

THE RIGHT TO INFORMATION: A COMPREHENSIVE ANALYSIS ABOUT IT

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ABSTRACT

RTI (Right to Information) was introduced for empowering the citizens to question the Government and its working in different Government sectors and in different Government activities. Any citizen is able to request for information which does not threaten the internal security and integrity of our country. So we can say that Right to Information is a right which is given to the citizens of our country to question and hold the government accountable for its functions and activities. The RTI Act 2005 helps the citizens of our country in exercising this right. We find that in the present days this Act is widely used by the citizens and the media to uncover corruption and malpractices. The Right to Information (RTI) is an act of the Parliament of India which describes the rules and regulations and procedures regarding citizens' right to information in India. The former Freedom of Information Act 2002 is replaced by it. According to the provisions of RTI 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. In case of matter which is involving a petitioner's life and liberty, the information has to be provided within 48 hours. The Act also imposes penalties if it is found that the authorities are doing delay without proper reasons in responding to the citizen within the stipulated time. So we can say that the Right to Information helps in keeping transparency and accountability in the working of the Government of our country.

KEYWORDS: Information, Public authority, Government, Right, Accountability, Transparency.

INTRODUCTION

The citizens can seek any information from the Government authorities regarding the workings and the activities of the Government through RTI. Some information which can affect the internal security, the sovereignty and the integrity of our country, the relations with foreign countries, the cabinet discussions for some internal security measures are exempted from the purview of RTI.

The right to information is related with the fundamental right under Article 19 (1) of the Indian Constitution. In Indian democracy, people have the right to know about the working of the Government. So the Government has enacted the Right to Information Act in 2005 which provides proper and appropriate machinery for exercising this RTI.

Objects of the Right to Information Act¹

The basic objects of the Right to Information Act are discussed below-

- To empower the citizens of our country to question the Government;
- To keep transparency and accountability in the working of the Government and tries to eradicate corruption and malpractices from the workings of the Government;
- To make our democracy work for the people in real sense and in a proper way;
- To build up better-informed citizens who will keep proper watching on the functioning and the activities of the Government.

Some important provisions under the Right to Information Act, 2005²

⇒ Section 2 (a): "Appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly:-

- (i) By the Central Government or the Union territory administration, the Central Government;

¹ <https://byjus.com/free-ias-prep/right-to-information-rti/>

² [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

- (ii) By the State Government, the State Government;
- ⇒ Section 2 (f): "Information" means any material in any form, including Records, Documents, Memos, e-mails, Opinions, Advices, Press releases, Circulars, Orders, Logbooks, Contracts, Reports, Papers, Samples, Models, Data material held in any electronic form and information relating to any private body which can be accessed by a Public Authority under any other law for the time being in force.
- ⇒ Section 2(h): Public authorities mean all authorities and bodies under the union government, state government or local bodies. The civil societies that are substantially funded, directly or indirectly, by the public funds also fall within the ambit of RTI³.
- ⇒ Section 2 (i): "Record" includes⁴:
- (a) Any document, manuscript and file;
 - (b) Any microfilm, microfiche and facsimile copy of a document;
 - (c) Any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
 - (d) Any other material produced by a computer or any other device.
- ⇒ Section 2(j): "Right to Information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to:
- (i) Inspection of work, Documents, Records;
 - (ii) Taking notes, Extracts or Certified copies of documents or records;
 - (iii) Taking certified samples of material;
 - (iv) Obtaining information in the form of Diskettes, Floppies, Tapes, Video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.
- ⇒ RTI for whom

³ <https://byjus.com/free-ias-prep/right-to-information-rti/>

⁴ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

Section 3: Subject to the provisions of this Act, all Indian citizens shall have the Right to Information.

- ⇒ Section 4: Obligations of public authorities.—(1) Every public authority shall—
- (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated⁵;
 - (b) publish within one hundred and twenty days from the enactment of this Act,—
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions;
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - (ix) a directory of its officers and employees;
 - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

⁵ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
 - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed;
- (c) and thereafter update these publications every year;
- (d) publish all relevant facts while formulating important policies or announcing the decisions which affect public⁶;
- (e) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (f) Section 6: Prescribes the procedure regarding the request for obtaining information.
- (g) Section 7: Describes regarding the disposal of request.
- (h) Exemption from disclosure of information-

Section 8 (1): Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the

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competent authority is satisfied that larger public interest warrants the disclosure of such information;

- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders⁷;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

⁷ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

⇒ Third party Information

Section 11 (1): Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information⁸:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of

⁸ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

- ⇒ Section 12: Describes the Constitution of Central Information Commission⁹.
- ⇒ Section 18: Powers and functions of Information Commissions.—(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,-
 - (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
 - (b) who has been refused access to any information requested under this Act;
 - (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act¹⁰;

⁹ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

¹⁰ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds¹¹.

⇒ Section 19: Describes regarding the provisions of appeal.

¹¹ [https://rti.gov.in/RTI%20Act,%202005%20\(Amended\)-English%20Version.pdf](https://rti.gov.in/RTI%20Act,%202005%20(Amended)-English%20Version.pdf)

- ⇒ Section 20: Describes penalties in case of failure to provide information on time, or incorrect, or incomplete, or misleading, or distorted information¹².

DISCUSSION ON THE SIGNIFICANCE OF THE RTI ACT¹³:-

- ❑ The RTI Act, 2005 empowers the citizens of our country to question the Government regarding the abuse of power practised and done in governance.
- ❑ Here we can say that through the information commissions at the central level and state levels that access to such information is provided.
- ❑ RTI information is relevant for the interests of citizens and is very much important for the functioning of a transparent and vibrant and proper democracy.
- ❑ The information obtained helps in making government accountable for its works and it fulfills the overall interests of the society and it plays a pivotal role for proper development of the society.
- ❑ Every year, around six million applications are filed under the RTI Act which is making it the most broadly and considerably used lucrative legislation globally.
- ❑ These applications seek proper information regarding Government activities and make the Government accountable for its activities.
- ❑ Using the RTI Act, people have sought information regarding the corruption, malpractices, human rights violations, and wrongdoings by the state.
- ❑ Using this Act, people want to get the information regarding the policies, rules, regulations, decisions and actions of the Government which are affecting the lives of the citizens of our country¹⁴.

¹² <https://byjus.com/free-ias-prep/right-to-information-rti/>

¹³ <https://byjus.com/free-ias-prep/right-to-information-rti/>

¹⁴ N. N. DHUMANE V. PIO, DEPARTMENT OF POSTS, 2018 (INDIA); BIMAL KISHORE V. STATE BANK OF INDIA, 2018.

CONCLUSION AND SUGGESTIONS

Many people take a view regarding the Right to Information Act as it is a final liberation from British colonialism. According to them RTI law is a tool for empowering the ordinary citizens to question the government to stop corruption and mal practices. The Right to Information Act has not achieved its full objectives due to some obstacles created by so many systematic failures. Here it is also important to say that the incidents regarding the misuse of the RTI Act must be stopped. In the present scenario it is well recognized from so many instances that this RTI system is necessary, but not sufficient, to improve governance of our country. Though law relating to RTI is enacted to prevent corruption, but we find that it is not always enough to prevent the corruptions. So, I think more new rules regarding RTI Laws are necessary to achieve proper social justice, transparency and to make an accountable and responsible government in our country in the present scenario.

