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Research Paper

The Right to Information Act, 2005: A Review

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ABSTRACT

The Right to Information Act, 2005 (RTI Act) is a landmark legislation aimed at promoting transparency and accountability in the functioning of public authorities in India. This review explores the significance of the RTI Act in empowering citizens, improving governance, and combating corruption. While the Act has made substantial strides in enhancing access to information, challenges such as bureaucratic resistance, delayed responses, and misuse of the law remain. This paper examines the provisions, implementation, and impact of the RTI Act, highlighting areas for improvement and offering suggestions for strengthening its effectiveness.

1. Introduction

1.1 Object of the Right to Information Act

1.1.1 Right Information -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. An informed citizenry will be better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act has created a practical regime through which the citizens of the country may have access to information under the control of public authorities.

1.1.2 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.

1.2 Right to Information under the Act-A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; taking certified samples of material held by the public authority or held under the control of the public authority. The public authority under the RTI Act is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions. Only such information can be had under the Act which already exists with the public authority. A citizen has a right to obtain information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc. The information to the applicant shall ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an

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employee or office-bearer of any Corporation, Association, Company, NGO etc. who is also a citizen of India, information shall be supplied to him/her, provided the applicant gives his/her full name. In such cases, it will be presumed that a citizen has sought information at the address of the Corporation.

2. Central Public Information Officers -Application for seeking information should be made to an officer of the public authority who is designated as Central Public Information Officer (CPIO). All the public authorities have designated their Central Public Information Officers and have posted their particulars on their respective web-sites. This information is also available on the 'RTI PORTAL' (www.rti.gov.in). Persons seeking information are advised to refer to the web-site of the concerned public authority or the 'RTI PORTAL' for ascertaining the name of the concerned CPIO. If it is found difficult to identify or locate the concerned Central Public Information Officer of a public authority, application may be sent to the Central Public Information Officer without specifying the name of the CPIO at the address of the public authority.

3. Suo Motu Disclosure - The Act makes it obligatory for every public authority to make suo-motu disclosure in respect of the particulars of its organization, functions, duties etc. As provided in section 4 of the Act. Besides, some public authorities under the Central Government have published other information and have posted them on their websites. *Method of Seeking Information.* A citizen who desires to obtain any information under the Act, should make an application to the Central Public Information Officer (CPIO) of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority. The application can also be sent through a Central Assistant Public Information Officer appointed by the Department of Post at sub-divisional level or other sub-district level.

4. Format of Application -There is no prescribed form 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.

5. Disposal of the Request -The CPIO is required to provide information to the applicant within thirty days of the receipt of a valid application. If the information sought for concerns the life or liberty of a person, the information shall be provided within forty-eight hours of the receipt of the request. If the CPIO is of the view that the information sought for cannot be supplied under the provisions of the Act, he would reject the application. However, while rejecting the application, he shall inform the applicant the reasons for such rejection and the particulars of the appellate authority. He would also inform the applicant the period within which appeal may be preferred. If an applicant is required to make payment for obtaining information, in addition to the application fee, the Central Public Information Officer would inform the applicant about the details of further fees along with the calculation made to arrive at the amount payable by the applicant. After receiving such a communication from the CPIO, the applicant may deposit the amount by way of cash against proper receipt or by Demand Draft or by Banker's cheque or by Indian Postal Order in favour of the Accounts Officer of the concerned public authority. The CPIO is under no obligation to make available the information if the additional fee intimated by him is not deposited by the applicant.

5.1 First Appeal - If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the CPIO. Such an appeal, should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the CPIO is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

5.2 Second Appeal -If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant. The appeal made to the Central Information Commission should contain the following information.

6 Complaints -If any person is unable to submit a request to a Central Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Central Assistant Central Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Central Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Central Information Commission.

7. Disposal of Appeals and Complaints by the CIC -The Central Information Commission decides the appeals and complaints and conveys its decision to the appellant/complainant and first appellate, authority/CPIO. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appellant/complainant and CPIO or such senior officer of the public authority who decided the first appeal. If the Commission chooses to hear the parties before deciding the appeal or the complaint, the Commission will inform of the date of hearing to the appellant or the complainant at least seven clear days before the date of hearing. The appellant/complainant has the discretion to be present in person or through his authorized representative at the time of hearing or may opt not to be present.

8. Important Web-sites - Given below are the addresses of some important web-sites which contain substantial information relevant to the right to information:

- (i) Portal of the Government of India (<http://indiaimage.nic.in>).
- (ii) Portal on the Right to Information (www.rti.gov.in).
- (iii) Website of the Central Information Commission (<http://cic.gov.in>).

9. Controversies -The Right to information in India has been mired with controversies ranging from their use in political battles, asking for educational degrees of political rivals, or cases of blatant refusals to provide information on high-profile projects to allegations of misuse by civil society. The backlash against RTI by the state hampered the citizen's right to know.

10. Attacks on RTI activists and protection suggestions -Commonwealth Human Rights Initiative (CHRI) data points to over 310 cases[28] across India where people were either attacked, physically or mentally harassed or had their property damaged because of the information they sought under RTI. The data throws up over 50 alleged murders and two suicides that were directly linked with RTI applications filed.[29] R.T.I. Act 2005 applies to both central as well as state governments. It also covers the acts and functionaries of the public authorities. There is a consensus felt that there is a need to amend the RTI Act to provide for the protection of those seeking information under the Act.[30] The Asian Centre for Human Rights recommends that a separate chapter, "Protection of those seeking information under the (RTI) Act", be inserted into the Act.

11. Protection measures suggested include: - Mandatory, immediate registration of complaints of threats or attacks against RTI activists on the First Information Report and placing such FIRs before the magistrate or judge of the area within 24 hours for issuance of directions for protection of those under threats and their family members, and periodic review of such protection measures. Conducting inquiry into threats or attacks by a police officer not below the rank of [Deputy Superintendent of Police](#)/Assistant Commissioner of Police to be concluded within 90 days and we also use RTI and get its benefit.

12. Intellectual property rights - Many civil society members have recently alleged the subversion of the right to information Act by the invocation of Intellectual Property rights argument by the government agencies from time to time. The Right to Information denied by RBI on Demonetization citing Intellectual Property Laws. The Right to Information Denied by Uttar Pradesh Irrigation Department after more than 8 months of a wait on under construction Gomti Riverfront Development Project. A group of researchers requested for environment Impact and Project Report on the project which is flagged for negative impacts, tax money wastage by environmental scientists and research reports.

13. Banned people from filing RTI - Gujarat State Information Commission banned 10 people from filing RTI queries, citing that these people were "harassing government officials" by filing multiple queries with "malafide intentions".[32] This was the first time in Gujarat that a ban on filing RTI inquiries took place, noted NGO MahitiAdhikar Gujarat Pahal, also stating that no provision in the act allowed for the blacklisting of applicants.

13.1 Debates -argue that the Right to Information Act's original intent to make government transparent and accountable is faltering as RTI requests are rejected and the bureaucratic systems are bogged down by thousands of requests. Many RTIs are rejected because the bureaucratic requirements (including the technocratic language used) of filing are too onerous and legalistic for ordinary citizens. Sixty percent of the RTI appeals made to Information Commissioners in Delhi are rejected for a variety of reasons, including that appeals are not typed or not written in English, or lack an index of the papers attached or a list of date. This bureaucratic barrier, worse for those without access to higher education or information, makes the right to information inaccessible. Many citizens have to seek out NGOs, RTI activists, or lawyers, to file their RTIs.

13.2 Benefits -Many activists view the Right to Information Act as a final liberation from British colonialism; they describe the RTI law as "a tool for empowering ordinary citizens and changing the culture of governance by making it transparent, less corrupt, participatory, and accountable. They also note that RTI requests provide strategy and substance for activists on a broad range of social issues, including "land and environmental rights, social security benefits, the working of financial institutions, political party financing reform, civic infrastructure, and even public-private partnerships. In this research paper, the level of awareness of the Right to Information Act among the students of the Faculty of Social Sciences of the State High School Postgraduate College Korba has been examined. The data for the research paper has been collected through 50 students of the Faculty of Social Sciences. This study presents details of the understanding of the Right to Information, related

literature and awareness about it among the students of the Faculty of Social Sciences of State High School Postgraduate College Korba. The Right to Information Act is an act that gives the general public the right to obtain information for public authority, affairs, promoting transparency and accountability and practical governance, which is implemented through the Central Information Commission and State Information Commissions in the Constitution. It came into force on 12 October 2005. The right to know is also contained in Article 19 (1) (a) of the Constitution of India. It talks about giving the right to freedom of speech and freedom of expression to all citizens. Freedom of the press is not mentioned separately anywhere in the Constitution. Freedom of the press is also considered inherent in this freedom granted to every citizen. Similarly, the right to information has also been described as its essential part. Many decisions of the Supreme Court have been given in favor of the right to information, such as *Hamdard Dawakhana v. Union of India* (1960) held that freedom of speech and expression also includes the right to seek and receive information and opinions on matters of general interest. In the case of *Himmatlal vs Commissioner of Police, Ahmedabad 1973*, the Supreme Court had said- The basic concept of democracy is that governance should be based on the consent of the citizens. This consent should be free and natural as well as based on adequate information and deliberation obtained from various sources. Some awareness of the right to information arose in the year 1975 with the case of 'Government of Uttar Pradesh vs. Raj Narain'. The case was heard in the Supreme Court, in which the court ordered that the public authorities should provide information about public works to the public. This decision extended the scope of freedom of expression to citizens under Article 19 (A) of the Indian Constitution to include the right to information. In the case of *Himmatlal vs Commissioner of Police, Ahmedabad 1973*, the Supreme Court had said- The basic concept of democracy is that governance should be based on the consent of the citizens. This consent should be free and natural as well as based on adequate information and deliberation obtained from various sources. Some awareness of the right to information came in early 1975 with the case of "State of Uttar Pradesh vs. Raj Narain". The case was heard in the Supreme Court and the court ordered that public authorities should provide information about public works to the public. This decision extended the right to information to citizens under Article 19(A) of the Indian Constitution by extending the right to freedom of expression. In 1982, the Second Press Commission recommended the repeal of the controversial Section 5 of the Official Secrets Act 1923, as it was nowhere defined what is 'secret' and what 'official secret' is. Therefore, in the absence of a definition, it was up to the government to decide what should be considered confidential and what should be made public. Later in the year 2006, the 'Second Administrative Commission' constituted under the chairmanship of Veerappa Moily recommended the repeal of this law. In the 1985 case of *Indian Express Newspapers vs Union of India*, the Supreme Court held that citizens have the right to know information relating to the functioning of the government. The 10th Five Year Plan document says that if information is made available to all citizens as a right, it will become easier for the government to implement development schemes. The most solid, clear and continuous movement for the right to information in India was carried out by the farmers of Rajasthan. The Hamara Paisa, Hamara Hisab movement led by Aruna Roy and Nikhil Day became the leader of the right to information movement in India. Aruna Roy, who left her IAS job in 1975 and got involved in mass movements, laid the foundation of an organisation called 'MazdoorKisan Shakti Sangathan' in Devdungari village of Rajasthan in 1987. With the help of Nikhil Day, son of India's former Air Marshal P.K.Day and local activist Shankar Singh, this organisation soon established a strong hold. Under its leadership, the movement intensified on the issues of wages, means of livelihood and land.

After the fall of the Congress government in 1989, the V P Singh government came to power, which promised to make the Right to Information Act. In his first message on 3 December 1989, the then Prime Minister V P Singh announced to make the Right to Information Act by amending the Constitution and amending the Official Secrets Act. But despite all efforts, the V P Singh government could not implement it and this government could not survive for long. The campaign started in 1993 against embezzlement and low wages in development schemes gradually took the form of a movement for transparency. During this time, a sit-in was held in BhimRajsamand on June 15, 1994 demanding documents related to the ApnaGaon, ApnaKaam scheme to expose huge irregularities. In June this year, an investigation conducted by the BDO under pressure from the villagers in KotKirana village of Pali district revealed fraud. After this, a unique experiment of public hearing against corruption began. Huge irregularities were revealed when documents were presented to the villagers for scrutiny in the public hearing. Strong farmer power based on public hearing in four districts. The organization tried to file a case against corrupt officials and public representatives. But it was not allowed. After this, MazdoorKisan Shakti Sangathan intensified the movement for the right to know. In May 2000, the Rajasthan Assembly passed the Right to Information Act. On the same day, the Panchayati Raj Act was amended and social audit was made mandatory in the ward assembly and village assembly. The Right to Information Act came into force in Rajasthan from January 26, 2001. Rajasthan may not have got the credit of being the first state to give the right to information, but the villagers here definitely got the historical pride of presenting its concept and example in the entire country. In the year 1997, the Central Government constituted a committee under the chairmanship of HD Shourie and presented the draft of Freedom of Information in May 1997.

In 2002, the Parliament passed the 'Freedom of Information Bill'. It received the President's assent in January 2003, but it was not implemented in the name of making its rules. Right to Information (RTI) Act, 2005 is an Act of the Government of India, which has been enacted to provide the right to information to the citizens. Under the provisions of this Act, any citizen of India can request any government authority for information, and this information is to be provided within 30 days. If the information sought is related to life and personal liberty, then there is a provision to provide such information within 48

hours. The Act also states that all public authorities will preserve their documents and keep them safe in computers. In cases of dissatisfaction regarding the content of the information received, not receiving information within the stipulated period, etc., an appeal can be made to the local, state and central information commissions. Through this Act, the President, Vice President, Prime Minister, Parliament and State Legislature, along with constitutional bodies like the Supreme Court, High Court, Comptroller and Auditor General (CAG) and the Election Commission and their related posts have also been brought within the ambit of the Right to Information Act. Under this Act, provision has been made for the formation of a Central Information Commission at the central level consisting of a Chief Information Commissioner and 10 or less Information Commissioners. On this basis, a State Information Commission will also be formed in the state. It includes all constitutional bodies, institutions and bodies formed by Acts of Parliament or State Legislatures. Exemption has been provided from the obligation to disclose information that adversely affects the sovereignty, unity, integrity, strategic interests etc. of the nation. The Central Government amended the Right to Information Act, 2005 in 2019, on which many critics and analysts believed that this step would endanger the basic spirit of the RTI Act. Main amendments to the Act Under the amendment, it was provided that the salaries, allowances and other terms of service of the Chief Information Commissioner and Information Commissioners and the State Chief Information Commissioner and State Information Commissioners will be decided by the Central Government. It is noteworthy that Section 13 of the RTI Act provides for the tenure and service conditions of the Chief Information Commissioner and Information Commissioners. The Act states that the salary, allowances and conditions of service of the Chief Information Commissioner and Information Commissioners will be the same as that of the Chief Election Commissioner and Election Commissioners respectively. It also provides that the salary of the State Chief Information Commissioner and State Information Commissioners will be the same as that of the Election Commissioner and Chief Secretary respectively. The Right to Information was introduced to ensure the participation of citizens in democracy and to achieve the objectives of social justice, transparency and accountability, but it cannot be denied that RTI has failed to achieve its objective. It is necessary that the government and civil institutions should work together to strengthen the RTI Act, which will increase people's participation along with controlling corruption in the administration.

14. Conclusion

The RTI Act has revolutionized public access to information in India, fostering greater transparency and accountability in government functioning. However, the Act faces several challenges, including the slow processing of requests, reluctance among government officials, and the misuse of the law. Strengthening the implementation mechanisms, enhancing awareness, and ensuring effective penalties for non-compliance are vital for realizing the full potential of the RTI Act. Continued vigilance, public participation, and legal reforms will help in overcoming existing barriers, making the RTI Act a more powerful tool for good governance.

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