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Right to information: Path to Swaraj

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Abstract

There are so many acts passed by the Indian government for the betterment of the society and the most important one is Right to Information (RTI) Act which was passed in 2005. It gives the opportunity to the Indian citizens to get any information related to policies, administration, bureaucracy etc. This act provides transparency like anyone can get information from any public authority. It means it gives the opportunity to know the information of how everything is done on a public platform by public officers. It has enables the Indian citizens to get information in an affordable manner. In this research paper, there is the utmost try to highlight the features of RTI Act and the information has been gathered by different resources. As India is emerging as the biggest economy in the world with, RTI Act seems to be a necessary way to remove corruption from public and administrative life.

Keywords: Right to Information Act 2005, Democracy, Transparency, public functionaries

Introduction

India is a big democratic country and everyone has right to know each and everything. So the right to information is the right of citizens to get the information in the interest of society. Like we have freedom of speech, now we have freedom to get information. A democratic country flourish nicely only when its people are aware about working system, policies, etc. This Act was introduced to the Indian Parliament in July 2000 but it came into effect on 12 October 2005, so it became the fundamental right of every citizen. The importance of the right to information (RTI) has been acknowledged implicitly in the Indian Constitution under Article 19 (1) (a) enumerating freedom of speech and expression as a fundamental right. The Supreme Court of India has elaborated on this in the SP Gupta case⁶⁴, where the court has emphasised the scope and importance of the right. This act provides timely information on the basis of request provided by citizens related to Government, Private bodies or any non-government organisations.

⁶⁴S P Gupta vs Union of India, 1981 Supp. SCC

Background of RTI in the world

Countries that took the landmark judgements of adopting RTI

1766: Sweden adopted world's first access to information law.

1789: France adopted its Human and Civic Right law under article 14.

1946: The United Nations General Assembly passed the Resolution 59(1) on Freedom of Information, which says Freedom of Information implies the right to gather, transmit and publish news anywhere and everywhere without fetters.

1966: The United States adopted Freedom of Information Act.

1981: Council of Europe adopted Recommendation to member States on the Access to Information Held by Public Authorities.

2000: Pakistan Parliament Draft Ordinance to Provide Transparency and Freedom of Information in the country.

2001: Japan made a law in order to ensure that the government is accountable to the people for its various operations, and to contribute to the promotion of a fair and democratic administration that is subject to the people's accurate understanding and criticism.

Background of RTI in India

1975: Supreme Court of India rules that the people of India have a right to know.

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1977: *Morarji Desai constituted a working group to ascertain if the official secret act is modified or not.*

1990: *PM VP Singh laid emphasis on RTI.*

1994: *MKSS¹ started a grass root campaign for RTI demanding information concerning development works in rural Rajasthan.*

1995: *Draft act formulated in a meeting of social activists at the LBSNAA, Mussoorie, 1995.*

1996: *The National Campaign for People's Right to Information (NCPRI) was founded.*

1997: *United front government refers the draft bill to a committee set up under the Chairmanship of HD Shourie.*

1997: *The Shourie Committee submits its report to the government.*

1997: *Tamilnadu became the first state in India to have passed a law on RTI.*

1997: *Goa legislature enacted a law on Right to information.*

2000: *Public interest litigation filed in the Supreme Court demanding the institutionalization of the RTI.*

2000: *Shourie Committee report referred to a Parliamentary Committee.*

2001: *NCT Delhi assembly passed a law on Right to Information.*

2002: *Freedom of Information Act passed in both houses.*

2004: *UPA Government sets up a National Advisory Council (NAC).*

2004: *UPA Government tabled the RTI bill.*

2005: *RTI bill passed in both the houses of parliament.*

¹MKSS: Mazdoor Kisan Shakti Sangathan

Corruption in India

It is a known fact that there is a heavy blanket of corruption over India and it is a grass rooted level problem. The grass can be uprooted only when there can be transparency. As we know that India has been ranked 79th out of 176 countries in transparency International's 2016 corruption perceptions index. Although Indian economy is growing on the fast pace but still there are the problems like poverty which has been on the top level in the agenda. A country can do better only when there is good governance and accountability of servants towards their citizens. Because of this Act not only the rich but as well as the poor can obtain the information which was rarely given to any one of them.

Major factors behind corruption even after RTI

Lack of education

India still faces the problem of illiteracy. People in rural areas do not take interest to educate their girl child. Boys take the legacy of their father and do not take their education. So they are unable to know or understand the information.

Inadequate trained pios and first appellate authorities

Training level is not up to the mark which is very much essential to perform the duties successfully. It has come to know that duties are not performed efficiently because of the frequent transfers, modes of change of duties, etc. However as per the findings of the survey conducted under the study, only 55% of surveyed PIOS had received RTI training.

Low use of information technology

In these organizations most of the records are maintained manually and computer is not used to store information.

Lack of basic infrastructure

People of urban area somehow are able to get information in right manner due to the advancement of technology but it is not applicable in the rural areas due to the lack of equipments like photocopy machines etc.

Lack of motivation among pios

It is universal fact that to do anything there should be the motivation. Lack of motivation leads to the lack of responsibility. During the RTI workshops organized in the surveyed states, PIOS cited that there were no incentives for taking on the responsibility of a PIO.

Process of information gathering in RTI

It is not quite easy to get information as one has to pay fees to public information officer (PIO). The PIO then gather information from the concerned department and it depends upon the availability of level of information technology.

Right to information and good governance

Right to Information and good governance depends upon each other. The development of a nation means to fulfil the positive demands of people, accountability of politicians towards the common man, availability of freedom, bureaucratic accountability, availability of information, law-abiding citizens and co-operation between government and society. RTI act opens the door of thorough transparency so that to make the administration more responsible and non-corrupted. This is true governance.

Tools for good governance

Accessible

Right to Information Act provides the opportunity and possibility to get information from government department documents, records, services, finance and policies to all sectors of community. It makes a bridge between the administration and society to form a good nation.

Equity and inclusiveness

It implies that all the citizens are part of governance and they need not to feel hesitant to seek any kind of information. It makes no discrimination rather it provides opportunity to all.

Efficiency in good governance

Efficiency is needed in all the sectors. As it requires to giving the first priority to do work on time and it should be result oriented. The work should be done according to the interest of public.

Accountable

Government of nation is always accountable and should be accountable because it is elected by the people. Not only the government but the private sector institutions should also be accountable to the people. It is the right of citizens to know that who is taking the decision, why they have been taken and what will be the consequences.

Transparence

Transparency, the word itself implies that there should not be hidden rules & regulations, whatever decision is taken should abide the rules. People should know how, what & why because ultimately they are affected by the decisions. The enactment of Right to Information Act 2005 has given the possibility to people to seek the information and its purpose is to promote accountability and transparency in government.

Participation

The Right to Information Act provides people a chance to get information whenever they want. It is an open participation by the people so that they can reduce injustice, corruption, gap between rich and poor. As India is a big democratic country so it is a tool to strengthen grassroots of democracy.

Central information commission

The CIC is constituted by central government. It is composed of one CIC, and not more than 10 IC's. CIC headquarter is in New Delhi. CIC shall be appointed for a term of 5 years. The candidate for Chief information commission must be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, mass media or administration.

State information commission

The SIC is a high powered independent body which inter-alia looks into the complaints made to it and decide the appeals. Its main aim is to entertain complaints and appeals pertaining to offices, financial institutions, public sector undertakings, etc., under the concerned state government. It consists of one state chief Information Commissioner and not more than ten state Information Commissioners to be appointed by Governor.

Table 1: State right to information acts

S. No	States	Year of enactment
1	Tamil nadu	1977
2	Goa	1997
3	Rajasthan	2000
4	Karnataka	2000
5	Delhi	2001
6	Maharashtra	2002
7	Assam	2002
8	Madhya Pradesh	2003
9	Jammu & Kashmir	2004

Annual report of the cic

The Information Commissions, after the end of each year, are required to prepare reports on the implementation of the provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the concerned Information Commission for preparation of the report. The report of the Commission, inter-alia, contains following information in respect of the year to which the report relates:

- The number of requests made to each public authority;
- The number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- Particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- The amount of charges collected by each public authority under the Act; and
- Any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.

Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that the Ministry/Department may send the information to the Commission and the Commission may incorporate the same in its report. If it appears to the Information Commission that a practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken for promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.

Major parters in rti act

Right to Information Act has the potential to bring awareness among people. There are so many agencies which can help to pressurize to give information. Agencies like media, non-government organisations, etc but the most of the executions are done by the appropriate governments and information commission.

Central government

Basic institutional structure/processes has been set up as per the RTI act requirement (like appointment of Information Commissioners, PIOs, section 4(1) (b) etc.). Department of Personnel & Training has been made the Nodal Department for the RTI implementation at the Central level.

Media

As we know that media is very strong tool now a days and it can easily play an important role to generate awareness on a large scale. Although no media campaign is there but the awareness on the act has been generated through news articles based on RTI investigation.

Civil society group

The credit goes to the civil society organisations and social activists to make it possible that the people are living in remote areas can be able to make the use of RTI Act for their basic rights. However, it is somehow difficult for these organisations due to the geographical size and population.

State government

Many State Governments had already enacted laws for access to information in some form or the other.

Table 2: Transparency index achieving through RTI¹⁰

S. No	Classification of information under RTI	Percentage
1	Panchayats/Municipal Departments/ Civic Bodies etc	39%
2	Government Ministries/departments operations	29%
3	Information about other business	6%
4	Taxation Related Issues	5%
5	others	10%

¹⁰RTI: Sources: Pricewaterhouse Coopers

Some scams bust through rti act

The adarsh scam

This Scam came into light when the two activists sent RTI applications to several bodies and then came to know that the land on which the building was constructed did not belong to the government of Maharashtra but to the Ministry of Defence under the Central Government. The surprising fact is that the Adarsh housing society was originally supposed to be a six storey structure to house war widows and heroes of 1999 Kargil War.

2g scam

The 2G scandal happened during the congress government. This scandal involved the Telecom Ministry, led by Andimuthu Raja, undercharging mobile phone campaigns for frequency allocation licenses, allegedly for bribes, which ended up costing the Indian Government Rs.1, 76,645 crores. The RTI helped to unfold the scam over months.

Commonwealth games

It was a very shameful Scam as India was going to host the Commonwealth Games, Mr. Suresh Kalmadi, In charge of this event, was under scanner. Just a week ahead of the athletes moving into their accommodation at CWG Village near Yamuna River, foreign observers found filthy rooms, dirty sheets with paw prints, paan stains on the walls, no electricity and plumbing, and human waste on the bathroom floor and sink. Revolting steps taken by the Delhi Government- then run by congress party's Sheila dixit as to send the homeless citizens to states of their origin and rounding up beggars to create Delhi as "no- tolerance zones". RTI application filed by the housing and land rights network, a non-profit, revealed that the Delhi Government had diverted Rs.744 crore from social welfare projects for Dalits to commonwealth games from 2005-2006 to 2010-2011. Data procured through RTI showed that the money from special component plant was nicely diverted from the very first year it was adopted by the Delhi Government in 2006-2007 and this amount increased with each passing year. These funds were directed towards Queen's Baton Relay in the cultural segments of CWG, developing road around stadium and supplying water to the CWG Village but it was surprisingly to know that all these were only on papers which was a total misuse of the funds.

Indian red cross society scam

This scandal came into light when Hitender Jain, who runs Resurgent India, an Ngo based in Ludhiana, set about investigating that how public officials In the Indian Red Cross Society were misusing the money meant for the Kargil War relief and rehabilitation of those hit by national disasters. The nation came to know that how IAS officers used these funds worth millions of rupees to buy cars, expensive mobile phones, furniture, air conditioners,

refrigerators, telephone bills, hotel and restaurant bills, crockery, furnishings, LPG cylinders, etc.

Anil agarwal's university in orissa

In April 2006, Anil Agarwal, chairman of the Vedanta Group, set about acquiring land in Orissa to establish a Rs15,000 crore university on 15,000 acres of land, which was to rival universities like Stanford and Cambridge. Then Naveen Patnaik government lost no time in granting 8,000 acres of land to the Anil Agarwal Foundation, and promised to acquire an additional 7,000 acres for the project along the Puri-Konark Marine Drive.

How to use right to information

How do I locate the full Act?

The full Act in Hindi and English is available on the website of Department of Personnel and Training www.persmin.nic.in and on the RTI website <http://righttoinformation.gov.in/rtiact.htm>.

Who will give me information?

There are one or more officers existing or designating in every Government department as PIO. Their job is to collect information from various wings of the departments and providing the same to you. Apart from this, so many other officers are also appointed as AIPO's to accept applications from the public and forward them to right PIO.

Where do I submit application?

People can submit the applications with the PIO or with APIO. There are at least 629 post officers designated as APIOs in case of all central government departments. So one can go to these post officers along with the application and fees. They provide a receipt and acknowledgment and now it is the responsibility of that particular post office to deliver it to the right PIO.

Is there any fee? How do I deposit that?

Yes, there are different fees structures depending upon the different states. However for central government departments, it is Rs.10/-. You have to pay Rs. 2 per page of information provided for central government departments. There is also a fee for inspection of documents but there is no fee for first hour inspection and after that, you have to pay Rs. 5 for every subsequent hour. This is according to Central rules. Fees can be deposited in cash or through DD or bankers' cheque or postal order drawn in favor of that public authority. You can buy court fees stamps and affix it on your application and this would be treated as if you have deposited the fee. You can deposit your application either by post or by hand to the public information officer.

How can I apply for information?

Draft your application using the form below and submit it by post or in person to the Public Information Officer (PIO).

What could be the ground for rejection?

Rejection can happen in two cases like if it is covered by exemption from disclosure or if it infringes copyright of any person other than the state.

Information exempted from disclosure

Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure outweighs the harm to the protected interest.

The information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen:

1. Information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
2. Information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or
3. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section(1) of Section 8 of the Act.

• Disclosure of Third Party Information

There are some kinds of information's which are exempted on the basis of that it can harm the competitive position of third party like commercial confidence, trade secrets or intellectual property. This information cannot be disclosed unless the competent authority is satisfied. Third party is given the full opportunity to put his case for non-disclosure and the public information officer should follow the procedure as given in the chapter for "Public information Officers".

Suggestions

Action against corrupt officials

There are the politicians who make money by collecting the fund illegally by making the use of their officials who are working under them in their areas. These officers do not disclose the things to public and keep them under wrap. Right to Information Actor is expected to unveil such type of things, corrupt bureaucrats, dishonest contractors and politicians.

More active public functionaries

It is the utmost duty of public functionaries to provide information to general public. They should perform their duty in a motivational way and should aware that they appointed for the specific work and not for the unnecessary activities around them. The people should also be given the guidance that to whom they have to approach, how they can seek information and in what way.

Active IC'S

It is essential to spread awareness among the people as they do not know the procedures properly and outcome does not come in a proper way. People are not able to get it done successfully, so it is the duty of government that it should take the steps to spread the awareness among the people. The people who have faith in discharging their duties honestly should be appointed as officers and information commissioners.

Recommendations

- Mass media and NGOs should come forward to play their role in order to spread the awareness about RTI Act.
- There should be increase in the number of officials to speed up the effective implementation of RTI Act.
- Fee payment should be avoided to get the information.
- There should be some kind of penalty system to discourage the people from violating the provisions.
- There should be the provision by which each officer can analyse himself and evaluate the things and come up with the suggestions which can be beneficial for meeting the requirements of the RTI Act.
- The authorities should classify the application on the basis of rating like which application or complaint has to be done first.
- There should be regular meetings among the information commissions, public information officers and appellate authorities.
- The Right to Information officers should be given grades according to their performance.

Issues pertaining to RTI

Several issues came up during the course of its implementation and the important one is the definition of Information. Supreme Court in its decision in the matter of CBSE and Anr vs. Aditya Bandopadhyaya & Ors. Stated that 'information' the purpose of this Act would mean information held by the PIO nor is he required to maintain the information under the laws or regulations, the public authority is not under obligation to provide that information. Another issue came up that some of the institutions are not under public authority. The application filed by RTI activist Subhash Aggarwal and Anil Bairwal wanted to seek the information regarding this and CIS took the stand that political parties are public authorities and are liable to give information. These political parties are funded by the government in no. Of ways such as granting of plots and accommodation at concessional rates, free airtime at AIR and Doordarshan and tax exemptions. Most important is that these political parties are doing public duty.

Most of the political parties are not comfortable with this decision and "The Right to Information Amendment Bill, 2013" was introduced by the Government. This amendment bill sought to amend Section 2(h) of the RTI Act which defines the term "public authority". As per this bill organisations registered as political parties under "The Representation of the People Act, 1951" were not to be considered as public authorities under the said Act. However, the bill has not been passed by the Parliament as yet and has been referred to a parliamentary panel.

Another issue which has come up was not raised by the RTI activists but raised by the left learning political parties and this is about the "corporate entities". It is true that the

corporate sector equally utilises the money of common people in the form of share capital. For example, if a public sector bank comes under RTI then why not the private sector banks because both are performing the same functions. Similarly the other fields also come under this act like insurance, telephony, etc.

Conclusion

RTI Act has somehow established itself in the past twelve years as an important tool to eradicate corruption and inefficiency in the Government. While there are some instances of misuse of the act but by and large it has served its purpose well. Officials in various departments have somehow become responsible towards their duty. Although the act itself states that one must respect and preserve the democracy to give security to India. Success always happens when there is proper implementation. So, it is a very challenging fact in India to implement RTI Act in our administration culture, public service ability of judgement and public services commitment to the public cause.

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