

Review on Right to Information Act (2005) in India

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Abstract

The Right to Information Act, 2005 (RTI) is doubtless a milestone in the deliberate route taken by the country for setting up bedrock foundation for democratic institutions and impart depth to public responsive functioning of the Government and its various agencies. It is a significant tool to ensure transparency in most of the operations of the Government. Its proper implementation will ensure good governance and eliminate corruption and thereby move up the ranking of the country in the index of honesty in the governmental and institutional operations.

Right to Information means the freedom of people to have access to government information. It implies that the citizens and non-governmental organizations should enjoy a reasonable free access to all files and documents pertaining to the governmental operations, decisions, and performance. In other words, it means *openness and transparency* in the functioning of government. Thus, it is antithetical to secrecy in public administration. According to the Woodrow Wilson, "I for one have the conviction that government ought to be all outside and not inside. I, for my part, believe that there ought to be no place where everything can be done that everyone does not know about. Everyone knows corruption thrives in secret places and avoids public places." *The aim of this article* is explain about the importance of Right to Information Act in India and explain about the provisions about this Act.

Keywords: Right to information Act, Corruption, Information commissions

Introduction

According to the Woodrow Wilson, "I for one have the conviction that government ought to be all outside and not inside. I, for my part, believe that there ought to be no place where everything can be done that everyone does not know about. Everyone knows corruption thrives in secret places and avoids public places."

As a democratic device to empower the common man in relation to the Government, the Right to Information Act, 2005 has raised high expectations in India. The ambitious charter of this central legislation, as spelt out in the Preamble, is "to provide an effective framework for effectuating the Right to Information recognized under Article 19 of the Constitution of India". The Official Secrets Act, 1923 allowed the Government to deny to the public access to many documents on grounds of 'secrecy' [1]. The Colonial legacy of stringent control over information continued to dominate the official approach for almost 60 years even after India became independent. Advent of the Right to Information Act on 15th June, 2005 at one stroke superseded most provisions of the Official Secrets Act, 1923 and turned on its head the relationship between the common man and officials in authority. The Act empowers every citizen in the country to call to account the custodians of record as well as the machinery involved in the process of decision-making. Section 8 of the RTI Act categorically states that 'the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person'.

All public authorities of Government of India and all the State Governments (except the Government of Jammu and Kashmir, which is currently legislating for an Act on the same line as Right to Information Act) are subject to the mandate of RTI Act. The Act lays down that all official institutions of the Central and State Governments and even non-governmental organizations that are controlled or substantially financed by the Government are to be considered 'public authorities'. Every such public authority is required to appoint a Public Information Officer charged with the responsibility of serving every request for information in a time bound frame. RTI Act avows three clear goals: transparency in the functioning of official

institutions; the accountability of officials for their actions; and the empowerment of the public relation to governance. For regulation and enforcement of the provisions of the Act, autonomous Information Commissions have been established at the Centre and in all the States.

Right to Information Act – Global Scenario

Thus, Finland enacted the Freedom of Information legislation in 1951. Both Denmark and Norway have made the similar legislations in the same year (1970). USA has granted Right to Information to its citizens by the Freedom of Information Act (1966). This Act was amended in 1974 for two purposes: (i) to limit the exemptions (the documents which the administration may keep in secret) and (ii) to provide for penalties for withholding the formation or acting in an arbitrary manner. France, Netherlands and Austria have made the similar legislation in the 1970s. Canada, Australia and New Zealand have done it in 1982. Thailand and Ireland have made the law in the same year (1977). Bulgaria enacted it in 2000. In South Africa, the Right to Information is guaranteed by the constitution itself. This right o the citizens has been further reinforced by enacting a legislation in 2000. In Britain, the Fulton Committee (1966-68) found too much of secrecy in public administration. Hence, it recommended an enquiry into the Official Secrets Act, 1911. In 1972, the Franks Committee also made the similar recommendations. Hence, in 1988, the Act was amended to narrow the scope of official information falling within its ambit. Finally, the UK Freedom of Information Act came into force on January 1, 2005 [2].

Right to Information Act – Indian Scenario

In Rajasthan, the Right to Information movement was initiated by Aruna Roy in the early 1990s. The Mazdoor Kisan Shakti Sangathan (MKSS) succeeded through struggle and agitation, in accessing and using information to put an end to local corruption and exploitation.

In 2005, the Parliament has enacted a new legislation - Right to Information Act (2005). This new Act replaces the old Freedom of Information Act, 2002, which was un-notified and hence, not operational. The new legislation confers on all citizens the right of access to the information and, correspondingly, makes the dissemination of such information an obligation on all public authorities. It aims at promoting transparency and accountability in the working of every public authority. It has the widest possible reach covering Central Government, State Governments, Panchayati Raj Institutions, Local Bodies and recipients of government grants [3].

Right to Information is necessary due to the following reasons:

- ✓ Right to information makes administration more accountable to people.
- ✓ It reduces the gap between administration and people.
- ✓ Right Information makes people aware of administrative decision-making.
- ✓ It facilitates better delivery of goods and services to people by civil servants.
- ✓ It facilitates intelligent and constructive criticism of administration.
- ✓ Right to information increases people's participation in administration.
- ✓ It promotes public interest by discouraging arbitrariness in administrative decision-making.
- ✓ Right to information reduces the scope for corruption in public administration.
- ✓ It upholds the democratic ideology by promoting openness and transparency in administration.
- ✓ It makes administration more responsive to the requirements of people.
- ✓ It reduces the chance of abuse of authority by the public servants.

State Information Acts

Even before the Central legislation was passed, some of the states have introduced their own Right to Information legislation. The first amongst these was Tamil Nadu. The states and the respective years of the enactment of legislations are mentioned below.

1. Tamil Nadu 1997
2. Goa 1997
3. Rajasthan 2000
4. Karnataka 2000
5. Delhi 2001
6. Maharashtra 2002
7. Assam 2002
8. Madhya Pradesh 2003
9. Jammu and Kashmir 2004

Various provisions of right to information Act are mentioned below

- It provides for the appointment of an information officer in each department to provide information to the public on request.
- It fixes a 30-day deadline for providing information; deadline is 48 hours if information concerns life or liberty of a person.
- Information will be free for people below poverty line. For others, fee will be reasonable.
- The Act imposes obligation on public agencies to disclose the information suo-motu to reduce requests for information.
- Government bodies have to publish details of staff payments and budgets.
- It provides for the establishment of a Central Information Commission and State Information Commissions to implement the provisions of the Act. They will be independent high-level bodies to act as appellate authorities and vested with the powers of a civil court.
- The President will appoint a Chief Information Commissioner and governs of state will appoint state information commissioners. Their term will be five years.
- The Chief Information Commissioner (on par with the status currently accorded to the chief election commissioner) will be selected by a panel comprising the Prime Minister, leader of the Opposition in the Lok Sabha and a minister nominated by the Prime Minister.
- The Chief Information Commissioner and State Information Commissioner will publish an annual report on the implementation of the Act. These reports will be tabled before Parliament and state legislature.
- The Act overrides the Official Secrets Act, 1923. The information commissions can allow access to the information if public interest outweighs harm to protected persons.
- It carries strict penalties for failing to provide information or affecting its flow. The erring officials will be subject to departmental proceedings.
- The information commission shall fine an official Rs. 250 per day (subject to a maximum of Rs. 25,000) if information is delayed without reasonable cause beyond the stipulated 30 days.
- The procedure of appeal in case the information is denied is like this – first appeal to superior of public information officer, second appeal to information commission, and third appeal to a high court.

- Its purview does not extend to intelligence and security organizations like Intelligence Bureau, RAW, BSF, CISF, NSG and so on. However, information pertaining to allegations of corruption or violation of human rights by these organizations will not be excluded.
- All categories of exempted information to be disclosed after 20 years except cabinet deliberations and information that affects security, strategic, scientific or economic interests, relations with foreign states or leads to incitement of offence [4].

Use the right to information Act as follows

Step 1: Identifying the issue.

Step 2: Identifying the relevant department of the government. The law mandates a 'Public Information Officer' to transfer the application to relevant department in case the applicant refers the application to the wrong department, in no case can the application be returned to the applicant.

Step 3: On a plain sheet of paper, addressed to the 'Public Information Officer' of the relevant department write down your questions. This can be in a simple letter format with the subject: Application under Right to Information Act 2005 (there is no prescribed application form under the law for filling an RTI application).

Step 4: Payment of the fees – the application fees for the state of Andhra Pradesh and the Central Government is Rs.10. The following modes of payment are acceptable in Andhra Pradesh. i) Cash – the applicant goes to the relevant department in person and pays fees in cash. Please insist for receipt/acknowledgement. ii) Government Treasury – the applicant goes to the Treasury and pays under the RTI account head. The receipt should be attached to the application and sent by Registered Post Acknowledgement Due. iii) Demand Draft – the applicant sends a Demand Draft addressed to the 'Public Information Officer, Name of the Department. The DD should be attached to the application and sent by Registered Post Acknowledgement Due. iv) State Bank of India – all the State Banks are allowed to accept RTI fees. Payment can be made under the RTI account head and the receipt should be attached to the application and sent by Registered Post Acknowledgement Due. Note –Payments also can be made through Court Fee Stamp, Postal Orders or through RTI centers at the nearest Post Office.

Step 5: The Public Information Officer should respond within 30 days of the receipt of the application failing which the applicant should make the 1st appeal to the Appellate Authority of the same department. The appeal should be addressed to the Appellate Authority (the postal address is usually the same as the PIO).

Step 6: The Appellate Authority gets another 30 days to respond failing which the applicant can make the 2nd appeal to the State Information Commission (for the state government departments) or Central Information Commission (for central government departments) [4].

Conclusion

In conclusion we can say that Right to Information Act 2005 is a tool that checks corruption, and holds the various bodies, agencies and departments of the government accountable to the public. This prevents arbitrary state action, which is the hallmark of a responsible democracy. The RTI Act has laid out a mission statement of sorts by starting that it is essentially a practical roadmap, detailing how citizens of India can gain access to information which in turn will promote good governance. Indeed, the Act itself states that the paramount of the democratic ideal must be preserved by reconciling and harmonizing information that must be shared with the public, and secure information, that is integral to the security and economy of India.

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