



CITIZENS' REPORT ON TN STATE INFORMATION COMMISSION

SEPTEMBER 2017

AN INITIATIVE OF ARAPPOR IYAKKAM

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EXECUTIVE SUMMARY

The functioning of State and Central Information Commission is key to the success or failure of the Right to Information act in any state since the Information Commission is the final appellate authority before one could move the court. The purpose of this report is to analyse and provide information about the functioning of the TamilNadu Information Commission, and compare its current performance to the expected performance as per specified norms. The report also highlights how these shortfalls impact the implementation of the Right to Information Act, 2005 and transparency in TamilNadu. The report finds that the State Information Commission lags drastically in its functioning, thereby weakening the implementation of the Right to Information Act in the state.

Our Key findings include:

- **Prolonged waiting time for disposal of second appeals:** Appellants on average have to wait for 15 months before their second appeal hearing is being conducted.
- **Random waiting times of those who are heard for second appeals:** Out of those second appellants who are heard, it is seen that 18% of them have to wait for more than a year, 13% for 10 to 12 months, 24% for 7 to 9 months, 26% for 4 to 6 months and 20% are heard within 3 months of the second appeal date. The Information Commission is not following a first come first serve basis to dispose appeals and majority amongst those heard have a prolonged waiting time
- **Drastic decrease in rate of disposal of second appeals:** The number of second appeals pending at the end of the year has increased from 1,135 in 2016 to 5,220 in 2017. The disposal of second appeals per Information Commissioner per month decreased from 165 in 2014 to 48 in 2018.
- **Poor performance of the Information Commissioners:** On average, only 48 cases are being heard per commissioner per month, which is very low in comparison to the expectation of 267 cases per commissioner per month resulting in heavy delays for the second appellants.
- **Absence of Status Tracker:** While many other states have status trackers, absence of status tracker in TN information commission have made it extremely tough for appellants to find the status of their appeals.
- **Non-Compliance of Section 4 of RTI:** Almost all Departments in TN have failed to comply with mandatory disclosure under Section 4 of RTI. The State Information commission have not taken any action to ensure compliance so far.
- **Absence of Online RTI and Appeal Filing mechanism:** While many other states and the Central Information Commission have ways to file RTI and appeals online, TN Information Commission has not yet done this.
- **Weak Enforcement of Penalties:** Ineffective Enforcement of the RTI Act provisions, such as inadequate levy of penalty on Public Information officers has become a non-deterrent on Public Information Officers (PIO) to disclose information

There is an immediate need to drastically enhance the functioning, accountability, and transparency of the TamilNadu State Information Commissions, thereby strengthening the implementation of the RTI Act. The weak functioning and prolonged delay of the Information Commission leads to loss of confidence of the general public in the information and this will further lead to reduced interest in filing RTIs in the state if not addressed immediately.

Our key recommendations include:

- Dispose all second appeals within 90 days from the receipt of the second appeal, and emergency RTIs within 48 hours
- Provide status tracker for second appeals
- Ensure pro-active disclosure of information by all departments according to Section 4 of the RTI act.
- Provide online mechanism to file RTIs, First Appeals, and Second Appeals
- Ensure transparent appointment of State Information Commissioners (including the Chief Information Commissioner)
- Levy penalty and other measures on PIOs and Appellate Authorities for not providing information to RTIs.
- Information Commission should also summon the first appellate authority to appear before the Commission when they fail to direct the PIO to give information.

Overall, Information Commission holds the key to making RTI Act fully functional in the state. The current status and performance of the Information Commission is very worrying and if this trend continues, it could be detrimental to the implementation of the act and in turn Transparency in Governance. This will have a cascading effect on the well-being of people in TamilNadu as lack of Transparency and Accountability will increase Corruption and Inequality in the state. The State Information Commission and the TamilNadu Government must take serious note of the drastic decrease in the performance of the Commission and immediately address it on a mission mode.

INTRODUCTION

Prior to 2005, citizens did not have access to information of public authorities. After the Right to Information act, 2005 was passed all citizens are now empowered to access information of all public authorities via a well-defined procedure. It is because of the Right to Information act that we, the general public, can ask for information about the functioning of the public authorities, the status of our grievances/complaints, and copies of various other records including tender documents, minutes of the meeting, inspection reports, attendance records, and so on. This act marks the beginning of redistribution of power from the State to the people and promotes participatory democracy.

It is one of the most important tools to bring in Transparency and Accountability, there by promoting good governance. As proven in the past, the act helps expose corruption and scams, such as Adarsh Housing Society scam, 2G scam, coal scam and so on and also helped lakhs of citizens to access their basic Government services without paying bribe.

The Right to Information is a stepping stone to the fundamental right of freedom of speech and expression. People cannot effectively speak or express unless they have adequate information. The RTI act is also associated to Article 14 (equality before the law) and Article 21 (right to life and personal liberty).

Any Indian citizen can file an RTI to the Public Information Officer of the Department from which information needs to be sought. The Public Information officer normally has to reply back with information within 30 days from the receipt of the RTI. The citizen is entitled to file first appeal with the First appellate authority of the same Department in case he / she doesn't receive a reply or is not satisfied with the reply. If the citizen still did not get the required information within 30 days, he/ she can file second appeal with the State Information Commission for State Government Departments and Central Information Commission for Central Government Departments. The Commissions therefore have a key responsibility in making the Right to Information act functional and in improving Transparency in the state.

Therefore, this citizens' report card on the performance of State Information Commission in TamilNadu is aimed at understanding the current performance of the Commission, bring out key bottlenecks in the functioning of the Commission and push for a fully functional State Information Commission that has the potential to bring about Transparency in Governance in TamilNadu.

LITERATURE REVIEW

As part of this campaign, we analysed the previous research reports published about the Information Commissions. Various leading organizations, including Satark Nagrik Sangathan (SNS), Centre for Equity Studies (CES), and RTI Assessment and Advocacy Group have done detailed analysis about implementation of the RTI act and the functioning of the Information Commissions across the country and published detailed reports about their findings with relevant data. We have summarized the findings of these reports with reference to the Tamil Nadu Information Commission:

Report Card of Information Commissions in India by Satark Nagrik Sangathan (SNS) & Centre for Equity Studies (CES) in March 2018

RTIs requesting information about the second appeals and complaints received, returned, and disposed for the period January 2016 till October 2017 were filed with the TamilNadu Information Commission. Till the time of publishing of their report in March 2018, there was no response to the RTI applications. There was also no response to the first appeals filed to the SIC. The report states that the responsive rate of the Tamil Nadu Information Commission was 0% for the information sought under the RTI act.

Peoples' Monitoring of the RTI Regime in India (2011 – 2013) RTI Assessment and Advocacy Group and Samya- Centre for Equity Studies

To elicit information on the performance of the Commission, RTIs were filed requesting for information about second appeals, complaints, penalty imposed and recovered, and compensation awarded. The State Information Commission of Tamil Nadu stated that information on appeals and complaints were not maintained separately, and instead of providing the information available with them, they chose to deny the request. The commission did not provide information about the penalty imposed and compensation awarded as well. Reference to the report:

<http://nebula.wsimg.com/93c4b1e26eb3fbd41782c6526475ed79?AccessKeyId=52EBDBA4FE710433B3D8&disposition=0&alloworigin=1>

Tilting the Balance of Power Adjudicating the RTI Act published by Research, assessment, & analysis Group (RaaG), Satark Nagrik Sangathan (SNS), and Rajpal & Sons

The report estimates that only 44% to 45% of RTI applications are successful in terms of obtaining the information requested. Therefore, of the remaining 55%, only for less than 10% a second appeal or complaint is filed. Perhaps most of those who file RTI applications do not have the resources or skills needed to approach information commissions and therefore, on not receiving the sought for information, they abandon their quest. Others might get discouraged by the delays in the information commission, or even be unaware of the right to appeal.

<http://snsindia.org/wp-content/uploads/2017/07/Adjudicating-the-RTI-Act-2nd-edition-2017.pdf>

METHODOLOGY

The study focused on using data available online in the State Information Commission website and the RTI replies from Information Commission. The data used includes:

- Annual reports of the State Information Commission till 2015
- The judgements passed by the information commissioners
- Information in compliance with section 4(1)(b) of the RTI act, 2005
- Overview of the Commission and Commissioners
- RTI replies from the Information Commission

Information about the second appeals disposed without conducting hearing is not available on the website and was not provided via RTI as well.

POWERS AND FUNCTIONS OF SIC

CHAPTER V OF THE RTI ACT

The State Information Commission has a wide range of powers to ensure the effective implementation of the Right to Information act. To ensure the Independence of the commission, the tenure and salary of the Chief Information Commissioners and Information Commissioners is fixed.

During an inquiry, the Information Commission has the same powers as a civil court has while trying a suit under the Code of Civil Procedure, 1908. This includes the power to summon and enforce the attendance of persons, compel them to give evidence on oath and to produce the documents or things; requisition on any public record or copies thereof from any court or office; issue summons for examination of witnesses or documents; and any other matter which may be prescribed. In its decision, the Information Commission has the power to require any public authority to take any such steps as may be necessary to ensure compliance with the provisions of this Act.

Some of the key powers of the State Information Commission include:

- Ensuring that the PIO provides the information requested by the appellant.
- Receiving and inquiring into complaints. During an inquiry, the Information Commission has the same powers as a civil court has while trying a suit under the Code of Civil Procedure, 1908.
- Examining any record to which the RTI act applies.
- Requiring the public authority to take any steps that are necessary to comply with the RTI Act as part of disposing second appeals or complaints.
- Levy penalty on PIO and recommend disciplinary action against PIO.
- Award compensation to the complainant for any loss or other detriment suffered.

KEY FINDINGS

The study report analysed some of the key parameters that are important for the effective functioning State Information Commission. They include the Waiting Time for second appeals, rate of disposal of second appeals, performance of the information commissioners, enforcement of the RTI act in law and spirit, Transparency in State Information Commission and Accountability of the Commission.

1) Disposal of Second Appeals

Effectively disposing second appeals is one of the main functions of the State Information Commission.

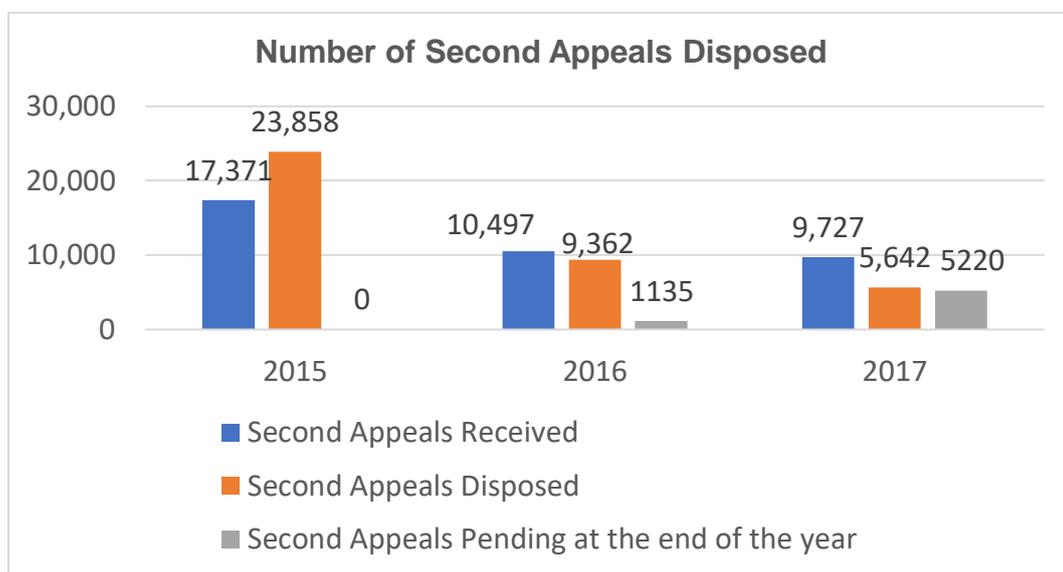
a. Annual Disposal of second appeals:

Based on the data provided by the TamilNadu State Information Commission in its website, the table shows the number of second appeals received, disposed, and pending for the years 2015, 2016, and 2017.

Second Appeals and Complaints Disposed by TN SIC

	2015	2016	2017
Second Appeals Received	17,371	10,497	9,727
Second Appeals Disposed	23,858	9,362	5,642
Second Appeals Pending at the end of the year	0	1135	5220
Complaint Petitions Disposed	972	370	170

- The number of second appeals disposed has drastically reduced over the years, from:
 - **23,858** in 2015,
 - **9,362** in 2016, to
 - **5,642** in 2017.
- The number of second appeals pending at the end of the year has increased from **1,135** in 2016 to **5,220** in 2017 in spite of lesser number of second appeals received in 2017 when compared to 2016.



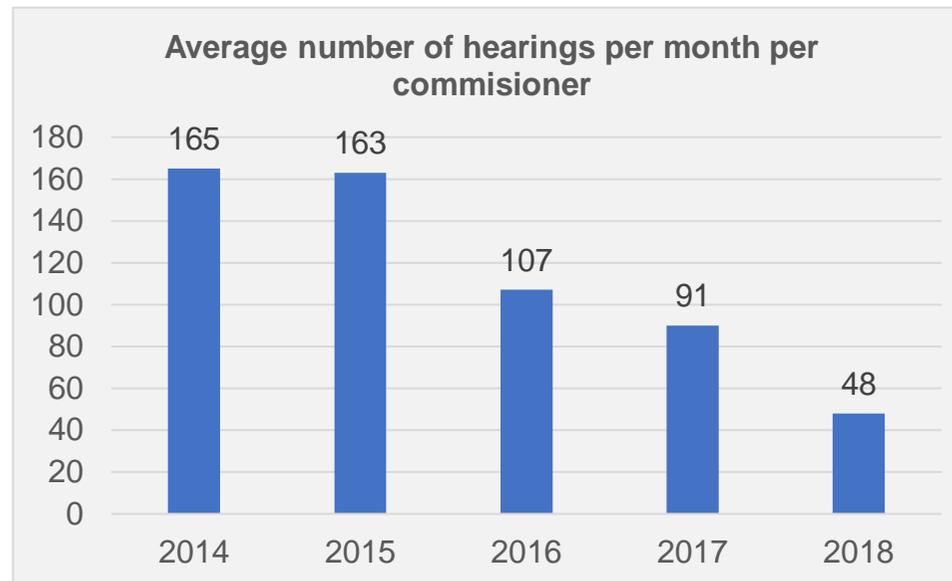
b. Monthly Disposal of Second Appeals:

The number of hearings conducted and its corresponding Judgements given by the State Information Commission each day are displayed on its website. The table below shows the number of hearings conducted from January 2014 to June 2018 monthwise.

	2014		2015		2016		2017		2018	
	No. of hearings	No. of Commissioners								
January	1392	5	841	5	802	6	383	5	318	7
February	1218	5	915	5	926	6	448	5	367	7
March	1226	5	1190	5	808	6	601	5	425	7
April	318	5	938	5	560	5	486	5	304	7
May	600	5	1056	4	462	5	441	5	244	7
June	775	5	876	4	629	5	560	5	376	7
July	865	5	732	4	530	5	427	5		
August	636	5	518	7	632	5	401	5		
September	881	5	906	7	486	5	283	3		
October	569	5	871	7	291	5	319	3		
November	732	5	559	6	378	5	338	3		
December	660	5	576	6	367	5	184	7		
Total	9872		9978		6871		4871		2034	
Average per month	823		831		573		406		339	
Average per month per commissioner	165		163		107		91		48	

The above table shows that the number of hearings conducted by the Information Commission has decreased over the years.

- While in 2015, the Information Commission conducted **831** hearings in a month on an average, the number of hearings decreased drastically to **339** hearings per month on average in 2018
- In 2018, on average, each information commissioner heard only 48 cases per month, compared to 165 cases per month in 2014 and 163 cases per month in 2015.
- Between 01-01-2018 and 30-05-2018, on 16 working days, no judgements were passed at all by any one of the information commissioners.



c. Waiting Time for Hearing Second Appeals:

- From section a above, it can be seen that the number of pending second appeal cases as on 31/12/2017 is 5220 cases
- From section b above, it can be seen that the number of second appeals heard per month is 339 cases on average between the months of January 2018 to June 2018
- Therefore, for a second appeal filed on 1/1/2018, **15 months** (Appeals pending / average disposal per month = 5220/339) is the estimated waiting time for the second appeal to be heard by the information commission, considering the second appeals are heard in a chronological order

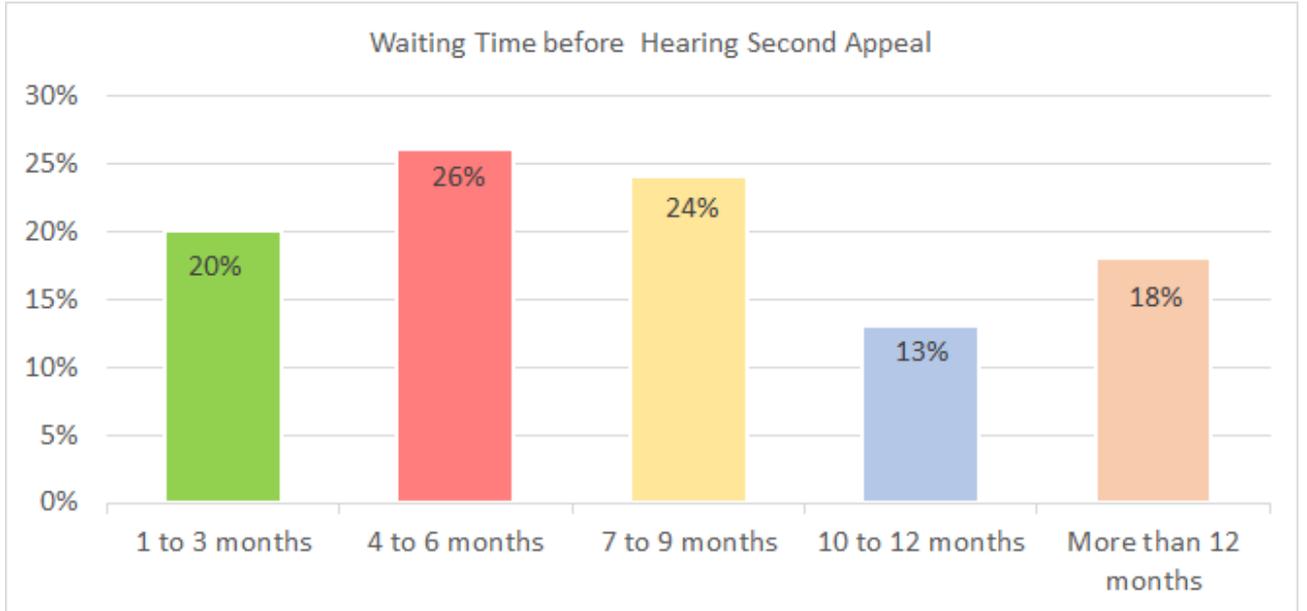
The above data suggests that once a second appeal is filed, most appellants have to wait for a long period of time before their second appeal is heard. Anecdotal evidences suggest that people are not called for hearing even after a year or two have passed. Information delayed is information denied. People need readily accessible information within short time. However, such a prolonged estimated waiting time is unreasonable and many a times will not be of any use to the applicant. This delay can have a cascading effect on the implementation of RTI act as people may lose confidence in the Commission and hesitate from filing second appeal and even RTI because of the prolonged waiting time. Public Information Officers and First Appellate Authorities may take advantage of this prolonged waiting time in second appeal by denying information.

d. Prolonged Delay in conducting Hearings and pronouncing Judgements:

While the above one lists the estimated waiting time on the average for people who have applied this year, this section looks at the average waiting time of those who were called for hearing. It must be noted that this is only about those who have been called for hearing and there could be others who have waited for more than a year and has still not been called for hearing. For this purpose, the second appeal orders published on the SIC Website for the months of March 2018 and April 2018 were analysed. The date of filing the second appeal and date of judgement were compared. In almost all cases, the date of hearing is same as the date of Judgement and hence we have primarily looked at the number of months between the date of Judgement and date of second appeal by the appellant.

The analysis of those called for hearing shows that:

- 18% of the judgements are provided only after a waiting time of more than a year
- 13% after 10 to 12 months
- 24% after 7 to 9 months
- 26% after 4 to 6 months
- Only 20% of the judgements are provided within 3 months of the second appeal date.



The graph does not include data of appellants who have not been called for hearing even after one or two years have passed. This data also raises a very pertinent question of why some are heard earlier and others are heard later. While 20% petitions are heard in less than 3 months, almost an equal percentage of petitions are heard after more than a year. So, it raises a very important question on why the Information Commission is not following the principle of first come first serve on the second appeals and what is the process that they follow. Today, it seems to be a matter of luck for someone to get an earlier hearing.

2) Performance of the Information Commissioners

The below table shows the number of second appeals heard and Judgement passed by each of the information commissioners each month from January 2018 to June 2018. No data is available on the State Information Commission website about the number of cases disposed without conducting hearing.

	Mr. Selvaraj	Mr. Pratakumar	Mr. Murugan	Mr. S.T.Tamilkumar	Mr. Muthuraj	Mr. Dakshinamurthy	Ms. Sheela Priya	Total	Average Hearings/Judgements per Commissioner per month
January-18	54	72	51	18	57	37	28	317	45
February-18	109	80	40	31	30	55	22	367	52
March-18	128	74	34	41	0	85	61	423	60
April-18	112	68	24	10	0	60	30	304	43
May-18	138	41	19	10	1	10	25	244	35
June-18	130	41	40	81	1	30	53	376	54
Total	671	376	208	191	89	277	219	2031	
Average Hearings/Judgements per month by each Commissioner	112	63	35	32	15	46	37		48

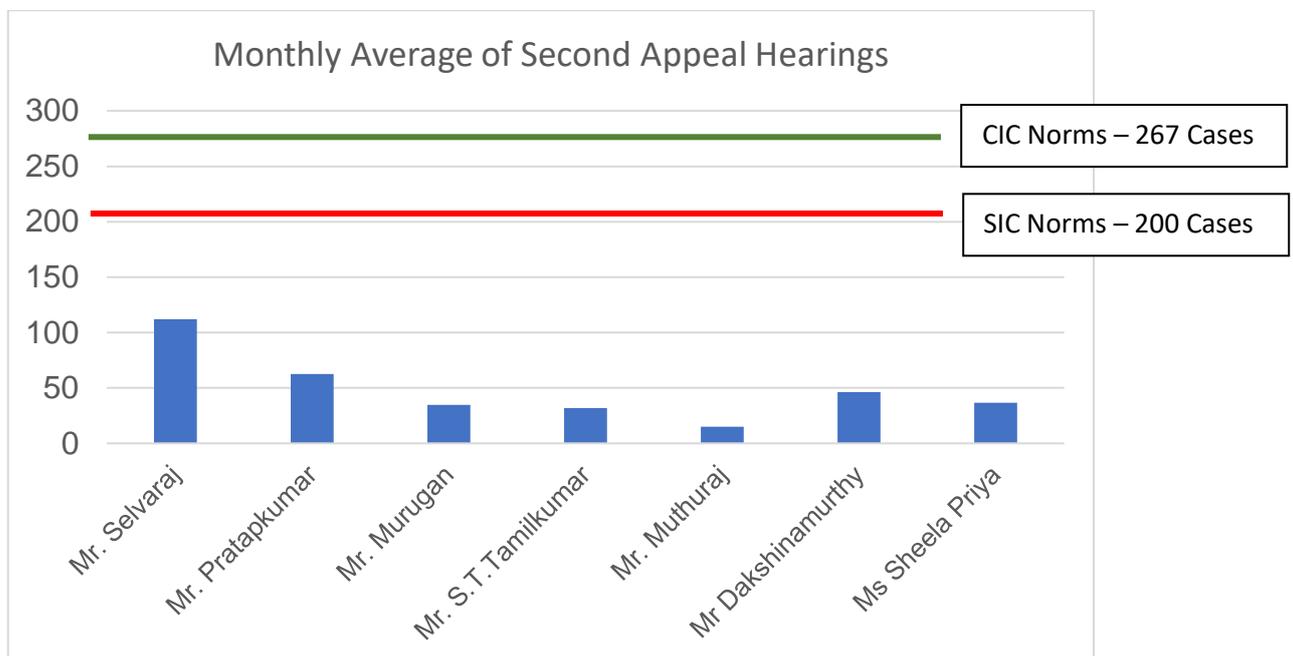
The target set by the Central Information Commission for itself is disposal for each Commissioner is 3200¹ per year. This translates to 267 cases per month for each information commissioner. The norms set by State Information Commission for disposal of second appeal is reproduced below from their website.

iv. Norms set for discharge of functions in Tamil Nadu Information Commission

The appeals / complaints are taken up for hearing on seniority basis as per the Tamil Nadu Information Commission (Appeal Procedure) Rules, 2012 notified in Tamil Nadu Government Gazette No.45, dated: 21.11.2012.

On an average about 10 cases are disposed of during enquiry by each Commissioner on every day of hearing.

This means that the State Information Commission expects each of its Commissioners to dispose atleast 200 cases per month given there are 20 working days in a month.

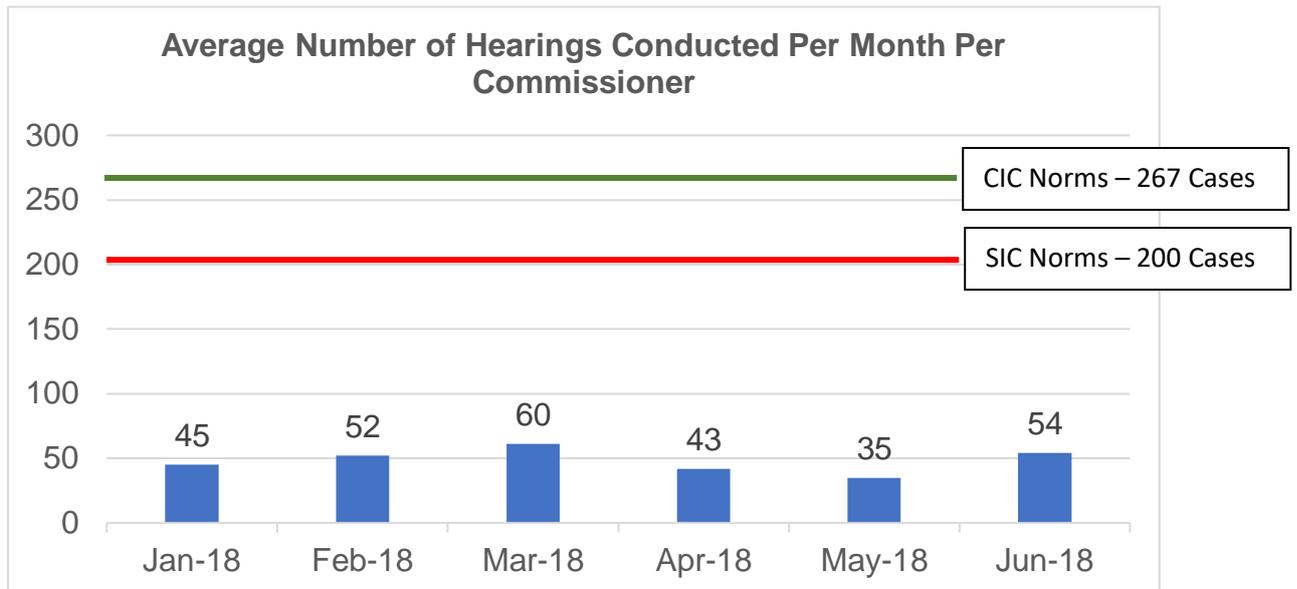


It is very clear from the data that all the State Information Commissioners including the Chief Information Commissioner lags heavily with respect to the norms set for disposal of second appeals by the Commission. Further, following observations can be made from the data.

- On average, Information commissioner Mr Selvaraj conducts 112 hearings per month, which is the highest among the current information commissioners.
- Information Commissioner Mr Pratapkumar conducts 63 second appeal hearings on average.
- All other Information Commissioners have an average of less than 50 hearings in a month.
- Lowest monthly average is of Mr Muthuraj, which is only 15 hearings in a month.

¹ Report Card of Information Commission in India

Further the below chart shows the average number of hearings conducted per commissioner in each of the months from January to June 2018.



- In March 2018, the average number of cases heard by an Information Commissioner was 60 cases and was the highest performing month of the year until June
- In May 2018, the average number of cases heard by an Information Commissioner was only 35 cases and was the lowest performing month of the year until June
- However, the overall average Second appeals disposed per month per Commissioner for January to June 2018 stands at 48 which is much lower than the expected norms of CIC (267 cases/ month) and SIC (200 cases / month)

The highest heard month of the year March has been displayed below to look at the number of hearings done datewise by each Commissioner.

Date	Mr. Selvaraj	Mr. Pratapkumar	Mr. Murugan	Mr. S.T.Tamilkumar	Mr. Muthuraj	Mr. Dakshinamurthy	Ms. Sheela Priya
01-03-2018	16	12	0	0	0	0	0
02-03-2018	0	0	6	0	0	0	11
03-03-2018	Weekend						
04-03-2018							
05-03-2018	0	0	0	5	0	9	0
06-03-2018	16	0	0	0	0	0	0
07-03-2018	0	0	0	0	0	8	10
08-03-2018	16	13	0	0	0	0	0
09-03-2018	0	0	6	0	0	0	10
10-03-2018	Weekend						
11-03-2018							
12-03-2018	0	0	0	12	0	14	0
13-03-2018	16	12	16	0	0	0	0
14-03-2018	0	0	0	9	0	17	0
15-03-2018	16	12	0	0	0	0	0
16-03-2018	0	0	6	0	0	0	9
17-03-2018	Weekend						
18-03-2018							
19-03-2018	0	0	0	5	0	8	0
20-03-2018	16	12	0	0	0	0	0
21-03-2018	0	0	0	5	0	14	0
22-03-2018	16	13	0	0	0	0	3
23-03-2018	0	0	0	0	0	0	9
24-03-2018	Weekend						
25-03-2018							
26-03-2018	0	0	0	5	0	0	0
27-03-2018	16	0	0	0	0	0	0
28-03-2018	0	0	0	0	0	15	9
29-03-2018	Holiday						
30-03-2018							
31-03-2018	Weekend						

- During March 2018, Mr S. Selvaraj has passed 16 orders per day on 8 days. While on the rest of the days, he has not conducted any hearing.
- Mr. R Pratapkumar has conducted 12 or 13 hearings per day on six days in March 2018. While on the rest of the days in the month, he has not conducted any hearing.
- Mr G. Murugan has conducted 6 hearings on three days and 16 hearings on one day in March. While on the rest of the days, he has not conducted any hearing in the month.
- Mr S. T. Tamilkumar has conducted hearings only on six days. While on the rest of the days, he has not conducted any hearing.
- Mr. Muthuraj has not conducted hearings in March 2018.
- Mr. R Dakshinamurthy has conducted hearings only on seven days. While on the rest of the days, he has not conducted any hearing.
- Mrs. M Sheela Priya, the Chief Information Commissioner has conducted hearings only on seven days. While on the rest of the days, she has not conducted any hearing.

Efficient functioning of Information Commissioners is key to the performance of the Commission and implementation of RTI. The fact that we are seeing so many zeroes in the above column suggest a huge wastage of public resources in not attending to their basic duties of conducting hearings. On the average, Information Commissioners have been working at less than 25 % of their expectation. One of the reasons given by Information Commissioners is the availability of only 3 court halls for hearing. This seems to be a lame excuse given that Rs 1,10,94,000 is the budget allocated in 2017-2018 for the rent for State Information Commission.

3) Registration/ Status of Second Appeals

a. Lack of Acknowledgement:

Once a second appeal is sent to the State Information Commission by registered post, there is no acknowledgment letter that is sent to appellants. However, a SMS is sent with a Reference number but anecdotal evidences of people who have appealed suggest that the SMS is not being received by a significant percentage of people.

b. Absence of status tracker:

After filing a second appeal, the appellant does not have any mechanism to check the status of the second appeal (except filing another RTI to check the status). As the waiting time for the hearing is very long, appellants feel lost as they do not know what happened to their second appeal, when they are going to receive the information, and so on. Many states such as, Kerala,

Karnataka, Maharashtra, Andhra, and Telangana have an online status tracker for second appeals.

c. Disposal of Cases without conducting hearing:

Conducting hearing prior to disposing a second appeal is important because the information commission should give an opportunity to the appellant and the PIO to present their case. However, data on Information Commission website suggests that they are disposing off many second appeals without conducting a hearing.

Out of the 5,642 cases were disposed in 2017, only 4,871 cases were heard as per their website. There is a difference of 771 cases. Therefore, this raises the question of whether these cases were disposed off without a hearing or were rejected

d. Absence of Online RTI and Appeal Filing Mechanism:

Even 13 years after passing of the RTI act, there is no provision in TamilNadu to file an RTI application online. Central Information commission provides online filing of RTI, first appeal, and second appeal. Like the state of Maharashtra and Delhi, the same platform can be easily leveraged by TamilNadu State Information Commission to provide online filing of RTI and first appeals. Filing online RTIs will provide better user experience, saves time for the applicant and the PIO, and promotes easy sharing of information.

4) Ineffective Enforcement of the RTI Act

a. Penalty on PIO:

It is important to levy penalty on the PIOs who do not provide information without any reasonable grounds. However, the State Information Commission rarely imposes penalty on the PIO.

	2013	2014	2015
Issued show cause notices	806		
Imposed Penalty	20	17	36
Disciplinary Action	8	40	46
Compensation	28	19	22

In 2015, 23,858 second appeals were disposed. However, penalty was levied only on 36 PIOs.

It is important to note that as per the RTI act, 2005, the onus is on the PIO to prove that he/she acted reasonably and diligently. Non-enforcement of Penalty has resulted in discouraging PIOs to disclose information.

b. Non-Compliance to Section 4 of the RTI Act – Mandatory Disclosure of Information:

According to Section 4 of the Right to Information Act, 2005, every public authority is obliged to provide as much information suo motu to the public at regular intervals through various means of communications, including Internet.

However, most of the departments do not provide adequate information on the Websites and in the offices as well. Departments should disclose information such as duties of employees, tender information, details of work carried out, review reports, minutes of board meetings etc so that people do not have to file RTIs on this.

Due to absence of this information in the public domain, people have to file RTIs to obtain this information, which increases the number of RTIs, first appeals, and second appeals drastically. Providing this information online will promote transparency and community monitoring, thereby reducing corruption. The Information Commissions of Andhra Pradesh and Telangana provides information on its Website about department-wise compliance to Section 4. However there has been no such efforts from TamilNadu Information Commission. Section 19 (8)(a)(vi) provides power to the Information Commission to seek annual report on compliance of Section 4 from Departments of the Government. In an RTI reply from State Information Commission, the PIO stated that the commission has not taken any steps to ensure that other departments comply with Section 4 of the RTI act. The State Information Commission must use its power to make Departments comply with Section 4 of RTI.

5) Other Findings

a. Non-Compliance to RTIs by Information Commission within Stipulated Time:

Members of Arappor Iyakkam filed 4 RTIs to the Information Commission to understand the functioning of the Information Commission. However, we received reply for only one RTI within 30 days. Earlier study reports mentioned in the Literature Review have also mentioned that the Information Commission did not respond to their RTIs as well.

b. Delay in uploading Judgements:

Judgements are not uploaded immediately. For example, judgements for May 2018 are uploaded in June 2018 as well. A judgement of January 2018 was uploaded only in June 2018.

Judgements uploaded on SIC Website for May: 198 cases on 19/06/2018

Judgements uploaded for : May - 2018

Number of cases : 198

Category / No / Year	Addl Category / No	Date	Commissioners	Appellant	Public Information Office	Click to View Decisions
SA /	/	15/05/2018	<ul style="list-style-type: none"> SIC-SS S.Selvaraj,M.A.,B.Ed 	திரு. S. சந்தியா, க.பெ. G.R. சீனிவாசன், நெ. 61, பிஞ்சாலர் தெரு, ஆரணி -601 101, பொன்னேரி வட்டம், திருவள்ளூர் மாவட்டம்	<ul style="list-style-type: none"> பொதுத் தகவல் அலுவலர், தலைமையிடத்து துணை வட்டாட்சியர், வட்டாட்சியர் அலுவலகம், பொன்னேரி -601 204, திருவள்ளூர் மாவட்டம். 	Click for Decision
SA 2327 /	/	31/05/2018	<ul style="list-style-type: none"> SIC-SS S.Selvaraj,M.A.,B.Ed 	தண்டபாணி அ.த.பெ. அய்யனார், அம்பேத்கர் தெரு, மாம்பழப்புரம் அஞ்சல், விழுப்புரம் வட்டம்- 605 302	<ul style="list-style-type: none"> வட்டாட்சியர் அலுவலகம், விழுப்புரம் 	Click for Decision

Judgements uploaded on SIC Website for May: 2018 cases on 21/06/2018

Judgements uploaded for : May - 2018

Number of cases : 208

Category / No / Year	Addl Category / No	Date	Commissioners	Appellant	Public Information Office	Click to View Decisions
SA /	/	15/05/2018	<ul style="list-style-type: none"> SIC-SS S.Selvaraj,M.A.,B.Ed 	திரு. S. சந்தியா, க.பெ. G.R. சீனிவாசன், நெ. 61, பிஞ்சாலர் தெரு, ஆரணி -601 101, பொன்னேரி வட்டம், திருவள்ளூர் மாவட்டம்	<ul style="list-style-type: none"> பொதுத் தகவல் அலுவலர், தலைமையிடத்து துணை வட்டாட்சியர், வட்டாட்சியர் அலுவலகம், பொன்னேரி -601 204, திருவள்ளூர் மாவட்டம். 	Click for Decision
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c. Delay in Publishing Annual Report:

The Annual report of Tamil Nadu State Information Commission for 2015 was presented in the Parliament only in July 2018, and was published on its Website only post that. Further, the annual reports for 2016 and 2017 are still being drafted as of June 2018. In addition, the website does not display the number of appeals/complaints pending at the end of the year.

d. Disclosing RTI Activist details:

Details of RTI activists are being leaked to third party stakeholders, who then threaten the RTI Activists. For example, Pallavaram Municipality Corporation divulged personal information about the activists who filed RTIs asking for the plan of a building being constructed in Chrompet. A complaint was filed on 28/04/2017 with the State Information Commission and there has been no

response from the Commission so far. State Information Commission should take such complaints seriously as there are more than 50 people who have been killed and several thousands attacked and threatened for filing RTIs in India so far.

RECOMMENDATIONS

1) Effective functioning of the State Information Commission:

The State Information Commission needs to function effectively, thereby using the powers provided to it under the RTI act to the fullest extent. The SIC needs to:

- Hear and dispose second appeals as per the norm of norm of 267 cases per month per commissioner
- Ensure disposal of all second appeals within 90 days, and emergency RTIs within 48 hours.
- Ensure disposal of second appeals only after conducting a hearing.
- Upload its annual reports within three months of completion of the year
- Reply to RTIs as per the provisions of the RTI act
- Upload its orders online within a week of the date of Judgement
- Provide proper acknowledgement to all second appeals, complaint petitions, non-compliance reports, and other communications
- Resolve other constraints such as Court halls impeding the functioning of the Commission. Set up temporary small court halls immediately to make sure all 7 Commissioners are able to hear cases every day.
- Promote transparency in its operation

2) Status Tracker for Second Appeals:

Other states, such as Karnataka, Maharashtra, and so on, provide an online status tracker for second appeals, complaint petitions. Similarly, the Tamil Nadu SIC should provide a user-friendly online status tracker to check the current status of the second appeals, and complaint petitions. Currently, there is no mechanism and appellants wait incessantly for the reply or hearing date.

3) Ensure Pro-Active Disclosure of Information by all Departments:

According to Section 4 of the RTI act, each public authority needs to suo moto provide information as specified in the Act and update this information regularly depending on the needs of the public. The State Information Commission should use the powers provided to them under RTI Act to ensure pro-active disclosure of information by all public authorities.

4) Online Application of RTI, First Appeal, and Second Appeal:

The SIC should leverage the Central Information Commission's portal/server space and provide for online filing of RTI, First appeal, and second appeal in English and Tamil.

5) Transparent Appointment of State Information Commission:

The entire process of selection of the Chief Information Commissioners and Information Commissioners need to be transparent right from the time vacancy arises until the selection of the Commissioners.

- 1) Adequately advertise vacancies in the posts of information commissioners and Chief Information commissioners, along with the eligibility criteria.
- 2) The selection committee should not have a majority of the ruling party, and should include members from the judiciary.
- 3) All the members of the selection committee should mandatorily participate in each of the meetings for the selection of each information commission and chief commissioners. It should be a unanimous selection and not by majority. Adequate notice of the meeting should be provided to each of the selection committee members.
- 4) After selection of the candidates, the applications received, the names of short-listed candidates, their profiles, and reasons for shortlisting them should be made public. The selection committee minutes should be made public.
- 5) The information commissioners should not have any political association as per the Act. This provision should be implemented in letter and spirit.

6) Ensure Effective Implementation of Provisions of RTI

- While disposing second appeals, Information Commissioners should levy penalty on PIOs for not providing information to RTIs as per Section 20 (1) of the RTI Act.
- Commissions should summon the first appellate authority as well to appear before the Commission under Section 18 (3) (a) whenever they fail to direct the PIO to give data.
- The State Information Commission should recommend disciplinary action on Public Information Officers who are habitually rejecting information.

CONCLUSION

Overall, Information Commission holds the key to making RTI Act fully functional in the state. The current status and performance of the Information Commission is very worrying and if this trend continues, it could be detrimental to the implementation of the act and in turn Transparency in Governance. This will have a cascading effect on the well-being of people in TamilNadu as lack of Transparency and Accountability will increase Corruption and Inequality in the state. The State Information Commission and the TamilNadu Government must take serious note of the drastic decrease in the performance of the Commission and immediately address it on a mission mode.



WAITING FOR INFORMATION UNDER RIGHT TO INFORMATION ACT 2005

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