

Bihar

1. STATE FACTSHEET

State Chief Information Commissioner	Shashank Kumar Singh (during 2008) Ashok Kumar Choudhary (replaced Singh recently)
State Information Commissioners	P.N. Narayanan M. Shakeel Ahmad
Total Number of Cases Analysed by Us (as provided to us)	5951
Pendency as on January 1, 2008	1976
Pendency as on December 31, 2008	4884
Time Taken Between Filing of Appeal and First Hearing	5-6 months
Total Funds Spent by the Commission (FY 2008-09)	Rs 1,30,86,117

2. STATE OF RECORDS:

We visited Bihar information commission's Patna office to get photocopies of the orders.

3. PERFORMANCE OF INFORMATION COMMISSION ON VARIOUS PARAMETERS

a) DISPOSALS: An average of 175 cases per commissioner per month

- Pendency increased from 1,976 to 4,884 over the year 2008.
- The commission takes 5-6 months, on an average, to conduct first hearing from the time of filing first appeal.

b) PRO-DISCLOSURE FACTOR: 76.1%

Rank: 17

Total Number of Orders Analysed	5,951
Orders in Favour of Disclosure	4,530 (76.1%)
Orders in which information was partly or fully denied	90 (2%)
Remanded Back	1331 (22%)
Rank	17

c) EFFECTIVENESS: 40 to 50%

- Effectiveness measures compliance of pro-disclosure orders by public authorities. Only 40 to 50% of the pro-disclosure orders of Bihar information commission were obeyed by public authorities.
- Compliance was above national average (30 to 40), but was much less than the best (90 to 100).

d) DETERRENCE IMPACT: 2.2%

Rank: 12

- Number of cases in which show-cause notices issued: 4,293 (i.e. 95% of total orders analysed)
- 1,157 of these show-cause notices, i.e. 27%, were dropped after hearings.
- Penalty was imposed in 378 cases (i.e. 2% of pro-disclosure cases) and subsequently withdrawn in 280 cases. So, penalty was effectively imposed on only two percent of the cases decided by the commission.
- Show-cause notices remained pending in 64% cases – this means that no follow-up action was taken after serving the notices.

The Commission passed 4530 pro-disclosure orders, which assumes that the PIO failed to provide information within the prescribed time. The Commission served show-cause notices in 95 percent of these prima facie violations.

However, as many as 64 per cent of cases of show cause remained pending, meaning no action was taken after serving notices on the PIOs. Twenty seven percent of PIOs being served show-cause notices were subsequently let off without penalty.

e) OVERALL PUBLIC SATISFACTION (OPS): 30 to 40%

If 100 people approached Bihar Information Commission, pro-disclosure orders were passed in 76 cases. Out of these, 30 to 40 people finally got the information requested.

4. GENERAL OBSERVATIONS

- Even after determining prima facie that an RTI application was wrongly stonewalled by the PIO, Bihar information commission has been using Section 18 (2) of the RTI Act, 2005 in hundreds of cases, ordering officials to inquire as to whether or not provisions of the law were violated. In October-December 2008 alone, the Commission sent over 500 appeals/complaints to officials for inquiry instead of deciding the cases and relieving the information seekers of further uncertainty and delay.
- Bihar information commission has also been remanding hundreds of cases back to first appellate authorities after determining that the information seeker directly approached the commission without preferring a first appeal.

- Bihar information commission has also been liberally issuing show-cause notices to the PIOs, which is a welcome practice from the point of view of an information seeker. Equally liberally, however, such show-cause notices have been withdrawn, which means commission's façade of toughness has been too easily giving way to leniency despite clear violation of the RTI Act by the PIOs.
- Bihar information commission also believes in "continuing mandamus" i.e. after directing the PIO to provide information, they continue fixing hearings for compliance. That sounds like a good practice from the point of view of information seeker, but it also tires out the appellant or complainant. After all, how long can one keep enduring such hearings?
- A strong tendency for repeated hearings, show cause, and even 'penalty imposition' (as contrasted with 'penalty withdrawal') has resulted in only 40-50% of compliance of pro-disclosure orders of the commission. One can argue, however, that without such a tendency, compliance could have been worse!
- Two per cent penalty certainly makes Bihar information commission comes across as soft on officials violating RTI Act.

5. RANKING OF COMMISSIONERS BY PARAMETERS

Name	Pro-disclosure Factor (rank)	Effectiveness	Deterrent Impact (rank)	Overall Public Satisfaction
Shashank Kumar Singh	86.3% (46 th)	40-50%	2.2% (33 rd)	40-50%
P.N. Narayanan	63.6% (73 rd)	30-40%	2.1% (35 th)	20-30%
M. Shakeel Ahmad	87% (44 th)	30-40%	2.3% (31 st)	30-40%

INFORMATION COMMISSIONERS (Bihar)

1. Shashank Kumar Singh

Disposals: Roughly 134 per month
Pendency: 1628 cases by the end of 2008

Pro-disclosure Factor: 86.3%

Rank: 46

Total Number of Orders Analysed	1,340
Orders in Favour of Disclosure	1,156 (86%)
Orders in which information was partly or fully denied	23 (2%)
Remanded Back	161 (12%)
Rank	46 th

Effectiveness: 40 to 50%

- 40 to 50% pro-disclosure orders were complied with.
- It is more than the national average (30 to 40) but much less than the best (90 to 100).

Deterrence Impact: 2.2%

Rank: 33

- Number of cases in which show cause notices issued: 1068 (92% of pro-disclosure cases)
- Of this 22 (2% of show cause notices issued) were dropped subsequently.
- Penalty was imposed in 33 (~2% of pro-disclosure cases) cases, but later withdrawn in 8 cases.

The commissioner passed 1156 pro-disclosure orders, but served show-cause notices in only 1068 cases. The commissioner failed to issue further orders on show-causes in as many as 1013 cases, neutralising any possible deterrence.

Overall Public Satisfaction: 40 to 50%

If 100 people approached this Commissioner, pro-disclosure orders were passed in 86.3 cases. Out of these, 40 to 50 people finally got the information requested.

2. P.N. Narayanan

Disposals: Roughly 228 cases per month
Pendency: 1628 by the end of 2008.

Pro-disclosure Factor: 64%

Rank: 73

Total Number of Orders Analysed	2,734
Orders in Favour of Disclosure	1,740 (64%)
Orders in which information was partly or fully denied	49 (2%)
Remanded Back	945 (35%)
Rank	73

Effectiveness: 30 to 40%

- 30 to 40% of pro-disclosure orders passed by Narayanan were complied with.
- It is equal to national average (30 to 40%) but much less than the best (90 to 100).

Deterrence Impact: 2.1%

Rank: 35

- Number of cases in which show cause notices issued: 1708 (98% of pro-disclosure cases)
- Of this 1111 (65% of show cause notices issued) were dropped subsequently.
- Penalty was imposed in 280 (~2% of pro-disclosure cases) cases, but was withdrawn in as many as 244 of those cases (87%).

Narayanan passed pro-disclosure orders in 1740 cases and served show-cause notices in 1708 cases, but subsequently withdrew the notices in most of the cases. He also left 317 of those cases pending till the end of the year.

Overall Public Satisfaction: 30 to 40%

Out of 100 people who approached this Commissioner, 86 got pro-disclosure orders, but only 30 to 40 people finally got the information requested.

3. M. Shakeel Ahmad

Disposals: Roughly 156 per month

Pendency: 1,628 cases by the end of 2008

Pro-disclosure Factor: 87.1%

Rank: 44

Total Number of Orders Analysed	1,877
Orders in Favour of Disclosure	1,634 (87%)
Orders in which information was partly or fully denied	18 (1%)
Remanded Back	225 (12%)
Rank	44 th

Effectiveness: 30 to 40%

- 30 to 40% pro-disclosure orders were complied with.
- It is equal to national average (30 to 40%) but much less than the best (90 to 100%)

Deterrence Impact: 2.3%

Rank: 31

- Number of cases in which show-cause notices issued: 1517 (93% of pro-disclosure cases). However, 1428 show case cases were “pending” by the end of year, neutralising deterrence.
- 24 notices (2% of show cause notices issued) were dropped subsequently.
- Penalty was imposed in 65 (~2% of pro-disclosure cases) cases, but was withdrawn in as many as 28 of those cases (43%).

Ahmad passed pro-disclosure orders in 1634 cases, but served show-cause notices in 1517 cases. He ended up imposing penalty on only 2% cases.

Overall Public Satisfaction: 30 to 40%

If 100 people approached Shakeel Ahmad, pro-disclosure orders were passed in 87 cases. Out of these, 30 to 40 people finally got the information requested.