedings. The Sarpanch has been given the power to form Benches consisting of five persons each for the disposal of cases and inquiries that come before the Nyaya Panchayat.

The role of Nyaya Panchayat is to dispose all civil and criminal cases instituted within 6 weeks.<sup>16</sup> Every civil or criminal case must come before the Sarpanch of the Nyaya Panchayat of a particular circle where the defendant lives or works or where the crime was committed. The list of criminal offences triable by the Nyaya Panchayats is given in Annexure 10. A weekly list of cases must be notified with names of parties and dates of hearing and must be displayed prominently outside the Nyaya Panchayat's office.

## **Kshettra Panchayat**

The rural areas of each district have been divided into khand or blocks and a Kshettra Panchayat is constituted for each khand.<sup>17</sup> Every Kshettra Panchayat consists of a Pramukh who is its Chairperson and also a Senior Up-Pramukh and Junior Up- Pramukh who are elected by members of Kshettra Panchayats from amongst themselves<sup>18</sup>. The other members include:

- a) All Pradhans of the Gram Panchayats in the khand;
- b) Elected members, elected from the territorial constituencies;<sup>19</sup>

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<sup>15</sup> Rule 85, U.P. Panchayat Raj Rules, 1947.

<sup>16</sup> Rule 88, U.P. Panchayat Raj Rules, 1947.

<sup>17</sup> The Uttar Pradesh government has divided the rural areas of each district into khand and each khand has a specific name. Each khand has a Kshettra Panchayat which has the same name as the khand.

<sup>18</sup> Section 7, The Uttar Pradesh Kshettra Panchayat and Zila Panchayat Adhiniyam, 1961.

<sup>19</sup> Each Kshettra Panchayat for the purpose of election is divided into territorial constituencies in such a manner that each territorial constituency has a population of two thousand as far as practicable.

- c) Members of the Lok Sabha and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the khand;
- d) Members of the Rajya Sabha and members of the Legislative Council of Uttar Pradesh, who are registered as electors within the khand.

The Khand Vikas Adhikari is the Chief Executive Officer of the Kshetra Panchayat and is responsible for implementing the resolutions of the Kshetra Panchayat and its Committees.<sup>20</sup> Each Kshetra Panchayat must constitute the following Committees responsible for assisting it in the performance of its functions<sup>21</sup>:

- ◆ **Niyojan evam Vikas Samiti** or the planning and development committee responsible for preparing the Kshetra Panchayat plan and also carry out functions related to agriculture, animal husbandry and poverty alleviation programmes;
- ◆ **Shiksha Samiti** or education committee responsible for primary education, higher primary education, informal education, literacy related work;
- ◆ **Nirman Karya Samiti** or the construction works committee responsible for construction work and quality assurance;
- ◆ **Swasthya evam Kalyan Samiti** or the health and welfare committee responsible for medical treatment, health, family welfare related work and social welfare and especially implementation of women and child welfare plans at the block level;
- ◆ **Prasashanik Samiti** or the administrative committee responsible for all employees at the block level and for work related to ration shops;
- ◆ **Jal Prabandhan Samiti** or the water management committee responsible for drinking water and state woned taps.

The term of each committee is one year from the date of the first meeting, but does not extend beyond the term of the Kshetra Panchayat.

## Zila Panchayat

A Zila Panchayat is constituted for a district<sup>22</sup> and the constitution of the Zila Panchayat must be notified in the Gazette.<sup>23</sup> Every Zila Panchayat consists of an Adhyaksha, who is its Chairperson and-

<sup>20</sup> The Block Development Officer (BDO) whose services have for the time being been placed at the disposal of the Kshetra Panchayat is the Khand Vikas Adhikari.

<sup>21</sup> Section 91, The Uttar Pradesh Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961.

<sup>22</sup> A district is an administrative unit within each revenue division where there is a measure of convergence of departments and implementation and coordination of government schemes. Most state government departments maintain branch offices at the district headquarter.

<sup>23</sup> Section 17(6), The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

- a) Pramukhs of all Kshetra Panchayats in the district;
- b) Elected members, elected from the territorial constituencies;<sup>24</sup>
- c) Members of the Lok Sabha and the State Legislative Assembly representing constituencies which comprise any part of the Panchayat area;
- d) Members of the Rajya Sabha and members of the Legislative Council of Uttar Pradesh, who are registered as electors within the panchayat area.<sup>25</sup>

The Adhyaksha and the Upadhyaksha are elected by the elected members from amongst themselves.<sup>26</sup>

Each Zila Panchayat must constitute the following Committees responsible for assisting it in the performance of its functions:<sup>27</sup>

- ◆ **Niyojan evam Vikas Samiti** or the planning and development committee responsible for preparing the **Zila** Panchayat plan and also carry out functions related to agriculture, animal husbandry and poverty alleviation programmes;
- ◆ **Shiksha Samiti** or education committee responsible for primary education, higher primary education, informal education, literacy related work;
- ◆ **Nirman Karya Samiti** or the construction works committee responsible for construction work and quality assurance;
- ◆ **Swasthya evam Kalyan Samiti** or the health and welfare committee responsible for medical treatment, health, family welfare related work and social welfare and especially implementation of women and child welfare plans at the district level;
- ◆ **Prasashanik Samiti** or the administrative committee responsible for all employees at the **district** level and for work related to ration shops;
- ◆ **Jal Prabandhan Samiti** or the water management committee responsible for drinking water and state woned taps.

The Karya Samiti consists of 3-6 persons elected by members of Zila Panchayat and also includes Chairmen of the other committees. The Adhyaksha and Up-adhyaksha are the Chairman and Vice-Chairman of this committee respectively. The other committees consist of 6-9 members elected by members of Zila Panchayat from amongst themselves. The term of each committee is the same as that of Zila Panchayat, though one-third of members of each committee retire in rotation each year.

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<sup>24</sup> Each Zila Panchayat for the purpose of election is divided into territorial constituencies in such a manner that each territorial constituency has a population of fifty thousand as far as practicable.

<sup>25</sup> Section 18, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>26</sup> Section 19, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>27</sup> Section 91, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

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

## What is Right to Information?

Right to information (RTI) means the right of every citizen to seek information held by public authorities. It also implies that public authorities have a corresponding obligation to organise and store all the information that they can legitimately collect and provide them to the citizens on request withholding it only when it is proven that it is in the public interest to do so. The basic principle underlying RTI is the reasoning that in a democracy where government draws its authority and powers from the will of the people and its finances from their pockets, all public authorities have a duty to inform them about what they are doing and be accountable for every action they take or every decision they make in the name of the people.

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 guaranteed by the Constitution.<sup>28</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 to 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 and inexpensive procedures to facilitate timely access to specific pieces of information upon request. Most commonly, specific officials within public bodies are given the responsibility for handling requests from and providing information to people.

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<sup>28</sup> Articles 21 and 19(1)(a) respectively of the Constitution of India respectively.

Clearly, it is imperative that the people have the right to access information from panchayats also because they are local self-governing bodies which are closest to the people. In order to facilitate access to information from local self-governing bodies, in 1997 the Government of India considered passing orders implementing three aspects of transparency.<sup>29</sup> 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 the public should be able to obtain photocopies of documents pertaining to development projects (including all bills, muster rolls, vouchers, estimates, and measurement books, plus the criterion and procedures for selection of beneficiaries and list of beneficiaries), as well as matters of general public interest by paying a nominal charge.

## **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 (RTI Act) became fully operational from 12 October 2005, 120 days from the date on which it received the assent of the President. This Act will provide for the setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.

### **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>30</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 fulfill 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.

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<sup>29</sup> The issue of transparency in the functioning of PRIs was discussed in a Conference of Chief Ministers in 1997 under the Chairmanship of the then Prime Minister. This Conference was held on 2 August 1997 at Vigyan Bhavan, New Delhi.

<sup>30</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 Article 370 of the Constitution.

Along with the information access provisions contained in the PR Act,(which are discussed in detail in Part 3 of this document) the RTI Act gives citizens an additional tool to access information from these local bodies. Citizens can inspect works, 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>31</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 any citizen. Accordingly, panchayat bodies' at all three tiers must publish the following information:<sup>32</sup>

- ◆ The organizational structure and details of the PRIs functions, responsibilities and duties along with the powers and functions of all officers and employees;
- ◆ The procedure followed by the PRIs in decision-making including the mechanisms of supervision and accountability;
- ◆ The norms that inform the functioning of PRIs;
- ◆ 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 PRIs; (See Annexure 1 for proactive disclosure by the Directorate of Panchayati Raj, Government of Uttar Pradesh)
- ◆ A directory of the PRIs officers and employees;<sup>33</sup>
- ◆ Monthly remuneration received by each of the PRIs officers and employees, including the system of compensation as provided in relevant regulations; (See Annexure 2 for proactive disclosure by the Directorate of Panchayati Raj, Government of Uttar Pradesh)
- ◆ Details of consultative committees set up by the PRIs for implementing its programmes;
- ◆ The budget allocated to each PRI, including the particulars of all plans, proposed expenditures and reports on disbursements; (See Annexure 3 for proactive disclosure by the Directorate of Panchayati Raj, Government of Uttar Pradesh)

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<sup>31</sup> Section 2(j), Right to Information Act, 2005.

<sup>32</sup> Section 4, Right to Information Act, 2005.

<sup>33</sup> Notably, the U.P Panchayat Raj Rules, 1947 has provided that every Gram Panchayat must maintain a list of officers and other servants except the Secretary on its establishment, along with the salaries and allowances for each post. More specifically, each Gram Panchayat must have a list of the names of persons holding the posts and the salaries and allowances being drawn by them.

- ◆ 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 PRIs 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>34</sup> At the very least, the information must be available with the panchayat PIO for free inspection or copies should be made available at the cost price if it is in printed form.

### **RTI Portal**

An information service portal ([www.rti.gov.in](http://www.rti.gov.in)) has been established by the Government of India in order to provide a mechanism to the people to search for information, especially those published by various government departments. Since, on-line uploading of documents by Union/State Governments/departments is in progress, only those departments have been listed, whose documents are either uploaded on this portal, or the appropriate links have been set to their website for RTI related information. Some of the States including Uttar Pradesh have uploaded the proactive disclosure documents prepared by the Panchayati Raj Departments.<sup>35</sup>

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<sup>34</sup> Section 4(4), Right to Information Act, 2005.

<sup>35</sup> For more information on right to information please visit the website of Ministry of Personnel, Public Grievances and Pensions- <http://persmin.nic.in/RTI/WelcomerTI.htm>

## **Proactive disclosure of information regarding Indira Awaas Yojana<sup>36</sup>**

The Indira Awaas Yojana (IAY) targets rural BPL families who are either totally homeless or live in unserviceable kutcha houses. Recently, the Union Ministry of Rural Development took out a half page advertisement in major national dailies 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.

## **What is the application process?**

The RTI Act provides for the appointment of State Public Information Officers (SPIOs) in all offices and administrative units of a public authority covered by the Act,<sup>37</sup> and State Assistant PIOs (SAPIOs) at each sub-divisional or sub-district level.<sup>38</sup> For central government departments Central PIOs and Central APIOs are appointed. At the state level, SAPIOs have a duty to receive applications and pass them on to the relevant SPIO. 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 SPIOs however are responsible for both receiving applications for information from citizens and providing such information if it is not covered by any exemption. The application may be drafted in Hindi or English. If the applicant is unable to draft information request on his/her own the SPIO has a duty to provide all reasonable assistance to the applicant to record his request in writing. In Uttar Pradesh, as per the Rules notified by the State Government<sup>39</sup> for implementing the RTI Act, the applicant can apply on a plain sheet of paper along with the application fee of Rs. 10, paid either in the form of cash, demand draft or banker's cheque and Indian Postal Order. Notably, the applicant need not provide any

<sup>36</sup> Paid advertisement by the Ministry of Rural Development, The Hindu (Delhi edition), p.6, 10-03-06.

<sup>37</sup> Section 5(1), Right to Information Act, 2005.

<sup>38</sup> Section 5(2), Right to Information Act, 2005.

<sup>39</sup> Uttar Pradesh Suchna Ka Adhikar (Fees aur laagat Viniyam) (Sanshodhan), Niyamavali, 2006. This was notified by government notification No. 1900/43-2-2006-15/2(2)/03 T.C. 14 issued on 27 November 2006 by Administrative Reforms Department, Government of Uttar Pradesh.

reasons for seeking the information, nor does the SPIO have the power to demand an explanation from the citizen as to why he/she needs that information.

The SPIO has the duty to either provide the information within 30 days of receipt of the request or reject the request, specifying the reasons for doing so.<sup>40</sup> In cases where information sought “concerns the life and liberty of a person”, information must be given within 48 hours.<sup>41</sup> 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 SPIO must communicate to the applicant giving details of the additional fees to be paid.

In Uttar Pradesh, additional fees include expenses incurred on photocopying records or providing information in electronic form. The cost of getting created information or photocopies of documents and records as well as photocopies of printed publications under the RTI Act is Rs.2 per page for A3 and A4 size paper. The actual cost of copying will be charged for sheets of bigger size. In case of samples and printed publications the additional fees will be on the basis of actual cost. Obtaining information on floppy, diskette or compact disc costs Rs 50. Citizens also have the right to inspect records in offices of panchayats and other government departments. In the first hour the cost of inspection is Rs. 10, after which the applicant will have to pay Rs. 5 for every additional fifteen minutes.<sup>42</sup> No fees – for applications or access – will be charged from applicants who belong to “Below Poverty Line’ families.<sup>43</sup>

**Table 1: SAPIOs, SPIOs and Departmental Appellate Authorities in the Department of Panchayat Raj, Government of Uttar Pradesh**

<b>Level</b>	<b>SAPIO</b>	<b>SPIO</b>	<b>Departmental Appellate Authority</b>
State government		Special Secretary Panchayati Raj Department, U.P. 13, Ground floor, Bahukhandi Bhavan Uttar Pradesh Secretariat, Lucknow	

<sup>40</sup> Section 7(1), Right to Information Act, 2005.

<sup>41</sup> Section 7(1), Right to Information Act, 2005.

<sup>42</sup> Uttar Pradesh Suchna Ka Adhikar (Fees aur laagat Viniyam) (Sanshodhan), Niyamavali, 2006.

<sup>43</sup> Section 7(5), Right to Information Act, 2005.

		Ph: 0522-2235720	
Directorate level		Joint Director Panchayati Raj Directorate, U.P 6 floor, Jawahar Bhawan, Lucknow Ph: 0522-2286646	Principal Secretary Panchayati Raj Department Government of Uttar Pradesh Ph: 0522-2238120
Division	Divisional Deputy Director (Panchayat)	Deputy Director : Panchayat	Director, Panchayati Raj Uttar Pradesh
Zila Panchayat	District Panchayat Raj Officer	District Panchayat Raj Officer	Divisional Deputy Director: Panchayat (of the division)
Janpad Panchayat			District Panchayat Raj Officer
Gram Panchayat		Secretary, Gram Panchayat/Gram Panchayat Development Officer	Assistant Development Officer: Panchayat (of the concerned block)

**Table 2: Fees<sup>44</sup>**

SL	Description of information	Price/Fees
1.	Fee along with application	Rs. 10 per application
2.	Form of payment	Cash, Demand Draft, Banker's Cheque, Indian Postal Order
3.	Where the information is available in the form of a printed publication	Printed price of the publication
4.	Photocopies of documents	Rs. 2 per page for A-4/ A-3 size and actual cost in case of larger size.

<sup>44</sup> Uttar Pradesh Suchna Ka Adhikar (Fees aur laagat Viniyam) (Sanshodhan), Niyamavali, 2006. <sup>45</sup> For more details about the Information Kiosk please visit – <http://kanpurdehat.nic.in/infokiosk.htm> (as on 6 February 2007). <sup>46</sup> Section 8(1) and s.9, Right to Information Act, 2005.

5.	Where information is available in electronic form and is to be supplied in floppy or CD	Rs. 50 per floppy and CD
6.	Fee for inspection of record/document	Inspection fee is Rs.10 for the first hour followed by Rs. 5 for every 15 minutes or fraction thereof.
7.	Sample/Model	Actual cost

**Note:** According to government order No. 1163/43-2-2005 dated 29 November 2005 issued by the Administrative Reforms Department, Government of Uttar Pradesh, the account-head for the deposit of fees received with the implementation of the Right to Information Act-2005 is "0070-other services, 800 – other receipts".

Applicants have the right to seek review of the additional fees from the appellate authority (discussed in detail below) 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.

### **Accessing information from PRIs by using the RTI Act, 2005**

The Directorate of Panchayati Raj, Government of Uttar Pradesh has laid down the following set of procedures for accessing information from the three tiers:-

- ◆ At the Gram Panchayat level, citizens can access information and obtain photo copies of documents by applying to the Panchayat Secretary on a plain piece of paper. The fees of photocopies of documents are Re. 1/- per page.
- ◆ At the block level applications for information under RTI can be submitted to the Mandal Deputy Director (Panchayat) who has been designated as the State Assistant Public Information Officer;
- ◆ At the district level, applications can be submitted to the District Panchayat Raj Officer who has been designated as the State Assistant Public Information Officer;
- ◆ At the state level, the Joint Director (Panchayat) is the designated SPIO. Applications for information under RTI can be sent to him at the following address:

Joint Director (Panchayat)  
State Public Information Officer  
Directorate of Panchayati Raj  
6th floor, Jawahar Bhavan  
Lucknow  
Uttar Pradesh

## **Nagarik Soochna Kendra in Kanpur Dehat District<sup>45</sup>**

A touch-screen Information Kiosk has been set up by the District Administration and the National Informatics Centre of Kanpur Dehat district. It was inaugurated on 9-1-2007. The kiosk provides information related to various issues some of them being: Vidhan Sabha voters list; population statistics; holiday list; data and statistics related to UP; list of government officials in the district; forms of different departments. Besides the kiosk also provides print services such as it gives pay-slips of employees, especially of the Collectorate and basic education department as well as pension slips for retired teachers and treasury pensioners. In addition, block and district maps can also be printed at the kiosk. In future, it is envisaged that more services will be added to the kiosk with the help of departments like DRDA, Basic Education, and Health etc. The data for this kiosk will be provided by the different user departments of Kanpur Dehat. Moreover it has also been planned to set up similar kiosks at the tehsil and block level as well.

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

The Act specifies certain types of information which cannot be given to the public, referred to as 'exemptions'.<sup>46</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.

In any case most of the records held by all three levels of PRIs are not likely to attract these exemptions as they generally deal with developmental issues which are not very sensitive in nature requiring secrecy. Technically it should be possible for any citizen to obtain access to copies of any record held by any Panchayat. If per chance the information requested by a citizen attracts one or more of the exemptions, the PIO is required to issue a rejection order clearly stating the reasons for withholding access to the requested records. All reasons for rejection should be based on these exemptions. No other consideration will be valid for denying people access to records of the panchayat or any other government office. If a PIO

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<sup>45</sup> For more details about the Information Kiosk please visit - <http://kanpurdehat.nic.in/infokiosk.htm> (as on 6 February 2007).

<sup>46</sup> Section 8(1), Right to Information Act, 2005.

fails to provide information within the time limit and also does not bother to issue a rejection order denying the request at the end of the 30 day period this will be treated as deemed refusal. The citizen's right to file an appeal with the appellate authority is activated.

Where the requested information is covered by one or more of the exemptions, the RTI Act requires that if disclosure would serve the public interest better, instead of maintaining secrecy such information must be disclosed.<sup>47</sup>

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

When a request for information is rejected by a PIO (either at the central or state level), 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>48</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 days.<sup>49</sup> In extraordinary cases the Appellate Authority may take a maximum of 15 days as extra time but in all such cases reasons for the delay in giving a decision must be recorded in writing.

If the PIO's decision of refusal is upheld by the Departmental Appellate Authority, 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>50</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

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<sup>47</sup> Section 8(2), Right to Information Act, 2005.

<sup>48</sup> Section 19(1), Right to Information Act, 2005.

<sup>49</sup> Section 19(6), Right to Information Act, 2005.

<sup>50</sup> Section 19(3), Right to Information Act, 2005.

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 shorten 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 and complaints. 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>51</sup>

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

The Information Commissions at the Centre and in all the States<sup>52</sup> are required to act as inexpensive, quick and most importantly, independent complaints and appeals bodies. The Commissions have been given broad powers to hear appeals and initiate inquiries into complaints.<sup>53</sup> They are also 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).<sup>54</sup> 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>55</sup>

The Uttar 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:

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<sup>51</sup> Section 18(1), Right to Information Act, 2005.

<sup>52</sup> Parts III and IV, Right to Information Act, 2005.

<sup>53</sup> Section 18, Right to Information Act, 2005.

<sup>54</sup> All Panchayats are required under the RTI Act to maintain a register containing details of the number of information requests received, the number of applications rejected, the reasons for such rejection and the total amount of money collected in the form of fees under the Act. These details are compiled and handed over to the Ministry of Panchayati Raj which is required to collate all such information received from all Panchayats. A combined report including similar details of how information applications were handled at the level of the Ministry is required to be prepared annually and submitted to the State Information Commission.

<sup>55</sup> Section 18(8), Right to Information Act, 2005.

**Mr. Wajahat Habibullah**  
Chief Information Commissioner  
Central Information Commission  
Club Building  
Old JNU Campus, New Delhi – 110067  
Ph: (011) 2676 1137  
Fax: (011) 2618 6536  
Email: whabibullah@nic.in  
Website: www.cic.gov.in

**Justice Mohd. Asghar Khan**  
Chief Information Commissioner  
Uttar Pradesh Information Commission  
6th floor, Indira Bhavan,  
Lucknow – 751001  
Uttar Pradesh  
Ph: 0522-2288599/ 2288598  
Website: www.upsic.up.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:

- ◆ Refusing to receive an application without reasonable cause; (applies to an APIO as well)
- ◆ Not giving information within time limits without reasonable cause;
- ◆ Refusing to disclose information without reasonable cause or in a mala fide manner;
- ◆ Knowingly giving incomplete, incorrect, misleading information;
- ◆ Destroying records containing information that has been requested; and
- ◆ Obstructing furnishing of information in any manner.<sup>56</sup>

The penalty shall be imposed by the Central Information Commission or the State Information Commission as the case may be, at the time of deciding any complaint or appeal.<sup>57</sup>



<sup>56</sup> Section 20, Right to Information Act, 2005.

<sup>57</sup> The penalty is paid by the PIO from his/her pocket. Similarly if a PIO is unable to provide information because some other officer did not provide him with the necessary assistance such other officer is also liable to be penalized for violating this Act.

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

The Uttar Pradesh Panchayat Raj Act of 1947 has information access provisions. Some of them deal with proactive disclosure and others deal with procedures for providing access to records of Gram Panchayats on request.

### **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 U.P. Panchayat Raj Act 1947 requires the sharing of panchayat information with the public in the general meetings of the Gram Sabha.

The quorum for any meeting of the Gram Sabha is one-fifth of the total number of its members.<sup>58</sup> A notice to attend the meeting of the Gram Sabha, stating the date, time and place of the meeting must be published by pasting it at conspicuous places in the area of the Gram Sabha. Announcements regarding the same can also be made by beating of drums in the villages constituting the Gram Panchayat.<sup>59</sup>

The procedure to be followed at the meeting of a Gram Sabha<sup>60</sup> requires the following information to be shared with the public:

- a) The proceedings of the meeting must be read and confirmed and then signed by the Pradhan;
- b) The accounts of the period elapsed between the last meeting must be presented for information and consideration;
- c) Other items, if any, must be taken up and considered.

The proceedings of every Gram Sabha meeting must be recorded in Hindi, in a book in Form No.8.<sup>61</sup>

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<sup>58</sup> Section 11 (2), U.P. Panchayat Raj Act, 1947.

<sup>59</sup> Rule 37(1), U.P. Panchayat Raj Rules, 1947.

<sup>60</sup> Rule 35-A, U.P. Panchayat Raj Rules, 1947.

<sup>61</sup> Rule 36, U.P. Panchayat Raj Rules, 1947. See Annexure 4 for details of Form 8.

The UP Gram Panchayat law provides the Gram Sabha certain powers to make recommendations and suggestions to the Gram Panchayat after considering the following matters:

- a) The annual statement of accounts of the Gram Panchayat, the report of administration of the preceding financial year and the last audit note<sup>62</sup> and replies if any;
- b) The report in respect of development programmes of the Gram Panchayat relating to the preceding year and the development programmes proposed to be undertaken during the current financial year;
- c) The programmes to promote unity and harmony among all sections of society in the village;
- d) Programmes of adult education within the village;
- e) Such other matters as may be prescribed.<sup>63</sup>

The Gram Panchayat must give due consideration to the recommendations and suggestions of the Gram Sabha when it takes decisions on such matters.

## **Proactive disclosure by Gram Panchayats in meetings**

Besides sharing information with the public in Gram Sabha meetings, information is also proactively disclosed by the Gram Panchayat in its own monthly meetings. However, due to the fact that Gram Panchayat meetings are predominantly attended by elected members, in practice this means that information is mainly shared with elected representatives of the Gram Panchayat. The state Panchayat Raj Rules provide that other than the elected Gram Panchayat members, group leaders of Prantiya Rakshak Dal, having jurisdiction in the area of the Gram Sabha, may speak and take part in the proceedings of the Gram Panchayat meetings and also in the meetings of the



<sup>62</sup> The audit of the accounts of every Gram Panchayat and Nyaya Panchayat must be arranged by the prescribed authority every year under the orders of the Chief Audit Officer to Government, Co-operative Societies and Panchayats, Uttar Pradesh.

<sup>63</sup> Section 11(3), U.P. Panchayat Raj Act, 1947.

committees.<sup>64</sup> The law provides that a Gram Panchayat meeting must be held at least once a month.<sup>65</sup> The notice of the meeting must be sent to each member through a chowkidar or a peon at least five days before the meeting and must also be published by affixing copies of the notice at conspicuous places within the jurisdiction of the Gram Panchayat.<sup>66</sup> The Gram Panchayat meeting is convened by the Pradhan and in his or her absence by the Up-Pradhan. The Pradhan must also fix the time, date and exact place of the meeting.

The following procedure must be followed at a Gram Panchayat meeting:<sup>67</sup>

- a) The procedure of the last meeting must be read and confirmed and then signed by the Pradhan;
- b) The account for the previous month must be presented and considered;
- c) A list of changes, if any, in the electoral roll, must be presented;
- d) The circulars and orders received from the Government, the Director of Panchayats, or District Panchayat Raj Officer, must be read and explained;
- e) The development of work done during the past month must be presented;
- f) Answers to questions, if any, must be given;
- g) The proceedings of sub-committees of Gram Panchayats must be read and considered;
- h) Other items, if any shall then be taken for consideration.

## **Proactive disclosure by Gram Panchayats with regard to imposition of taxes<sup>68</sup>**

The UP Panchayati Raj Rules have provided that in case a Gram Panchayat proposes to impose a new tax, rate or fee<sup>69</sup> or wants to increase these within the prescribed limits then it must give a public notice of the proposal by fixing a copy of the resolution on the notice board and also in other conspicuous areas. This notice must also state that people can file their objections with the Secretary of the Gram Panchayat by a date specified in the notice. A minimum of 15 days' advance notice should be given to enable people to file their objections. Additionally, the Gram Panchayat must also announce its intention of either imposing new tax, fees or rates or increasing them with the help of beating drums in its area of jurisdiction. If the Gram Panchayat receives any objections from the public, then these must be discussed by the elected body in a meeting held for that purpose. If the Gram Panchayat decides to impose or increase the taxes then it must lay the proposal before the Gram Sabha with the objections

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<sup>64</sup> Rule 48, U.P. Panchayat Raj Rules, 1947.

<sup>65</sup> Rule 38, U.P. Panchayat Raj Rules, 1947.

<sup>66</sup> Rule 37(2), U.P. Panchayat Raj Rules, 1947.

<sup>67</sup> Rule 35(3), U.P. Panchayat Raj Rules, 1947.

<sup>68</sup> Rule 220(1), U.P. Panchayat Raj Rules, 1947.

<sup>69</sup> See Annexure 5 for the nature of taxes and levies that may be collected by Gram Panchayats.

received for its decision. After the Gram Sabha's approval, the Pradhan must submit the proposal to the prescribed authority for approval. For all purposes new taxes may be imposed or the rates of existing taxes may be hiked only with the approval of the Gram Sabha.

### **Taking RTI to the grassroots**

A campaign to enable villagers to exercise the RTI Act in order to question the government and demand answers about the welfare and developmental schemes was launched from 9 December 2006 in 6 villages in Faizabad, Bahraich, Banda, Chitrakoot and Allahabad districts. This initiative has been launched by the Poorest Area Civil Society (PACS) Programme<sup>70</sup> and is being undertaken by Kabir, a Delhi based NGO with rich understanding and experience related to use of RTI. In the initial stages, in Taj Khudai village of Chitaura block in Bahraich district, more than 165 RTI applications were filed by the people. After observing this, people from nearby villages also filed some RTI applications. This was largely due to the awareness generation campaign undertaken by a community based youth organization called Kranti Yuvah Samuh associated with the campaign. Among the issues raised by people were denial of benefits under Indira Awas Yojana, malpractices in public distribution system (PDS) and poor quality of uniforms supplied to school children. Similarly, RTI applications were filed by villagers in the other villages selected for the pilot project. These efforts yielded some immediate results, such as the Bahraich district administration formed a special team to look into complaints of hunger. It prompted people of neighbouring villages to use RTI to get information as well among others. More importantly, in all the districts covered by the project the officials accepted the RTI applications which were in sharp contrast to their earlier behaviour when they would turn the people away or reject the applications on frivolous grounds.

### **Proactive disclosure of annual report by Gram Panchayats**

The UP Gram Panchayat law and related rules have provided the Gram Panchayats with the responsibility of submitting an annual report (depicting their work during the previous financial year) to the prescribed authority, before 15 April each year. This report must contain the following information:

- a) Constitution of the Gram Panchayat;
- b) A statement showing the grants and contribution and their utilization;
- c) Taxation showing demand realization, remission and arrears;
- d) Income derived from fines other than those levied in criminal cases;

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<sup>70</sup> For more information about PACS please visit website at: [www.empowerpoor.org](http://www.empowerpoor.org)

- e) Income from other sources;
- f) Expenditure: (a) recurring, and (b) non-recurring;
- g) Steps taken by Gram Panchayat during the year under report to carry out the purposes mentioned in Sections 15 and 16 of the Act; (See Annexure 6 for details of functions assigned to Gram Panchayats)
- h) A statement showing outstanding claims, with an explanation for their non-payment during the year;
- i) A statement showing the construction works and major repairs completed during the year in progress or to be undertaken in future;
- j) A statement in Form No.1; (See Annexure 7)
- K) Any other matter of importance.

Along with the report, the Gram Panchayat must attach a statement of accounts giving details of the receipts and expenditure during the year supported by a certificate signed by the banker and in case of Post Office account, a certificate by the Pradhan.<sup>71</sup> The money received by the Gram Panchayat is either kept in the state treasury or in the savings bank account of the nearest Post Office or “Co-operative Bank” or “Kshettra Gramin Bank” or any branch of a Nationalized Bank.<sup>72</sup> However, if there are any branches of regional rural bank and nationalized bank then preference would be given to the former.

### **A RTI movement in Uttar Pradesh**

A RTI movement had begun in Hardoi district of Uttar Pradesh in December 2002 with active support of Asha Ashram.<sup>73</sup> The movement which had started from Bharawan Gram Panchayat had spread to over 30 panchayats. In the first phase, people of 6 Gram Panchayats had obtained details of income-expenditure of their development funds. An official enquiry had discovered an embezzlement of funds in Bharawan Gram Panchayat to the tune of Rs. 2,84,311. In Sikroriha Gram Panchayat it was found that a Brahmin landlord was running the panchayat in the name of the real Dalit Pradhan, who used to work in his fields. The then District Magistrate had dismissed the Pradhans of these two villages. However, because of court’s intervention in the first case and a politician in the second, these orders were reversed.

<sup>71</sup> Rule 68, U.P. Panchayat Raj Rules, 1947.

<sup>72</sup> Rule 179, U.P. Panchayat Raj Rules, 1947.

<sup>73</sup> The Asha Ashram-Lalpur is at Sandila in Hardoi district of Uttar Pradesh. It is a local community effort carrying out intervention through RTI, self-governance, non-formal education, vocational skills development, gender rights and women’s self-help groups. Empowerment through RTI is the main focus of activities of Asha Ashram Lalpur and surrounding villages in Hardoi district. The effort was started by one of Asha founders, Dr. Sandeep Pandey, and is an attempt to empower hundreds of dalits living in and around Lalpur. For more details please visit- [www.ashanet.org/projects/project-view](http://www.ashanet.org/projects/project-view)

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

The NREGA promotes the country's most ambitious anti-poverty programmes ever, which provides a statutory 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. It has been implemented since 2 February 2006 in the entire country. At present a total of 200 most backward districts have been identified across the country for the first phase of implementation of NREGA. In the second phase (2007-08) a decision to extend it to another 330 districts has been taken by the Government of India. The programme will be extended to all 600 districts over the next five years. NREGA requires the formulation of a Rural Employment Guarantee Scheme (REGS) by each State Government. The purpose of the scheme is to give effect to the legal guarantee of work to any adult villager who applies for work. In order to facilitate 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>74</sup>

In Uttar Pradesh this programme is operational in 16116 Gram Panchayats of 22 districts. 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 document. The key points stated here are as follows:

- ◆ Request for copies of 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 any of the exemptions contained in 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. For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every state government shall constitute a State Employment Guarantee Council;
- ◆ Whenever feasible, these documents should be made available on the Internet;

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<sup>74</sup> For more information please visit the website of Ministry 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).

- ◆ 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.

Report cards on local works, employment and funds should be posted by the Gram Panchayats on its premises and by the Programme Officer<sup>75</sup> at the Kshetra Panchayat/ Programme Officer's office, and for the whole district by the District Programme Coordinator<sup>76</sup> at the District Programme Coordinator/Zila Panchayat office.

## **Proactive disclosure regarding categories of documents held by Gram Panchayats<sup>77</sup>**

The Secretaries of Gram Panchayats maintain the following registers. This list has been provided in the manual on proactive disclosure under RTI Act by the Panchayat Raj Directorate of Uttar Pradesh.

- ◆ Annual Report
- ◆ Cash Book
- ◆ Receipt Book
- ◆ Proceedings Register
- ◆ Pass Book
- ◆ Immovable Property Register
- ◆ Tax payers Register
- ◆ Taxation and tax collection Register

<sup>75</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. In the state of Uttar Pradesh no separate post of Programme Officer has been created, instead the responsibility has been entrusted to the Block Development Officer.

<sup>76</sup> Under the NREGA, the state government will designate a District Programme Coordinator, who can either be the Chief Executive Officer of the Zila Panchayat, 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.

<sup>77</sup> <http://www.rti.gov.in/Members/uttarpradesh/panchayati-raj>

<sup>78</sup> Officer-in-charge of works maintains muster rolls for works carried out by daily labour.

<sup>79</sup> A stock-book is maintained for all stores, eg. postage stamps, materials for public works, all forms used by the Gram Panchayat, tools, lamps, ladders etc.

- ◆ Muster Roll<sup>78</sup>
- ◆ Stock Register<sup>79</sup>
- ◆ Receipt for information related to births
- ◆ Receipt for information related to deaths
- ◆ Monthly Death Register
- ◆ Monthly birth register
- ◆ Marriage Register
- ◆ Marriage certificate
- ◆ Work completion certificate<sup>80</sup>
- ◆ Annual income and expenditure of Gram Sabha
- ◆ Agenda Register
- ◆ Voucher Register
- ◆ Inspection Register
- ◆ Gram Panchayat (General) Copy
- ◆ Assets Register

In addition, a list of records and registers to be maintained by Gram Panchayats and Nyaya Panchayats is given in Annexure 8 on page number 62 of this document.

### **Place of retention of records of Nyaya Panchayats and Gram Panchayats<sup>81</sup>**

The rules specify that all registers, books and records of Nyaya Panchayats must be deposited with the Secretary Gram Panchayat, six months after they have been closed. With regard to the maintenance and destruction of records of civil and criminal cases of Nyaya Panchayats, the procedures laid down by the High Court must be followed. In case of records of revenue cases, these must be maintained and destroyed according to the provisions in Chapter LIV of the Uttar Pradesh Revenue Manual of the U.P Board of Revenue. In addition, the rules further specify that the records of Gram Panchayats and Nyaya Panchayats must be kept in the District Record Room as per the directions of the Director, Panchayat Raj Department.

### **Notification regarding sittings of Nyaya Panchayats<sup>82</sup>**

The Nyaya Panchayat must proactively disclose the date on which it must sit every month and the list of such dates must be fixed at its office. The dates are generally notified in the third week of the preceding month. Additionally, a weekly list of the cases to be notified along with the names of parties and the dates of hearing must be prominently displayed outside the office of the Nyaya Panchayat for general information.<sup>83</sup>

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<sup>80</sup> Before final payment for a work is made, a completion certificate must be submitted by the Pradhan or in his absence by a member (appointed for this purpose by a resolution of the Gram Panchayat) to the effect that he has examined the work and is satisfied that it has been carried out in accordance with the sanctioned plans and estimates.

<sup>81</sup> Rule 66-A, U.P. Panchayat Raj Rules, 1947.

<sup>82</sup> The Nyaya Panchayat is in a pendulous stage in Uttar Pradesh. Their revival is under the consideration of the government.

<sup>83</sup> Rule 91, U.P. Panchayat Raj Rules, 1947.

## Gram Fund

Section 32 of U.P. Panchayat Raj Act provides that each Gram Panchayat has a Gram Fund which is utilized for carrying out the duties or obligations imposed on the Gram Sabha or Gram Panchayat or any of the committees. The following are generally credited to the Gram Fund:

- a) The proceeds of any tax imposed by the Gram Panchayat under the UP Panchayat Raj Act 1947;
- b) All sums given by the State Government to the Gram Panchayat;
- c) The balance, if any, standing to the credit of the Gram Panchayat previously in existence under the Gram Panchayat Act;
- d) All sums ordered by a Court to be placed to the credit of the Gram Fund;
- e) All sums received under Section 104, wherein a Gram Panchayat may, either before or after the institution of any case, compound an offence<sup>84</sup> against this Act or any rules, on payment of cash to the Gram Panchayat as may be prescribed;
- f) The sale proceeds of all dust, dirt, dung or refuse including the dead bodies of animals collected by the servants of the Gram Panchayat;
- g) A portion of the rent or other proceeds of nazul property<sup>85</sup>, as the State Government may direct to be placed to the credit of the Gram Fund;
- h) Sums contributed to the Gram Fund by Zila Panchayat or other local authority;
- i) All sums received in the form of loan or gift;
- j) Other sums as may be assigned to the Gram Fund by any special or general order of the State Government;
- k) All sums received by the Gram Panchayat from any individual or corporation or the State Government under Section 24 or any other law;<sup>86</sup>
- l) All sums received in the form of grants-in-aid from the Consolidated Fund of the State.

Whenever an embezzlement of money belonging to the Gram Fund is discovered by the Pradhan or any other official, it must be immediately reported by him/her to the prescribed authority that has the duty to inform the District Magistrate, the Director of Panchayats and the Chief Audit Officer to the Government, Co-operative Societies and Panchayats, Uttar Pradesh.<sup>87</sup>

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<sup>84</sup> By payment of a sum as prescribed by the Gram Panchayat an offence can be compounded (compromised) and the offender is discharged.

<sup>85</sup> Nazul land is held by the government in public trust in perpetuity, the possession of which can be transferred in the form of lease or license only.

<sup>86</sup> Section 24 describes the powers of a Gram Panchayat in entering into a contract with the State Government or any other local authority to collect any taxes or dues payable for carrying out any work on such terms as agreed.

<sup>87</sup> Rule 188, U.P. Panchayat Raj Rules, 1947.

## **Part 4: Disclosure by Kshettra Panchayats and Zila Panchayats**

This section highlights the information disclosure requirements at the Kshettra Panchayat and Zila Panchayat levels. The upper two tiers of the panchayat system are discussed together because of the similarity of the relevant provisions in the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961.

The right to access information is particularly important at these levels of government because all information, plans, reports and expenditure statements from Gram Panchayats are collated by the upper panchayat tiers. Moreover, funds transferred by Central or State Governments related to works, schemes and projects are reallocated to Kshettra Panchayats and Gram Panchayats by the Zila Panchayats. Hence, people need information from these bodies if they are to know how resources are being allocated by the Government and how they are disbursed and utilised down the line. It bears repeating that since people elect the upper two tiers of panchayats, these tiers should be equally accountable and need to be transparent in their functioning.

### **Inspection of works and registers of Zila Panchayats or Kshettra Panchayats by members<sup>88</sup>**

The law provides that any member of a Zila Panchayat or a Kshettra Panchayat be given the power to inspect any work or institution constructed or maintained by the upper two tiers of PRIs. They can also inspect any register, book or accounts or any other documents of these two bodies with the previous sanction of the Adhyaksha.<sup>89</sup>

### **Proactive disclosure of rules, regulations and by-laws and minute books and assessment lists**

Books containing every rule, regulation and bye-law must be kept in the offices of the Zila Panchayat and Kshettra Panchayat as the case may be, and these can be inspected by the general public free of charge during office hours. These are also available for sale at a reasonable price to be specified in the bye-law.<sup>90</sup> Additionally, the minute books of the Zila

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<sup>88</sup> Section 264, The Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>89</sup> It may be recollected here that under the RTI Act any citizen of India has a similar right to inspect any document or register or accounts in these Panchayats. No permission is required from the Adhyakasha for this purpose as the application for inspection is being made to the PIO under the RTI Act.

<sup>90</sup> Section 261, The Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961.

Panchayat and Kshetra Panchayats and the assessment lists of the Zila Panchayat are open to inspection, free of charge by any tax-payer or elector.<sup>91</sup>

It is quite possible that the PIOs of these Panchayats may start charging requestors fees under the RTI Fee Rules for inspecting these documents. This is bad practice and must be discouraged. The RTI Act does not abolish information access provisions contained in other laws. The RTI Act operates in addition to other laws and will override them only when there is an inconsistency.<sup>92</sup> If inspection of the documents or registers of the Kshetra Panchayat or the Zila Panchayat is demanded in the ordinary course of work then the inspection rules notified under the relevant provisions of the U.P. Kshetra and Zila Panchayat Adhiniyam should apply. Inspection should be allowed free of charge and copies of records may be made available at such cost that has been stipulated under the byelaws. However if the request is made specifically under the RTI Act then the RTI Fee Rules will apply. The RTI Act does not require Panchayats and other public authorities to treat every application for information as a request being made under the RTI Act. This would amount to subversion of the law aimed at discouraging the requestor from seeking information.

## **Proactive disclosure by Kshetra Panchayats and Zila Panchayats on different matters**

Information regarding declaration of a street as a public street: A Kshetra Panchayat may give an intimation of its intention to declare a street as a public street by putting up a public notice with the purpose of inviting objections from the owners of the street within two months from the date of the notice. The Kshetra Panchayat has been given the power to either accept the objections or reject them. In case the Kshetra Panchayat rejects them, then it again must put up a public notice in such street declaring it to be a public street.<sup>93</sup>

Power to search for inflammable materials in excess of authorized quantity: The Kshetra Panchayat in order to prevent danger to life or property has been given the power by public notice to prohibit all persons from stocking or collecting beyond a specified quantity, wood, dry grass, straw or other inflammable material, or from placing mats or thatched huts or lighting fires in any house, building or within limits specified in the notice.<sup>94</sup>

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<sup>91</sup> Section 260, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>92</sup> Section 22, Right to Information Act, 2005.

<sup>93</sup> Section 190, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>94</sup> Section 204, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

Prohibition of cultivation, use of manure, or irrigation injurious to health: If the Director of Medical and Health Services certifies that the cultivation of any crop, use of any manure or the method of irrigation in a rural area is injurious to the health of persons living in the neighbourhood or is likely to contaminate the water supply and make it unfit for drinking, then the Zila Panchayat can by a public notice, prohibit the cultivation of such crop, the use of such manure or the use of the irrigation method reported to be injurious.<sup>95</sup>

Power in respect of burial and burial ground: The Zila Panchayat has been given the power to order a burial or burning ground which is certified by the civil surgeon or the Swasthya Adhikari to be dangerous to the health of persons living in the neighbourhood to be closed from a date specified in a public notice. Furthermore, in case no suitable place for burial exists in the vicinity must also specify a fitting place for burial or cremation in the same public notice.<sup>96</sup>

### **Powers and functions of Kshetra Panchayats regarding Public Distribution System**

Distribution of essential commodities in the rural areas is the responsibility of the Kshetra Panchayat. The responsibilities include, the power and selection and appointment of fair price shop dealers and the suspension and cancellation of their licenses or the grant or withholding of essential commodities to them. Thus, it is exclusively in the jurisdiction of the Kshetra Panchayat to appoint the fair price shop dealers in rural areas and cancel/or suspend the licenses because 'distribution of essential commodities' is broad enough to include such powers.<sup>97</sup>

### **Information support from government officials<sup>98</sup>**

The law provides that Zila Panchayat may require the Adhyaksha or the Mukhya Adhikari and the Kshetra Panchayat may require the Pramukh or the Khand Vikas Adhikari to supply or produce at any of its meetings the following information:

- a) Any return, statement, estimate, statistics or other information regarding any matter pertaining to the administration of the Zila Panchayat or the Kshetra Panchayat;
- b) A report or explanation of any sub-committee; and

<sup>95</sup> Section 218, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>96</sup> Section 221, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

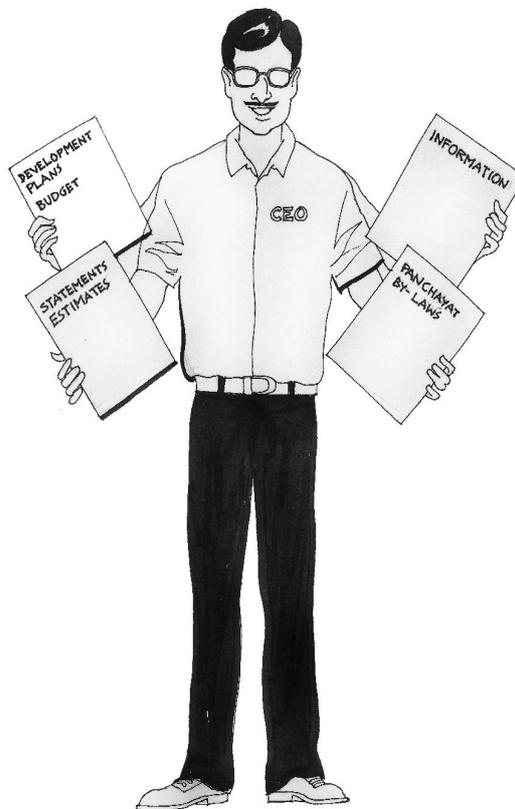
<sup>97</sup> Section 32 and Schedule I entry xxviii, The Uttar Pradesh Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961.

<sup>98</sup> Section 94, The Uttar Pradesh Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961.

- c) Any report, correspondence or plan or other document or copy which is in his possession or control, or which is recorded and filed in the office of the Zila Panchayat or Kshetra Panchayat or is with any servant of these two tiers of PRIs.

In other words under the UP Panchayati Raj laws only elected members of Panchayats have right of access to these documents. However by using the RTI Act any member of the Gram Sabha or any other citizen living in any part of the country may access this information. If none of the exemptions mentioned under Section 8(1) of the RTI Act are applicable to the document requested then the PIOs of the PRIs are duty bound to provide access. It would be wrong in law for the PIO to deny access to the records of a Panchayat giving the excuse that the applicant is not a member of the panchayat or is not a resident of the village covered by that panchayat.

A list of officers and servants of Zila Panchayats and Kshetra Panchayats is given in Annexure 9. The directory of these officers requires to be disclosed on a mandatory basis under Section 4(1)(b) of the RTI Act. Their salaries and other allowances also should be disclosed proactively so that people know how much they are being paid.



## **Part 5: Access to Information on Request**

This section deals with the procedure for applying for information from the Panchayati Raj Institutions of the three-tiers as given in the Acts. However, it should be noted that the RTI Act also gives people an additional legal right to access information from PRIs upon request.

### **Procedure for inspection and granting of copies of records of Gram Panchayats and Nyaya Panchayats**

The U.P. Panchayat Raj Act, 1947 and related rules provide that works, institutions and records of Gram Panchayats can be inspected by certain categories of stakeholders. The rules specify that a member or officer of a Gram Panchayat or of the Zila Panchayat; a person authorized by the State Government or the District Magistrate; a member of the Gram Sabha with the previous sanction of the Pradhan or Up-Pradhan may inspect the following works and records:<sup>99</sup>

- ◆ Any work or institution constructed or maintained in whole or part at the expense of the Gram Panchayat;
- ◆ Any register, book or accounts;
- ◆ Any other documents belonging to the Gram Panchayat or any of its Committees.

All judicial records of Nyaya Panchayats and administrative proceedings of Gram Panchayats are open to inspection.<sup>100</sup> Records of criminal, civil or revenue case which is pending or which has been decided may be inspected by a party free of cost. Any other person who wants to inspect, must get the permission of the Sarpanch of the Nyaya Panchayat in a decided case and Chairman of the Bench if the case is pending. However, the applicant (in the second instance) needs to state the reasons for inspection.<sup>101</sup> The records deposited in the Gram Panchayat's office can be inspected with the prior permission on payment of an inspection fee of 25 paise for the first hour and twelve paise for each subsequent hour per record. The fees must be paid in cash along with the application for inspection to the Pradhan or the Sarpanch, as the case may be. The latter credits the money to the Gram Fund and must give a receipt with his or her signature in the prescribed form.<sup>102</sup>

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<sup>99</sup> Rule 71, U.P. Panchayat Raj Rules, 1947.

<sup>100</sup> Rule 74, U.P. Panchayat Raj Rules, 1947.

<sup>101</sup> Rule 75, U.P. Panchayat Raj Rules, 1947.

<sup>102</sup> Rule 77, U.P. Panchayat Raj Rules, 1947. However if inspection of the same records is demanded under the RTI Act then the RTI Fee Rules will apply. Inspection will have to be allowed free of cost for the first hour and Rs. 5/- may be charged for every subsequent 15 minute period or its fraction. Please check with Fee Rules on page 15- Table 2.

In order to obtain of the records of the Gram Panchayat applications must be made to the Sachiv on plain paper. These records can be obtained till they get consigned to the District Record Room.<sup>103</sup> A list of the registers and records maintained by the Gram Panchayat and Nyaya Panchayat along with their period of retention is given in Annexure 8. An Inspection Book (Form No.11) must be kept by each Gram Panchayat and Nyaya Panchayat, and a person wanting to inspect any document must fill the particulars in columns one to four of the form. The rules strictly specify that persons cannot use either pen or ink during inspection of a record. This rule has been made to prevent possible destruction or mutilation of the record by unscrupulous elements. However, pencil and paper may be used for making notes or copies from the record or paper inspected. The inspection of records can be done only in the presence of an officer of the Gram Panchayat or Nyaya Panchayat as the case may be.<sup>104</sup>

### **Inspection of pending judicial records**

The law provides that the record of a criminal, civil or revenue case which is pending or which has been decided but the record of which has not been deposited in the Gram Panchayat office can be inspected by a Party, free of charge. (A list of offences cognizable by Nyaya Panchayats is given in Annexure 10 on pages 67-70). If any person, other than the parties concerned, wants to inspect such records, then he must first get the permission of the Chairman of the Bench before whom the criminal, civil or revenue case is pending. If the case has been decided upon already, then permission must be sought from the Sarpanch of the Nyaya Panchayat. The inspection will be done in the office of the Nyaya Panchayat.

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<sup>103</sup> Rule 73, U.P. Panchayat Raj Rules, 1947.

<sup>104</sup> Rule 80, U.P. Panchayat Raj Rules, 1947.

## **Part 6: Proactive Disclosure around Panchayat Elections**

Elections provide an essential democratic space for people to elect a person of their choice who will then represent them and strive to fulfill 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 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. The Uttar Pradesh State Election Commission<sup>105</sup> is responsible for the superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to panchayats at all three levels.<sup>106</sup> The Mukhya Nirvachan Adhikary (Panchayat) is responsible for the performance of all the functions relating to the conduct of all elections to the Kshetra and Zila Panchayats. He works under the supervision, direction and control of the State Election Commission.<sup>107</sup> Moreover, under the RTI Act, 2005 the State Election Commission is a 'public authority'<sup>108</sup> as it has been established by the Constitution of India as per Article 243K and brought into existence through a gazette notification.

A review of various 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 the election programme, nominated candidates, election results and other relevant information.

### **Publication of list of Territorial Constituencies<sup>109</sup>**

For the purpose of election of members of panchayats, each panchayat area is divided into territorial constituencies.<sup>110</sup> A list of the territorial constituencies, together with a brief

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<sup>105</sup> The State Government establishes the State Election Commission by notification in the Official Gazette. The State Election Commission is responsible for the superintendence, direction and control of the preparation of the electoral roll for, and conduct of all elections to Panchayats and Municipalities. It consists of a State Election Commissioner who is appointed by the Governor.

<sup>106</sup> Article 243K of the Constitution of India.

<sup>107</sup> Rule 4(2), U.P. Kshetra Panchayats and Zila Panchayats (election of members) Rules, 1994.

<sup>108</sup> Section 2(h), The Right to Information Act, 2005.

<sup>109</sup> Rule 6, The Uttar Pradesh Panchayat Raj (Delimitation of Territorial Constituencies for Election of Members) Rules, 1994.

<sup>110</sup> Section 12(d), U.P. Panchayat Raj Act, 1947. The territorial constituencies are delimited by starting anti-clockwise from north-east of the panchayat area so that each constituency is a geographically compact area.

description of the area comprised within each constituency must be published on the notice boards of the office of the concerned Gram Panchayat and Kshettra Panchayat.

## **Publication of Voters List**

After the rolls for all the territorial constituencies of a Gram Panchayat are prepared, they are sent to the Electoral Registration Officer<sup>111</sup> who displays the draft copy in Form 1 at the office of the Block Development Officer (BDO) and also makes it available for inspection by everybody. He is also responsible for publicising the draft electoral rolls through beating of drums, amplifier or any other convenient mode. This is done in order to inform the people that the rolls are available for inspection free of cost at the BDO's office during office hours for three days from the date of publication.<sup>112</sup>

## **Custody and preservation of electoral rolls<sup>113</sup>**

According to the state government's order, one copy of the electoral rolls for the Gram Panchayat duly authenticated by the Electoral Registration Officer must be kept in his office. Any person has the right to inspect these election papers free of charge and obtain attested copies on payment of fees. Additionally printed copies of the electoral rolls are also available for sale to the public until the publication of the next electoral roll for the Gram Panchayat at a price to be specified by the Director. After the publication of the electoral roll the previous one must kept in deposit with the records of the BDO concerned for the number of years as specified by the State Election Commission. All matters relating to preparation and publication of electoral rolls is based on the rules made by the State Election Commission.

## **Publication of notice of election and fixing of dates for elections to Gram Panchayats<sup>114</sup>, Kshettra Panchayats and Zila Panchayats<sup>115</sup>**

The dates for election of members of Kshettra Panchayat and Zila Panchayats are fixed by the State Election Commission. Based on the directions issued by the State Election Commission,

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<sup>111</sup> Electoral Registration Officer is an officer of the State Government who is designated or nominated by the State Election Commission in consultation with the State Government. The Electoral Registration Officer is responsible for preparing and revising electoral rolls in each district. Rule 8, U.P. Panchayat Raj (Registration of Electors) Rules, 1994.

<sup>112</sup> Rule 8, Uttar Pradesh Panchayat Raj (Registration of Electors) Rules, 1994 and Rule 28, U.P. Kshettra Panchayats and Zila Panchayats (Election of Members) Rules, 1994.

<sup>113</sup> Rule 23, Uttar Pradesh Panchayat Raj (Elector Registration) Rules, 1994.

<sup>114</sup> Rule 14, UP Panchayat Raj (Election of Members, Pradhans and Up-Pradhans) Rules, 1994.

<sup>115</sup> Rule 15, U.P. Kshettra Panchayats and Zila Panchayats (Election of Members) Rules, 1994.

the District Magistrate decides on the following:

- a) The date, place and hours for making nominations;
- b) The date, time and place for scrutiny of nominations;
- c) The date, place and hours for withdrawal of candidature; and
- d) The date or dates on which and the hours during which the poll will be taken

After this it is the responsibility of the Nirvachan Adhikari<sup>116</sup> to publicise the notice of the dates, places and hours as specified by the District Magistrate.

### **Publication of notice regarding election of Pramukh of Kshettra Panchayat and Adhyaksha of Zila Panchayat**

After the issue of notification of dates for nomination of candidates for the office of the Pramukh of the Kshettra Panchayat, and Adhyaksha of Zila Panchayat the Returning Officer must give a public notice of the election in Hindi, by fixing a copy of the notice at his office and another copy at conspicuous places at the khand/district headquarters.<sup>117</sup> Moreover, before doing this, the Returning Officer must also ensure to prepare a list of the present elected members of the Kshettra and Zila Panchayat and put it up at his office, the District Magistrate's office as well as at other conspicuous places.<sup>118</sup>

### **Publication of notice of polling for the three tiers<sup>119</sup>**

The following information must be displayed both outside and inside the polling place and the polling booth:

- a) A notice specifying the polling area, the electors of which are to vote at the polling place or the polling booth, as the case may be;
- b) A copy of the list of the contesting candidates.

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<sup>116</sup> Nirvachan Adhikari is an officer of the State Government who is appointed by the District Magistrate based on the directions of the State Election Commission.

<sup>117</sup> Rule 6, The Uttar Pradesh Kshettra Panchayats (Election of Pramukhs and Up-Pramukhs and settlement of Election Disputes) Rules, 1994 and Rule 5, U.P. Zila Panchayats (Election of Adhyaksha and Up-Adhyaksha and settlement of Election Disputes), Rules, 1994.

<sup>118</sup> Rule 7, The Uttar Pradesh Kshettra Panchayats (Election of Pramukhs and Up-Pramukhs and settlement of Election Disputes) Rules, 1994.

<sup>119</sup> Rule 27, Uttar Pradesh Panchayat Raj (Election of Members, Pradhans and Up-Pradhans) Rules, 1994 and Rule 28, U.P. Kshettra Panchayats and Zila Panchayats (Election of Members) Rules, 1994 .

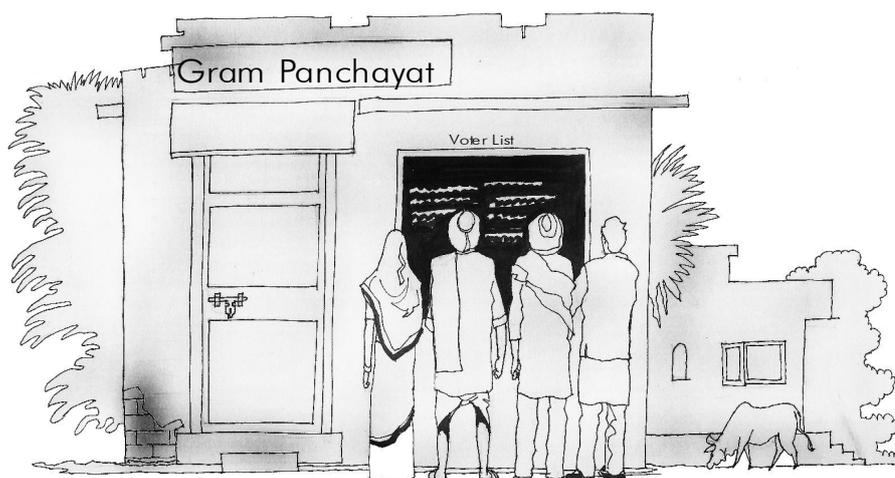
## Inspection of Election Papers<sup>120</sup>

Election papers including the packet of ballot papers (valid, rejected or tendered<sup>121</sup>) and the marked copy of the electoral roll are kept in the custody of the District Panchayat Raj Officer. These can be inspected or produced before any person or authority only under the order of a Competent Court or of a District Judge hearing an election petition.

### Payment for inspection and for copies of papers

Inspection of election papers (ballot papers and electoral rolls)	Rs. 2/- per day
Other papers relating to elections	Rs. 20/- per day
Copies of returns	Rs. 20/- per copy
Inspection of returns	Rs. 2/- per day

The Nirvachan Adhikari has been given the responsibility of forwarding the return to the District Panchayat Raj Officer after reporting the election results to the District Magistrate. They can also be inspected on payment of a fee which is same as the rate charged for a copy of any order by a Revenue Officer. Applications for copies of these papers must be given on plain paper and without judicial stamps.



<sup>120</sup> Rule 58, U.P. Kshetra Panchayats and Zila Panchayats (Election of Members) Rules, 1994.

<sup>121</sup> Tendered vote is the vote of the elector whose vote has already been cast by another person representing himself as that elector. A tendered ballot paper as per Rule 49P of Conduct of Election Rules will be given and the elector would be required to sign his name in the list of tendered votes. A tendered ballot paper will have "tendered ballot paper" endorsed at the back or stamped or written by the presiding officer at the time of issuing it.

## Conclusion

In relation to accessing information held by PRIs, the PR Act does provide certain provisions which the people could use in seeking information from the three-tier panchayati raj system. More importantly, the PR Act provides for proactive disclosure of information through Gram Sabha meetings, where people not only get an opportunity to know what the Gram Panchayat is doing but they can also ask questions besides giving their approval to the budget and expenditure plan. This Act has also given certain duties to the PRIs to disclose certain key information to the people. With the enactment of the RTI Act citizens have now been given an additional tool to access information from PRIs which are public authorities under the Act. Though it is cheaper to get information from the panchayat bodies under the PR Act, the RTI Act has provided for a fixed period within which the information sought must be provided by the designated PIO. In case of non-disclosure this Act has provided for a penalty to be imposed on the erring official. Therefore, using the RTI Act citizens will be able to access the information held by PRIs, which they could not do until recently.

Notably, the RTI Act, has an overriding effect on the information disclosure provisions of panchayat-held information as given in the Uttar Pradesh Panchayat Raj legislations and related rules. With the enactment of the RTI Act, 2005, all the documents held by PRIs can be accessed by citizens, since these do not fall within those records which have been exempted 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 Panchayat Raj Act as well.

## **Categories of documents available with the Directorate of Panchayati Raj, Government of Uttar Pradesh**

Sl	Type of document	Name of document and brief introduction	Process of accessing document	Officer who has custody of the Document <sup>122</sup>
1	Administrative	Documents related to Class 3 and Class 4 employees of the Directorate	By applying to the Director, Panchayati Raj, applying to PIO/ Joint Director (Panchayat) under RTI Act, 2005	Apar Nideshak (administration)
		Documents related to district level officers and employees, Assistant Development Officer (Panchayat) and Gram Panchayat Officers	Same as above	Same as above
2	Financial	- Documents related to the allocation of funds in the proposed and current budget - Documents related	Same as above	Chief Finance and Accounts Officer

<sup>122</sup> Under the UP Panchayat Act and the relevant Rules application for accessing the above documents must be made to the officer who has custody of these documents. However under the RTI Act a special officer (PIO) is designated to receive and process applications for copies of all records held by the Directorate. There is no need to apply to different custodian officers for accessing different categories of records. The PIO has the statutory powers and the obligation to requisition these records from the custodian officers and provide copies to the citizens on request.

Sl	Type of document	Name of document and brief introduction	Process of accessing document	Officer who has custody of the Document
		<p>to Employees Provident Fund</p> <ul style="list-style-type: none"> <li>- Documents related to allocation of funds to the PRIs based on the recommendations of the Twelfth Finance Commission</li> <li>- Documents related to allocation of funds for PRIs based on the recommendations of the State Finance Commission</li> </ul>		
3	Documents related to Gram	<ul style="list-style-type: none"> <li>- Constitution of Panchayats Gram Panchayats, delimitation of territorial constituencies/wards, reservation of seats</li> <li>- Complaints received and dealt with against Gram Panchayat Pradhans</li> <li>Construction and improvement of farmers markets and animal fairs</li> </ul>	Same as above	Joint Director
4	All documents related to planning	- Progress report on Total Sanitation Campaign which is a part of the centrally	Same as above	Deputy Director (Panchayat)

Sl	Type of document	Name of document and brief introduction	Process of accessing document	Officer who has custody of the Document
		sponsored Rural Sanitation Programme - Documents related to allocation of funds to the PRIs based on the recommendations of the Twelfth Finance Commission - Documents related to allocation of funds for PRIs based on the recommendations of the State Finance Commission - Progress on construction of Panchayat Bhavans - Progress report on the development works being carried out in the Ambedkar villages		

**Source:** <http://www.rti.gov.in/Members/uttarpradesh/panchayati-raj/>: proactive disclosure by Panchayat Raj Department, Government of Uttar Pradesh.

**Monthly remuneration received by each of the PRI's  
officers and employees  
Department of Panchayati Raj, Government of Uttar Pradesh**

<b>Post</b>	<b>No. of posts</b>	<b>Remuneration</b>
<b>Directorate</b>		
Director, Panchayat Raj Dept.	1	I.A.S
Joint Director (administration)	1	P.C.S.
Deputy Director (administration)		
Chief Finance and Accounts Officer	1	From financial services
Joint Director, Panchayat Raj Directorate	1	12,000/- to 16,500/-
District Panchayat Raj Officer (headquarter)	1	6500/- to 10,500/-
District Panchayat Raj Officer (headquarter-technical)	1	4500/- to 7000/-
Administration Officer	1	5500/- to 9000/-
Publications Officer	1	5000/- to 8000/-
Office Executive	5	5000/- to 8000/-
Short- hand	1	5500/- to 9000/-
	3	5000/- to 8000/-
	1	4500/- to 7000/-
Senior Assistant	20	4500/- to 7000/-
Senior Accountant	25	4000/- to 6000/-
Junior Accountant	28	3050/- to 4590/-
Teachers with honorarium	2	3050/-
Sweeper Orderly	1	2610/- to 3540/-
Office Boy	2	2610/- to 3540/-
Bundle- lifter	1	2610/- to 3540/-
Cyclostyle Operator	1	2610/- to 3540/-

Orderly Peon	15	2550/- to 3200/-
Gardener	2	2550/- to 3200/-
Chowkidar	2	2550/- to 3200/-
Sweeper	1	2550/- to 3200/-
<b>Mandal</b>		
Deputy Director Panchayat	16	10,000/- to 15,200/-
<b>Janpad</b>		
District Panchayat Raj Officer	70	6500/- to 10,500/-
Assistant District Panchayat Raj Officer	61	4500/- to 7000/-
<b>Development Block</b>		
Assistant Development Officer (Panchayat)	790	4500/- to 7000/-
<b>Nyay Panchayat</b>		
Gram Panchayat Officer	8135	3050/- to 4590/-

**Source:** <http://www.rti.gov.in/Members/uttarpradesh/panchayati-raj/>: proactive disclosure by Panchayat Raj Department, Government of Uttar Pradesh

## **The budget allocated to each PRI, including the particulars of all plans, proposed expenditures and reports on disbursements**

### The Panchayati Raj department's annual budget for the financial year 2005-2006

a) Proposed budget	
o Salary head	Rs. 477.73 crores
o Grants from Finance Commission	
☞ Twelfth Finance Commission	Rs. 585.60 crores
☞ State Finance Commission	Rs. 675.00 crores
b) Current plan budget	Rs. 203.71 crores

### **Schemes**

**Total Sanitation Campaign:** The Panchayat Raj Department is implementing the centrally sponsored Total Sanitation Campaign in the state. This scheme will be carried out till 2012. In the year 2005-06, the state government is providing Rs. 129 crores, while the central government's share is Rs. 50 crores.

**Construction of Panchayat Bhavans:** An allocation of Rs. 27.07 crores has been allocated for this purpose for the year 2005-06.

**Construction of Kharanja/drains:** An allocation of Rs. 3178.71 lakhs has been made for the year 2005-06 for the construction of kharanja/drains in ambedkar<sup>123</sup>/all villages under the Special Component Plan.

**Construction and improvement of farmers markets and animal fairs:** An allocation of Rs. 51.20 lakhs has been made for this scheme for the year 2005-06.

**Source:** <http://www.rti.gov.in/Members/uttarpradesh/panchayati-raj/>: proactive disclosure by Panchayat Raj Department, Government of Uttar Pradesh

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<sup>123</sup>Ambedkar village is primarily dominated by Scheduled Caste population.

**Form No.8  
Form of Proceedings**

Date	Name of Panches/ members present	Resolution Number	Business transacted	Signature or thumb impression of Panches/members
1	2	3	4	5

Note: Pradhan and Secretary will sign at the end of the proceedings

## **Imposition of taxes and fees by Gram Panchayats**

It is obligatory for a Gram Panchayat to levy fees described in points (a) and (b). It has the discretion to levy all or any of the taxes, fees and rates described in the other points given below:

- a) In areas where the right, title and interest of intermediaries have been acquired under the Zamindari Abolition and Land Reforms Act, 1950, the Jaunsar-Bawar Zamindari Abolition and Land Reforms Act, 1956 or the Kumaon and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960, a tax on land not less than 25 paise but not exceeding 50 paise in a rupee on the amount of land revenue payable;
- b) In areas other than those referred to above, a tax on land revenue not less than 25 paise but not exceeding 50 paise in a rupee on the amount of land revenue payable by a tenant;
- c) A tax on theatre, cinema or similar entertainment temporarily stationed in the Gram Panchayat area;
- d) A tax payable by the owner on animals (not exceeding Rs.3/- per animal per annum) and vehicles (not exceeding Rs.6/- per vehicle per year) other than the mechanically propelled ones within the Gram Panchayat area applied for hire;
- e) A tax on persons selling goods in markets, haats and fairs belonging to or under the control of Gram Panchayat;
- f) Fees on the registration of animals sold in any market place belonging to or under the control of the Gram Panchayat;
- g) Fees for the use of slaughter houses and camping grounds;
- h) A water rate where water for domestic consumption is supplied by the Gram Panchayat;
- i) A tax for cleaning private latrines and drains payable by the owners if the cleaning is done by an agency of the Gram Panchayat;
- j) A tax for cleaning and lighting of streets and sanitation;
- k) An irrigation rate where water for irrigation is supplied by the Gram Panchayat from any small irrigation project constructed or maintained by it.

## **Functions of Gram Panchayat<sup>124</sup>**

- (1) Agriculture including agricultural extension:
  - a) Promotion and development of agriculture and horticulture;
  - b) Development of wastelands and grazing lands and preventing their unauthorised alienation and use.
- (2) Land development, land reform and implementation, land consolidation and soil conservation:
  - a) Assisting the government and other agencies in land development, land reform and soil conservation;
  - b) Assisting in land consolidation.
- (3) Minor irrigation, water management and watershed development:
  - a) Managing and assisting in water distribution from minor irrigation projects;
  - b) Construction, repair and maintenance of minor irrigation projects, regulation of water supply for irrigation.
- (4) Animal husbandry, dairying and poultry:
  - a) Improving breed of cattle, poultry and other livestock;
  - b) Promotion of dairying, poultry, piggery etc.
- (5) Development of fisheries in the villages.
- (6) Social and farm forestry:
  - a) Planting and preserving trees on road sides and public lands;
  - b) Development and promotion of social and farm forestry and sericulture.
- (7) Promotion and development of minor forest produce.
- (8) Small industries:
  - a) Assisting the development of small industries;
  - b) Promotion of local trades.

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<sup>124</sup>Section 15, Uttar Pradesh Panchayat Raj Act, 1947.

- (9) Cottage and village industries:
  - a) Assisting in the development of agricultural and commercial industries;
  - b) Promotion of cottage industries.
  
- (10) Rural housing:
  - a) Implementation of rural housing programmes;
  - b) Distribution of house sites and maintenance of records relating to them.
  
- (11) Drinking water: Construction, repair and maintenance of public wells, tanks and ponds for supply of water for drinking, washing, bathing purposes and regulation of sources of water supply for drinking purposes.
  
- (12) Fuel and fodder land:
  - a) Development of grass and plants relating to fuel and fodder land;
  - b) Control on irregular transfer of fodder land.
  
- (13) Roads, culverts, bridges, ferries, water-ways and other means of communication:
  - a) Construction and maintenance of village roads, bridges, ferries and culverts;
  - b) Maintenance of water-ways;
  - c) Removal of encroachment on public places.
  
- (14) Rural electrification: Provision for and maintenance of lighting of public streets and other places.
  
- (15) Promotion and development of programmes of non-conventional energy source and its maintenance in villages.
  
- (16) Promotion and implementation of poverty alleviation programmes.
  
- (17) Education including primary and secondary schools – public awareness about education.
  
- (18) Technical training and vocational education: promotion of rural art and artisans.
  
- (19) Adult and informal education: promotion of adult literacy.

- (20) Establishment and maintenance of libraries and reading rooms.
- (21) Sports and cultural affairs:
- a) Promotion of social and cultural activities;
  - b) Organising cultural seminars on different festivals;
  - c) Establishment and maintenance of rural clubs for sports.
- (22) Markets and fairs: regulation of melas, markets and haats in panchayat areas.
- (23) Medical and sanitation:
- a) Promoting rural sanitation;
  - b) Prevention against epidemics;
  - c) Programmes of human and animal vaccination;
  - d) Preventive actions against stray cattle and live-stock;
  - e) Registering births, deaths and marriages.
- (24) Promotion and implementation of family welfare programmes.
- (25) Preparation of plan for economic development of the Gram Panchayat.
- (26) Maternity and child development:
- a) Participation in the implementation of women and child welfare programmes at Gram Panchayat level;
  - b) Promoting child health and nutrition programmes.
- (27) Social welfare including welfare of the handicapped and mentally retarded:
- a) Assisting in old-age and widow pension schemes;
  - b) Participation in the social welfare programmes including welfare of the handicapped and the mentally retarded.
- (28) Welfare of the weaker sections and in particular of the Scheduled Castes and Scheduled Tribes:
- a) Participation in the implementation of the specific programmes for the Scheduled Castes, the Scheduled Tribes and other weaker sections of the society;
  - b) Preparation and implementation of schemes for social justice.
- (29) Public distribution system:
- a) Promotion of public awareness with regard to the distribution of essential commodities;
  - b) Monitoring the public distribution system.

(30) Preservation and maintenance of community assets.

Besides the abovementioned responsibilities, Gram Panchayats have been given the duty to prepare development plans every year and submit these to the concerned Kshetra Panchayats.<sup>125</sup> Additionally, the state government may assign certain other functions to the Gram Panchayats as given below:<sup>126</sup>

- a) Management and maintenance of a forest situated in the panchayat area;
- b) Management of wastelands, pasture lands or vacant land belonging to the Government situated within the panchayat area;
- c) Collection of any tax or land revenue and maintenance of related records.

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<sup>125</sup> Section 15-A, UttarPradesh Panchayat Raj Act, 1947.

<sup>126</sup> Section 16, U.P. Panchayat Raj Act, 1947.

# Form No. 1

## Annual Report

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U. P. PANCHAYAT RAJ ACT, 1947

[FORM 1

### FORM No. 1

#### ANNUAL REPORT

Year.....

Gram Panchayat.....

Nyaya Panchayat.....

Panchayat Inspector, circle.....

Tahsil.....

District.....

Description	<i>Corresponding figures of the previous year, if available</i>	<i>Figures of the current year</i>	<i>Remarks</i>
1	2	3	4
1. Education—			
(a) Number of illiterate adults made literate (Male)	..		
(Female)	..		
(b) Number of illiterate members of Gram Panchayat who were made literate	..		
(c) Number of Adult Schools—			
(i) Managed entirely by the Gram Sabha	..		
(ii) Aided by the Gram Sabha	..		
(d) Number of Primary Schools for Boys and Girls—			
(i) Managed entirely by the Gram Sabha	..		
(ii) Aided by the Gram Sabha	..		
2. Reading Rooms and Libraries—			
(a) Number of libraries—			
(i) Managed exclusively by the Gram Sabha	..		
(ii) Number of books	..		
(iii) Aided by the Gram Sabha	..		
(iv) Number of books	..		

	1	2	3	4
(b) Number of Reading Rooms—				
(i) Managed exclusively by the Gram Sabha ..				
(ii) Number of newspapers and magazines ..				
(iii) Aided by the Gram Sabha ..				
(iv) Number of newspapers and magazines ..				
3. Radios—				
(a) Number of radios purchased by the Gram Sabha ..				
(b) Number of radios installed, under the Community Listening Scheme ..				
(c) Number of radios received in gift ..				
(d) Number of private radios ..				
4. Sanitation—				
(a) Number of Ghurs which were cleared ..				
(b) Number of pits which were filled ..				
(c) Drains cleaned (number, and lengths in yards) ..				
(d) Number of compost pits dug ..				
5. Medical—				
(a) Number of dispensaries or Aushdhalayas—				
(i) run exclusively by the Gram Sabha ..				
(ii) Number of patients provided medical aid ..				
(iii) Aided by the Gram Sabha ..				
(iv) Number of patients provided medical aid ..				
(b) Number of medicine chests—				
(i) given by the Government ..				
(ii) purchased by the Gram Sabha ..				

	1	2	3	4
(iii) Number of patients provided medical aid ..				
(c) Number of maternity chests—				
(i) given by the Government ..				
(ii) purchased by the Gram Sabha ..				
(iii) Number of patients provided medical aid ..				
(iv) Number of midwives—				
(Trained)				
(Untrained)				
6. Health—				
(a) Number of Akharas and gymnasiums run by the Gram Sabha ..				
(b) Average number of daily participants ..				
7. Construction and repair of road, drains—				
(a) New roads constructed (length in miles and yards) —				
Pakka				
Kachcha				
(b) Kachcha roads converted into metalled ones (length in miles and yards)				
(c) (i) Roads fitted with Kharanja (length in miles and yards) ..				
(ii) Roads repaired with Kharanja (length in miles and yards) ..				
(d) Old roads repaired (length in miles and yards) —				
Pakka				
Kachcha				
(e) Drains constructed (length in yards)				
(f) Kachcha drains converted into Pakka ones (length in yards) ..				
(g) Drains repaired (length in yards) —				
Pakka				
Kachcha				

	1	2	3	4
8. Cleaning and repairs of drinking wells—				
(a) Number of wells				
		Pakka		
		Kachcha		
(b) Number of wells constructed				
		Pakka		
		Kachcha		
(c) Number of wells which were repaired				
		Pakka		
		Kachcha		
(d) Number of wells which were cleaned				
		Pakka		
		Kachcha		
9. Bathing platforms or rooms—				
(a) Number of bathing platforms or rooms constructed				..
(b) Number of bathing platforms or rooms repaired				..
10. Panchayatghars—				
(a) On rent				..
(b) Received in gift			Pakka	
			Kachcha	
(c) Constructed by Gram Sabha			Pakka	
			Kachcha	
(d) Number of Kachcha Panchayatghars constructed into Pakka ones				..
11. Gandhi Chabutras—				
(a) Constructed by the Gram Sabha			Pakka	
			Kachcha	
(b) Number of Kachcha Gandhi Chabutras converted into Pakka ones				..
12. Light—				
(a) Number of lanterns on roads				
(i) Old				..
(ii) Number of old lanterns that have become un-serviceable				..
(iii) New				..

	1	2	3	4
13. Tree Plantation—				
(a) Community Forests (area in acres) ..				
(b) Community orchards (area in acres) ..				
(c) Number of new trees planted (excluding those planted in community orchards or forests) ..				
(i) Number of fruit-bearing trees ..				
(ii) Numbr of other trees ..				
(d) Number of trees which were planted during the procceding years and are still alive ..				
(i) Fruit-bearing trees ..				
(ii) Others ..				
14. New Schemes and other important development work ..				
15. Birth and death record—				
(a) Total population ..				
(b) Birth ..				
(c) Death ..				
16. Cattle—				
(a) Number of bulls maintained by Panchayats ..				
(b) Number of bulls received from Animal Husbandry Department ..				
(c) Received in gift ..				
(d) Purchased by Panchayats ..				
(e) Number of cattle medicine chests in use ..				
(f) Number of cattle treated ..				
(g) Number of cattle exhibitions organised by Panchayats ..				
17. Miscellaneous—				
(a) Land acquired by Panchayats for grazing (area in acres) ..				
(b) Land acquired for other public purposes (give details) (area in acres) ..				

	1	2	3	4
(c) Land received in gift (area in acres)	..			
(d) Uncultivated land made cultivated by Panchayats (area in acres)	..			
(e) Number of Co-operative Societies	..			
(f) Number of members	..			
(g) Amount of share money	..			
18. Number of Gram Sabhas	..			
19. Income of the Gram Panchayats—				
(a) Total amount of taxes, rates and fees in arrears	..			
(b) New taxes etc. imposed—				
(i) Tax	..			
(ii) Rate	..			
(iii) Fees	..			
(c) Total of (b) (i) to (iii)	..			
(d) Total of (a) and (c)	..			
(e) Amount remitted—				
(i) Current	..			
(ii) Arrear	..			
		Total	..	
(f) Amount to be realised—				
(i) Current	..			
(ii) Arrear	..			
		Total	..	
(g) Total amount of taxes, rates and fee realized	..			
(i) Current	..			
(ii) Arrear	..			
		Total	..	
(h) Balance—				
(i) Current	..			
(ii) Arrear	..			
		Total	..	
(i) Amount received from the Nyaya Panchayats	..			
(j) Income from Gram Samaj	..			

	1	2	3	4
21. Details of balance—				
(i) Gram Sabha funds in the Personal Ledger Account		..		
(ii) Balance of Government grant for pay of Panchayat Secretaries in the P.L.A.		..		
(iii) Gram Sabha funds with the Pradhan		..		
(iv) Funds in the Post Office Saving Bank Account or in the shape of Savings Certificate.		..		
Total amount of balance		..		

## **Registers and records to be maintained by Gram Panchayat and the prescribed retention schedule<sup>127</sup>**

A Gram Panchayat must maintain the following registers, books and papers and the period of their retention is shown against each:

1. Gram Fund Account Books . . . . . Twenty years
2. Counterfoil Receipt Books . . . . . Five years
3. Proceeding Books . . . . . Permanent
4. Register showing demand and collection of taxes and other dues . . . . . Ten years
5. Register of correspondence and notices issued by the Gram Panchayat . . . . . Five years
6. Inspection Book . . . . . Three years
7. Annual report on the working of Gram Panchayats . . . . . Ten years
8. Application for copies of records of administrative proceedings . . . . . One year
9. Application for inspection of records . . . . . One year
10. Forms of Oath taken by Pradhan, Up-Pradhan and members of Gram Panchayat . . . . . Four years
11. Birth, Death and Marriage Registers . . . . . Permanent
12. Progress Report of Works . . . . . Five years
13. Completion Certificates . . . . . Twenty years
14. Establishment Register . . . . . Forty years
15. Office Order Book . . . . . Forty years
16. Audit Report . . . . . Forty years
17. Report regarding embezzlement . . . . . Forty years
18. Service Book and Character Roll . . . . . Five years after retirement of the person concerned
19. Register of Public Works . . . . . Permanent

<sup>127</sup> Rule 63, U.P. Panchayat Raj Rules, 1947.

20. Annual Estimate of Income and Expenditure . . . . .	Five years
21. Register of licenses.....	Ten years
22. Appeal against assessment.....	Five years
23. Register of Immovable Property.....	Permanent
24. Gram Sabha Register, Parts I& II . . . . .	Five years from the date of preparation of new ones
25. Claims and objections to the inclusion of names in the above registers, etc. and the decisions taken on them. . . . .	Three years
26. List of constituencies . . . . .	Ten years
27. List of Library Books . . . . .	Permanent
28. List of Pradhans, Up-Pradhans, Members and Panches. . . . .	Six years
29. Any other miscellaneous papers . . . . .	Three years or more as may be ordered by District Panchayat Officer
30. Register of Attendance of Members. . . . .	Six years
31. Survey and Development Register . . . . .	Twenty years
32. Permanent Advance Register. . . . .	Ten years
33. Paid Vouchers and Bills . . . . .	Ten years
34. Stock Book . . . . .	Five years
35. Indent of Forms . . . . .	One year
36. Invoice of records sent. . . . .	One year
37. Application for copies of records....	One year

### **Destruction of vouchers and registers of Gram Panchayats<sup>128</sup>**

The vouchers, registers and other forms are to be retained, weeded or destroyed as given below:

<b>Form</b> . . . . .	<b>Period of Retention</b>
1. Budget Estimates . . . . .	Five years
2. Assessment List . . . . .	Five years
3. Demand and Collection Register. . . . .	Ten years
4. Monthly account . . . . .	Five years

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<sup>128</sup> Rule 205, U.P. Panchayat Raj Rules, 1947.

5. General Cash Book . . . . .	Permanently
6. Remittance Chalang. . . . .	Three years
7. Security Bonds. . . . .	Five years after they have ceased to have effect
8. Register of deposits . . . . .	Permanently
9. Stock-book . . . . .	Three years
10. Establishment pay bills . . . . .	Three years
11. Contingent vouchers . . . . .	Ten years
12. Annual Account. . . . .	Ten years
13. Receipts . . . . .	Three years
14. Fine statement. . . . .	Three years
15. Register of Public Works . . . . .	Permanently
16. Indent for Forms . . . . .	One year
17. Muster Rolls . . . . .	Three years

**Registers to be maintained by Nyaya Panchayat and the prescribed retention schedule<sup>129</sup>**

A Nyaya Panchayat must maintain the following registers and the period of retention is shown against each:

1. Receipt Books in respect of money, separate for civil and criminal cases . . . . .	Three years
2. Register of processes and summons issued or sent for service. . . . .	Three years
3. Register of Diet Money. . . . .	Three years
4. Fine Register . . . . .	Three years
5. Inspection Book . . . . .	Three years
6. Nyaya Panchayat Fund Account Books . . . . .	Three years
7. Quarterly returns of criminal, civil and revenue cases. . . . .	Three years
8. Application for copies of records . . . . .	One year
9. Application for inspection of records . . . . .	One year
10. Forms of Oath by Sarpanch, Sahayak Sarpanch and Panches. . . . .	Six years

<sup>129</sup> Rule 64, U.P. Panchayat Raj Rules, 1947.

11. Report regarding delay in disposal of criminal, civil and revenue cases. . . . .	Three years
12. Publication of dates of sittings of Nyaya Panchayat. . .	Two years
13. Audit Report . . . . .	Forty years
14. Reports regarding embezzlements..... . . . .	Forty years
15. Pay Bill . . . . .	Three years
16. Security Bonds. . . . .	Five years after they cease to have effect
17. Service Books and Character Roll . . . . .	Five year after retirement of the person concerned
18. Paid Vouchers and bills . . . . .	Ten years
19. Stock Book . . . . .	Five years
20. Proceeding Book. . . . .	Twenty years
21. Annual Estimate of Income and Expenditure . . . . .	Twenty years
22. Budget Annual Account . . . . .	Ten years
23. Indent of Forms. . . . .	One year
24. Register of Immovable Property. . . . .	Permanent
25. Misilband register of civil, revenue and criminal cases . . . . .	Forty years
26. Register of library books. . . . .	Until a new one is prepared and certified
27. Other miscellaneous papers. . . . .	Three years or more as ordered by District Panchayat Officer
28. Invoice of records sent . . . . .	One year

The records of civil and criminal cases of Nyaya Panchayat are maintained and destroyed according to the procedure laid down by the Hon'ble High Court. In case of records of revenue cases, these are maintained and destroyed according to the provisions laid down in Chapter LIV of the Uttar Pradesh Revenue Manual of the U.P. Board of Revenue.

## **Officers and Servants of Zila Panchayats and Kshettra Panchayats**

Every Zila Panchayat has the following posts of officers:<sup>130</sup>

- i. Mukhya Adhikari (Chief Executive Officer /Chief Development Officer)
- ii. Apar Mukhya Adhikari
- iii. Vitta Adhikari
- iv. Chikitsa Evam Swasthya Adhikari (Deputy Chief Medical Officer)
- v. Peyjal Abhiyanta (Executive Engineer, Jal Nigam)
- vi. Vikas Adhikari (District Development Officer)
- vii. Karya Adhikari
- viii. Abhiyanta
- ix. Basic Shiksha Adhikari
- x. Krishi Adhikari (District Agriculture Officer)
- xi. Sahkarita Adhikari (Assistant Registrar Cooperative Societies)
- xii. Pashudhan Adhikari (Chief Veterinary Officer)
- xiii. Samaj Kalyan Adhikari (District Social Welfare Officer)
- xiv. Grameen Abhiyantran Abhiyanta (Executive Engineer Rural Engineering Services)
- xv. Yuva Kalyan Adhikari (District Youth Welfare Officer)
- xvi. Bhoomi Sanrakshan Adhikari (District Soil Conservation Officer)
- xvii. Udyan Adhikari (District Horticulture Officer)
- xviii. Panchayat Raj Adhikari (District Panchayat Raj Officer)
- xix. Laghu Sinchai Abhiyanta (Executive Engineer Minor Irrigation)
- xx. Bal Vikas Adhikari (District Programme Officer-Child Development Project)
- xxi. Kar Adhikari
- xxii. Matsya Adhikari (Assistant Director-Fisheries/Chief Executive Officer, Fish Farmers Development Agency)
- xxiii. Ganna Adhikari (District Cane Development Officer)
- xxiv. Dugdha Adhikari (Deputy Dairy Development Officer)
- xxv. Madhyamik Shiksha Adhikari (District Inspector of Schools)
- xxvi. Nalkoop Abhiyanta (Executive Engineer: Tube-Wells)

In addition to the posts listed above, Zila Panchayat may also create posts of officers including Atirikt Abhiyanta and Atirikt Swasthya Adhikari.

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<sup>130</sup>Section 39, UP. Kshettra Panchayat and Zila Panchayat Adhiniyam, 1961. The names indicated in brackets are the officers of the state government who hold the posts in the Zila Panchayat. The posts of the officers of the Zila Panchayat are of two categories, one category of posts is occupied by government servants and the other is filled by promotion from Zila Panchayat.

**Offences cognizable by Nyaya Panchayats<sup>131</sup>**

The following offences as well as abetments of and attempts to commit such offences, if committed within the jurisdiction of a Nyaya Panchayat shall be cognizable by such Nyaya Panchayat:

- a) Offences under Sections 140, 160, 172, 174, 179, 269, 277, 283, 285, 289, 290, 294, 324, 334, 341, 352, 357, 358, 374, 379, 403, 411 (where the value of the stolen or the misappropriated property in cases under Sections 379, 403 and 411 does not exceed fifty rupees) 426, 428, 430, 431, 447, 448, 504, 506, 509 and 510 of the Indian Penal Code, 1860; (See the table below for details)
- b) Offences under Sections 24 and 26 of the Cattle Trespass Act, 1871;
- c) Offences under sub-section (1) of Section 10 of the United Provinces District Board Primary Education Act, 1926;
- d) Offences under Sections 3, 4, 7 and 13 of the Public Gambling Act, 1867;
- e) Any other offence under aforesaid enactments or any other enactment as notified in the Official Gazette is declared by the State Government to be cognizable by a Nyaya Panchayat.

<b>Section</b>	<b>Offence</b>	<b>Punishment</b>
140	Wearing the dress or carrying any token used by a soldier, sailor or airmen with the intent that he may be believed that he is such a soldier, sailor airman.	Imprisonment for 3 months or fine of Rs.500, or both.
160	Committing an affray	Imprisonment for one month, or fine of Rs.100, or both.

<sup>131</sup> Section 52, U.P. Panchayat Raj Act, 1947.

<b>Section</b>	<b>Offence</b>	<b>Punishment</b>
172	Absconding to avoid service of summons or other proceeding from a public servant.	Simple Imprisonment for 1 month, or fine of Rs.500, or both.
174	Not obeying a legal order to attend at a certain place in person or by an agent, or departing from there without authority.	Simple Imprisonment for 1 month, or fine of Rs.500, or both.
179	Being legally bound to state the truth, and refusing to answer.	Simple Imprisonment for 6 months, or fine of Rs.1000, or both.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 6 months, or fine or, both.
277	Defiling of water of a public spring or reservoir	Imprisonment for 3 months, or fine of Rs.500, or both.
283	Causing danger, obstruction or, injury in any public way or line of navigation.	Fine of Rs.200.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	Imprisonment for 6 months, or fine of Rs.1000, or both.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	Imprisonment for 6 months, or fine of Rs.1000, or both.
290	Committing a public nuisance.	Fine of Rs.200.
294	Obscene songs	Imprisonment for 3 months, or fine, or both.

<b>Section</b>	<b>Offence</b>	<b>Punishment</b>
324	Voluntarily causing hurt by dangerous weapons or means.	Imprisonment for 3 years, or fine, or both.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 1 month, or fine, or both.
341	Wrongfully restraining any person.	Simple Imprisonment for 1 month, or fine of Rs.500, or both.
352	Assault or use of criminal force otherwise than on grave provocation.	Imprisonment for 3 months, or fine of Rs. 500, or both.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Imprisonment for 1 year or a fine of Rs.1 000 or both.
358	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for 1 month, of fine for Rs.200, or both.
374	Unlawful compulsory labour.	Imprisonment for 1 year, or fine, or both.
379	Theft	Imprisonment For 3 years, or fine, or both.
403	Dishonest misappropriation of movable property, or converting it to one's own use.	Imprisonment for 2 years, or fine, or both.
411	Dishonestly receiving stolen property knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.
426	Mischief	Imprisonment for 3 months, or fine, or both.

<b>Section</b>	<b>Offence</b>	<b>Punishment</b>
428	Mischief by killing, poisoning, maiming, or rendering useless any animal of value of Rs. 10 or upwards.	Imprisonment for 2 years, or fine, or both.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Imprisonment for 5 years or fine, or both.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel or rendering it impassable or less safe for traveling or conveying property.	Imprisonment for 5 years or fine, or both.
447	Criminal Trespass	Imprisonment for 3 months, or fine of Rs. 500, or both.
448	House-trespass	Imprisonment for 1 year, or fine of Rs. 1000 or both.
504	Insult intended to provoke breach of peace.	Imprisonment of 2 years, or fine, or both.
506	Criminal intimidation	Imprisonment for 2 years, or fine, or both.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Simple Imprisonment for 1 year, or fine, or both.
510	Appearing in public place, etc, in a state of intoxication, and of causing annoyance to any person.	Simple imprisonment for 24 hours, or fine of Rs. 10, or both.

# 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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