

A Profound Study of Right to Information Act, 2005

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ABSTRACT :

The Right to Information Act is an Act to provide for sifting out the practical regime of Right to Information for citizens to secure access to information under the control of public authorities. It was brought into force in order to promote transparency and accountability in the working of even public authority, the constitution of India Central Information Commission and State Information Commission and for matters connected there with or incidental here to. Right to Information is a part of fundamental rights to speech and expression. As early as in 1976, the Supreme Court culminated in the Raj Narain V/s State of UP, that people cannot speak or express themselves unless they know. As a matter of fact, Right to information was embedded in article 19. Right to Information Act 2005 empowers every citizen to get the required and desired information.

Key-Words : Bureaucracy, Right to Information, Democracy, Privacy of an Individual Introduction.

INTRODUCTION

If we have to define democracy we can say that Democracy is the freedom of ideas. It does not mean just to be able to vote on election day but more than that. For our country to benefit from this trade of ideas, the traders, who are the citizens, should have quality goods. Top class ideas

come from good and true information. A good Right to Information law should not only make such information available, but make it accessible to citizens more and more including that majority of citizens in rural and vulnerable communities. Access to information is good for a productive democracy. The Right to Information law will provide a strong incentive against corruption. It will scare off corrupt officials. Today in our country and probably in many other places the major challenges in the fight against corruption is the availability of evidence. Government respond to demands for the prosecution of perceived corrupt officials by claiming a lack of evidence. Lack of evidence actually means lack of information. It will surely assist citizens and journalists to access official's information that might help in detecting of prosecuting.¹

What is Right to Information Act, 2005 ?

The Right to Information Act is an Act to provide for sifting out the practical regime of Right to Information for citizen to secure access to information under the control of public authorities. It was brought into force in order to promote transparency and accountability in the working of even public authority, the constitution of India Central Information Commission and State Information Commission and for matters connected there with or incidental here to. Right to Information is a part of fundamental rights to speech and expression. In 1976, the Supreme Court categorically stated in the Raj Narain Vs State of UP, that people cannot speak or express themselves unless they know. Therefore Right to Information is embedded in article 19. Right to Information Act 2005 empowers every citizen to

- Ask any question from the Government or seek any information.
- Take copies of any Government documents.
- Inspect any Government's works.
- Take samples of materials of any Government work.

You can deposit your application either by post or by hand. At the international level, Right to Information and its aspect find articulation as a human right in most important basic human rights document namely the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights. At regional levels, there are a number of other human rights documents, which include this fundamental right³. The Indian parliament had implemented the "Freedom of Information Act, 2002" in order to promote transparency and accountability in administration. The National Minimum Program of the Government envisaged that "Freedom of Information Act." will be made "progressive, participatory and meaningful," following which, decision was made to repeal the "Freedom of Information Act, 2002" and enact a new legislation in its place. In accordance with it, Right to Information Bill, 2004" (RTI) was passed by both the Houses of Parliament on May, 2005 which received the consent of the President on 15th June, 2005. The Right to Information Act, was notified in the gazette of India on 21st June, 2005. The Right to Information Act "became fully operational from 12th October 2005. This new law empowers Indian citizens to seek any accessible information from a public authority and makes the Government and its functionaries more accountable and responsible"⁴.

Application Procedure for Requesting Information

Under the present Act all authorities covered must appoint their public information officer (PIO). Any person may submit a request to the PIO for information in writing. It is the PIO's prime responsibility to impart information to citizens of India who request information under the Act. If the request relates to another public authority, it is the obligation of the PIO of the other to provide information within 5 days. The citizen making the request is not obliged to disclose any information except his name and

contact particulars. The Act. specifies time limit for replying to the request.

The time limit to get this information ?

If anyone requests the PIO for any information, the reply is to be given within 30 days of receipt.

- If the request has been made to an APIO, the reply is to be provided within 35 days of receipt.
- If the PIO transfers the request to another public authority (better concerned with the information requested) the time allowed to reply is 30 days but computed from the day after it is received by the PIO transferee authority.
- Information pertaining to corruption and human rights violations by scheduled security forces is to be provided within 45 days but with prior approval of the Central Information Commission.
- However, if life or liberty of any person is involved, the PIO is expected to reply within 48 hours.⁵

If information is not provided within the stipulated period, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further information not provided in the times prescribed is to be provided free of charge.

Fee for the Information

As of 2006 for central department, there is a fee of Rs. 10/- for filling the request, Rs. 2/- per page information and Rs. 5/- for each hour or inspection after the first hour. If the applicant is a below Poverty Card holder, no fee shall apply. Such BPL Card holders have to provide a copy of their BPL Card along with their application to the public authority⁶.

The Bureaucracy : The bureaucracy is a genuine "public servant" instead of the traditional 'Mai Baap', or master, dispensing favours and justice. The bureaucrat is now to consider himself not merely a powerful

custodian of vital information, but the civil servant who becomes accountable for what he writes and how he performs his duties. It is required for him to be more responsive to the needs of his masters, the members of the public. The act directs that the management of official records should be systematic and computerized so that information can be scientifically organized for convenient retrieval and delivery to every seeker of information. "Since the contents of all official files can be disclosed at public request, the RTI Act indirectly protects honest and conscientious persons working in the government against possible arbitrary and whimsical decisions at all levels. In respect of the bureaucracy, therefore, the challenge is how to speedily modernize the administrative system and make the official machinery people friendly"⁷.

Aims and Objectives of the RTI Act

The Right to Information Act strongly indicates the strongest indication of India's growing strength and reputation as democratic country. The aims and objectives of RTI is to enhance transparency and accountability in Government.

Main objectives of the RTI Act are as under :

(a) The RTI Act will make governance more transparent and accountable. Transparency and openness in the functioning of the government, and other agencies will keep a check on doings and misdoings of the government and corruption. If the Act is implemented properly, it will bring the efficiency and check the corruption.

(b) It can also bring a sense of empowerment to its citizens. RTI Act will surely promote citizens participation in official decisions that directly affect their lives. It enables in this way the citizens are able to get most information held by the Government. It can bring a sense of empowerment to the citizens of the country and safeguards their rights.

(c) Democracy is such a government where the rights of the citizens are very much important to keep active and alive. The achievement of technology may bring long-term benefit for the society and can improve the quality of the administrative services. RTI Act is the property of the people, it will guide to the modern administrative services. RTI Act is the property of the people, it will guide to the modern administrative polices and framing the civil society.

(d) The implementation of the RTI Act will build public trust in the government's functioning and in those leaders who have had the courage and vision to enact and implement effectively the Right to Information.

(e) It will bring more effective and efficient records and management techniques that are needed to facilitate the provision of information in response to public interests. Under Section 4 (i) of the Act, it was obligatory for the public authority to maintain all its records duly catalogued and indexed. Under Section 4(b) every public authority is required to publish within 120 days from the enactment of Act as many as 17 manuals.

(f) It gives a weapon to honest politician and bureaucrats to fight corrupt practices in their jurisdictions. Only those officials who have something to hide should fear the new law and will feel the heat of the Act once it is fully implemented.

(g) By thi law the common citizen will be able to question the working and non-working of government departments and agencies.

(h) It will enable the official to obtain the information inexpensively and within a time bound framework. So the Ministry or Department has to organize its materials and its working and system in order to be able to respond the future requirements of the public.

What are the Challenges Facing the Right to Information Act :

The RTI Act is more than just a law, it is a fight against governance shrouded in opaqueness, against the agenda of corruption and the arbitrary use of power. Arguably, free access to information is, fundamentally, a change process that needs to be managed in its social circumstances, rather than by a simple legislative imperative.

(a) Legislative Challenges Facing the Act :

The advent of RTI, as began elsewhere, is to counteract the state obsession with official secrecy. Governments usually feel uncomfortable with the notion of transparency and would rather, to a greater or lesser extent, prefer to operate beyond the glare of public scrutiny.

(b) Hostile or Indifferent Governments :

Adversarialism and malicious non-compliance with the Act may be rooted deeply in the country's culture of secrecy and bureaucratic arrogance and hostility. A naturally secretive public servant may credibly claim a lack of resources or any other reason considered convenient, as a strategy for the effective denial of access to information. There is problem of cautious and conservative official and cultural resistance. There is need on the part of government gearing up to implement RTI Act. The mindset of public servant should change along with awareness among the people. It is about time for government to recognize the significance of voluntary disclosure of information as lot of time which goes into processing RTI applications will be saved too.

(c) Awareness of Right to Information :

There must be an awareness of Right to information Act among the people. But the government has escaped the responsibility of spreading awareness about the Right to Information Act. The present act is a weapon in the hands of citizens to ensure the government performs its job well. No wonder, the government doesn't want the people to know all about it. While the government claims to have organized various

seminars and workshops on RTI, there is complete ignorance about its existence in many parts of India. There's a long way to go before RTI can become an inherent and integral part of our lives and, for this, we must use our right to the fullest possible extent. Steps should be taken for :

- Raising rights awareness and initiating civic education programmes.
- Establishing of tele-centers at sub-national levels (district)
- Facilitating information flows between state and non-state actors.
- Supporting the development of government communications capacities.

However, it is worth mentioning that the Department of Personnel and Training (DoPT) is now working on an elaborate plan to provide publicity to the Right to Information (RTI) Act.⁸

Section 8 of the Act provides that there shall be no obligation to give information on grounds of :

- (a) Sovereignty and integrity of India ; the security, strategic scientific or economic interests of the state ; relation with foreign state or which would lead to incitement of an offence;
- (b) Information forbidden by Court;
- (c) Information which causes breach of privilege of Parliament;
- (d) Information including commercial confidence, trade secrets or intellectual property, competitive interests of third party unless competent authority is satisfied about disclosure being in larger public interest;
- (e) Information available in fiduciary relationship;
- (f) Information received in confidence from foreign country;
- (g) Information which would endanger life or physical safety of any person or identity of informer who assisted law enforcement or security purposes in confidence;

- (h) Information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) Cabinet papers including records of deliberation unless decision is taken and matter is complete ; and
- (j) Information which would be unwarranted invasion of privacy of an individual. Notwithstanding anything contained in official secrets Act 1923, Public Authority may allow information if public interest outweighs the harms to the public interests.⁹

Conclusion

_____The Right to Information is inherent and integral to fundamental freedom and as per various Supreme Court rulings. It is held to be covered under the fundamental right of freedom of speech and expressions. We have been criticizing the Government, but we did not have any evidence and proof for the same. Now, the common man has a powerful tool in his hands. With the right to know, we cannot blame anyone but over selves. Our responsibility lies in using the RTI Act, 2005 to its fullest potential and that two honestly. The government should also may people aware about the Right to Information Act.

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