

Right to Information: A Comprehensive Overview

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ABSTRACT

The right to information is a fundamental right under Article 19 (1) of the Indian Constitution. The paper empowers citizens to expose corruption and hold power to account, from recognition misdeed in basic rights delivery to revealing. The paper aims to provide a practical rule for citizens to attain information from public authorities, as well as to promote transparency. It mandates appropriate reply to citizen requests for government information. It is an initiative taken by Department of Personnel. Right to information (RTI) make sure involvement of Indian citizens in political and economic processes leading to good governance.

Key words: Right, information, transparency, corruption, administration, democracy and commission

INTRODUCTION

The Right to Information (RTI) Act implemented in June 2005 was supposed to empower citizens against bureaucracy and help them cut through the red tape. Today it baffles more people than it helps. Even government officials are confused about it. It is an important constitutional measure for understanding of the citizen's right to access information which promotes transparency. RTI Act provides for the constitution of Information Commissions at state and national level for discharging the functions and exercising the powers under the Act. It seeks to empower the citizens, promote transparency in the working of the Government. It also mandates federal and state governments to act in response to citizens' requests for information in a timely way.

Supreme Court's observation about democracy is nothing less than a landmark. "In a democratic country like ours, where all the agents of the public must be responsible for their conduct, there can be few secrets. The people of this country have right to know every public act. The denial of the right to know which is derived from the concept of freedom of speech and expression, though not absolute yet is a factor which should make one worry". India today is caught in the web of politics, business and bureaucracy and it is a lethal triangle. When these three important organs of society form an unholy alliance, the hounds of corruption are let loose and this corruption eats into the very vitals of society and renders it all sapless. Unfortunately corruption is taken for granted and has become a way of life. Masses are made helpless because it has become the sole mode of running the administration. Every wing of the administration is rotten with corrupt practices. "The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request information formally" (Noronha, Fredrick 2010)

Public dealing counters are adorned with the devilish statue of corruption. Nothing transacts without greasing the palm of the petty officers. No file moves if wheels of cash are not attached to it. Babu sitting across the counter invariably tells you - your case is gone. Nothing can be done. If you have the guts to ask him - what is the reason? - He would frown upon you and may order you to leave him alone. Your file may be lying on the table but he will tell you that it is not traceable. What can you do? Nothing. When you come out of the chamber of corruption you are confronted by a man and sympathizing with you he asks you-what is the matter? Your work is not done. If you are ready to arrange for some consideration he will get your work done. You are left with no choice and you shell out or you are forced to shell out some bucks, as per the seriousness of the case, and lo' your work is done and the invisible file which was not traceable appears on the table in a jiffy. If you have a strong heart to complain to the in charge of the concerned section, rest assure your work will never be done. So much so the officers deputed to look into the matters of corruption turn out to be corrupt. Worship of the Mammon has increased corruption by leaps and bounds. You have to give illegal gratification because you know nothing about your case. Nexus between politician, businessmen and bureaucrats works in a very sophisticated manner.

None is responsible to any so far as disposal of work is concerned. It is an open secret that substandard material is used by the public works department. The road carpeted a few days ago gets eroded with the very first drizzle. In this case or in such cases what can a citizen do? Nothing. Those who pay taxes to run the administration have no right to know if the tax

money has been rightfully utilized or not. So the right to know or need of transparency in public administration and in public dealings becomes too indispensable to keep it away.

Transparency means when everything is clearly visible. It means knowing the reasons and basis of the decision taken by the administrative machinery. In other words we can say that a citizen has every right to have access to the information concerning government's actions. This right is legal and denial of any information by the authorities without suitable, tangible and appropriate reasons would be an offence under the law. Long back Official Secrets Act 1923 and Section 123 of Indian Evidence Act were enforced by the British to protect the interests of the British executives and keep them out of the scrutiny of the court. These acts still hold good. In the guise of these outdated acts the executive can withhold the records and information from production in the Court of law on security point of view or in the interests of the public. Such laws protect officials from the public exposure and this encourages corruption. These acts are made rule of the day to befool people.

Democracy without accountability is no democracy. Justice Krishna Iyer has observed-"the essential measure to ensure a responsible political system is to grant the right to information without which an intelligent participation is not possible in democracy". Right of franchise is not as important as the right to know the working ethics of the administration. To save their skin the public servants take the prop of secrecy. Enough is enough. Enlightenment has dawned on the citizens. Spread of education, pro-citizen part played by the media has sharpened the intellect of the tax payers. That is why demand of transparency in public dealings has gained momentum. Voice from every nook and corner of the country is being raised to limit secrecy to the cases concerning National Security.

Under the purview of Official Secrets Act any kind of document can be called secret. There is no mention of things which can be termed as secret and as such secrecy is a comprehensive term. It covers everything and anything that the government does. In 1976 to curb the freedom of the press a new section 15 was inserted in the Official Secrets Act. This new section says that any publication of an official secret by the press would be punishable and the correspondent, editor, publisher and the printer would be held guilty for the leaked or published information. Not only this would even the directors of the newspaper be brought to book if they fail to satisfy the authorities and prove their innocence in the matter. Moreover, they would have to submit that they exercised all due diligence to prevent the commission of the offence. The Janata government showing sagacity repealed this draconian provision in April 1977. Discussions and debates went on to re-examine the Official Secrecy Act and make it more pliable and friendly and democratic.

The press forms the greatest prop of democracy and it gathers information through various sources and it keeps an eye on the activities of the government machinery and let people know the working of the administration. It makes people politically and socially enlightened. It exposes the shortcomings of the government and also blunders committed by it. Thus it plays an important role of checking misuse of power by the executives. If the press is forced to disclose the source of its information it will be mockery of freedom of press. Judges feel this freedom is not absolute. If the press exposes the secrets which may jeopardize the very security of the country then it can be forced to disclose the source of its information. The press is accountable to the people for its actions. The Apex Court restricts the powers of the state also when it observed that the mere assertion of head of the institution that the disclosure would hurt public interest is not treated final.

Many political thinkers, social workers and public bodies campaigned for the right to information as this right was indispensable to check the arbitrariness of the executive. It was also needed to make a dent on the demon of corruption and make public servants behave and be truly servants of the public. It was to fix responsibility of the concerned bureaucrats for the wrongs done and for the deliberate delay in addressing the grievances of the public. Efforts came out with flying colours and the Right to Information Act came into force in September 2002. But mere enforcement of the Act has no meaning because there is hardly any public awareness about the Act and those who know about the existence of the Act have no knowledge of the procedure to be adopted to submit application to get information. "As of 2014, private institutions and NGOs receiving over 95% of their infrastructure funds from the government come under the Act" (Nayak, N. Dinesh 2014)

This Act orders that every department should appoint a Public Information Officer and an appellate authority to guide people and to receive application and take action on them. Most of the people are under this misunderstanding that applications should be made in the prescribed format and only a few know that applications on simple paper can be submitted no doubt with some requisite fee. "13 August 2013 the government introduced a Right to Information (Amendment) Bill which would remove political parties from the scope of the law. Currently no parties are under the RTI Act and a case has been filed for bringing all political parties under it" (Subrahmaniam, Vidya 2013)

Provision is that if the PIO fails to furnish the required information within 15 days, an appeal can be submitted to the Appellate Authority and the decision of this authority is also time bound and that the decision must be made within one month. If reasons for the delay are given in writing it can take another one month to give its decision. If the applicant is not satisfied by the order or he feels aggrieved he can appeal against it to Lokayukta and the Lokayukta has one month at his disposal to dispose of the appeal.

There is lack of awareness about the Act, admitted Central Chief Information Commissioner Wajahat Habibullah while interacting with social activists, retired bureaucrats and citizens in the first ever meeting organized by NGO Parivartan. On the issue of government departments denying information on the grounds of secrecy, Habibullah said, "It is a tricky issue. The line between confidential information and information related to human rights is very thin; Government authorities should not misuse the Act to deny information". Major grievances aired at the meeting were lax penalty for violations by government officials and disposal of cases without giving a hearing to concerned parties. Kejriwal, Central Information Commissioner said, "The Commission's role is not only to dispose of cases but to dispense justice. In the past one year, the Commission received 1531 cases and disposed of 780 of them. Interestingly, 370 cases were disposed of without calling concerned parties". Mr. T. S. Krishnamurthy (CEC) agreed and opined, "The Commission has to give proper reasons for not inviting concerned parties for hearing, and otherwise the order passed by it would not be sustained". The former Chief Election Commissioner called for judicial training of officers in the Commission. Mr. Kejriwal said, "There are teething problems. But we are trying to improve our system". "Many RTIs are rejected because the bureaucratic requirements (including the technocratic language used) of filing are too onerous and legalistic for ordinary citizens" (TJ, Shalin 2017) Mr. Habibullah making a distinction between what is 'confidential' under the Official Secrets Act and the RTI Act clarified that the RTI Act overrides the Officials Secrets Act and that information can only be kept secret under 8(1) of the RTI Act, which lays down the exemptions to disclosing information. So files merely marked 'confidential' can't be prevented from being disclosed. "The RTI Bill was passed by Parliament of India on 15 June 2005 and came into force with effect from 12 October 2005. Every day on average, over 4800 RTI applications are filed. In the first ten years of the commencement of the act, over 17,500,000 applications had been filed" (Sharma, Nidhi 2016)

At every stage of the right to information movement the biggest hurdles have been created by the bureaucracy. Now that the Act (RTI) is operative it has begun to hurt threatening individuals with imminent exposure of their questionable decisions. The proposed amendment to the RTI will mar transparency and aid corruption. The government's desire to water down the right to information seems to have originated from the file notings issue. It is these notings that disclose the role of individual bureaucrats in governmental decision-making. If access is limited to innocuous files, bureaucrats are shielded from accountability. Information can be denied on the grounds of national security. Access to information may be allowed if public interest in disclosure outweighs the harm done to protected interests. File notings are integral part of a file and so a citizen has every right of access to file notings also. But the government thinks otherwise. It wants to exclude file notings from the public scrutiny. "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" (Gandhi, Shailesh. (2016)

According to one amendment, after the commissions have inquired into complaints, the final decision on the same will lie with central or state governments. In other words, the commissions have only recommendatory status. This is one of the changes that the government wants to be made in the RTI Act. PM thinks that this move is aimed to promote even greater transparency and accountability. Thus access to the material on which a cabinet decision has already been taken in now permitted, but will be taken away. Accountability will be denied and corruption promoted. Parliament should applaud the CIC for its independence and should reject the proposed amendment to it.

CONCLUSION

Pondering over all pros and cons it is heartening to note that legislation guaranteeing the right to information is a bold step towards ensuring a participatory developmental process and this legislation would cement the roots of democracy. Efforts should be made to make people aware of the provisions of the RTI Act and the press has a vital role to play in this regard. It will not be wrong to say that legislation ensuring right to information has excelled all other democratic enactments in efficacy. The need of the hour is relentless campaign by the masses to nullify the efforts of the bureaucracy to dilute this legislation

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