



Tip Sheet: RTI to Power Journalistic Investigations

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Name of Presenter : **Dr. Vishnu Rajgadga**

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Affiliation/Organization : Freelance Journalist

Contact Information : vranchi@gmail.com

LinkedIn Profile :

https://in.linkedin.com/in/vishnurajgadga?utm_source=share&utm_medium=member_mweb&utm_campaign=share_via&utm_content=profile

TIP SHEET : Value added RTI requests to counter denial tactics

(Reference : The RTI Act 2005, India)

In 20 years, the PIOs in India have learned a lot of tactics on how to deny information. Like,

1. This is personal information.
2. This is third party information.
3. This is not held with us.
4. It will divert our resources.
5. Demanding huge amounts for information.
6. Information is exempted from disclosure.

Therefore, investigative journalists shall write value added RTI requests to counter probable denial for information by the officials.

A. Denial Tactics : This is personal information

TIP One : Involve individuals from the affected communities or victims to counter so-called 'personal' information. We have started involving the medical students or their families to request for information about their own duty hours. Inform could be sought within 48 hours in case of life or liberty related issues by individuals regarding their own issues.

TIP Two : Mention in your request that the information sought by me is under 'Larger Public Interest' and the matter is related to large scale corruption or irregularities, or there are doubts that the person has got appointment through fake documents and therefore the information has larger public interest etc.

(Provisions of the RTI Act : Section 8 (1) (j) – information which relates to personal information the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual (is exempted) unless the PIO is satisfied that the larger public interest justifies the disclosure of such information.)

TIP Three : If the same issue has already been raised in the Parliament or a State Legislature earlier, you can also mention it as the Act has such provisions.

(Provisions of the RTI Act : Section 8(1)(j) The information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.)

B. Denial Tactics : Demand of huge amount

TIP Four : You can request - 'Kindly provide the information in soft copy through E-mail if possible, or in any format suitable to you.'

(Provisions of the RTI Act : Section 7(5) of the RTI Act have provision to get information in any electronic format.)

C. Denial Tactics : This is Third party information

TIP Five : Even in that case, the PIO cannot simply deny information. Therefore, mention in your request that if this is third party information, please provide me the details as below:

- a) Copy of the certificate if it has been classified as confidential by the third party.
- b) Notice sent to them and their reply if any.
- c) Apart from any objection coming from the third party or not, the information sought is in larger public interest and cannot be denied.

(Provisions of the RTI Act : Section 11 (1) Where a PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by that third party, the PIO shall give a written notice to such third regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information. Provided that disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third parties.)

D. Denial Tactics : This is not held by us.

TIP Six : Use section 5(3) and 6(3) in your request. Mention in your RTI application that if the information is held by another public authority, please transfer under section 6(3) and this assistance is sought under section 5(3). Thus, you have used two provisions at a time.

(Provisions of the RTI Act : Section 5 (3) PIO shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.)

(Provisions of the RTI Act : Section 6 (3) Where an application requesting for an information which is held by another public authority, the PIO shall transfer the application to that other public authority and inform the applicant immediately about such transfer.)

E. Denial Tactics : Supplying this information will divert our resources.

TIP Seven : Mention in RTI request - "You can provide me the information in any form available with you and which is easier for you." Remember, this clause is not for denial on ground of form or format, rather it has a positive provision that the PIO shall try to provide in the format as sought by the applicant.

(Provisions of the RTI Act : Section 7(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority.)

(The PIO may misuse this clause to deny for the information whereas this section is not for exemption from the information rather limited to the format of the information.)

F. Denial Tactics : Information is exempted from disclosure.

TIP Eight : Request 20 or more years old information. 20 years is just a current history of your time and demanding information regarding some important controversies, issues, doubtful corruption or irregularities in awarding contracts etc could be sought under this provision. Even some old documents can give you some useful insight and data to analyze any current topic.

(Provisions of the RTI Act : Section 8 has provisions for exemption for some category. But it has an opportunity in sub-section (3) : Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made shall be provided.)

G. Some more Tips

TIP NINE : Request for information at multiple public authorities related to each other. Ask for the complaints received and actions taken by the various authorities. Since various authorities report to each other and may not have a vested interest in each case, it's possible that useful information may be provided by one or another authority. Comparing them and finding contradictions can also provide valuable insights and facts for investigative reporting.

TIP Ten : Involve a group of citizens and RTI activists working on any specific cause such as climate change, social justice, anti-corruption, and women empowerment. Suggest them to file multiple RTI applications with various authorities and use their findings with proper attribution.

TIP Eleven : Demand the complete file or all records of any particular issue. Investigating probable corruption in road construction, or any contract or expenditure, a specific or partial query may alert the Public Information Officer, allowing them to make excuses. Requesting the complete file may prevent this, as they might not anticipate the scope of the request.

TIP Twelve : Don't ask for huge information at once. If you request for a little information, getting it will be easier. In case of complicated or a lot of information in a single request, the official may try to ignore it.

TIP Thirteen : Use Section Four in your application. The public authorities has to suo-motu disclose all major information on internet. Mention in your application that it comes under suo-motu disclosure category and can not be denied.

(Provisions of the RTI Act : Section 4(1)(a): Obligations of public authorities - Every public authority shall maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information and ensure that all records that are appropriate to be computerised and connected through a network all over the country on different systems so that access to such records is facilitated.

(b) publish suo-motu disclosure on 17 points (described in the Act). Provide as much information suo-motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

Further Reading/Resources

1. The Global FOI Guide

<https://gijn.org/resource/the-global-foi-guide/>

2. GIJC23 – FOIA/RTI Investigations

<https://gijn.org/resource/gijc23-foia-rti-investigations/>

3. Tips for Better FOIA Requests: Taking RTI Access to the Next Level

<https://gijn.org/stories/tips-foia-rti-requests/>

4. FOI Laws A Global Success Story

<https://gijn.org/stories/foi-laws-a-global-success-story/>

5. FOIA This! Tips on Using FOI/RTI Laws Around the World

<https://gijn.org/stories/foia-this-tips-on-using-foirti-laws-around-the-world/>