

RTI – A TOOL TO FIGHT AGAINST CORRUPTION

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ABSTRACT

Transparency and accountability are the imperatives for sustaining democratic governance, and access to information is a vital instrument of societal transformation and the Right to Information Act, 2005 (RTI) helps in achieving the same. Besides, apart from ensuring greater transparency it also acts as a deterrent against the arbitrary exercise of public powers. The RTI Act has brewed a quiet social revolution and played a vital role in the governance of the country. RTI is a powerful tool that can deliver significant social benefits. It provides a strong support to democracy and promotes good governance, by empowering the citizen's ability to participate effectively and hold government officials accountable. Rather than just providing information, RTI Act in most of the countries has served to be an effective watchdog ensuring all those coming in purview of the Act to work in accordance with rules and regulations, without any irregularities. Currently, the RTI Act in India is passing through a decisive phase, much more needs to be done to facilitate its growth and development.

Keywords: Right to Information, democracy, accountability, corruption etc.

INTRODUCTION

The Democracy means meaningful participation by the people in the public affairs. A democratic government must be sensitive to the public opinion for which information must be sensitive to the public opinion, for which information must be made available to the people.

The Right to Information implies the participation of people in the process of governance and administration which becomes inevitable. The Right to Information is the only rightful law in India. This is most popular, citizen centric and change oriented law in Indian administrative history. The Right to Information (RTI) Act influences the people and impact on Indian Administration in greater transparency in functioning of public authorities; disclosure of information regarding government rules, regulations and decisions, every public authority is mandated to maintain all records duly catalogued and indexed in a manner and the form which facilitates the information right under the act. Information is nothing but knowledge, the knowledge make man strong and powerful. If the Information should be related to Government and Administration, the person becomes active in good governance and self-defensive and growing nature. The RTI act empowers the people of India against administrative corruption, irregularities and irresponsive attitude of administrative machinery. The Right to Information promotes transparency and accountability in the working of every public authority. In other words through this act, the citizens of India have been empowered to question, audit, review, examine and assess the government acts and decisions so as to ensure that these are consistent with the principle of public interest, good governance and justice.

ENACTMENT OF RIGHT TO INFORMATION

India always took pride in being the largest democracy, but with the passing of the Right to Information Act 2005, it has also become an accountable, interactive and participatory democracy. This Act is applicable to the whole nation except the state of Jammu and Kashmir. The United Progressive Alliance (UPA) Government headed by Dr.Manmohan Singh got the approval by the Parliament after speedy and marathon discussion. The earlier freedom of information act 2002, has got the assent of the President of India, but did not notify and finally

replaced with the RTI act, it came in to force on October 12, 2005 and on the same day Mr. Shahid Raza Burney filed the very first RTI application in Pune Police station. The RTI act successfully completed ten years in 2015. Popularity of this act and users of this law is rapidly increasing year by year.

Concept of Right to Information started taking shape in 1970's by liberal interpretation by the judiciary in various Fundamental Rights specially the right to freedom of speech and expression. In the case of Bennete Coleman and co versus Union of India in 1973, the majority opinion of the Supreme Court then put it "Freedom of speech and expression includes within it compass the right of all citizens to read and be informed" In 1975 during National Emergency, Supreme Court of India dictate in a case judgement, Information gathering is a right to every person. The 1981 Court judgment in Manubhai Shah versus Life Insurance Corporation of India (LIC) reaffirmed the point.

Basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum the fundamental principle involved here is the people right to know. There have been numerous cases favouring discloser of Government information and transparency. As a result of a lack of clear legislation on this, people had to knock at the doors of courts every time they wanted to enforce this right. Courts have almost and always responded positively. But this course at best restricted enforcement to the aware and the literate for their own limits concerns. The common citizen had neither the means nor the time and inclination to get into convoluted legal process and even PIL was a tool which could reach only few elite people. The movement for the RTI received a fresh impetus from the courageous and powerful gross roots struggle of the rural poor to combat rampant corruption in famine relief works. This struggle was led by Mazdoor Kisan Shakti Sangathan (MKSS). The reverberation of this struggle led a nationwide demand for a law to guarantee the RTI to every citizen.

For the first time fifth central pay commission recommended to establish a law to public information, later on many social organizations started movement to right to information. Action group for RTI, Soohnaka Adhikar Abhiyan, Natinal campain for people right to information, Nyayabhoomi and many other people group/ Non-Governmental Organisation(NGO) and many activist like Anna Hajare, Aravind Kejriwal, Manish Sisodia, Rakesh, BB Sharan and many other RTI activist seriously protested for the rightful law to the

people. Again Supreme Court of India stated that in Raj Narayan v/s Uttar Pradesh case, “The RTI is a fundamental right following from article 19(1)(a) of the Constitution”. Government of India establishes a national level act become law under the freedom of information act in 2002. This act was severely criticized for permitting too many exemptions, not only under the standard grounds of national security and sovereignty but also for requests that would involve disproportionate diversion of the resources of a public authority there was no upper limit on the charges that could be levied and no penalties. Some states like Tamil Nadu and Goa in 1997, Karnataka and Rajasthan in 2000, Delhi in 2001, Madhya Pradesh in 2003, Jammu and Kashmir in 2004 and Haryana in 2005 have successfully enacted the RTI act.

OBJECTIVE OF THE ACT

Objective of the Act is to establish “the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commission and for matters connected therewith and incidental thereto.”

IMPORTANT ELEMENTS OF THE ACT

- All citizens possess the right to information.
- The term Information includes any mode of information in any form of record, document, e-mail, circular, press release, contract sample or electronic data etc.
- Rights to information covers inspection of work, document, record and its certified copy and information in form of diskettes, floppies, tapes, video cassettes in any electronic mode or stored information in computer etc.
- Applicant can obtain Information within 30 days from the date of request in a normal case.
- Information can be obtained within 48 hours from time of request. If it is a matter of life or liberty of a person.

- Every public authority is under obligation to provide information on written request or request by electronic means.
- Certain information are prohibited.
- Restrictions made for third party information Appeal against the decision of the Central Information Commission or State Information Commission can be made to an officer who is senior in rank.
- Penalty for refusal to receive an application for information or for not providing information is Rs. 250/- per day but the total amount of penalty should not exceed Rs. 25,000/-.
- Central Information Commission and State Information Commission are to be constituted by the Central Government and the respective State Governments.
- No Court can entertain any suit, application or other proceedings in respect of any order made under the Act.

The aforesaid mentioned promote transparency in government organisations, make them function more objectively thereby enhancing predictability. In a fundamental sense, right to information is a basic necessity of good governance.

FEATURES OF RIGHT TO INFORMATION AND WORKING PROCESS

The RTI process involves reactive to disclosure of information by the authorities. Information including mode of information in any form of record, document, e-mail, circulars, press release, contract, sample of electronic data etc. The RTI Act also covers inspection of work, documents, record and its certified copy and information in form of diskettes, floppies, tapes, video, cassettes in any electronic mode or stored information in computers etc. Each public and partial public authority appoint Public Information officer (PIO) and Assistant Public Information officer (APIO) to serve information to public. Any individual may submit a written request/application to the PIO for required information. The PIO is responsible to provide the information on the applicant request with in time schedule.

Applicants have submitted the application with Rs.10 fee. But application fee is exempted to the people of Below Poverty Line (BPL) SC and ST applicants. There is no prescribed application to file the RTI application but signature application must include applicant name and address, required information and name and position of PIO. Suppose PIO is failed to dispose the RTI application within the stipulated time limit, the applicant have the right to file first appeal to first appellate authority in the same public authority.

The first appellate authority is responsible to provide information within 30 days under the 19(1) of the RTI Act, but it is optional for the applicant. The first appellate authority also failed to provide the required information within time limit, applicant have right to file second appellate appeal to Information Commission against the PIO. Information Commission is a quasi-judicial authority under the act. The commission conduct enquires as a civil court. The Commission have right to impose penalty Rs. 250.00 per day and up to not excluding Rs.25000.00. The RTI act constitutes two tier Commissions to Centre and States.

Right to Information act exempts the following organizations Twenty five government organizations are exempted from the purview under the second schedule of RTI act. These includes intelligence agencies, central economic intelligence bureau etc, research bodies working with the countries security agencies are also immune to the law, as are paramilitary forces.

The Directorate of Enforcement, Narcotics control board, Special Service Bureau, Special branch of the Police in Andaman and Nicobar, Lakshadweep and Dadra Nagar Haveli are excluded from RTI act. These organizations are however required to provide information if the panel believes the appellants query relates to a case of corruption or abuse of human rights.

RTI HELPS FIGHT CORRUPTION

The political mobilization against corruption started with the RTI. The culture of secrecy, as known, encourages the government officials to indulge in corrupt practices, which result in lower investments due to misuse of power and diversion of funds for private purposes. As a

result, the government's social spending yields no worthwhile benefits, because, for instance, the teachers do not teach, doctors and nurses do not attend health centres, ration card holders do not receive subsidized food grains and, thus, livelihood support is denied, and the promised jobs are not provided to the poor, who are assured of income support. In the process, it perpetuates poverty and harms the poor. It creates an environment of distrust between the people and the government, which impinge upon the development and jeopardize democratic governance.

The legislation on RTI can act like an antidote to vested interests which try to conceal or misinterpret information or which try to manipulate the media directly or indirectly to plant misinformation. The Right to Information Act 2005 has provided us the right to get information from the government. Through this we can now expose corruption and also bring to light those duties that are not being performed by the officials. Also, in some countries RTI has been seen as part of the anti-corruption or state modernization agendas (for instance Mexico and Chile), in South Asia, particularly in India.

Through all this we can also seek solutions to our problems. We can ask information about projects and plans. We can inspect files and check for any misappropriations. The government spends a huge amount of money for development work. We can ask for information about the work being done in our area. Information relating to tenders, agreements, payments and estimates of engineering work etc can be obtained with the help of the Right to information Act. Besides these, information can be sought on the following-

- (1) You can demand samples of materials used for the construction of roads, drains and buildings etc.
- (2) You can demand an inspection of any social development work, work in progress or information related to any completed work.
- (3) You can demand an inspection of government documents, maps for the construction, registers and records.
- (4) You can demand information related to the progress made on any complaint filed by you in the recent past.

Experiences suggest that in the states where the Right to Information Act has been implemented, it has become an important tool of social development and governance. Tackling pendency at the Information Commission and stringent punishment to guilty officials as well

as massive awareness campaigns among the masses for proper use of RTI constitutes the key to the success of RTI regime.

IMPACT OF RIGHT TO INFORMATION ON ADMINISTRATION

The Right to Information is one of the friendliest legislation. Large number of people has been benefited from it. But it is true that more than a decade after Indian Government enacted the act in 2005, the road to accessing information remains arduous. This act has made both tangible and intangible impact on the system and the people. People are using this act as a tool to get their passport, ration card, pension, birth and death certificate and income tax returns. Several people like disabled, old and young people below the poverty line have utilized this act to get benefits.

The RTI act influence on people and impact on Indian Administration in greater Transparency in functioning of public authorities: disclosure of information regarding government rules, regulations and decisions, every public authority is mandated to ‘maintain all records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act’. The public authorities are required to make pro-active disclosures through publication of relevant documents. Besides, the public authorities are also required to ‘provide as much information to the public at regular intervals through various means of communication, including internet, so that the public have minimum resort to the use of this Act to obtain information’. Act Facilitate the access to information, a citizen has the right to:

- Inspection of works, documents, records.
- Taking notes, extracts or certified copies of the documents or records.
- Taking certified sample of material.
- Obtaining information in electronic form is also available.

IMPACT OF RTI

The impact of RTI can very well be guided by the following -

➤ Improvement in accountability and performance of the Government:

The RTI provides people with the mechanism to access information. In addition, every public authority is required to provide reasons for its administrative or quasi-judicial decisions to the affected persons. Until the implementation of the RTI Act, it was not possible to an ordinary persons to seek the details of a decision making process, which was found most often, as ineffective in terms of its outcome. It was, therefore, not possible to hold a free and frank discussion on issues of common concern of people.

➤ Promotion of partnership between citizens and the Government in decision making process:

The RTI Act provides a framework for promotion of citizen government partnership in carrying out the programmes for welfare of the people. The partnership is derived from the fact that people are not only the ultimate beneficiaries of development and also the agents of development. The stakeholder's participation leads to better projects and more dynamic development. Under the RTI act citizen's participation has been promoted through access to information and involvement of affected groups in design and implementation of projects. Empowerment of local government bodies at village level through the involvement and cooperation with NGO and self-help groups. Information obtained under RTI, in respect of utilization of funds allocated under rural employment guarantee scheme. Most of all the welfare projects, particularly at Village and Panchayat levels, are being designed and developed in co-operation and support with the NGO or affected persons, with a view to raising the satisfaction level of people.

➤ Reduces in corruption in the Government departments:

In absence of transparency and accountability encourage the government officials to corruption practices. Which result in lower investments due to misuse of power and authority or diversion of funds for private purpose. It creates an environment of distrust between the people and the government, which strike upon the development of democratic governance.

The RTI promotes efficiency in making policies, delivering the service and administrative decisions. It involves the selection of appropriate programmes to achieve Government objectives. Service efficiency is manifested in the effective provision of services to the public,

responsive to public opinion and so on. Thus, the efficiency in Government must be measured in terms of all three facets of efficiency. Administrative efficiency, the most important of the three, comprises of conducting the administration without unnecessary delays or ulterior or corrupt motives and giving reasons while passing various orders. It refers to the effective management of the political system. It encompasses good organization and efficient productivity. Where required or implied, principles of natural justice have to be observed.

The major indication of RTI is slowly reduced corruption in India as per Corruption Perception Index (CPI). Corruption perception index provided by Transparency International we can analyze the level of corruption in India and along with the level or position of other countries can be analyzed through this ranking and scoring. Transparency International publishes the CPI annually ranking countries. The CPI ranks countries based on how corrupt their public sector is perceived to be. Corruption is the abuse of entrusted power for private gain. It is generally comprises illegal activities, which mainly come to light only through scandals, investigations or prosecutions.

CONCLUSION

The RTI Act has been used an effective instrument to promote transparency and accountability in administration. The applicants and majority of PIO's lack of awareness and competencies required to use of RTI in right manner. As a result the government programs, public utility services and Public distribution systems have not reached all the public. As a result the disadvantaged groups often find themselves on the receiving end of corrupt practices, inefficiency and nepotism by the government. The RTI Act, as it stands today, is a strong tool to uphold the spirit of democracy. The need of the hour is that the RTI Act should be implemented to ensure that the objects of the RTI Act are fulfilled. Any attempt to dilute the provisions of the RTI Act will only quell its' success.