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## RIGHT TO INFORMATION ACT IN GUJARAT: AN APPRAISAL

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### Abstract

Good Governance is key agenda for any country without which no country can make further development. Many initiatives have been taken by central and state governments to fulfill the objectives of Good Governance. Right to Information (RTI) is one of the important tool to bring good governance in the country. RTI Act came into existence in year 2005 and it will be completing a decade this year. Aim and objectives of this legislation is to bring transparency and accountability in the Governance. The present act has succeeded in meeting its objectives to the some extent. There are some negatives aspects of this act like killing of RTI Activists, pending RTI Appeals/Complaints, vacancy in the office of Information Commissions, reluctance of government officer to provide information etc.

Present paper will highlight the journey of Right to Information Act in India, Gujarat. It will discuss the present scenario of RTI in India, Gujarat, latest development, role of NGOs, Civil Societies in development of RTI. Authors are having practical knowledge of handling RTI matter for last six years, thus this will add value to the present paper.

**Key Words: - Governance, Right to Information Act, Gujarat, Appraisal, etc.**

### 1. INTRODUCTION

Good Governance is key agenda for any country without which no country can make further development. Many initiatives have been taken by central and state governments to fulfill the objectives of Good Governance. Right to Information (RTI) is one of the important tool to bring good governance in the country. RTI Act came into existence in year 2005 and it will be completing a decade this year. The main objective of this legislation is to bring transparency and accountability in the Governance. RTI has helped many people especially at the grass root level such as public distribution system, public works etc. The present act has succeeded in meeting its objective to the some extent. There are some negatives aspects of this act like killing of RTI Activists, pending RTI Appeals/Complaints, vacancy in the office of Information Commissions, reluctance of government officials to provide information, etc. There are many RTI activists in the country who are making all effort to improve governance system in India by way of exposing maladministration and mismanagement with the help of RTI. They are playing crucial role in exposing corruption in the country. There is also a darker side of this activism i.e. attacks on RTI activists and sometime killings of them. Data gleaned by the Commonwealth Human Rights Initiative (CHRI) shows Maharashtra has seen 53 attacks on RTI activists, including nine cases of murder, over the last eight years. Gujarat comes second with 34 attacks, including 3 murders. Delhi, Bihar, Uttar Pradesh, Haryana, Andhra

Pradesh and Karnataka follow with over 10 reported attacks on RTI activists during the last eight years. The data points to around 251 cases across India where people were either attacked, murdered, physically or mentally harassed or had their property damaged because of the information they sought under RTI (Mukherji Anahita, 2013). Whistle Blower Bill is pending in Rajya Sabha which will help to stop killings of RTI Activists. The Supreme Court on November 19, 2012 had expressed concern over the murders of and attacks on RTI activists and whistle-blowers. It said the state governments were responsible for their security and safety. "Law and order is a state subject. It is for the state governments to take action. We cannot issue guidelines," said the bench ((Mukherji Anahita, 2013).

Present paper will highlight the journey of Right to Information Act in India, Gujarat. It will also discuss the present scenario of RTI in India, Gujarat, latest development, role of NGOs, Civil Societies in development of RTI.

## **2. LITERATURE REVIEW**

As per CUTS International (2010) during the past five years, the Act has brought positive changes in the levels of corruption and accountability. Shilpa (2013) mentions that Right to Information is a potent weapon to fight against corruption, arbitrariness and misuse of power.

E-Governance is essential for flourishing RTI Act in the country. It will help in providing the information in timely and cost effective manner. The Right to Information Act, 2005 has been hailed as a landmark administrative reform unleashing an unprecedented era of transparency, accountability and efficiency in governance. E-Governance further makes RTI a meaningful reality (Jain Abhishek & Jain Aarushi, 2011). The RTI Act, if implemented properly, could prove a boon for the e-governance initiative because the required information can be asked for and provided by using the e-governance base (Singh Shalini, 2010).

As per survey conducted by Commonwealth Human Rights Initiative (CHRI) and the Nagarik Adhikar Kendra, Kalol in Panchmahal District, implementation of RTI Act in Gujarat has been dismal and the compliance (----, 2009). Even after the 9 years of RTI Act, still many are unaware about this powerful act. Rout Chintamani (2014) suggested that RTI should be included in school curriculum, more campaigns, workshops and seminars should be conducted particularly in rural area. Recently Uttarakhand govt. has decided to include the RTI Act, 2005 in State Council of Educational Research and Training (SCERT) books of classes six to eight (----, 2015). National Council of Educational Research and Training (NCERT) also initiated RTI Act in IX – XII books.

Cases are pending in offices of Information Commissions both at the Central Level and the State Level because of no appointment sufficient numbers of Information Commissioners. As much as 30 per cent of the posts of Information Commissioner in the country were vacant as on May 1, 2012 (----, 2012). In year 2011 there were 8,000 cases were pending and there was not a single Information Commissioner in the office of Gujarat State Information Commission (GSIC), Gandhinagar for months. As per Pankti Jog of Mahiti Adhikar Gujarat Pehal (MAGP), an NGO working on RTI movement, "Today, if one complaint or appeal is filed, the applicant has to wait for at least two years for first hearing because of the vacant posts" (----, 2011). Public Authorities don't disclose information pro-actively which leads to filing of RTI applications. "Info sought in 98% RTI queries has to be disclosed proactively" said Pankti Jog. She further added that 41% cases go to GSIC as first appellate authority violates norms (----, 2013). MAGP also adds that even nine years after introduction of the Right to Information (RTI) Act, Gujarat is still lagging behind in its implementation and it alleged pendency in hearing of RTI appeals, non-appointment of Information Commissioners in fair numbers, lack of "pro-active disclosure" initiatives in government offices and denying of information to the applicant (----, 2014)

### 3. RESEARCH METHODOLOGY

Present paper is based upon case study method. Authors have taken Gujarat as their case study to appraise the status and implementation of RTI Act in the state. Authors of the paper are having sound theoretical and practical knowledge of the RTI Act which is the value addition in the paper. Authors have been involved in RTI Act awareness activity for more than six years and have filed many RTI Applications/Appeals at Central and State Level.

Both Primary and Secondary Data have been used for the present research paper.

Authors have tried to appraise the status and implementation of RTI Act in the state since its enactment till date.

### 4. RIGHT TO INFORMATION ACT IN INDIA

Journey of RTI started by Mazdoor Kisan Shakti Sanghathan in Devdungri village in Rajasthan in year 1990. Labourer in the village were not paid minimum wages and exploited. They started asking records for their working hours etc. Big movement started against the government and they were pressurised. Thus movement of Right to Information started in India. After lot of agitation and pressure Govt. of Rajasthan passed an order and people were allowed to inspect documents and later on they were also given certified copies of records. They came to know about the irregularities and mal-practice in the system.<sup>1</sup> Before the Central Act of RTI, other states enacted law on RTI viz. Tamil Nadu (1996), Goa (1997), Rajasthan (2000), Delhi (2001), Assam (2002), Maharashtra (2002), Madhya Pradesh (2003), Jammu & Kashmir (2004). The National Campaign for People's Right to Information (NCPRI) was the instrumental in bringing RTI act in India. It was founded in year 1996 having members like social activists, lawyers, professionals, retired civil servants, academician.<sup>2</sup> One of the main objective of this organization is to campaign for right to information. NCPRI and the Press council of India formulated an initial draft of a Right to Information law which was sent to govt. in 1996 after extensive discussion. Govt. introduced the Freedom of Information Bill in 2002. In year 2004, the NCPRI forwarded suggested amendments to Freedom of Information Act, 2002 to National Advisory Council. After extensive discussion, review, amendments by government, civil society group, RTI law passed by parliament in June 15, 2005 and it came into force on October 13, 2005.

#### 4.1 Main Provisions of the RTI Act, 2005

##### 4.1.1 Some important definitions under Act.

###### Section 2(f) – Information

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

###### Section 2(h) – Public Authority

"Public authority" means any authority or body or institution of self- government established or constituted –

- By or under the constitution;

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1 Majdoor Kisan Shakti Sanghathan, <http://www.mkssindia.org/> accessed on May 18, 2014

2 National Campaign for People's Right to Information, <http://righttoinformation.info/about-us/brief-history-demand-for-the-right-to-information/> accessed on May 18, 2014

- By any other law made by the parliament;
- By any other law made by the State Legislature;
- By notification issued or order made by the appropriate government and includes any –
  - o Body owned, controlled or substantially financed;
  - o Non-governmental organization substantially financed, directly or indirectly by funds provided by the appropriate government.

#### Section 2(i) – Records

“Records” includes –

- Any document, manuscript and file;
- Any microfilm, microfiche and facsimile copy of document;
- Any reproduction of image or images embodied in such microfilm
- Any other material produced by a computer or any other device;

#### Section 2(j) – Right to Information

"Right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to –

- Inspection of works, documents, records;
- Taking notes, extracts or certified copies of documents or records;
- Taking certified samples of materials;
- Obtaining information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts where such information stored in a computer or in any other devices.

#### *4.1.2 Proactive Disclosure under section 4(1) (b)*

Under Section 4(1) (b) of act every public authority will disclose the specified information voluntarily. Information includes particular of organization, functions, duties, officers, employees, process for decision making, rules, regulations, budget, directory of officers, details of Public Information Officers, Appellate Authority etc. There are total 17 categories in this section. In November 2013, Department of Personnel & Training, govt. of India prepared guidelines for suo-moto disclosure and forwarded to all states for implementation for it. The purpose of suo-moto disclosure under section 4 is to place large amounts of information in public domain on a proactive basis to make the functioning of the Public Authorities more transparent and also to reduce the need for filing individual RTI applications. The Task Force also recommended guidelines for disclosure by State Govt. along with templates for disclosure at various levels.<sup>3</sup>

#### *4.1.3 Application under RTI Act (Section 6)*

A person, who desires to obtain any information under the act, shall make a request in writing or through electronic mode to Central Public Information Officer (CPIO)/State Public Information Officer (SPIO) along with the prescribed fees. CPIO/SPIO will provide information within 30 days of receipt of application or reject it for any of the reasons specified in Section 8 and 9. (Section 7)

#### *4.1.4 Exemption (Section 8)*

There are certain categories for which any citizen cannot get information under RTI Act. Citizen cannot get information, information, disclosure of which would prejudicially affect the sovereignty and integrity of India, information forbidden by law, court, information impeding the process of

<sup>3</sup> [http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1\\_6\\_2011-IR-21112013.pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_6_2011-IR-21112013.pdf) accessed on May 18, 2014

investigation or apprehension or prosecution of offenders, information which relates to personal information the disclosure of which has no relationship to any relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer(CPIO)/State Public Information Office (SPIO) or the appellate authority as the case may be is satisfied the larger public interest justifies the disclosure of such information.

#### *4.1.5 The Central Information Commission (Section 12)*

The Central Government has constituted Central Information Commission (CIC) to deal with appeals/complaints matter pertaining to central public authorities. There will be one Chief Central Information Commissioner and other Central Information Commissioner not exceeding ten. President of India will appoint the Central Information Commissioners on the recommendation of a committee headed by Prime Minister. Information Commissioner will hold officer for five years and or 65 years of age whichever is earlier. (Section 13)

#### *4.1.6 The State Information Commission (Section 15)*

Every State Govt. has constituted State Information Commission (SIC) in its respective states. There will be one Chief State Information Commissioner and other State Information Commissioner not exceeding ten. Governor will appoint the State Information Commissioners on the recommendation of a committee headed by Chief Minister. Information Commissioner will hold officer for five years and or 65 years of age whichever is earlier. (Section 16)

#### *4.1.7 Complaints (Section 18)*

It shall be duty of the CIC/SIC to receive and inquire into a complaint from any person who has been unable to submit a request to CPIO/SPIO, or has been refused to accept application, has not been given any response, for false, misleading, incomplete information etc.

#### *4.1.8 Appeal (Section 19)*

Any person who does not receive information within the specified time period or aggrieved by the reply can make first appeal within 30 days to first appellate authority who is senior in rank to the CPIO/SPIO. Second Appeal will lie before the CIC/SIC which to be made within 90 days.

#### *4.1.9 Rules by Appropriate Government (Section 27)*

The Appropriate Government as defined in Sec. 2(a) may by notification in the official gazette make rules to carry out the provisions of the act. Rules may provide for application/appeal format, fees, print cost of material to be disseminated etc. At the Central Level there is no format and fees is Rs. 10. Some states have not prescribed any formats for application and appeal in their respective RTI rules and kept fees as central govt. has prescribed.

#### *4.1.10 Rules by Competent Authority (Section 28)*

The Competent Authority as defined in Sec. 2(e) may by notification in the official gazette make rules to carry out the provisions of the act. Rules may provide for application/appeal format, fees, print cost of material to be disseminated etc.

## **4.2 Recent Scenario of the RTI Act in Various States in India**

In this part researchers will discuss about the best practices followed by States in India so that standardization can be done at Central and State level. Followings are some best practices to be followed by states in India:

### **1. Various options for RTI fees payment**

Various options for fees payment should be given to RTI applicant as provided under Rule 3(2) of Gujarat Right to Information Rules, 2010. As per this rule one can make payment in Cash, Demand Draft, Indian Postal Order, Non-Judicial Stamp Paper, and Stamping through franking, electronic franking, court fees stamp, revenue stamp, challan credited in government treasury. Moreover As per Rule 3 of Gujarat Right to Information Rules, 2010, person applying through the e-media shall have to pay the fees within seven days from the date of application failing which the application shall be treated as withdrawn.

### **2. Benches of commission in the state.**

There should be enough number of benches of commission in the state for hassles free appeal/complain hearing for party by commission. Sometime it becomes very difficult for a person coming from one end of state to attend hearing in another part of state. Researcher had a hearing few months back at office of Gujarat State Information Commission, Gandhinagar. Researchers went Ahmedabad to Gandhinagar office for hearing. When researchers reached there was notice that Commissioner has fallen ill. That was total waste of time and money. Suppose a person coming from South Gujarat or Kutchh area and this type of situation arise, they will surely in great distress. In Maharashtra Main office of commission is at Mumbai and others are at Nagpur, Aurangabad, Pune, Nashik, New Bombay, and Amravati. Other states also follow this practice rather than establishing one office at particular place.<sup>4</sup>

### **3. Video conferencing facility.**

If a State is not able to opening new benches in its state, it can provide video conferencing facility in the Office of State Information Commission so that parties can be present for hearing at the specified center e.g. National Informatics Centre (NIC) in the districts. Haryana Information Commission started hearing pleas of RTI applicants through video conferencing. According to Information Commissioner Urvashi Gulati “We are here to make the life of people convenient. For instances if somebody is very old and cannot travel from far-flung areas of Haryana to Chandigarh, such a liberty granted to those applicants. Many people who come to us are generally very poor and cannot afford the travel expenses. Thus we have started allowing them to come through video conferencing or even phone” (Bhatia Varinder, 2013).

### **4. RTI Helpline/Facilitation Centre.**

Bihar Government started RTI Call Centre called *Jaankari*. *Jaankari* was set up in January 2007 and it was awarded as the Best E-governance initiative by the Government of India. There are two numbers, one for RTI Application (155311) and the other one is RTI Helpline (155310).<sup>5</sup> An RTI application and appeal fee of Rs. 10 is included in telephone bill service

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4 Maharashtra State Information Commission retrieved from <http://sic.maharashtra.gov.in/Site/Home/Index.aspx> on December 17, 2013

5 Jankari Facilitation Centre, Bihar retrieved from <http://www.biharonline.gov.in/rti/index.aspx?ln=en> on December 17, 2013



provided by Bharat Sanchar Nigam Limited (BSNL). From my view point this is most convenient method of RTI application so far.

##### 5. RTI Stamp to be introduced for easy payment for RTI fees.

To ease RTI fees payment, Central Information Commission has asked the department of post to issue RTI Stamps of Rs. 10 denomination and open separate counters for accepting the application at its 1.5 lakh post offices (Chauhan Chetan, 2013). Many people finding difficulty in making payment for RTI fees. For cash payment one has to go to the office of public authority which is time consuming and total wastage of money. If one get the draft made from bank, he/she will have to pay Rs. 25 to Rs. 40 for getting draft of Rs. 10/20 etc. which is no way sensible from any point of view. One more challenging thing in getting draft which is that in whose favor draft to be made. Most of the offices of public authorities do not clearly mention that in whose favor draft to be made on their website or in any official documents. Researchers personally use Indian Postal Order (IPO) for my RTI application as it is very convenient and money saving affair e.g. if one get the IPO of Rs. 10, he/she has to pay Rs. 11 only. One can send IPO with RTI application without writing name of person or designation in whose favor IPO to be made if he/she fails to get the details of it. Office of Public Authority fills the required details and encash the IPO. The IPO is available in eight denomination i.e. 1, 2, 5, 7 10, 20, 50, 100. But IPO is not desirable on government's point of view as government spends Rs. 22 on cashing a postal order of Rs. 10.<sup>6</sup>

## 5. RIGHT TO INFORMATION ACT IN GUJARAT

As we seen in the literature review that Gujarat is laggard in implementing the RTI Act. It lags behind on many fronts whether it is e-governance for RTI Act, speedy disposal of cases, pro-active disclosure by the public authorities, hearing of cases through video conferencing etc.

**Table 1**

### **Pending Cases in Office of Gujarat State Information Commission, Gandhinagar**

Year	Appeals				Complaints			
	Opening	Received	Disposed	Pending	Opening	Received	Disposed	Pending
2005 - 2006	0	108	108	0	0	89	82	7
2006 - 2007	0	800	299	501	7	2090	428	1669
2007 - 2008	501	997	324	1174	1669	1984	1151	2502
2008 - 2009	1174	2669	595	3248	2502	1482	1354	2630
2009 - 2010	3248	3459	2142	4565	2630	253	752	2131

<sup>6</sup> Ibid

2010-2011	4565	3341	2389	5517	2131	1420	1537	2014
2011-2012	5517	4508	1791	8234	2014	716	793	1937
2012-2013	8234	8060	7682	8612	1937	414	1401	950
2013-Oct 2013	8612	6115	4914	<b>9813</b>	950	563	1008	<b>505</b>

Source: - Information received through RTI Application

We can see few years back 10,000+ cases were pending in the office of GSIC. Main reason behind this was vacancy in the office of Gujarat State Information Commission. In year 2011, all positions of Information Commissioners were lying vacant for months. As on January 2015, there are 4 State Information Commissioners including one Chief Information Commissioner and total 6414 cases are pending in the office of state information commission.

Revenue, Panchayat, Police, Municipalities, Social Defense, Health, Water Supply, Food and Civil supply, Industries & Environment are the top departments that get RTI Queries. (----, 2013)

## 6. CONCLUDING REMARKS

### 6.1. Conclusions

Looking at the above scenario and discussion, we can conclude that Gujarat is lagging behind in effective implementation of RTI Act in the state. Gujarat is having one positive aspect in terms of Gujarat RTI Rules, 2010 which provides various payment options for RTI Fees. In rest of the aspects, it requires lot of improvement. Gujarat is forefront in implementing the e-governance in the state but it has failed to use it for development of RTI Act itself.

### 6.2. Recommendations

Followings are some recommendations for development of RTI Act in the state.

1. Full disclosure (Pro-active) under Section 4(1) (b) of RTI Act.
2. RTI application/appeal formats standardization.
3. Benches of Commission to be established in the state as per necessity.
4. Video conferencing facility to be installed in Commission's office for hearing appeal/complaint.
5. Appointment of more Information Commissioners to deal with large numbers of Appeals, Complaints which are pending for months/years.
6. Robust Centralized Online RTI application/appeal mechanism to be set up. (See Figure 1)
7. Faster letter dispatch from office of Commission. In most of the cases letter is prepared with a date, officials will sign the letter after few days putting date of signature and ultimately it will be dispatched after few days of official's signature. This process takes 5-10 days.
8. Helpline center for RTI application/appeal to be set up.
9. RTI Application facilitation center to be set up at big public authority office.
10. Intensive campaign for RTI Awareness as envisioned in Section 26 of RTI Act, 2005.
11. Inclusion of RTI Act in School, College curriculum.
12. SMS alert service to be started for hearing date and any further updates of cases.

### **Online application**

It has been observed that there is no centralized online process for RTI application/appeal in the states. Hardly any states have come up with online RTI application/appeal filing which will save lot of time and money. Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training (DoPT), Government of India launched RTI web portal ([www.rtionline.gov.in](http://www.rtionline.gov.in)) for online filing of RTI application in April 2013 covering only DoPT initially but now almost all Central Ministries/Departments of Govt. of India have been covered. The application filed through this web portal would reach electronically to the Nodal Officer. The Nodal Officer shall access this portal at least twice in a day. He shall transmit the RTI application electronically to the concerned Central Public Information Officer (CPIO). In case the RTI application is not meant for department, the Nodal Officer shall transfer the application physically to the concerned public authority, under section 6(3) of the RTI Act. The applicant can pay the prescribed fee through Internet banking through State Bank of India and its associate banks or Credit/Debit card of Visa/Master<sup>7</sup>. This website covers only central ministries/departments. This website should expand its scope and cover all offices of Central Public Authorities.

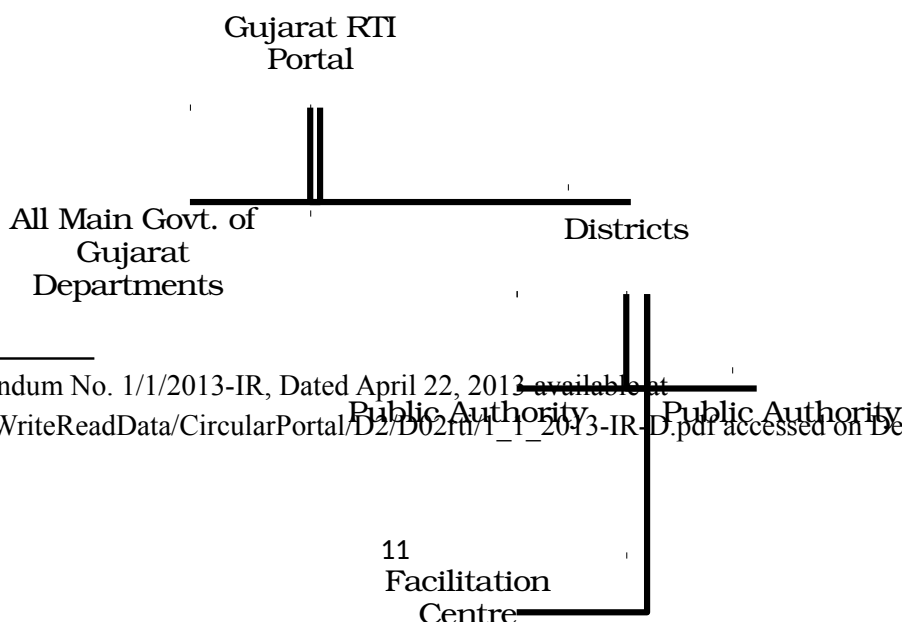
At State Level, department wise online application RTI process will not serve the purpose as sometimes a person is not be able to make out that which department is involved in the particular matter. Gupta Kalpesh & Parikh Baijul (2015) proposed a state level centralized online application/appeal process to make it hassles free. Govt. of Gujarat can adopt this model and implement in the state. There will be a dedicated RTI portal in Gujarat. After opening portal, there will be tab for each district. Clicking on district tab, list of public authorities covered under those districts will appear. In addition to that Talukas can be put up under heading of districts to make RTI application/appeal more convenient. One can submit online application/appeal to concerned public authority on the said portal. In case where some public authorities are not covered in portal because of some reasons, one can submit RTI application/appeal to Facilitation Centre by filling up details of public authority. Facilitation Centre will forward that application to concerned public authority.

*Example*

‘A’ wants to file RTI application in Surat Municipal Corporation, Surat, Gujarat. He/She will open the Gujarat RTI portal; click on district Surat, there will be list of various public authorities, click on Surat Municipal Corporation and proceed with application.

**Figure 1**

**Online RTI Application Flow**



7 Office Memorandum No. 1/1/2013-IR, Dated April 22, 2013 available at [http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02ftu/1\\_1\\_2013-IR-D.pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02ftu/1_1_2013-IR-D.pdf) accessed on December 17, 2013

Source: - Gupta Kalpesh & Parikh Baijul (2015)

### 6.3. Managerial Implications

Present research will help state government to form sound policy for development of RTI Act in the state and its effectiveness implementation.

### 6.4. Limitations of the Present Research / Scope of Future Study

Present research is mainly based on secondary information and practical experience of the authors. Further in depth study can be carried out with the help of interview, survey of citizens and government officials.

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