

Gene Campaign's Experience with the RTI Act

When Gene Campaign requested evidence of the rules or laws that state that results of food safety tests are to be kept confidential, no answer was given and no safety data were provided.

Gene Campaign's experience with the Right To Information Act has been principally with the Ministry of Environment and Forests. This is because we have used this Act to access information on how genetically engineered crops are being regulated, the sort of safety tests being done and the manner in which decisions are taken. So far, the Genetic Engineering Approval Committee (GEAC) had consistently refused to answer any questions or provide any data. Now with the use of the RTI, our experience has been that rather than compliance and cooperation, the government's response has been obstructive rather than helpful and the attitude has been to provide as little information as possible.

Information when provided is late and inadequate. Gene Campaign has had to approach the Central Information Commission to register its complaints against the Public Authority in the Ministry of environment and forests, which is where the GEAC is located.

During our interactions, the response of the Public Authority of the Ministry of Environment and Forests was hostile and high-handed, even making direct allegations against Gene Campaign. Given below are the comments made by the Public Authority (Respondent) after Gene Campaign's complaint under section 18 of the RTI Act, along with Gene Campaign's responses.

❖ The Respondent has accepted that

GEAC and RCGM work in close cooperation with each other then why is there the delay in transferring the request to the DBT.

❖ The Respondent claims that the complainant should have provided the specific details of the information sought.

GC The information sought is clear and specific. The Respondent should have clarified with the complainant what was not specific.

❖ The Respondent alleges that Dr Sahai has been a former member of the GEAC and conversant with the functioning of the Public Authorities.

GC That precisely is the reason why she is aware when information is available and when it is being concealed.

❖ The Respondent claims that it involves huge amount of work just to find out as to which was the concerned department.

GC Does it mean that the Department does not keep the records of its functioning in a way, which can be easily referred and accessed?

❖ The Respondent alleges that information sought comes more in the ambit of "inquiry" rather than "information".

GC We would like to mention that the inquiry made was for the information sought.

❖ The Respondent has interpreted information as defined under S.2 (f) as information, which should be

easily available in the form of a document.

GC This is an absurd interpretation. First of all, the section very clearly defines information as "any material in any form", which makes it very clear that it need not be in the form of a document. Reference is also made available to the provisions for file and file notings being classified as information [Central Information Commission decision in Appeal No. ICPB/A-1/CIC/2006 decided on 31st January, 2006 (Satyapal v. CPIO, TCIL)]

❖ The Respondent alleges that the person seeking information must specify the nature of document requested which if held by public authority and subject to satisfaction of other provisions of the Act, can be handed over to said person.

GC It is not for the applicant to specify the nature of the document, as s/he is not conversant with the manner in which information is kept in the government departments.

GC The complainant does not have access to government's information. The onus under the Act is on the Public Authority to access the information and provide it to the applicant.

❖ The Respondent claims that the RTI is not intended to enable people to enter into a dialogue with the Public Authority.

GC This is precisely why the information should be provided clearly and completely in first instance.

❖ The Respondent alleges that the complainant sought to enter into "fishing inquiry" with the Respondent.

GC We would request the Respondent to explain "fishing inquiry", the allegation appears false and baseless.

❖ The Respondent claims that the complainant visited the office of the Respondent and was given an opportunity to go through the available documents and has selected certain documents and the copies of the same were handed over to him.

GC The claim of the Respondent does not reveal the complete truth. The complainant received the reply vide letter dated 25.01.06 from Ms Madhu Gupta on 4.02.06, whereby he was told to deposit Rs 1,414/- @ Rs 2 per page and collect the document related to Biosafety assessment in respect of Bt cotton. His request to inspect other information like file and file notings was however specifically denied on the ground that the RTI Act does not include such provision. When the complainant went to receive the documents, only pre-selected documents on biosafety assessment of Bt cotton were made available to him and he was asked to select the documents he required from the documents selected by the department, which he did accordingly.

❖ The Respondent claims that the facts of the matter are of a very complex nature and providing the information for the same is a very lengthy and complicated process.

GC The Government of India had started the process of computerizing government and public sector records way back in early 1990s. It is approximately ten years since the process was started. It should not take that long for an IT enabled

establishment like the government of India to digitalize the information it has and make it easily accessible. In any case, this is not an admissible reason for denying information.

❖ The Respondent claims that it has been providing the information as and when it has been possible to do so.

GC This argument is arbitrary and against the provisions of the RTI Act. The Act doesn't talk about providing the information as and when possible by the PIO, but requires the PIO to provide the information as expeditiously as possible and in any case within 30 days of the receipt of the request u/s 7(1).

❖ The Respondent claims that it is nowhere required of a public authority to provide access to information over which the government itself has no control in the form of a documentary reply.

GC This is a regretful statement. Since it is precisely to introduce good governance and transparency in the decision making that the RTI Act was introduced. A government department cannot take the plea that it has no control over information related to the decisions it takes. Biosafety is one of the most impor-

tant concerns with respect to genetically engineered crops. In fact, that is the principal mandate of the GEAC. In response to Gene Campaign's request for information about the data obtained from toxicity and allergenicity tests conducted on genetically engineered crops, the response of the DBT was to deny the data, saying that toxicity and allergenicity data generated on transgenic crops that have yet to get approval for commercial cultivation, are the intellectual property of the applicant and cannot be provided. This is an absurd contention since data that relates to public safety cannot be considered confidential and it cannot be withheld from the public. Such data is routinely available from regulatory agencies in other countries where transgenic crops are developed.

When Gene Campaign requested evidence of the rules or laws that state that results of food safety tests are to be kept confidential, no answer was given and no safety data were provided. With the refusal to divulge safety data, the public has no way of finding out whether the crops that GEAC approves are dangerously poisonous, likely to provoke allergies, or safe to eat. I give below a tabulation showing several instances where the relevant departments of the government have refused to provide the information requested.

INFORMATION SOUGHT (GC)

- ❖ We wish to inspect all the files, including files notings, which deal with biosafety testing of Bt Cotton leading to its approval for commercial release. Please intimate date and time when we can come and inspect these files. After inspection we will indicate the documents whose photocopies we want.
- ❖ Who has evaluated these tests? Kindly provide copies of evaluation reports of all biosafety parameters.
- ❖ Who has evaluated these tests? Kindly provide copies of evaluation reports.
- ❖ What are the studies conducted on the effect of the Bt toxin on soil fertility after harvesting of Bt cotton?
- ❖ Kindly provide list of all agencies who have conducted these studies. What are the locations of these studies?

RESPONSE (GEAC)

- ❖ Regarding your request for inspecting the files and file noting, we are of the view that the RTI Act-2005 does not include such provision. However, you may like to indicate the provision of the RTI Act under which this request is being made.
- ❖ The evaluation report which has been provided does not contain biosafety parameters
- ❖ No information received on evaluation of studies of Bt toxin on soil micro flora
- ❖ No information has been provided.
- ❖ No information has been provided.

❖ What are the data obtained from such studies? Kindly provide copies of all data.	❖ No information has been provided.
❖ Who has evaluated these tests? Kindly provide copies of evaluation reports.	❖ No information has been provided.
❖ Who has evaluated these tests? Kindly provide copies of evaluation reports.	❖ No information has been provided on the evaluation of studies on food and feed safety tests of Bt cotton-seed oil cakes.
❖ Who has evaluated these tests? Kindly provide copies of evaluation reports.	❖ No information has been provided on the evaluation of studies on use of oil derived from Bt cotton.
❖ Who has evaluated these tests? Kindly provide copies of evaluation reports.	❖ No information has been provided on the evaluation of studies on feed safety of Bt cotton
❖ To what extent have insect refuges been maintained in all states where approval for commercial cultivation of Bt. cotton has been granted?	❖ No information has been received
❖ List of agencies who monitor the implementation of refuges?	❖ No information has been received
❖ What are the studies conducted on post marketing surveillance of Bt. Cotton?	❖ No information has been provided.
❖ Kindly provide list of all agencies who have conducted these studies.	❖ No information has been provided.
❖ Where have these studies been conducted?	❖ No information has been provided.
❖ What are the data obtained from such studies? Kindly provide copies of all data.	❖ No information has been provided.
❖ Who has evaluated these studies? Kindly provide copies of evaluation reports.	❖ No information has been provided.
❖ Has any assessment been made of the impact of Bt. cotton on the small farmers?	❖ No information has been provided.
❖ List of all agencies that have made these assessments.	❖ No information has been provided.
❖ What are the data obtained from these assessments? Kindly provide copies of results.	❖ No information has been provided.

The Right To Information Act is one of the strongest indications of India's growing strength and reputation as a democratic country. The RTI Act was developed in a consultative manner during which compromises were made by all sides so as to agree on a legislation that would

help to make governance more transparent and accountable. This spirit does not seem to have been accepted by the officials in the government departments which Gene Campaign has dealt with. This is unfortunate. Even more unfortunate is the fact that the bureaucracy is now doing

everything within its power to diminish the efficacy of the Act and undo a commendable development that would reduce corruption and improve governance so that the poor, who have remained the victims of exploitation since India's independence, can finally get a better deal. ■