



RIGHT TO INFORMATION ACT: AN OVERVIEW¹

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Abstract

Fair, Good & transparent governance, as a concept, is applicable to all sections of society such as the government, legislature, judiciary, the media, the private sector, the corporate sector, the co-operatives, societies registered under the Societies Registration Act, duly registered trusts, autonomous Institutes, organisations such as the trade unions and lastly the non government organisations (NGOs). Public accountability and transparency are part and parcel of fair governance and as relevant for the one as for the other. It is only when all these and various other sections of society conduct their affairs in a socially responsible manner that the objective of achieving larger good of the largest number of people in society can be achieved. Right to Information Act, 2005 represents a mile stone to encourage good governance in India and most revolutionary Act since Independence. It aims at promoting transparency and accountability in the working of every public authority. The present paper has an attempt to find out in what ways Right to Information Act is a powerful tool for good governance and also provides guidance to citizens in accessing the government information under this Act.

Key words: Good governance; Right to Information; Transparency; Accountability; Corruption , Constitutionalism

INTRODUCTION

In order to ensure greater and more effective access to information, the Govt resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The National Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The Govt decided to repeal the freedom of Information Act 2002. The present Act of 2005 provide an effective framework for effectuating the right of information recognised under Art 19 of the Constitution of India.

Governance is an all-inclusive term covering various aspects of the organization and structure of government, which have an impact on the efficiency of government and the delivery of public services, and incorporates accountability, transparency, financial devolution, political/administrative decentralization and administrative vigilance to check corruption. Good governance can be related to the basic goals of a society as enshrined in the form of Directive Principle of State Policy in the Constitution and other policy and plan documents. A faceless citizen is now blessed with a tool with the help of which he can now demand from the high and mighty in the government to know the details of every action they take, professedly on behalf of the people. - "if secrecy were to be observed in the functioning of government and the processes of government were to be kept hidden from public scrutiny and audit, it would tend to promote, propagate and encourage oppression,

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corruption and misuse or abuse and excess of authority for it would be all shrouded in the veil of secrecy without any public accountability. But if there is an open government with means of information available to public, there would be greater exposure of the functioning of the government and it would help to assure the people a better and more efficient administration". With the Right to Information Act coming into force, it seems that the foresight of an open government is going to be true. The Right to information Act, 2005, which came fully in to effect on 12 Oct. 2005 is one of the most significant legislation enacted by the parliament of India. This act confers an all citizens the right to access to the information and correspondingly, make 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 government, panchayati Raj institutions, local bodies and recipients of government grants.

In a democratic society for good governance transparency and right to information are important factors; Right to information means the freedom of people to have access to government information. It implies that the citizen and non-governmental organization 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.

Article 19 (i) of the constitution of India provides the right to freedom of speech and expression to its citizens. This was included in the fundamental right with the intention of building a coherent environment and bringing forward the thought of the people in a democratic set up. The right to freedom of speech and expression was incomplete without information. Unless the people have complete, factual, updated and primary information about the government machinery, it is not possible to think having and useful, discussion on the subject. When there was no right to information, citizens were faced to grapple in the dark while the bureaucrats kept all the information hidden. To make matters worse, bureaucrats had the weapon of the official secret Act which was more important than the right to freedom of speech and expression as result of which he rights to citizens remained limited. However, now the RTI Act, which if used sensibly and efficiently can take the country in the direction of new democracy and good governance. It should be remembered that Public bodies hold information not for themselves, but as custodians of the public good and everyone has a right to access this information, subject only to clearly well-defined rules established by law. In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. 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 Indian democracy is going through a new phase. It is difficult to hypothesize about a real democracy without good governance, transparency and responsibility. Right to information has made all these possible. It has brought the common citizen into a new democratic role where he can directly question the administration. Sustained human development requires that the people especially the poor have the right to know and are provided with access to relevant information, including that relating to the conservation of the environment so that they can take their own informed decisions and realize their rights to development.

Significance of the Act

This act has provided us the right to get information from the government. Through this we can now expose corruption and also bring to light those duties that are not being performed by the officials.



Through all this we can also seek solutions to our problems. We can ask information about projects and plans. We can inspect files and check for any misappropriations. The government spends a huge amount of money for development work. We can ask for information about the work being done in our area. We can find out the amount of money that is being spent and where. Information relating to tenders, agreements, payments and estimates of engineering work etc can be obtained with the help of the Right to information Act. The right to information is necessary due to the following reasons:-

1. It makes administration more accountable to people.
2. It makes people aware of administrative decision making.
3. It facilitates better delivery of good and service to the people by the civil servant.
4. It facilitates intelligent and construction criticism of administrative.
5. It promotes public interest by discouraging arbitrariness in administrative decision making.
6. It makes administration more responsive to the requirements of people.
7. It reduces the chance of abuse of authority by the public servant.
8. It had exposed many scams in public life.

Right to information has provided a base for new democracy. Until now all public information was out of the reach of the people as it came under the purview of the officials secrets Act 1923. Right to information has removed this cover. Hence it has provided a lead on the basis of which the foundations of a new democracy can be set. For good governance it is essential to have maximum transparency in the work of governance and the citizens should be able to get maximum information about how they are being governed. It is only when citizens have all the relevant information that they will be able to review the extent to which the governing bodies in the state and those managing their infrastructure are moving towards good governance. On this basis, citizens will also be able to determine the extent to which bureaucrats are conducting their responsibilities towards them. When there was no right to Information, citizens were forced to grapple in the dark while the bureaucrats kept all the information hidden. To make matters worse, bureaucrats had the weapon of the Officials Secret Act which was more important than the right to freedom of speech and expression as a result of which the rights of citizens remained limited. However, now the RTI Act, which if used sensibly and efficiently can take the country in the direction of new democracy and good governance. The role of right to information is quite effective in informing crores of grassroots people whose development is marred due to corruption. Even today the greatest challenge of India is bad governance. The use of RTI at the lowest level of the administrative arrangement, ie, at the village, block and district levels has shown tremendous possibilities in making democracy dynamic, energetic and useful for the public.

Right to Information Act and Good Governance

The primary power of RTI is the fact it empowers individual Citizens to seek information from any public authority. Hence without necessarily forming pressure groups or associations, it puts power directly into the hands of the foundation of democracy- the Citizen. The public authority cant ask reason for seeking information from applicant. The common men in our country usually have a great trust and confidence in the judiciary, more particularly at the higher echelon. People expect full measure of honesty and impartiality from the judicial functionaries. But certain recent instances have belied the hope of the masses. At the moment a high court judge is facing impeachment proceedings. Previously, a judge of the Supreme Court could not be impeached due to political reasons. The absence of the MPs of a major political party saved him from impeachment. However, the Chief



Justice of the Supreme Court did not take him in to confidence and the judge had almost no role to play in administration of justice till his retirement. Today, it is not the people's representatives who raise important questions but common people, RTI activists and social organizations are raising these questions. And what is even better is that not only have they received satisfactory answers but proper action has also been taken on the issues raised by them. After acquiring the RTI, people have become more powerful than their representatives. If an MP or MLA wants to raise a question on the floor of the House, it is not necessary that his request would be accepted and even if his question is accepted, it is not necessary that it will be discussed. Even if it is taken up for discussion there is no guarantee that he will get all the answers. Once an issue has been raised, no matter how unsatisfactorily, the member has to wait for the next session to take it up again as there are limits on the number of questions that an MP or MLA can raise. The Right to Information has provided freedom from all these constraints. Further, out representatives can ask questions only when the House is in session whereas citizens can ask any number of questions any time from any government office. The representatives have very few opportunities of responding to the partial information they receive, while the citizens have more than enough time to go through the information properly and raise appropriate question. Representatives can be denied information due to different reasons, whereas the common people cannot be denied information, as not providing information under the R TI Act in the stipulated period of 30 days, is punishable offence. The queries of citizens cannot be postponed. Both the central and state governments have a rule that stipulates that public servants should submit an annual declaration in which details of moveable and immovable properties are provided. In a landmark RTI case in Karnataka, the Information commission has ruled that these have to be given to applicants under Right To Information. This can become a very powerful tool to expose disproportionate assets and sudden spurts in the wealth of Public servants. Essentially the new law aims at maintaining transparency in the processes of policy formulation and its implementation, eliminating dereliction of legitimate duties by public authorities and making our public life free from corruptions which are the hallmarks of good governance. Nevertheless, the plethoras of corruption charges which have rocked the whole nation quietly suggest that the new law can never be the panacea for the chronic ills which ail the nation. Ever since the new law came into effect the first two objectives i.e., transparency in government work and accountability of public authorities may be said to have been achieved in a limited sense over the years but corruptions in public life continue unabated. The scenario is evident from the recent incidents. Hardly a single day passes without nabbing a corrupt person across the country but corruption continues to make its headway in almost all possible manners. In one case, charges of corruptions were leveled against the organizers of the Commonwealth Games held in New Delhi. The hiring charge of a single chair was more than the price of at least three to four new chairs. The Government of India had to spend about twenty-six thousand crores of rupees and the exact amount that was really utilized for this purpose is yet to be ascertained. The matter is under investigation and the person at the helm of affairs stands removed. Charges of corruption in the Adarsh Cooperative Society is another instance in which high ranking Army and Navy officers including top officials of the Government of Maharashtra and the then Chief Minister have been brought under the scanner. The dispute relates to a piece of land in the Kolab area in Mumbai which was at the disposal of the Army and was allotted to the cooperative society for construction of a housing colony meant for the widows of the soldiers slain in the Kargil war. After construction of high rising 31- floor flats on the land, the houses were allotted to all these high profile people and their close relations and the war widows were squarely denied of the benefit. These instances cited here are illustrative rather than exhaustive. The Right to information is of no avail for



common men to curb the spate of corruption in the country. Time has come to look beyond the Right and devise appropriate mechanisms to safeguard the interest of common men and ensure good governance throughout the nook and corner of India.

Access to Government Information

After the implementation of the Right to Information Act, it is mandatory to appoint a Public Information Officer and an Assistant PIO in every public department. The names of these officials are to be made public through newspapers; they also have to be displayed on the notice boards of the public departments. Even if you do not get the names of the Public Information Officers, you can file your application in the name of the Public Information Officer to the concerned department and seek the information required. For seeking information an application has to be submitted. There is no specific format or form for the application. You can submit a hand written application written on a plain sheet of paper. There are some departments, which have released forms, which are available free of cost. You can fill up the application form and seek the required information. If you want to deposit a handwritten or typed or printed application no officer can refuse to accept your application. All information sought has to be provided within a month. If the applicant does not receive any information within a month or is not satisfied with the information provided, he can first appeal to the department's First Appellate Authority and then to the State Information Commission. If the appeal is accepted then information will be provided. It is sufficient to provide only questions for seeking information. It is not necessary to mention in the application as to, why you want the information. Even the officials are not supposed to ask why you are seeking the information or putting up these questions. Similarly, you do not require any identity for seeking information. It makes no difference if you are a leader of a political party or an ordinary citizen. If you file your application as per the provisions then the officials are bound to provide the information sought by you. The complete address of the applicant is compulsory though.

If some official is reluctant to provide information then he may also be penalized for not providing information within the stipulated period. The concerned official may be fined at the rate of Rs.250/- per day to a maximum limit of Rs.25000/- per application per day. However the total amount of such penalty shall not exceed twenty five thousand rupees.

Information which can be Denied

1. 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
2. Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.
3. Information received in confidence from foreign governments.
4. 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.
5. Information, which relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.
6. Cabinet papers including records of deliberations of the Council of Ministers, secretaries and other officers.



7. Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the state, relations with a foreign state or lead to incitement of an offence.
8. Information which would impede the process of investigation or apprehension or prosecution of offenders.

Conclusion

From the above discussion it is clear that Right to information is not only relevant in the context of misappropriation of funds, but also at a very basic level, it is an issue of human rights itself. As a citizen we have a right to be informed of anything that could affect us in our everyday lives. Knowledge is power and freedom of information is vital to the advancement of society. Enlightened judgment is possible only when one is provided with opportunity to consider all facts and ideals, from whatever source, and to test one's conclusions against opposing views. Free flow of information promotes accountability and transparency, prevents corruption and strengthens the capacity of community groups and civil society organizations to participate in decision making. The right to freedom of information is crucial not only in determining policy but also in checking the Government in its implementation policy. The right to Information will encourage journalists and society at large to question the state of affairs. It can be powerful weapon to check the unmitigated corrupt practices and can also promote accountability. The scribes will no longer have to depend on conjecture, rumour, leaks and sources other than knowledgeable ones. The legislation on RTI can act like an antidote to vested interests which try to conceal or misinterpret information or which try to manipulate the media directly or indirectly to plant misinformation. Through the RTI Act transparency in public, professional, social and personal sphere can be achieved. I have no doubt that India will certainly flourish in terms of accountability when millions of people use the right of information.

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