

RIGHT TO INFORMATION : ACCOUNTABILITY OF RESPONSIBLE GOVERNMENT

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Abstract : Right to Information is a basic human right. The renowned French philosopher Michel Foucault once opined, power is derived from knowledge and information is the basic component of knowledge. Information makes men wise and it is competent enough to cope up with the modern world. So, it is the duty of government to inform citizens about day to day happening whatever within the government. The transformation from governance to good governance is possible, if there is possibility of increasing participation of people in governance and free access of information. By realizing this fact, Indian parliament has passed Right to information act, 2005 to make government, accountable, responsible, efficient and transparent. This paper tries to highlight the basic guidelines of RTI Act, the relationship between Right to information act and good governance and the issues relating to RTI Act. I would like to provide some recommendations for successful functioning of RTI act. In concluding I had suggested these recommendations.

Introduction :

Information is the natural right of every citizen of democratic nation. 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 public and relevant 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. 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. 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.

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 Act 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.

Hypothesis :

- The Hypothesis as well as the topic for my research paper is **that “Right to Information - Accountability of Responsible Government.”**

Methodology :

The method or technique I have used to prepare my research paper on the above topic is purely based on secondary information. To complete my Research paper I have gone through many articles, Right to Information Act 2005, news publications, High Court and Supreme Court judgments.

Right To Information and the connection between Indian Constitution:

The Right to information is a basic human right derived from Article 19(1) (a) of the constitution of India. It states, all the citizens have the right to the freedom of speech and expression and 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.

In one Judgment Hon’ble Supreme Court verdict:

“The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor, which should make one wary, when secrecy is claimed for transactions, which can, at any rate have no repercussions on public security. To cover with a veil, the common routine business is not in the interest of the public”. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of parties and politics or personal self satisfaction of bureaucratic routine. The responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.

Objective of Right to Information Act 2005 :



The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government. 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. The Information as we all know nowadays plays a very vital role in human life. A piece of Information can change a life of the people. So if an individual seeks information from a public authority which he or she legally authorized to get under Right to Information Act 2005 then the public body has the duty to provide it until and unless it falls under Section 8 or 9 of the RTI Act.

Right to Information is bound by the Preamble

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 citizenship 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 harmonies 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.

A Brief about Right to Information Act 2005

Who is covered under RTI Act 2005?

According to Section 1 clause 2 of the Right to Information Act 2005 the act extends to whole of India including the State of Jammu and Kashmir with effect from 2019.

What is Information?

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?

If any person is interested to have public information should always remember that, such body should be a government body or 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 to designate some of officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act.

Exemption from Disclosure of Information

According to the Section 8 and 9 of the RTI Act, there is some information which the Public Authority is bound to keep secret. The particulars of such information are as below:

- 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.
- 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.
- Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.
- 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 authority is satisfied that larger public interest warrants the disclosure of such information.
- 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.
- Information received in confidence from foreign Government.
- Information which would impede the process of investigation or apprehension or prosecution of offenders.
- Cabinet papers including records of deliberations of the Council of Ministers,



Secretaries and other officers.

- 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 Obligations of Public Authorities

According to Section 3 of the RTI Act 2005 subject to the provision of this Act, all citizen of India have the right to Information.

According to Section 4 of the RTI Act 2005 every public authority shall 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 computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated.

Publish within one hundred and twenty days from the enactment of this Act

- i. The particulars of its organization, 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;
- 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 authorizations 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;
- xv. The names, designations and other particulars of the Public Information Officers;



xvi. Such other information as may be prescribed and thereafter update these publications every year. Publish all relevant facts while formulating important policies or announcing the decisions which affect public. Provide reasons for its administrative or quasi-judicial decisions to affected persons.

It shall be a constant endeavor of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo moto to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

For the purposes of sub-section (1) every information shall be disseminated widely and in such form and manner which is easily accessible to the public. All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible; to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer. As the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than a state.

Who are excluded?

According to Section 24 of the RTI Act 2005 it says that -----

The intelligence and security organizations established by the central government not under the purview of the act. This includes-Intelligence Bureau, Research and analysis wings of the cabinet secretariat, Directorate of revenue Intelligence, Central economic intelligence bureau, directorate of enforcement, Narcotics control bureau, Aviation research centre, Special frontier force, Indo-Tibetan border police, Central Industrial security force, National Security guards, Assam rifles, Shastra Seema Bal, CID special branch (Andaman and Nicobar), the crime branch CID (Dadra and Nagar Haveli), Defense research and development organization. However, information concerning to the allegation of corruption and violation of human rights shall not be excluded under this section. If the information in respect of violation of human rights is there, after obtaining the approval of the central information commission such information shall be provided. It can be seen that the second schedule has been amended multiple times. When the Act came into force, there were controversies on whether the armed forces, specifically the Army, Navy and the Air Force were exempted under section 24. Although some paramilitary organizations such as the Border Security Force, Indo-Tibetan Border Police, Central Reserve Police Force, etc. are exempted from the said section, the armed forces, to this day, stand non-exempted. There was another huge controversy when the Central Bureau of Investigation was added to the list of exempted organizations. In the case of **S. Vijayalaxmi v. Union of India**, before the Hon'ble High Court of Madras, the petitioner challenged the inclusion of CBI in the 2nd schedule. It was contended that in light of the ongoing scams, the government instead of becoming more transparent, was taking refuge under section 24 of the Act. It was further



contended that all the sensitive information pertaining to the functions of CBI was already exempted under section 8 (1) of the act and its inclusion to the 2nd schedule will give rise to more suspicion and plethora of petitions challenging such inclusion. The Hon'ble High Court opined that

“...there is a vital distinction between the exemption from disclosure of information contemplated under section 8(1) of the Act to that of the exemption of the organization themselves and the information furnished by them to the Government under section 24(1) of the Act. Therefore, these two provisions are exclusive of each other and one cannot substitute for the other.”

Findings of the Hypothesis :

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 any 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 fulfill 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.”**

Conclusion :

Thus it can be rightly mentioned that Right to Information act is an agent of good governance and transparent Government. 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 its success also depends on how they exercise the Act. Moreover, there is need for active participation from general 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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