

A Study on the Right to Information Act-2005

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Abstract: Information is an inalienable and natural right of every human being. In a democratic country each person has the right to freedom of opinion and expression. This right includes right of holding public opinion and to seek, receive and impart information and ideas from the public authorities. The available and appropriate information helps citizen to live a dignified life in a civilized society. Moreover there is a close link between right to information and good governance. Good governance is characterized by transparency, accountability and responsiveness. Consequently, the citizen's right to information is increasingly being recognized as an important mechanism to promote openness, transparency and accountability in government administration. People are the sole part in a representative form of government. So it is necessary that they must have to know all the functioning of government activities to frame a practical regime of good governance in administrative process.

In India Right to Information is the need of hour. Human security, shelter, food, environment and employment opportunity are all bound up with right to information. In the absence of information on this issue, people cannot live a dignified life and will remain ever marginalized group in the society. It is a powerful instrument to protect the fundamental rights of people. Corruption and criminalization is the nerve of Indian bureaucracy today. The secrecy they have maintained is a source of corruption and harassment. Though India is the world largest democracy, it now fails to attain confidence from common people. As a taxpayer, each person should have the right to know the functioning of government machinery. In addition to this, in a democratic country, citizen can be regarded asset only when citizen develop the skill to gain access to information of all kinds and to put such information to effective use. Without intellectual freedom the success of democratic governance cannot be imagined. Information is now the sole of every government. The need for transparency and efficiency in the governance become more important to achieve the goal of good governance.

Key words: Information, Governance, Bureaucracy, Accountability.

INTRODUCTION

The Indian parliament had enacted the —Freedom of Information act, 2002 in order to promote transparency and accountability in the administration. The report envisaged by the National common Minimum Programme, the —Freedom of Information Act, 2002 has repelled and —Right to Information Bill, 2004 (RTI) was passed by both the houses of parliament on May 2005. The —Right to Information Act¹ was notified in the Gazette of India on 21st June, 2005. This new law empowers Indian citizens to seek any accessible information from a public authority and makes the government and its functionaries more accountable and responsible.

Right to Information Act and Articles of Indian constitution

The Right to information is a basic human right derived from Art 19(1) (a) of the constitution of India. It states, —All the citizens have the right to the freedom of speech and expression and Art 21 deals with right to life of citizens. Constitution of India 1950 stated that the court has recognized the right to access of information from government department is fundamental to democracy. However, the right to information does not mean the free flow of information without any restrictions. Like all other fundamental rights, the right to information has also certain reasonable restrictions.

Preamble of Right to Information act An Act to provide for setting out 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 Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other Public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the Paramount of the democratic ideal;

NOW, THEREFORE, it is expedient to provide for furnishing certain information to citizens, Who desire to have it.

Objective of the Right to Information Act

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, Contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government

Who is covered by the RTI Act ?

The Act extends to the whole of India except the state of Jammu and Kashmir.

What does information mean?

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

What is a Public Authority?

A "public authority" is any authority or body or Institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organizations substantially financed by the Central Government or a State Government also falls within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.

Public Information Officer- Public authorities have designated some of its officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act

Assistant Public Information Officer -These are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information.

➤ The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India.

What is the application procedure for requesting information?

- Apply in writing or through electronic means in English or Hindi or in the official language of the area,
- to the PIO, specifying the particulars of the information sought for; Reason for seeking information are not required to be given;
- Pay fees as may be prescribed (if not belonging to the below poverty line category).

What is the time limit to get information?

- 30 days from the date of application.
- 48 hours for information concerning the life and liberty of a person.

- 5 days shall be added to the above response time, in case the application for the information is given to
- Assistant Public Information Officer. If the interests of a third party are involved then time limit will be 40 days.
- Failure to provide information within the specific period is a deemed refusal.

What is the fee?

As already pointed out, a citizen has a right to inspect the records of a public authority. For inspection of records, the public authority shall charge no fee for the first hour. But a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof) shall be charged. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of RS.10/- or proof at the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act.

Format of Application - There is no prescribed format of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant even in cases where the information is sought electronically; the application should contain name and postal address of the applicant. The information seeker is not required to give reasons for seeking information.

Information: which can be denied -There are some matters where information can be denied, which are given in section 8, and section 9 of RTI. Sections read as under:

Exemption from disclosure of information- Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,

1. Information, disclosure of which would prejudicially affect the sovereignty and integrity of
2. India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

3. 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;
4. Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
5. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent
6. Authority is satisfied that larger public interest warrants the disclosure of such information;
7. 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;
8. Information received in confidence from foreign Government;
9. Information which would impede the process of investigation or apprehension or prosecution of offenders;
10. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
11. 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;

RIGHT TO INFORMATION AND GOOD GOVERNANCE

The right to information act is a path making legislation which brings to light the secrecy of administration. It is an effective means to promote democratic ideology. The act is powerful instrument to fight against corruption. By realizing this significance the Second Administrative Reform Commission had prepared a detailed blueprint for revamping the public administrative system. The second Administrative Reform Commission, government of India has published its first report in —Right to Information: Master key to good governance.¶ through this report the commission directly mentioned that access to information can empower the poor and weaker sections of society to demand and government information about public policies and actions, thereby led to welfare of all.

Good governance and right to information are complimentary to each other. A nation whatever form of government it pursues must fulfil the aspirations of common man. Good governance is the only avenue, which can provide guaranty the life of individuals. Good governance is characterized by- political accountability, availability of freedom, bureaucratic accountability, availability of information, effectiveness, efficiency, law abiding citizen and cooperation between government and society. As such the Right to information is a natural corollary of good governance. The enactment of RTI act 2005 introduces an open and transparent government and gives every citizen right to seek and receive information to make administration more responsible and transparent which means good governance. So, World Bank once rightly remarked, —Right to information is an integral part of good governance.]

- (1) Participation-Participation of both men and women is the cornerstone of good governance. Representative democracy does not mean the rule of chosen few; it must take into interest of all sections specially the most vulnerable sections in the society. The Right to information acts gives people a chance to participate not just one in five years, but every day and question any decisions. The right to Information act gives an opportunity to the common men to participate in governance and reduce the imbalance in power relationship, provides a tool to oppose injustice and allows collective spirit to make democracy work for everyone. Right to information act also strengthen grassroots democracy and ensures peoples participation in local governance and development activities.
- (2) Accessibility-Right to Information makes it possible to easy access of information from government departments, documents, records, services, finances and policies to all sectors of community. The Right to Information act by providing easy access of information reduces the traditional long gap between citizens and administration and thus helps in nation building process. The right to know and easy access of government information helps the people to understand the limitations of government at different levels. The availability of information also helps to foster in development process and it is a symptom of true and mature democracy.

- (3) Transparency-Transparency is the milestone of good governance. Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. Transparency and accountability is possible only when the public have access to information. The enactment of Right to Information act 2005, people are now able to seek information from any government department with a definite time frame. The Right to Information act is intended to promote accountability and transparency in government by making the process of government decision making more open. Though some departments of the Union government are exempted from this act but the information can be sought if it is concerned with violation of human rights. Even the information from the private authority can be sought only through the controlling authority and controlling authority will send the notice to the institution concerned under section 11 of the act. In addition to this, the citizens are taxpayers, so they have every right to ask the government.
- (4) Accountability-Accountability is another requirement of good governance. Not only the government, the private sector institutions should also accountable to the people. Information is power and Right to Information act brings accountability and transparency in the administration. The Right to Information act provides people with mechanism to access information, which they can use to hold the government accountable or to seek explanation as to why decisions have been taken, by whom and with what consequences or outcomes. However, accountability cannot be achieved without transparency and rule of law.
- (5) Empowerment-Before enactment of Right to Information Act, participation in political and economic processes and the ability to make informed choices has been restricted to India. As a consequence, commoners remain ignorant of various schemes and are unable to resist when their rights become causality. At the same time, people remain ignorant in terms of the ways and means through they can obtain their entitled rights

from the concerned departments legally. Now with enactment of Right to Information act people can participate in decision making process and it enables the citizens to know about the government decisions. The Right to Information act empowering people by removing unnecessary secrecy surrounding in decision making process of the government.

- (6) Equity and inclusiveness-Equity is another prominent feature of good governance. It implies everybody is a part of the governance and they do not feel excluded from the mainstream of society. The Right to Information act also does not make any discrimination between rich and poor and it covers all the citizens in India. It always comes forward to fight against inequality, injustice and inhuman activity.
- (7) Effectiveness and Efficiency-The Seventh feature of good governance is efficiency and effectiveness. The concept of efficiency in good governance covers doing work at first speed and effectiveness means doing things effectively with result oriented. In this connection Right to Information act will bring more effective and efficient record management techniques that are needed to facilitate the provision of information in response to public interest. Under RTI provision 4 (1) it is clearly mentions, —It is the obligatory of public authority to maintain all its records duly catalogued and indexed. Under section 4(b) —every public authority is requested to publish within 120 days from the enactment of the act as many as 17 manuals.

CONCLUSION

Thus it can be rightly mentioned that Right to Information act is an agent of good governance. It makes administration more accountable to the people. It makes people aware of administration and gives them an opportunity to take part in decision making process. It promoted democratic ideology by promoting openness and transparency in the administration. It reduces the chances of corruption and abuse of authority by public servants. Since the act is prepared for people's interest, hence it success also depends on how they exercise the act. Moreover, there is need active participation from people, NGO's, civil society groups, coordination among RTI officials,

integrity among government departments and political will from government and elected leaders.

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