

## **Chasing a Right**

**Aruna Roy and Nikhil Dey**

*How a sustained movement in a Rajasthan village to obtain information from panchayat-level officials under the law of the land faces seemingly insurmountable hurdles.*

THE right to information has often been described as one of the most effective tools in the hands of citizens not only to fight corruption and the arbitrary exercise of power in the structures of government, but also to participate in governance.

While the Central Bill on the Right to Information is being examined by the Joint Select Committee of Parliament, it is necessary to highlight some of the experiences in States in which laws relating to the right to information have been enacted. The experience in Janawad panchayat in Rajsamand district of Rajasthan illustrates graphically and dramatically the critical need for strong and enforceable legislation on the right to information if there is to be any hope of giving the ordinary people any real entitlement through this law.

After a three-year-long struggle, the citizens of Rajasthan gained in 1997 the right to obtain photocopies of all panchayati raj-related documents, including copies of muster rolls and vouchers of development expenditure, within four days of making an application. On May 1, 2000, the State Assembly enacted amidst much fanfare a law that gave the people the right to information in all spheres of governance. In Janawad, despite sustained efforts and pressure, it took one year and a High Court directive finally to obtain the required information. The story of how the information was obtained is as important as the information itself.

Using the Rajasthan Panchayati Raj Rules and inspired by the revelations at a public hearing held in December 1999 in the neighbouring panchayat of Umarwaas (Frontline, March 17, 2000), over 70 citizens of Janawad collectively decided to apply for copies of records of work executed in their panchayat in the previous five years. A simple but powerful mechanism of transparency - a board painted on the wall of the panchayat indicating the total amount of money sanctioned and the amount spent on each item of work - had revealed shocking misappropriation. There were even cases of "ghost works" - where the only work that had actually taken place was the pocketing of money.

In order to prove the fraud and pin down the guilty, copies of the records were needed. On February 16, 2000, the residents submitted the first application for information. When a month passed without any response from the panchayat sarpanch or secretary, the applicants approached the District Collector.

The citizens of Janawad learnt in the next couple of months that the right to information entitlement, like many of the works in their panchayat, existed only on paper. No official, from the panchayat to the district level, was willing even to accept their application and issue a receipt. Ensuring that they got the information was clearly a distant dream. They turned for help to the Mazdoor Kisan Shakti Sangathan (MKSS), the organisation that has been in the forefront of the struggle for the people's right to information in Rajasthan.

One of the most effective methods used by the state in Rajasthan to blunt efforts at people's mobilisation is first to ignore, then promise and not deliver, then delay, and finally, using all possible means wear out and deflate all people's demands and movements for change. It is a "peaceful" yet diabolical method of maintaining the status quo, more effective and sophisticated than straightforward opposition and violent repression. It was this method of attrition that was used by vested interests to deny information to the MKSS in Janawad.

On May 17, when the MKSS first approached district officials seeking their intervention to have the law implemented in Janawad, letters were promptly issued ordering the panchayat to provide the copies. For the next three months the gram sewak, Balu Lal Saini, played a game of hide and seek, by giving dates but absenting himself, claiming that the records had gone for audit, and looking for technicalities and loopholes in the rules to deny the information.

Copies of records were being sought of works executed during the period 1995-2000, mostly during the term of the former sarpanch, Ram Lal. Although he failed to get elected even as a ward member in the election held in January 2000, he had found ways to ensure that his reign continued. As the pressure mounted, Ram Lal and the gram sewak used their influence to make the sarpanch, a Dalit woman called Bhuri Bai, follow their commands. She was allegedly made to sign a letter that made false claims that the gram panchayat and the gram sabha had passed resolutions to withhold information, as providing such information would "disturb the peace" and lead to a law and order problem. The fact that passing such a resolution amounted to negating the law did not bother the anchayat authorities.

Faced with this manipulation, the MKSS lodged a protest with the district authorities, who agreed that these were illegal resolutions but expressed their inability to "interfere" with the "independent powers" of the panchayat. The MKSS was advised to appeal to the Department of Panchayati Raj in Jaipur.

Even the sincere and determined efforts of the Secretary of the Panchayati Raj Department could not ensure the implementation of the law. The department issued orders annulling the alleged resolutions, called for an explanation from the gram sewak and the sarpanch, and ordered them to provide copies to the applicants immediately. When these orders reached the panchayat and block offices the MKSS activists were given another date, in early November, to collect the required copies. One day before they were to collect the copies, the MKSS received a copy of an order passed by the pradhan of the block, Kishan Lal Gujjar, forming a "high-level enquiry committee" to go into possible corruption in Janawad panchayat. The committee was headed by the Block Development Officer (BDO) and was to be assisted by the junior engineer and the accountant. (In panchayat-related corruption cases it is mostly the persons holding these three posts who are accused of acting in collusion.) The order mentioned the persistent efforts of the MKSS to obtain copies of the records, and the pradhan endorsed the view of the gram sewak and the sarpanch that giving copies of these records would "disturb the peace". He therefore ordered that no records be given to any individual or organisation until the inquiry was concluded!

There was no alternative now but to go back to Jaipur. As soon as the Secretary of the Department of Panchayati Raj issued orders to the BDO to ensure that records were provided, even block officials began avoiding MKSS activists and villagers. It was clear that the entitlement that had been obtained through a prolonged agitation would require another agitation for the people to benefit from it.

On November 22, the MKSS held a one-day dharna at the district headquarters of Rajsamand where over a thousand people gathered to demand that the law be implemented and the records of

Janawad panchayat be provided. The District Collector gave a public assurance that the records would be provided two days later and that the BDO, who was present, would ensure that this was done.

It is generally acknowledged that in the Indian administrative structure the one official who can get things done at the local level is the District Collector. A Collector's orders carry more weight than the orders of others in the State government, and when petty officials disobey a Collector, there should be more to it than meets the eye. This is why there was a great deal of interest when the next day's newspapers carried a press statement by the gram sewak of Janawad that he had examined the law and according to his own interpretation he was not bound to provide copies of records.

Issuing a press statement against the law and the Collector's public assurance seemed a foolish thing to do. At the appointed time the entire village and the local press turned up at Panchayat Bhavan to see if the Collector's assurance would be kept. Brimming with confidence, the gram sewak handed over a letter to the BDO refusing to part with copies of the records.

In his letter he sought further instructions from his superiors. However, in his conversation he made it clear that he had already received such instructions. The BDO had been making disapproving noises all through - issuing warnings to the gram sewak that he was doing something wrong by refusing to obey the Collector's orders and follow the provisions of the law. However, as soon as the MKSS gave him a written representation to intervene and provide the copies of records as he was the gram sewak's superior and was present on the spot, he dictated a reply, which provided the finishing touches to the morning's charade. He said he would seek the advice of his superior officers and let the MKSS know in 15 days whether the gram sewak's new interpretation of the Panchayati Raj Rules was valid or not.

December 2000 marked two years of the Congress government in office in Rajasthan. Huge notices exhibited in Jaipur and published in the newspapers pronounced the government's motto of providing a sensitive, accountable and transparent administration. In several interviews the Chief Minister claimed that one of the outstanding achievements of the government had been the enactment of the law relating to the right to information. The time had come to let the people know how this translated at the field level.

On November 28, the MKSS held a press conference in Jaipur on the non-enforcement of the right to information law. It offered several well-documented examples of non-compliance with it. They pertained, among others, to Sangawas panchayat in Rajsamand district, Thana panchayat in Bhilwara district and Kalaliya panchayat in Pali district. There were also instances of unfulfilled assurances by the Electricity and Soil Conservation departments to provide copies of records. But the extraordinary chain of events in Janawad became the focus of the press conference.

Stung by the negative publicity, the State government asked for the records to be brought to Jaipur immediately. The district administration promised to ensure that the copies were handed over, and MKSS activists were told that these would be delivered to their office by the time they returned.

There was still, however, a long way to go.

All through the next day, officials of Rajsamand district made calls and visits to the MKSS office to find out whether the records had arrived. Ironically, the officials kept asking the MKSS where their gram sewak was, and why the records they had sent with him to be delivered to the MKSS office hours earlier had still not reached. It transpired that the same gram sewak had been

entrusted with not only the photocopies, but also the originals of the panchayat records, and both he and the records had vanished!

The gram sewak's disappearance should have been a matter of great concern. A manhunt should have been launched for him. The MKSS expressed concern over his safety, but the district administration seemed confident that both he and the records would return safely.

There were rumours in Janawad village that he had gone to seek a stay order from the High Court Bench in Jodhpur. MKSS activists reassured Janawad's citizens that the courts had always insisted on transparency and that no court would grant a stay on orders to issue copies of the details of development expenditure, especially when there was a law that facilitates such provision. The assessment of the MKSS was wrong.

The gram sewak returned after three days with the records - and a stay order from the High Court. The stay order continued to be in force from November 29, until the case was disposed of on February 20, 2001. Despite the legal provisions under which affected parties can make an application to be heard within 14 days in cases where an ex-parte stay has been granted, a series of adjournments ensured that the stay order continued to be in force. The people of Janawad had had to stand up to a variety of pressures from Ram Lal and this order left them wondering again about the institutions of justice.

For over a decade the people of the panchayat had complained of corruption by Ram Lal and his group in the panchayat. These complaints had made no difference allegedly because he had an extensive network of support in the bureaucracy and the political establishment right up to the power centres in Jaipur. The people's sense of relief at his failure to get reelected in January 2000 was short-lived.

The right to information and its potential use by citizens provided a ray of hope to those who had been struggling to control the injustice in Janawad. The board on the wall of the panchayat office was intended to present the facts about the development of the panchayat over the previous five years. However, it told the story of why there had been no development. Over Rs. 80 lakhs had been spent in five years and it was clear that substantial amounts had gone into the pockets of some people.

There were the details of a number of works that simply did not exist - a veterinary hospital, a sub-public health centre, a community centre, check dams, and roads. There were other works on which a few thousands of rupees had been spent but several times the amount shown as the cost. People thought that if they could lay their hands on certified copies of these records, they would have in hand undeniable proof of corruption. The successful getaway with the records by the gram sewak and the subsequent stay order were now being used by Ram Lal to prove his invincibility.

It is said that even the best-laid-out plans leave a trail behind. When the gram sewak left the panchayat office with the records, he hid one file among older papers and files. As the pressure to provide the copies mounted from an embarrassed State administration, a harassed Additional Collector of the District and the Chief Executive Officer of the Zilla Parishad turned up with copies of some of the old records the gram sewak had left behind. They insisted that the MKSS take these unasked for copies so that they could report that some documents had been handed over. Among these papers, inadvertently handed over, were photocopies of the papers in the concealed file pertaining to construction of a dispensary at Janawad in 1998 at a cost of Rs. 1,36,973.

The MKSS took the file to the village on December 10. An impromptu public hearing was organised some 100 metres from the Janawad dispensary. The dispensary had indeed been built, but over 30 years ago. Since then the nurse who worked there had approached the panchayat innumerable times for money, to undertake repairs to the building, but the panchayat repeatedly said that there was no money. In the seven years she had worked in Janawad, not a single rupee had come from the panchayat. And yet the papers showed a completed measurement book filled out by the Junior Engineer for this ghost work.

This was enough to land Ram Lal, the Junior Engineer, the BDO and the gram sewak concerned in trouble. On the initiative of the MKSS, an official investigation was conducted, and on the confirmation of the fictitious work, a First Information Report was filed in the police station by the BDO. This was the first public acknowledgement by the administration that the person who had been shielded for several months may have committed corruption. Finally, it seemed the proof was available. But no arrests were made.

Meanwhile, during the struggle to obtain copies of the records, the court case continued. Five officials of the government and the MKSS were made parties by the panchayat and the sarpanch in the High Court. Bhuri Bai told a television journalist on record that she had no idea about any court case - she only signed where the BDO and the gram sewak asked her to. The State government promised to put all its efforts into having the stay vacated as soon as possible. Yet it chose to be constrained from top to bottom by a court stay on the order of the BDO.

Ram Lal and his network have had all the time they could ask for to cover up any wrongdoing and change the public opinion that was ranged against him. The criminal complaint lodged against him by the BDO, on the petition of the MKSS, relating to the sub PHC and several other fictitious works that came to light subsequently, is still under investigation and no arrests have been made. The Station House Officer told the MKSS that he had confirmed the fact that the records had been forged, but he said that the forged muster rolls had to be sent for tests such as finger print tests and all that would take time. Time is what Ram Lal and his people wanted and time is what they have been given in plenty.

BUT the tide has finally begun to turn in Janawad. On January 26, in the social audit in the gram sabha held in the presence of the Chief Executive Officer of the Zilla Parishad, villagers identified seven ghost works, accounting for over Rs. 8 lakhs.

The newly posted BDO lodged two more FIRs. Politicians and bureaucrats who were openly supporting Ram Lal are now distancing themselves from him. On February 21, a day after the High Court decision was announced, the copies of the records were handed over to the MKSS. The MKSS promptly announced a jansunwai (public hearing) in Janawad on April 3, 2001. (For an article on a related campaign of public hearings in rural Rajasthan in an earlier phase of the movement, see Frontline, March 6, 1998; page 102.)

The objective of this public hearing will be to force the State government to act on proof. The police have still not acted on the three FIRs. The MKSS has demanded that the administration immediately recover the defalcated funds and take firm action against all those whose job it was to prevent the embezzlement. As the jansunwai approaches, and the focus shifts to the quantum of money allegedly embezzled and its impact on the poor, the lessons of the year-long struggle to obtain the information must not be lost. After April 3, Janawad is likely to be remembered for the detailed exposure of corruption in the development machinery. If people want to find solutions, however, Janawad must also be remembered for the struggle it had to wage to expose corruption.

If the right to information is to be of any real use to ordinary citizens, the loopholes in the laws that are now being enacted must be decisively removed.

As the Bill that has been tabled in Parliament is debated, the story of Janawad offers us some lessons. The first is that the right to information will encounter strong resistance from the bureaucracy. Only stiff penalties for non-compliance will give the Act the teeth it requires for proper implementation. The Bill makes no provisions for penalties.

The second lesson is that the bureaucracy will use any excuse to deny information, and therefore the exemption clauses must be extremely restricted and must not give any room for misinterpretation.

The third lesson is that if any information is denied by an official, it is quite likely that the official will get support from his superiors. The only safeguard is to allow at least one independent appeal.

Finally, as the board in the panchayat of Janawad has illustrated, there is a lot of critically important information that can be easily provided even without it being asked for. If such information is given to citizens, it can truly create the basis for citizens' participation in a range of democratic activities. Suo motu display and dissemination of information must be mandated by the Act, so that the term "transparent governance" is not allowed to become another empty slogan.

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This article is based on the experiences and efforts of the men and women of the Mazdoor Kisan Shakti Sangathan who have contributed not only through their efforts to create a better world but also through their analysis perceptions and understanding.

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