

RTI: REVOLUTIONARY TOOL FOR DEMOCRACY

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The Right to information Act 2005 in India is one of the most advanced information legislation in the world. The Act has the unprecedented potential to transform governance and bring in accountability and transparency in government functioning. RTI is an Act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the one-shot Freedom of Information Act, 2002.¹ Under the provisions of the Act, any citizen of India may request information from a "public authority" (a body of Government or Instrumentality of State) which is required to reply expeditiously or within thirty days. The Act allows the citizen of India to access public information and thus to question the government and bureaucracy in many ways. RTI Act facilitates establishment of knowledgeable society by putting pressure on officials to ensure transparency and involvement of citizens in decision making. The Act also requires every public authority to computerize their records for wide spread and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally. It is necessary that people should know about what is happening in their society. Access to information not only promotes openness, transparency and accountability in administration, but also facilities active participation of people in democratic governance process. The implementation of this Act would lead to weeding out corruption to large extent and promoting interface between government and citizens. Despite the right to information bill having received presidential approval seven months ago, citizens may have to wait some time, before they can exercise their right to access governmental files, as the concerned authorities are yet to set a timeframe for framing the rules.

The Right to Information Act in India began to seek allocation with the attempt and concern of people's group in rural India. A descent beginning, the campaign on the RTI was followed by a broader discourse on the issue of government and accomplished into right to information,

¹ Available at <https://en.m.wikipedia.org>

facilitating a step ahead in the participatory democracy of India.² An organization, socially and locally involved in the issues of various claims like land, labour etc called Mazdoor Kissan Shakti Sehangarh in Deogarg Tehsil of Rajasthan district. When MKSS was formed in 1990's, its goal was to fight and constructive action to change the lives of the villagers and rural poor.³ The need of the RTI Act emerged from the struggle of villagers in Rajasthan for minimum wages which was being denied by the local feudal landowners with the help of local authorities. It was simply corruption and mismanagement which leads to malpractices against rural poor. This leads them to look the local government files secretly and overtly. When they accessed the file, rampant corruption and embezzlement of development funds through forged entries and overbilling was discovered by them. Later on a committee was set up by the government to look the demand of the people who wanted to have at least photocopied of the government officials. This committee was known as Arun kumar Committee, which submitted its report on 30 August 1996.⁴ The report by Arun kumar recommended, "The government to implement transparency in the project of rural development and also accountability of the state government." In Rajasthan, the right to information Act was passed in January, 1999 and later on amendments were made in the Panchayat Raj Act too in 2000. Later on the initiative taken by Rajasthan people and government were started showing the benefits as many state subsequently started following the steps of this Act of Rajasthan. Tamil Nadu and Goa in 1997, Karnataka in 2000, Delhi 2001, Maharashtra, Assam in 2002, Madhya Pradesh in 2003, Jammu and Kashmir in 2004 and even the central government of India also made an act known as Freedom of Information Act 2002. Freedom of information Act 2002 didn't become operational after getting clearance by the president on 10 January 2003. But it laid the grounds for the need to shift from the culture of secrecy to one of greater openness. Amulya Gopalakrishnan argues, "The freedom of information Bill aims to empower every citizen with right to obtain information from the government. The change from the repressive regime of the official secrets Act to the nation of freedom of information as a citizen's right has taken 77 years, but it makes a significant paradigm shift in Indian Democracy." The RTI Bill was introduced in the parliament and referred to the standing committee which brought certain changes on the existing Bill. The Bill brought in the parliament on 21 March, 2005 and with certain changes, bill got passed on 11 May 2005 in Loksabha and on 12 May 2005 in

² Available at www.legalserviceindia.com

³ Available at www.legalserviceindia.com

⁴ Available at www.yourarticlelibrary.com

Rajyasabha with 14 amendments.⁵ The bill became act on 21 June once it got published in the Gazette of India as Right to Information Act, 2005. ⁶RTI came into force on 12 October, 2005 through some sections like Secs. 4(1), 5(1), 12, 13, 15, 16, 24, 27 and 28 came into force with immediate effect. It extends to whole of India except the state of Jammu and Kashmir.⁷ The first RTI application was filed at a police station in Pune by Shahid Raza Burney.⁸ The first RTI application in Delhi was filed to the office of President about Article 370 in Jammu and Kashmir.⁹ Every day, over 4800 RTI applications are filed. In the first ten years of the commencement of the act over 17,500,000 applications have been filed.¹⁰

The Right to Information is not an elite issue. It is a day-to-day issue relating to the legal right of an individual, often making a difference between drudgery and dignity, or sometimes between life and death. This right, like all rights, is not absolute. The citizens should have access to information on all matters of governance; these may be related to national security and other reasonable restraint prescribed by the constitution. While the right is guaranteed by the constitution, we still need a legislation to create institutional mechanisms enabling us to enjoy the right meaningfully, without any recourse to constant litigation. This Act is a landmark for good governance and can help the common citizens especially the poor and underprivileged to get their dues from government. This law is unique in the sense that it has been the result of years of struggle by civil society and media, and the Bill has been drafted by civil society and not government.

The RTI can be filed by two ways one is offline and the other is online.¹¹ Citizen of India may submit a request to the Public Information Officers (PIO's) for information in any format, paper or electronic.¹² If the request pertains to another public authority it is the PIO's responsibility to transfer/forward the concerned portion of request to a PIO of the other within 5 days.¹³ In addition, the Central government has designated certain officials as Assistant Public

⁵ Available at blog.ipleaders.in

⁶ Available at blog.ipleaders.in

⁷ Available at <https://en.m.wikipedia.org>

⁸ Available at theweek.in.

⁹ Available at www.nprc.in

¹⁰ Available at <https://economictimes.indiatimes.com/news/politics-and-nations/1.75-crore-rti-applications-filed-since-2005-study/articleshow/54705694>

¹¹ Available at <https://www.thehindu.com>

¹² Available at <https://www.orfonline.org>

¹³ Available at <https://www.orfonline.org>

Information Officers (APIOs).¹⁴ Their charge is not confined to any specific department, but they have the responsibility of receiving all RTI requests and forwarding it to the PIO's of the appropriate departments. The person making the request is not obliged to explain why the information is needed. The Act specifies timeframes for complying with the request. If the request has been made to the PIO, compliance is expected within 30 days.¹⁵ If the request has been made to an APIO, compliance is expected within 35 days. If the information is not provided within this time period, it is treated as a refusal. Refusal with or without reasons may be ground for appeal.¹⁶ For Central Departments as of 2006, there is a fee of Rs. 10 for filing the request, Rs. 2 per page of information and Rs. 5 for each hour. Only when all these formalities are done it is now time to send the application via speed post to the concerned department.¹⁷

Constitution of India gives legislative power to the Parliament with regard to "Public acts and records and judicial proceedings." There can be no doubt as to the legislative competence of the Parliament as well as the State legislature with regard to the subject dealt within this Act. The Right to Information Act has created the Central Information Commission, the Chief Information Commissioner and Information Commissioners, Central Public Information Officer, State Information Commission, State Chief Information Commissioner, State Information Commissioners and State Public Information Officer to provide information to persons requesting for the information and to decide the complaints under the Act. The question before the Court was regarding the constitutional validity of the Right to Information Act, 2005, in *Virender Singh Choudhary v. Union of India & Others*.¹⁸ The question raised before the Court was, whether the appointment of Chief Information Commissioner or Information Commissioner under sections 12(5), 12(6), 15(5) and 15(6) of the Act is in violation of Article 14 of the Constitution of India. The entire scheme of the Act taken into consideration for the purpose of not including certain categories is to have neutrality, objectivity and avoidance of conflict of interest. The Court held that the exclusion of certain categories is not unreasonable. Hence, the provisions are not hit by Article 14 of the Constitution of India. Again, the Supreme Court in *Namit Sharma v. Union of India* dealt with

¹⁴ Available at <https://www.orfonline.org>

¹⁵ Available at shodhganga.inflibnet.ac.in

¹⁶ Available at shodhganga.inflibnet.ac.in

¹⁷ Available at <https://rtionline.gov.in>

¹⁸ Available at <https://indiakanoon.org>

the constitutional validity of sections 12(5), 12(6), 15(5) and 15(6) of the Right to Information Act, 2005. Sections 12(5) and 12(6) deal with the eligibility criteria for appointment to the post of Chief Information Commissioner and Central Information Commissioners. Sections 15(5) and 15(6) deal with the appointment to the post of State Chief Information Commissioner and State Information Commissioners. Under sections 12(5)/15(5) the members of the State and Central Information Commission should be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. Furthermore, sections 12(6)/15(6) elaborates that such members should not be a Member of Parliament or Member of the Legislature of any State or Union territory or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession. The petitioner approached the Hon'ble Supreme Court with the grievance that even though the members of the Central and State Information Commissions exercise judicial and quasi-judicial powers under the Act, the eligibility requirements prescribed for their appointment under the Act are too vague, general, ultra vires the Constitution, specifically Articles 14, 16 and 19(1)(g) and contrary to the established principles of law laid down by a plethora of judgments of the Supreme Court.

The government machinery now started well on its nitty-gritty. Thanks to the RTI acts which helped the people at ground level in getting the work related to government on time with honesty. The benefit of the right to information empowers ordinary citizens by providing them opportunity to participate in the public affairs by granting them access to the basic and relevant information. It helps the people to make informed choices and exercise their democratic rights, as the common man doesn't have access to the information due to socio-economic and historical reasons. RTI promotes friendly relationship with the government officials and commons man. It also makes them to accountable, citizen friendly and sensitive in terms of best ethical work culture by the administration. The RTI Act in the Indian democracy has yielded successive, transparent, timely, friendly and very smooth example of work in terms of administration. It has given the policy implementation wings to get it complete on time. This way, the representative democracy has become the participatory democracy which creates the more open and democratic society. As the communication get completed only if sender and receiver both get each other and respond accordingly, same way RTI act has created a kind of two-way dialogue between the citizen and the state, minimized the chances of feeling of

alienation and strengthen stability and integrity of the nation. It shows the path of constructive and healthy mechanism in terms of relation among people and state respectively. The RTI act has empowered the poor, the marginalized, and rural towards the inclusion of main stream society as access to information led them to get power which not only gave role to play in the social sectors scheme but also monitored by them on the step by step basis.

The Right to Information Act is one of the strongest indications of India's growing strength and reputation as democratic country. As the law doesn't enquire about the purpose of the information which is shared with people, which way it is used and what are the purpose of using this information? These are the basic question which one always thinks but beyond this there is something which nobody knows. The purpose behind acquiring the information is not always to dispense the things inform of the administrative machinery to give it speed but sometime it is malaise the department, person of very high stature in the government organization. RTI Act is not a tool to be hindrances in the process of speed of administration and innovation of working style of various policies, schemes by the government. But in this nature we need to find the solution of use and misuse of RTI act in a proper way. RTI act is being misused by the people even the state information commission is having the view. Even Supreme Court has mentioned it in KB Bandhopadhyay case¹⁹ for the first time SC talk about the misuse of RTI act. There is third party interest as in case of RTI.

The misuse of RTI is done by the people, politicians and even bureaucrats for their own benefits. As in the recent days the debate over political parties not coming under the ambit of RTI law is showing the misuse of RTI in itself. Because the money by which the political parties fight election is not known, particularly the source from where these politicians got huge amount of money. As the parties run the election campaign and win the election and sit in the government institution in that way political parties are also liable under the government funding in the same way. Even political parties are a public authority, which should be come under the ambit of RTI act. In another incidence the people are misusing the RTI in the way the corrupt people's exposure in the various scams in the various cities, towns and in village areas. Over here the nexus between the politicians-officials –contractors don't want to get exposed in that way. They try to use many alternatives by adopting various methods of to stop RTI exposures like murdering the RTI activists, threatening them and even in many cases they

¹⁹ Available at <https://indiankanoon.org>

have to succumb to further exposure. Thus it is also a kind of misuse of RTI act because of RTI act these people who expose the scams in many cases of different places are getting killed. If they wouldn't have exposed these powerful corrupt people, their life could have saved. Incomplete or inappropriate information is provided by the authorities. In the recent cases it has also come into the notice that how authorities are also misusing the RTI. They are either not providing the complete information or giving the information which is half not the proper or full information.

RTI act has served many purposes in the day to day function of the daily administration in the government of India. India has woken up and is working to provide economic, social and political rights to citizens. The empowerment, efficiency, better services, timely service, power to the people, speed in terms of working style of bureaucrats and many other good thing happen. But on the other side many bad things happen because of RTI act such as Killing of innocent people like activists, blackmailing to person of high repute in the society, a kind of fear always crippled in the mind of innocent and honest officials to provide the status of information on time bound manner which is not good at all. At the same time we need to raise the slogan of bring some technological changes in RTI status monitoring system which speed the process of RTI procedure. The innovation of technology can save many lives particularly in the rural areas where the local goon harass and torture the RTI activist. The technological up gradation in the government department will bring the transparency, efficiency, ethics at work places and others at one go because of every related information pertaining to people's day to day service will be updated with the help of Social media site like Twitter, Face book page, YouTube, Instagram, WhatsApp etc. As today's power is social media as every person is connected in the urban area and in the rural the process of connecting them is on the rise so in this area technology is going to play very crucial role RTI is very useful and significant at a time when print and electronic media have become powerful instruments in disseminating information to the citizens in no time. In the same way RTI is also playing equally very good and challenging job in terms of providing better and efficient information which is bringing transparency, governance in the government places alike. Thus Right to Information Act will enable people to move beyond their responsibility of electing the government to a broader duty of participating in the decision-making and governance processes. However, access to information in itself is not a magical cure for all social ills. It can be a useful tool in improving societies, but it cannot, in itself, bring about radical transformation. A law for right to

information can be effective only through people's active involvement. It imposes a responsibility on citizens of a democratic society to obtain the required information and use it optimally for social benefits. Thus the process of paradigm shift from state centric to citizen centric model of development is intensified due to Right to Information Act.

