

**A Study of Right to Information With Special
Reference to Working of State Information
Commission of Uttar Pradesh, Lucknow**

THESIS

**SUBMITTED TO
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY
LUCKNOW**

**BABASAHEB
BHIMRAO
AMBEDKAR
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Prof. Priti Saxena

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SUBMITTED BY

Sweta Rani

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**DEPARTMENT OF LAW
SCHOOL OF LEGAL STUDIES
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY
(A CENTRAL UNIVERSITY)
VIDYA VIHAR, RAEBARELI ROAD
LUCKNOW-226025**

2021



*DEDICATED
TO
MY PARENTS*

DECLARATION

I, **Sweta Rani**, hereby declare that this research work for the award of Ph.D. degree in Law entitled “**A Study of Right to Information With Special Reference to Working of State Information Commission of Uttar Pradesh, Lucknow**” has been done by me on the basis of original research material and information taken from other research works has been duly acknowledged.

I further declare that this is an original work and has not been previously submitted in part or full for any other degree or diploma in this or any other university. This is also to declared that the thesis is essentially free from all kinds of plagiarism.

Dated: 04/03/2021

Place: B.B.A.U. LKO.



(Sweta Rani)

Research Scholar

Department of Law

School of Legal Studies

Babasaheb Bhimrao Ambedkar University,

Lucknow



बाबासाहेब भीमराव अम्बेडकर विश्वविद्यालय

(केन्द्रीय विश्वविद्यालय)

विद्या विहार, रायबरेली रोड, लखनऊ-226025

BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY

(A Central University)

Vidya Vihar, Raebareli Road, Lucknow-226025

Letter No:.....

Date:.....

CERTIFICATE

This is to certify that the thesis titled “**A Study of Right to Information With Special Reference to Working of State Information Commission of Uttar Pradesh, Lucknow**” submitted by **Ms. Sweta Rani** is an original research work and has not been previously submitted in full or part for award of any other degree or diploma to this or any other university.

This thesis submitted to Babasaheb Bhimrao Ambedkar University, Lucknow satisfies all the requirements as stipulated in the *Doctor of Philosophy (Ph.D.) regulations, 1999 as amended in 2013* and it is fit for submission and evaluation for the award of degree of Doctor of Philosophy of the University.

Date: 04/03/2021

Place: BBAU LKO

Supervisor

Prof. Priti Saxena

School of Legal Studies

BBAU, Lucknow

Head

Dr. SANJEEVKUMAR CHADHA

Head of Department

Department of Law

School of Legal Studies

BBAU, Lucknow

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PREFACE

In the constitution of our democratic republic among the fundamental freedoms, freedom of speech and expression shines radiantly in part III of the constitution. From this right is derived the right to know which is a mile stone and very important for a democratic country like India. The people's right to know about the affairs of the government and to have the information is the basic postulate of accountability in a democratic government, in order to spread democratic values the parliament of India enacted right to information act 2005. The provided for the mechanism where in state information commission were also established in all the states besides Central Information Commissions and PIO's and APIO's in public authorities for implementing provisions of Right to Information Act 2005.

The present work is focusing on the working of State Information Commission, Uttar Pradesh. The study attempts to know the working of the State Information Commission and the implementation of provision of RTI Act as a whole. So, in the light of this the entire study has been divided in to seven chapters. Chapter one i.e. introduction discusses the nature and scope of Right to Information Act along with the research methodology adopted , hypothesis, testing and the aims and objectives of the study. Chapter II deals with Origin and Historical Background of Right to information in India. International perspective of Right to Information has been dealt in chapter III wherein various International and Regional Instrument relating to right to information have been discussed. Chapter IV deals with the National Perspective of Right to Information wherein an elaborate study of Right to Information has been done. Chapter V is the impact of Right to Information in the society, in this chapter the focus is on implementation of Right to Information Act as well as

the impact of implementation in the society. Chapter VI is the empirical part of the study wherein the working of State Information Commission is analysis on the basis of data collection and the finally Chapter VII is summing up the entire work with concluding remarks and few suggestions regarding of State information commission.

This study is my humble effort to understand analysis and present in a coherent manner the working of State Information Commission in Uttar Pradesh, the issues and dynamics as well as loop holes in the working of the most vibrant and democratic legislation i.e. Right to Information Act.

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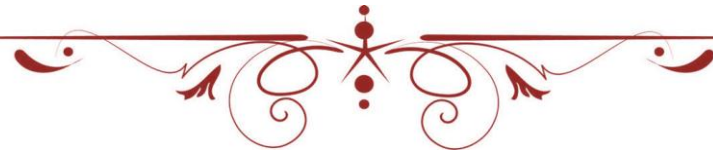
LIST OF ABBREVIATIONS

- A.I.R : All India Reporter
- All.E.R. : All England Reporter
- CBDT : Central Board of Direct Taxes
- CHRI : Commonwealth Human Rights Initiative
- CIC : Central Information Commission
- CrPC : Code of Criminal Procedure
- CSCs : Common Service Centres
- CAG : Comptroller & Auditor General
- DoPT : Department of Personnel and Training
- ECHR : European Convention on Human Rights
- Ed : Edited
- Edn. : Edition
- ECOSOC : Economic and Social Council
- FOIA : Freedom of Information Act
- IC : Information Commission
- ICCPR : International Covenant on Civil and Political Rights
- IPC : Indian Penal Code
- MKSS : Mazdoor Kisan Shakti Sangathan
- MLA : Member of Legislative Assembly
- MP : Member of Parliament
- MRTI : Maharashtra Right to Information
- NAC : National Advisory Council
- NCPRI : National Campaign for People's Right to Information

- OSA : Official Secrets Acts
- OGI : Open Government Regulations
- PCI : Press Council of India
- PIO : Public Information Officer
- PAIA : Promotion of Access to Information Act
- RAAG : Right to Information Assessment and Analysis Group
- RTI : Right to Information
- SAHRC : South Africa Heritage Resources Agency
- SC : Supreme Court
- SCC : Supreme Court Cases
- SDM : Sub-Divisional Magistrate
- SIC : State Information Commission
- UK : United Kingdom
- U.N : United Nation
- UOI : Union of India
- UPA : United Progressive Alliance
- USA : United States of America
- UNDP : United Nation Development Programme
- Ibid : Refer to the same previous reference without any intervening references
- w.e.f. : With Effect from



CHAPTER-I
INTRODUCTION



CHAPTER-I

INTRODUCTION

1.1 Introduction

“As a general rule, the most successful man is the man who has the best Information.”

Benjamin Disraeli¹

The right to information is the essential human right that protects and develops human life.² Information acquires knowledge of the facts that suggest and leads to the acquisition of knowledge.³ At the International level, Right to Information and its aspects find articulation as a human right in most important basic human rights documents, namely, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. At regional levels, there are numerous other human rights documents, which include this fundamental right for example, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, the African Charter on Human and People’s Rights, etc. The Commonwealth has also formulated principles on freedom of information.⁴

¹ Benjamin Disraeli, in full Benjamin Disraeli, earl of Beaconsfield, Viscount Hughenden of Hughenden, byname Dizzy, (born December 21, 1804, London, England-died April 19, 1881, London), British statesman and novelist who was twice prime minister (1868, 1874–80) and who provided the Conservative Party with a twofold policy of Tory democracy and imperialism. Also available at <https://www.britannica.com/biography/Benjamin-Disraeli> accessed on 12/12/2020

² Neeraj Kumar, *Right to Information , An overview*, P.1, (New Royal Book Co., Lucknow, 1st edn. 2012)

³ *Ibid*, at P.21

⁴ Available at <https://rti.gov.in/rticorner/studybypwc/index-study.htm> accessed on 12/12/2015

Right to Information is the bulwark of democratic government. This right is essential for the proper functioning of the parliamentary approach. Right to Information is an essential piece of the freedom of speech and expression cherished in Article 19(1) (A) of the constitution, which is regarded as the first condition of liberty⁵. It occupies preferred position in the hierarchy of liberties giving succor and protection to other liberties.⁶ The expression “freedom of speech and expression” in Article 19(1) (a) has been held to include the right to acquire information and disseminate the same. It includes the right to communicate it through any available media whether print or electronic or audio-visual, such as, advertisement, movie, article or speech, etc. This freedom includes the freedom to communicate or circulate one’s opinion without interference to as large a population in the country, as well as abroad, as is possible to reach. Communication and receipt of information are the two sides of the same coin. An important aspect of freedom of speech and expression is considered the freedom to receive and disseminate information without any hindrance. Without adequate information, a person cannot form an informed opinion.⁷

In a country like India where the government consists of numberless agents of the public, each one of them has to be responsible for their own conduct and hence, there is no room for maintaining secrets. In less than a decade, the flourishing movement for the right to information in India has significantly empowered the ordinary citizen. He can now exercise significant check over the arbitrary use of power by the State functionaries and thereby the

⁵ The Constitution of India, Preamble

⁶ Available at www.righttoinformation.org/ accessed on 11/03/2016

⁷ Available at <http://privacy.org.nz/the-privacy-act-and-codes/> accessed on 17/03/2015

democratic set-up of the country is expanding. People of India have long battled to achieve the Constitution and thereby the inalienable fundamental rights. The right to information is also one of fundamental rights implicit in the Constitution.⁸ Fundamental Right to Information is the *sine qua non* of democracy in India because historically the culture of the executive has been one of secrecy in India since the colonial rule. There has never been constant and resolute access to information.

Where the disclosure of information is required proactively, it is often ignored or taken very lightly. The growing number of complaints and appeals are responsible to strain enforcement mechanisms for the new law. Nonetheless, the potential of transformation of the new law has already been demonstrated by the advocates of RTI Act, and they are continuously pressing for proper implementation in a very energetic way. Innovations have been developed in practice by the public officials and civil society organizations⁹ which may prove to be of great use to other countries ready to adopt similar laws.¹⁰

Legislations on the right to information were first enacted in the Scandinavian countries and USA in the 1960s and thereafter in other countries including Canada, New Zealand and Australia. In India, some States such as Goa, Tamil Nadu, Rajasthan, Karnataka, Maharashtra, Delhi and Assam introduced legislations on the subject between the mid-1990s and 2001. The Centre finally followed suit and came out with a draft Bill called the Freedom of the Information Bill, 2000 which was passed by Parliament in December

⁸ Versha & Jyoti, *Right to Information*, 2 (Allahabad Law Agency, Faridabad, Haryana, 1st edn.2011)

⁹ *Supra note 4*

¹⁰ Available at <http://www.legislation.gov.uk/ukpga/2000/36/contents> accessed on 07/012/2015

2002. The campaign in India for the right to information evolved with the grass-roots movement in Rajasthan in the mid-1990s. The Mazdoor Kishan Shakti Sangathan (MKSS), an organization of peasants and rural workers, led a sustained campaign for information on development expenditure in Panchayati Raj (Local self-government) Institutions. When villagers in central Rajasthan began assessing bills, vouchers and muster rolls of expenditure incurred in their Panchayat and verified them against the work actually carried out, the workers employed and wages paid to them, they discovered wide-scale manipulation of records and rampant embezzlement of development funds by public official in connivance with private parties. The result of this corruption was not only non-employment of or underpayment to the local workforce and inadequate or poor quality assets, but depletion of funds which were meant for education, housing and health facilities for the rural poor. The campaign led to a public assurance by the then Chief Minister Bhairon Singh Shekhawat, the State Assembly that people would be entitled to the right to obtain photocopies of all documents pertaining to Panchayati Raj¹¹ Institutions. The assurance remained unfulfilled and it was until 1996-97, in the aftermath of two massive strikes that the State Government relented and amended the rules of the Rajasthan Panchayati Raj Act to incorporate the people rights to information relating to Panchayati Raj Institutions by inspecting and obtaining photocopies of documents.¹²

In order to promote transparency and accountability in administration Parliament enacted The Right to Information Act, 2005 hereinafter called RTI Act, after the repealing the Freedom of Information Act, 2002 which was not

¹¹ Vijandra Singh, *Perspectives on Panchayati Raj Administration, Volume 3*, 84 (Sarup & Sons Publishers, Delhi 2003)

¹² Madhvi Diwan, "From Secrecy to Freedom to Information" A Reluctant Transition 8 SCC (Jour) 60 (2003).

supposed to be very much transparent, participatory, and progressive meaningful in nature. On this issue National Advisory Council suggested certain important changes to be incorporated in the said Act to ensure smoother and greater access to information after examining the suggestion of the National Advisory Council and others Government chose to make number of changes in the law and authorized right to information perceived under Art.19 of the Indian Constitution.

The RTI bill was passed on 11th may 2005 and 12th may, 2005 respectively by Lok Sabha and Rajya Sabha and assented by President on 15th June, 2005 and came on force on October 12th 2005. It extends to the whole of India after the amendment 2019(Act of 2019)¹³.the Act has been extended to the Union Territories of the Jammu and Kashmir and Ladakh. It covers all public authorities whether falling under jurisdiction of Central Government or a State government.¹⁴ The new law provides Indian citizens to seek information from a public authority so that the government and its functionary can be made more accountable and responsible towards each and every citizens of India. The act is now in operation and has benefited many including poor's and unprivileged people of India. The object of the Act is to promote openness, transparency¹⁵ and accountability in the administration.¹⁶

There have been many discussions and debates about the effectiveness and impact of the Act. The Civil Society Organizations and Government agencies have been engaging themselves in the debate over various aspects of

¹³ The words "except the State of Jammu and Kashmir" omitted by the Jammu and Kashmir Reorganisation Act, 2019(34 of 2019), s.95,96 and fifth Sch.,(w.e.f. 31/10/2019).

¹⁴ Ajay Kumar Garg, *Right to Information, One should know*,3 (A Nanbhi Publication, 5th edn. 2021)

¹⁵ Transparency means people's Right to know how the public bodies are discharging their duties to protect public interest.

¹⁶ Available at <http://righttoinformation.gov.in/> accessed on 15/10/2015

the Act and its effectiveness and interpretations. There is a broad consensus that the implementation of the Act needs to be improved to achieve the objectives.¹⁷ At the same time there is evidence to suggest that the information seekers too have to learn how to use the Act more effectively. While there is significant information, both anecdotal and quantitative on the level of implementation of the Act, there was limited systematic and comprehensive review available for action by the appropriate Governments. This in turn necessitated a review of all the aspects necessary to analyze the current situation and draw up a plan to bridge the gaps.

The RTI Act is unique in way which shifts the responsibility from appellant to respondent. When all our act s are an extension to British rule Acts with their citizen hostile attitude and mall accountability of the rulers this act can be termed as more accountable and citizen friendly. Modern democratic government means government of the people, by the people and for the people. If they are ignorant of the issue to be resolved the argument for and against different solution and the fact underlying those argument the business of the government is not an activity about which only those professionally engaged are entitled to receive information and express opinion.¹⁸ It is or should be participatory process, but there can be no assurance that government is carried out for the people unless the facts are made known and the issues is publicly ventilated. Sometimes inevitably those involved in the conduct of the government, as in any other walk of life, are guilty of errors, incompetence, misbehavior, dereliction of duty even dishonestly and malpractice. Those

¹⁷ Available at <http://www.msmetoolroomkolkata.com/infoact-description.php?id=NQ> accessed on 15/03/2015

¹⁸ P.K.DAS, *“The Right to Information Act*, 6 (Universal Law Publishing, edn.4th, 2014)

concerned may very strongly wish that the fact relating to such matters are not made public.¹⁹

Here RTI Act is concerned with the crystal clear information which must be furnished to each citizens of India who seek this information. It is very important for every government to set up effective machinery for the good governance of citizens²⁰.

Here in this chapter the researcher mainly focused on importance of information for the citizens of India to feel strong democracy. The researcher found that it can be more effective for us and can play a very vital role to strength democracy.

1.2 Review of Literature

The researcher has studied and reviewed literature and various concept of research work carried out in the study.

First reviewed book is “The Constitution of India Popular Sovereignty and Democratic Transformation” by Sarbani Sen, first published on 2007 and second impression in 2011, Oxford University Press, New Delhi, ISBN 10:019-807160-4. This book has three part and total seven chapters part one deal with the conceptualizing the idea of popular sovereignty. Part two constructing a sovereign political identity and part three renewing the idea of popular sovereignty. The author examined the jurisprudence of the basic structure embodies fundamental questions about the relationship between

¹⁹ Available at <http://righttoinformation.gov.in/webactrti.htm> accessed on 25/03/2015

²⁰ J.N. Pandey “*The Constitutional Law of India*” 175 (Central Law Agency, edn.51, 2014)

constitutionalism and popular sovereignty with reflective study of the past to determine when the people have engaged in politics and what decisions were made by them through exercise of popular will. To understand what the framers thought of the legitimacy of the constitution, it has to be seen how earlier generations engaged in the process of constitutional development and tried to define their national identity. Consequently, in my view, a historicizing tendency is necessary, and Indian constitutional tradition is best approached as an evolving language of politics and a complex symbolic practice charged with meaning by the thought /action of earlier generation.

The First part examine the how the idea of popular sovereignty and its relation to constitutionalism was developed as a result of inter-generational discourse in India political thought during the pre-founding colonial period.

This development was protracted. Each step forward into the realm of new ideas that occurred during the moderate period, or under Gandhi or Nehru, was either followed or preceded by periods of conscious attempts at putting together pieces of contemporary thought and experience with seemingly discrete and unrelated ideas from India's political and intellectual past. Popular engagement in discourse the origin on ideas of self-government, and active resistance against British rule during Extremist and Gandhian experiments in organizing mass political movements involved a direct and revolutionary exercise of sovereign power by the people.

The framework of the book approaches the constitution to be seen as a political symbol of national identity rather than merely as a legalistic text and

as a normative measure against which to determine the necessity for future transformations and its direction both substantive and procedurally.

The Part Two deals with constructing a sovereign political identity. The preamble of the constitution of India claims authority for the founding in the name of “we the people of India”. The Indian founders claimed the remarkable act of authority required to write these words as the culmination of their generation’s revolutionary experience in mobilizing the people for opposing the British rule, and to achieve self-governance. But capture the centrality of this revolutionary experience constitutional law requires working out the relationship between popular sovereignty and constitutionalism within the framework that the researcher have sketched for examining the Indian constitutional experience.

The Third part deals with the renewing the idea of popular sovereignty. Chapter seven in this part attempt to trace the path of exercise of the principle of popular sovereignty in the post founding period in this third stage of redefinition. The first expression of the principle in the Indian constitutional tradition occurred during its revolutionary exercise against the colonial regime. The second expression was in the constitutive act of founding a new political order, as discussed in part two, by which popular sovereign power worked upon itself and was redefined and expressed in various institutional themes such as separation of powers and preservationist mechanism like judicial review, and in creating opportunities for decentralized public spheres where people could exercise their rights of equal political participation.

In the conclusion of the book, the Constitution has been transformed through the lived experience of post-founding generation; it is the court which has, through its backward looking synthetic exercise, identified those breaks with the founding vision caused by subsequent exercises by popular sovereignty. Although it has also actively participated in such process of change, either proposing or dissenting from new principles, once amendments have been ratified by popular sovereign authority, it has exercising its preservatives function, identified those deep transformations characteristics of the founding movement, and tried to give coherence to the older text in the light of new principles in the body of its fundamental judicial decisions.

The researcher reviewed article “Issues and challenges Facing RTI Act”, by Anita Chaudhary, Indian Journal of Public Administration, VOL.LXII, April-June 2016. This article mainly focused on how the RTI has gain its success stories bound highlighting the empowerment of the people in getting their rights and dues. However, the euphoria surrounding the Right seems to be fading. Peoples are still filing RTIs, but the wait for a final resolution seems to be getting longer. Transparency, accountability of public authorities, reduction in corruption, people’s participation in policy formulation and implementation- all objectives of the Act, seem to be moving in slow motion or just going through the motion. In this article, some of the important challenges and issues being faced in the implementation of the Act have been discussed.

The researcher has also gone through the Right to Information Act, 2005 and also studied S.D.Sharma and Priti Saxena, *Right to Information, Implementation, Problem and Solutions*, 45 (Regal Publication, Delhi, 2013; P.K. Das “*The Right to Information Act, 2005*, (2nd Edn., 2008) Universal Law

Publishing Co., New Delhi; M.P. Jain “*Indian Constitutional Law*”, (6th Edn. Vol. 1, 2010) Lexis Nexis Butterworths, H.M.Seervai, “*Constitutional Law of India*”, (4th Edn. Vol.1, 1991) Universal Law Publishing Co. New Delhi, Niraj kumar, “*Right to Infonnation, An Overview*” 1st Edn. 2012, New Royal book Co., Lucknow; Dr. Manish Kumar Chaubey, “*Right to Information, Various Dimensions*”, Regal Publication, New Delhi, 2012; Dr. Rajiv Kumar Singh, “*Right to Information, Empowerment and Good Governance*”, Mewar University Press Pvt. Ltd., New Delhi, 2016; I also gone through Dr. J.N. Barowalia commentary on “The Right to Information Act” introduction by justice C.K. Thakkar, 3rd Edn. 2012.

1.3 Utility of Topic

The study is to attempt to understand the importance of the Right to Information with the working of the State Information commission in present scenario and also with the responses of the people towards the SIC.

1.4 Statement of Problem

As every law is not absolute, there have been various problem with the law, since its very inception and not free from all ambiguity and there is always sufficient space to criticize. The law is not at all proactive, which it was required to be, given the levels of literacy, the kind of bureaucracy and the location of the sites through which the information would be available. Practically the public authorities are not sensitive towards the obligations made under the Act and the State Information Commission is not using its power and functions mandated by the Right to Information Act as well. In continuance of the Appeal disposal mechanism is also not satisfactory.

1.5 Aims and Objective of the Study

1. To focus on the Right to Information special reference of working of the State Information Commission of Uttar Pradesh.
2. To make an analysis of the Right to Information, its relevancy in India and contemporary world and also to some extent the practical problem with the Act, the approach of State Information Commissioners. And empower ordinary citizens to combat state corruption as well as to highlight some lacuna in the Right to Information Act. The aim is to focus over the efforts at the national level to legislate this right.
3. The approach of the Information Commissioners is to empower ordinary citizens to combat state corruption as well as to highlight the lacuna of the Right to Information Act.
4. The aim is to focus over the efforts at the national level to legislate this right and also to undertake study of law of BRICS countries i.e. Brazil, Russia, India, China and South Africa for closer and better understanding and assessment of their legislations and systems as they formed for economic purpose; and to have wider choice update and improve upon Indian law and philosophy, on the subject.
5. To critically analyze the short-coming of the SIC function through questionnaire.

1.6 Hypothesis

The research study has been based on the following research hypothesis:

1. Public Authority are not sensitive towards the obligations made under Right to information Act,

The researcher found the public authorities are less interested to provide the information to the applicant and they try to waiver the applications, somehow they also provide false and mislead information to the applicants. Hence this hypothesis proved in this research.

2. Functioning of the State Information Commission is not satisfactory,

During the research field work the researcher found that the State Information Commission working is satisfactory and they impose the penalty over the public authority also. Hence this hypothesis stands not proved.

3. Appeal disposal Mechanism is not satisfactory.

Here the researcher found, disposing the information mechanism is not satisfactory as the public authority provide misleading, less information which misguide and harass the applicants. At the same time the public authority make the political pressure on the applicants or make false allegation threat on the applicants like rape case, life threat etc. simultaneously the State Information commission have less percentage of concern. Hence the hypothesis has been proved.

4. The State Information Commission is not using its power and functions mandate by the RTI Act.

In this hypothesis the researcher found that where the Information Commissioner has enough knowledge but some of them are not clear or have less knowledge about the implementation of the RTI Act. The researcher observed that even clerk in commission office informs the commissioners 'what to do' and 'how to do, and what provisions are to be made applicable. Hence this hypothesis stands proved.

5. Imposing time is not uniform and effective.

Here the researcher found the time period is also not uniform, given to the public authority and the disposal of the information remain pending, whenever the decision as a suggestion is given by the clerk to the information commissioner. Hence the commission must pay heed on this issue. The hypothesis has been proved.

6. The Public Authorities have no fear of the Act and they are deliberately not providing the correct information.

In this hypothesis the public authorities have no fear of the Act as no punishment is mentioned in this Act and the provided penalty is very low. Hence the hypothesis of the researcher has been proved.

1.7 Research Methodology

Keeping in view the nature of problem, research methodology adopted for the research study is doctrinal as well as empirical. The researcher mainly focused on the method of doctrinal, empirical, analytical and observational simultaneously. In addition to that descriptive, explanatory method was also applied in the research study. Apart from the materials from the decided cases the researcher also used facts and information already available in Acts, statutes, International Instruments, law journal, internet national measure government publication, earlier researches, report and article was also used as an important research tools.

1.8 Scheme of the work

The Ph.D. thesis “**A Study of Right to Information With Special Reference to Working of State Information Commission of Uttar Pradesh, Lucknow**” is divided into seven chapters.

Chapter-I is the “Introduction” of the research work. At the initial stage, the selected area of research work has been identified. After identification of research problem, a synopsis of research work and its basic structure were developed. The objectives of research study are put forth in this chapter. A review of literature is also put forth in this chapter. A paragraph of hypothesis is constructed in which six assumptions are made. On the basis of research observations, utilizing doctrinal and empirical research method techniques of research methodology, the researcher particularly focused on the method of doctrinal, empirical, analytical and observational simultaneously, all

assumptions are proved. Further, the selection of research problem, statement of research problem, significance of research study , scope of research study are also briefly mentioned in this chapter.

Chapter-II titled “Origin and Historical background of the Right to information” in India. In this Chapter the researcher after giving a brief introduction of the subject matter of the chapter tries to explain the importance of the Right to Information, its origin with Judicial Activism and concept of the Act briefly discussed, firstly the origin with support of cases of judiciary and secondly the movements happened to help and make more participatory and accountable to the government in India.

Chapter-III deals with the “International perspective of Right to Information” and reasons and indifference towards right to information in many other statutory provisions in the constitution of other countries. Attempts have been made to make a basic study of Freedom of Information Law in BRICS countries and exemptions which have been given in their laws. More than 111 countries have already enacted Information Law, others are also realizing the importance of right to information in democratic setup and trying to reveal the veil of secrecy. In this Chapter Conventions dealing with right to information for the people of the democratic country are also briefly discussed.

Chapter-IV deals with the “National perspective of right to Information”. This chapter is confined to Indian context only. It deals with the nature of that laws which are of colonial origin and tends to protect the culture of secrecy. In this chapter the researcher has discussed the study of the previous laws related to information and discussed about the features of the Right to

Information Act 2005 in India, enacted by the government to provide the information to their citizen and to maintain advance accountability and transparency in public administration. This chapter also discussed, who all are covered by the 2005 Act; what information is accessible under the Act; how information can be accessed in practice; what options people have if they are not given the information they want; and how people can get involve and ensure that the Act is implemented effectively to make the Government more accountable, efficient and responsive.

Chapter-V titled “The impact of Right to Information Act in the society”. In this chapter the issues relating to the implementation of the RTI ACT 2005 are discussed. The right to information is used as a tool to promote participatory development, strengthen democratic governance and facilitate effective delivery of socio-economic services. In this chapter the researcher also discussed about the problem faces by the general people and RTI activists as in the Right to Information Act, no such provisions are provided for the protection of RTI activists and applicants are often threatened and physically attacked when they go to submit a RTI application or after submitting it and due to the lack of protection many RTI activists are paying their life for exposing corruption.

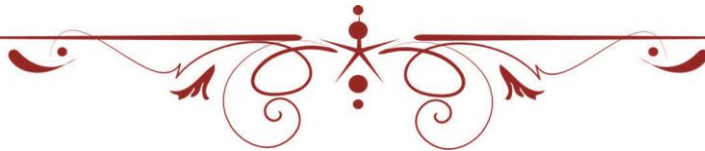
Chapter-VI is especially devoted to the study and analysis of Right to Information with special reference of working of the State Information Commission of Uttar Pradesh, Lucknow, which is based on the data collection via questionnaire, interview and observational method. The researcher’s examining the data after which is collected by the different age group,

occupation, and the interview taken the official members to prove the hypothesis of the research work.

Chapter-VII which embodies “Conclusion and Suggestions”. This chapter is prepared on the basis of this research study, certain conclusions are drawn and some suggestions are also placed for consideration. On the basis of the findings of this research study, it is inferred that the RTI is not only fundamental for an open and democratic society but it is a key weapon in the fight against poverty and for human development. RTI has to be nurtured by all means.



CHAPTER-II
ORIGIN AND HISTORICAL
BACKGROUND



CHAPTER-II

ORIGIN AND HISTORICAL BACKGROUND

2. Introduction

“The real swaraj will come not by the acquisition of authority by a few, nut by the acquisition of capacity by all to resist authority when abused.”

The above comment of Mahatma Gandhi is of tremendous importance for a contemporary discourse on law and society in general and governance in particular. In fact, it was Lonel Fuller who defines law as 'subject to human conduct for the rule of rules' and sociologists such as Emil Durkem and Max Weber considered law to be relevant to the existence of human civilization and society. It considered as an essential subsystem of Modernity.¹

In the context of India, colonial history suggested that the Britishers were of the opinion that, by providing an honest judge and establishing firm rules of evidence and court procedures, the judge could determine the facts in the case and, with his knowledge of the law, hand down a just decision. But the dichotomy between the official law and popular legality² has been the theme of a continuing stream of criticism from administrators, nationalist and students of law who have emphasized the unsuitability of British-style law in India.

Here the word “information”³ is broadly defined to include all types of information held by the state. The Act provides for the right to 'information'

¹ Versha & Jyoti, “*Right to information*” 1(pub. Allahabad Law Agency, edn. 1st 2011).

² For analysis of the dissonance between British and Indian notions of legality, see Cohn (1959); Rudolph and Rudolph (1965)

³ The Right to Information Act, 2005 (Act 22 of 2005), Sec. 2(f)

rather than merely 'records'⁴ or 'documents'. The term freedom of information has become the subject of discussion in India. Many local activist group and legal experts prefer the term Right to Information because they notice freedom as a mere prohibition of government intervention, while enforcing the right is an affirmative exercise on the government to disseminate information Duty applies.⁵

In this chapter researcher tried to underline the detail of the most important grassroots struggle for the right to information, which has been successful in connecting the entire movement in the country with the struggle for the survival and justice of the poorest. It would then delineate the constitutional history of authority, and attempt to dissolve the executive's culture of secrecy through the court, and take initiative from those within the government. Before telling the national movements related to RTI, the researcher want to draw attention to the evolution of RTI in ancient Indian society.

2.1 Right to Information in Ancient Indian Society⁶.

The origin of information is a natural desire of human being. Every human being has instinct quality to know about all activities, developments, progress, social attitude and other relevant and irrelevant information of progressive, developing and undeveloped society.⁷ Information being a right is an old concept. It is a natural phenomenon.

⁴ *Ibid.*

⁵ Manish Kumar Chaubey, *Right to Information Various Dimensions* 12, (Regal Publication, New Delhi, 2012)

⁶ *Ibid.*

⁷ S.D.Sharma and Priti Saxena, *Right to Information, Implementation, Problem and Solutions* 1(Regal Publication, Delhi, 2013).

The roots of Right to Information or freedom of information can be seen in various references like various Text and Literatures.⁸ In ancient period the information rights were recognized by the dharma and its role explained by the supreme court in *A.S. Narayana Dixitulu vs. State of Andhra Pradesh*⁹, the court explained that “the word dharma denotes upholding, supporting, nourishing that which upholds, nourishes or supports the stability of the society, maintaining social order and general well-being and progress of mankind, whatever conduces to the fulfillment of objects is dharma”. After going through with different ancient mythological text the researcher find that the scope and ambit of right to information was very restricted. Information related to administration and governance could not be obtained¹⁰. The ruler was asked to hide his policies. It was told that this type should be consulted in solitary place as no outsider could know the policies of the king but only those who had to enforce it and that too at an appropriate time only. The ancient eminent political thinker Kautilaya wrote that the king should start his administrative work after consulting his minister and should consult in a place which is in solitude. So that birds and animals also could not listen because it was believed that parrots and dogs could reveal the secret.

There is a statement of *Yojnavalkya* in this regard that “The state is dependent on the mantra. Therefore the king should keep his policy secret in such a way that people do not know about it until the result of the work itself is evident.”

“Yajnavalkya Smritis 11/343”

⁸ *Ibid.*

⁹ AIR 1996 SCC (9) 548

¹⁰ Supra note 5, P. 26.

On the other hand the researcher find that the existence of right to information in ancient Indian texts as Vedas, Upanishad, Ramayana, Puranas, etc. but in limited sense and in restricted respect. In those days it was limited to the elite section of society as saints and hymns.

Transparency means that there is no secrecy and the true state of affairs is known. The emphasis on transparency in the context of fighting corruption is because transparency or sunshine is the best antidote to corruption. The concept of transparency in government administration is evident within the concept of ancient India religion.¹¹

Rigveda says “Let noble thoughts come to us from all directions.”¹² The king as a protector of the society, he must be knowledgeable or must have knowledge and for this purpose the king must take the knowledge from the others also ; sages, sadhus, saints their opinions for sharing, exchanging the ideas and knowledge which also are information. Here it is clear that The Ancient Indian epic RigVeda also talks about the Right to Information.

Upanishads clearly says about that there is nothing beyond dharma, also speaks about the oneness, equality and unbiasedness. “Let there be oneness in your resolutions, heart and minds. Let the strength to live with mutual cooperation be firm in you all.”¹³ Which emphasis on the mind of the king which is the inclusion of the king and administrator must treat everyone as he is own and must develop the spirit that one should respect other and must develop the equality and unbiasedness. The Upanishad also teaches about the Satya Vadha, Dharma Charha. The object of the Government of India aslo testify this

¹¹ Neeraj Kumar, *Right to Information , An overview* 22, (New Royal Book Co., Lucknow, 1st edn. 2012)

¹² Rigveda -1.89.1

¹³ Regveda, Mandal-10,Sukta-191, Mantra-4

principle i.e. “*Satymeva Jayate*” (Extract from Munduka Upanishad) (only the truth prevails, truth alone triumphs nothing else succeeds.

Mahabharata the great epic which is acclaimed as “*Manav Kartavya Sastra* (code of duties of human being)” contains a discussion on this topic. On being asked by Yudhisthir to explain the meaning and scope of Dharma, Bhishma who had mastered the knowledge of Dharma replied¹⁴ as Dharma has been explained to be that which helps the upliftment of living beings, therefore, that which ensures the welfare of living beings is surely Dharma. The learned rishis have declared that which sustains is Dharma.¹⁵

The researcher find the glimpse of right to information in these words of Bible. The truth which comes only by the information.

Bible says “And you shall know the truth, and the truth shall make you free.”¹⁶ (John-8:32)

Gintanjali also speaks about the right to information written by Rabindra Nath Tagore, who won the noble prize for this poetry and the philosophy which inspire the Indian people’s hunger for freedom of information which best expressed in Verse XXXV.¹⁷

¹⁴ Supra note 5

¹⁵ Shanthi Parva-109-9-11 , available at <http://shrimatasharan.blogspot.com/2010/09/what-is-dharma-how-do-we-live-dharmic.html?m=1> accessed on 8/02/2021.

¹⁶ Available at <https://www.biblegateway.com/passage/?search=John%208%3A32&version=KJV> accessed on 3/02/2021.

¹⁷ Supra note 5, P.30

“where the mind is without fear and the head is held high;

Where knowledge is free;

Where the world has not been broken up into fragments by narrow domestic walls;

Where words come out from the depth of truth;

Where tireless striving stretches its arms towards perfection;

Where the clear stream of reason has not lost its way into the dreary desert sand of dead habit;

Where the mind is led forward by thee into ever-widening thought and action;

Into that Heaven of Freedom My Father, Let My Country Awake.”

This poem is totally about the awakening of the people, the rights of the common people. This poem also talks about the equality which makes people fearless. This poem gives strength to the people and reminding their power of act.

2.2 Right to Information in British Period:

The Right to Information in Indian context in more or less new and belonging to the present time in new form. As the ancient Indian literatures and epic point towards this right, directly or indirectly, but in a complex society today, the right to Information is more significant and powerful weapon for the sound functioning of democracy.¹⁸

In the context of India, colonial history suggested that the Britishers were of the opinion that, by providing an honest judge and establishing firm

¹⁸ Supra note 5, P.31,

rules of evidence and court procedures, the judge could determine the facts in the case and, with his knowledge of the law, hand down a just decision. But the dichotomy between the official law and popular legality¹⁹ has been the theme of a continuing stream of criticism from administrators, nationalist and students of law who have emphasized the unsuitability of British-style law in India. The Englishmen made the laws according to their convenience and in those days the freedom of speech and expression was very restricted. There was restriction on press also and they have to take prior permission to print every news. The Englishmen had enacted The Official Secret Act 1923 which was for the only corruption seeking Act which makes the disclosure of official information by any public authority an offence.

2.3 Right to Information after Independence

2.3.1 Why and how this right developed:

i. Indian Constitution and Right to Information:

India got Independence in 1947 and declared itself a Republic in 1950, with a democratic Constitution. The basic feature is the strength of the Indian Constitution, which can never be changed. The Right to information has been the key to strengthen the participatory democracy and to usher in people's centered governance.²⁰

The term "Democratic" denotes that the constitution has established a form of government that empowers it by the will of the people²¹ in which the supreme power is vested in the people and exercised directly by them or by

¹⁹ For analysis of the dissonance between British and Indian notions of legality, see Cohn (1959); Rudolph and Rudolph (1965)

²⁰ Supra note 10 P.1

²¹ Supra note 5

their elected agents under a free electoral system. In the phrase of U.S. president Abraham Lincoln (1809-1865) defined, democracy is a government “of the people, by the people, and for the people, the cornerstone of a healthy democracy is to keep well-informed citizens.”²²

Along these lines, the option to get information in a democracy is perceived all through and it is a natural right moving from the idea of the majority rule government. In order to transparency, openness and accountability in organization and according to issue associated therewith or incidental thereto it is necessitated that each resident has the right to information heavily influenced by the public power.

The “Right to Information” is essential to the acknowledgment of monetary, social, common, political right and a compelling majority rule government, which requires educated participatory by all. The right to information has now been perceived as a key right, which thus is connected to regard for the inborn nobility of every individual and as a fundamental segment of participatory majority rule government and is depicted as the “oxygen of democracy”.²³

India has democratic Constitution, which is one of the most unique constitutions in the world and from where can take the clue of provision. The preamble of Indian constitution declares India to be a “Sovereign, Socialist, Secular, Democratic republic”.²⁴ It is “Republic” because the head of the State is not a hereditary dynast.²⁵ In *J.P. Unni Krishnan vs. State of Andhra*

²² Ajay Kumar Garg, “*Right To Information one should know*”, A simple Handbook to your Right to Information, P.1, (A Nabhi Publication, New Delhi, 5th edn. 2021.)

²³ Supra note 5, P 146

²⁴ Inserted by the Constitution (42nd Amendment) Act, 1976 for “Sovereign, Democratic, Republic”.

²⁵ J.N. Pandey, “*Constitutional Law of India*”, 32 (Central Law Agency, Allahabad, 57th edn. 2020)

*Pradesh*²⁶, the Supreme Court defined democracy as “A true democracy is one where education is universal, where people understand what is good for them and the nation and know how to govern themselves. In republic sovereignty the people elect the government for a fixed term.

The right to information emerge with word “democratic” in the preamble of Indian Constitution and interpreted by the Supreme Court and judicial decisions and judicial pronouncement whereby the SC has interpreted freedom of speech and expression to make RTI and its been developed through the NGOs, civil society and their movements.

While the Constitution of India doesn't have any exceptional right to press or right to information. The right to information is read in the Constitutional guarantee which forms a part of the chapter on Fundamental Rights. The Right to Information is derived from the fundamental right in Indian Constitution under Article 19 (1) (a) freedom of speech and expression with some exception. Until the citizens are not well informed about how the Government functioned, people cannot express any informed opinion on it as the information affecting the economy, social order, values, cultural ethos and its impact is felt on production, marketing, transport, management, medicine, education, law, life style and even thinking process.²⁷ This incorporates the right to equal of the law and the right to equality under the watchful eye of the law life and personal liberty (Article 21).²⁸ Article 32 has the privilege to established cures, any of these rights, the option to move toward the Supreme Court in the event of infringement of any of these rights. This has been plainly attested by different Supreme Court decisions, since 1970s.

²⁶ AIR 1993 SC 2178 (2232)

²⁷ Supra note 10 P. 2

²⁸ Supra note 24, P. 33

The lawful position comparable to right to information with respect to all the above rights has advanced through numerous choices of the Supreme Court, however especially with regards to speech and expression, which is called Right to Counter and can't be utilized without one another. The interesting part of these legal declarations is that the extent of power has gradually augmented, considering social changes in legislative issues and society.

The guideline of most extreme revelation builds up an assumption that all information held by the public bodies ought to be dependent upon divulgence and that this assumption might be beaten just where is an abrogating danger of damage to a real interest.²⁹

The advancement of the RTI as a piece of the established law of the nation expressed with a request by the media to the Supreme Court for implementation of certain strategic implications of the right to speak freely of speech and expression which would allow them to challenge legislative orders for control of newsprint, prohibition on appropriation of papers, and so on it was through these cases that the idea of the public's entitlement to know developed.

The landmark case of freedom of the press in India was “*Bennett Coleman & Co. vs. Union of India*”³⁰ in this case, the inquiry was whether the investor, the supervisor, the printer have right to freedom under Article 19 of the Constitution. The adjudicator commented "It is undeniable that by the right to speak freely of speech and expression incorporates inside its compass the option to all residents to peruse and be educated" the disagreeing judgment of

²⁹ Supra note 26 , P. 84

³⁰ AIR 1973 SC 106, 783B

Justice K.K. Mathew additionally noticed “The right to speak freely secures two sort of interest. There is an individual interest, the need of men to communicate their assessment on issue fundamental to them and a social interest in the fulfillment of reality so the nation may acknowledge the smartest course as well as do it in the savvies way. Presently in the technique for political government the mark of extreme interest isn't in the expressions of the speakers yet in the hearts of the listeners”.

The clear enunciation of the fundamental right to information was seen in the *State of Uttar Pradesh vs. Raj Narayan and others*³¹ the Court said, "While there are overpowering contentions for enabling to the chief to figure out what makes a difference may bias public security, those contentions give no authorization to giving the determined selective ability to figure out what is important may bias the public interest. When contemplations of public safety are forgotten about there are not many issue of public interest which can't be securely examined in broad daylight". Justice K.K. Mathew went further to say, “In an administration of obligation like our own, where all the specialists of the public should be liable for their lead, there can be nevertheless couple of secrecy. Individuals of this nation reserve a privilege to know each open demonstration, all that is done in a public way, by their public functionaries. They are qualified for now the specifics of each open exchange on the whole its bearing. At whatever point one cases secrecy for his public exercises which don't have any adverse impact over the public security should be wary of the option to know accessible to individuals. It isn't in the public interest to cover the standard business with the subtle pretense. Such mystery would seldom be able to be authentically wanted. It is by and large wanted with the end goal of

³¹ AIR 1975, 4 SCC 428

gatherings and governmental issues or individual personal responsibility or regulatory daily schedule. The duty of authorities to disclose or to legitimize their acts is the main protect against abuse and corruption”.

In *Prabha Dutt Vs. the Union of India*³², Court held that “there could be no explanation behind the media's refusal to permit detainees to be met in the line of death, with the exception of obvious proof of prisoners being denied interviews.”

In *S.P. Gupta vs. Union of India*³³ Justice P.N. Bhagwati observed: “The idea of an open Government is the immediate transmission from the option to realize which is by all accounts understood morally justified of free speech and expression ensured under Article 19(1) (a). Accordingly, exposure of information as to the working of the Government should be the standard and secrecy an exemption.”

In the extension of Article 19 included freedom of press which also plays an important role in keeping citizens informed, and highlighting issues which is in public interest. The media and press play their role properly in order to access to information and where right to impart and receive information by telecast through social media under fundamental right in Article 19 of the Indian Constitution. Right to information strengthens the media, and thus democracy.³⁴ Every one of the citizenry ought to have the option to shape their own belief and convey them openly to other people. In aggregate, the key guideline required here is individual's right to know.

³² AIR 1982 6 SCR (1) 1184

³³ AIR 1982 SC 149

³⁴ Supra note 5, P 26

A later case *Indian Express Newspapers (Bombay) Pvt. Ltd. vs. Union of India*³⁵, where the court remarked, “The basic objective of freedom of speech and expression is to enable all members to form their beliefs and communicate freely to others. In short, the fundamental principle involved here is people's right to know.”

In *Secretary Ministry of Information and Broadcasting, Government of India and Others vs. Cricket Association of Bengal and Others*³⁶ the Supreme Court considered the question of the right to telecast sports events. The Court summarized the law on the Freedom of Speech and Expression under Article 19(1) (a) as restricted by Article 19(2) as: “the Freedom of Speech and Expression incorporates option to procure information and to impart it. Freedom of speech and expression is necessary, for self-fulfillment. It enables people to contribute to debate on social and moral issues.”

The Indian politics has been polluted by election of persons with tainted characters to parliament or state legislatures. Although such persons can be made ineligible to stand for election by amending the Election law, though a clear parameter of such qualification is difficult to determine, the real exclusion will come only when the voters reject persons with tainted characters. This requires voter's empowerment. Voters must be informed of the assets and liabilities and the past and pending criminal cases against the candidate standing for election. The right to information of the voters is a condition precedent to their intelligent and discrimination exercise of their right to vote.³⁷

³⁵ AIR 1985 1 SCC 641

³⁶ AIR 1995 2 SCC 161

³⁷ Rajeev Kumar Singh, “*Right to Information, Empowerment and Good Governance*” 83(Mewar University Press, Delhi, 2016)

In *Association for Democratic Reforms vs. Union of India*³⁸ the Delhi High Court held that “voters the right to receive information about the antecedents of the candidates who stood for election.” The Court held that “the Election Commission had a duty to inform the voters about the candidates filing nominations for election to give details about their assets, liabilities, the past criminal cases ending in acquittals or convictions and the pending criminal prosecution if any.”

In *People’s Union for Civil Liberties (PUCL) Another vs. Union of India*³⁹ The Supreme Court held that in a democracy the electoral process has a strategic role. The common people of this country should have the basic elementary right to represent them in Parliament. The right to acquire information in a democracy is perceived all through, and it is a correct moving from the idea of democracy. The court further held that the common man may think over before making a choice of electing law breakers as law makers.

The Supreme Court also include in Article 19 that right to acquired and impart ideas and information which stated the new era of common interest matter, through which people can take the information. A reading of the many of decision of the Supreme Court regarding the right to freedom of speech and expression makes it amply clear that the right to get information is a natural right flowing from the concept of democracy.

Right to Information is the primary tool in the hands of citizens. The Law Commission of India in its 179th report and reports of the number of the committees and Councils working on this subject sensitized the government of India to enact a specific law on the right to information and also recommended

³⁸ AIR 2001 Del 126

³⁹ AIR 2004 2 SCC 476

the need for an act on public interest disclosure and protection for citizens right related to information sought from every public authority.⁴⁰ An Act was required to provide a statutory frame work for this right so that rights can be easily implemented. Therefore Parliament enacted RTI Act, 2005 as a milestone in a healthy step towards more participation of every citizen of India.⁴¹

In May 2004, a new UPA Government came into power at the Centre.⁴² The national campaign for right to information received a major boost when the UPA Government's common Minimum Program promised that: "The Right to Information Act will be made more progressive, participatory and meaningful." The National Advisory Council (NAC) was set up to oversee implementation of the Government's Common Minimum Program. Since its inception, the NAC has taken a close interest in RTI. At the very first meeting of the NAC on 17th July 2004, NAC members submitted a Statement from the National Campaign for the People's Right to Information to the NAC calling for action on RTI. To aid discussions, CHRI submitted an Analysis of the FOI Act and Recommendations to the NAC and all Cabinet MPs prior to the first meeting.⁴³

The Right to Information Bill 2004 (RTI Bill 2004) was tabled on 23rd December during the winter session of the Lok Sabha. The Report of the Committee (including a proposed amended version of the RTI Bill) was tabled in the Lok Sabha on 21st March 2005. On 10th May 2005, the RTI Amendment Bill 2005 (which actioned many of the recommendations of the Parliamentary Standing Committee) was tabled in the Lok Sabha. The Bill

⁴⁰ 179th Report of the Law Commission of India December 14, 2001

⁴¹ Available at <http://netjrfmasscomm.blogspot.in/2010/03/rti-history-and-historical-background.html> accessed on 25/09/2015

⁴² Supra note 6

⁴³ Available at <http://www.slideshare.net/burningbrain/legislation-development-in-tobaccocontrol-presentation> accessed on 28/09/2015

was passed very quickly; it was approved by the Lok Sabha on 11th May 2005 and by the Rajya Sabha on 12th May. On 15 June 2005, President APJ Abdul Kalam gave his assent to the national Right to Information Act 2005. With presidential assent, the Central Government and State Governments had 120 days to implement the provisions of the Bill in its entirety. The Act formally came into force on 12th October 2005.⁴⁴

As a party to the International Covenant on Civil and Political Rights (ICCPR), India is under an international obligation to effectively guarantee the right to information as per Article 19 of the ICCPR. On 15th June 2005, President APJ Abdul Kalam gave his assent to the national Right to Information Act 2005 which had previously been passed with amendments by the Lok Sabha (11th May) and the Rajya Sabha (12th May). With presidential assent, the Central Government and State Governments now have 120 days to implement the provisions of the Bill in its entirety. The Act formally came into force on 12th October 2005. The Act covers every single Central Government, State Government and local bodies, as well as some private bodies.⁴⁵

ii. Development through the NGO, Civil society, their movements:

The craving for knowledge and information never has ceased its gripping charm over any class, group, section, age, or gender of people. The urge to know is one of the basic essentials of human instincts which not only forms a part of its very being but as furthers its development. It has been observed that superiority and power come with the acquisition of knowledge or information

⁴⁴ Available at <http://legalservicesindia.com/article/article/legislation-&-common-law-indian-legal-system-587-1.html> accessed on 02/10/2015

⁴⁵ Available at www.iitb.ac.in/legal/RTI-Act.pdf accessed on 8/09/2015

about things. But here the concern is about official information, which belongs not to the state, the government of the day or civil servants, but to the public.⁴⁶

The Right to Information movement in India is basically the result of gradual development. There has always been a demand for transparency and accountability in the Indian context. In fact after Independence, the demand became more and every section of the society introduced transparency in governance and administration.⁴⁷

- Consumer Education Research Council Draft:

To propose a law at public level, a draft Right to Information law was proposed by the Consumer Education research Council, Ahmedabad in 1993. This draft, in interface with worldwide principles gives the 'Right to Information' to anybody aside from "outsider adversaries" regardless of whether they are resident. It requires public organizations at the bureaucratic and State levels to keep up their records in great request, to give a registry of all records under their influence, to advance the computerization of records in interconnected organizations, and to distribute all laws, guidelines, rules, brochures identified with or gave by government office and any data concerning government assistance plans.

- Role of People in National Campaign of Right to Information

Right to Information began to receive attention only when people's group began to work in rural India. Through grassroots mobilization, building coalitions and strong advocacy, it exerted pressure on government to bring about Right to Information legislation. The national campaign for a people's

⁴⁶ Supra note 1 P.33

⁴⁷ Supra note 1 P. 33

Right to Information was framed as a care group for the MKSS and furthermore to complete backing on the Right to Information at the public level. The presence in the NCPRI of senior and regarded average people, serving and resigned officials and individuals from the Bar and Bench make it a significant nodal body. Individuals like Prabhash Joshi, one of the India's most senior columnists have been publicizing the issue through their composition and going around the country.⁴⁸

The National Campaign likewise drew out a journal, 'Transparency' which was very useful for campaigning and system administration purposes, but which has been discontinued for the time being of want of funds. Member of the National Campaign on People's Right to Information have also made submissions on the Freedom of Information Bill, 2000 to the Standing Committee.

- Progressive Politicians and Right to Information:

Interestingly, among the legislators of India, in 1990, Mr. V.P. Singh, the that point Prime Minister of the Country headed by National Front Government stressed on the significance of Right to Information Act as a enacted right. Because of absence of political supports and will the right to information Act was not emerged during V.P. Singh period. The freedom movement, the Constitution of India, Supreme Court and some of the politicians supported for the right to information, but not emerged due to different reasons like policy support, institutional plans, and so on.⁴⁹

⁴⁸ Supra note 5 P.33

⁴⁹ Supra

- Role of National Campaign for People's Right to Information (NCPRI):

The National Campaign for individuals' Right to Information (NCPRI) was established in 1996. The NCPRI is a non-enrolled group that is overseen as per a constitution. Its funding individuals included social activists, Journalists, legal advisors, retired government workers and scholastics and one of its essential goals was to campaign for a public law faculties the exercise of the central Right to Information. As a first step the NCPRI and the Press Council of India formulated an initial draft of a Right to Information law. This draft after extensive discussions, was send to the government of India in 1966. The government finally introduced the Freedom of Information Bill in parliament, in 2002. This was a very watered down version of the Bill first drafted by the NCPRI and others in 1996. In August 2004 the NCPRI forwarded to the National Advisory Council a set of suggested amendments to the Freedom of Information Act, 2002. These amendments, designed to strengthen and make more effective the 2002 Act, were bused on extensive discussions with Civil Society groups working on transparency and other related issues and were in response to the undertaking given by the UPA government, in their Common Minimum Programme, that the Right to Information Act will be made more progressive, participatory and meaningful.”

The NCA included most of the suggested amendments and recommended them to the Prime Minister of India for further action. These formed the basis of the resulting Right to Information Bill, presented in Parliament on 22nd December 2004. However, this bill, as introduced in Parliament, had many weaknesses. Most significantly, unlike the NCPRI

suggestion, it did not apply to the whole country but only to the Union Government. The consequent outrage from civil society groups, including the NCPRI, forced the government to review the changes. The Bill was referred to Standing Committee of the Parliament and to a Group of Ministers. The standing committee asked several of the NCPRI members to give evidence before it, and ultimately endorsed the stand taken by the NCPRI in most matters. In the next session of Parliament, the bill was passed after over a hundred amendments introduced by the government to accommodate the recommendations of the Parliamentary Committee and, the Group of Ministers. Most important, the jurisdiction of the Bill has been extended to cover the whole of India. The Right to Information Act has come into effect all over India from 13th October 2005.

- Commonwealth Human Right Initiative Campaign:

The Commonwealth Human Right Initiative Campaign sees the Right to Information as providing a fundamental connections between different basic freedoms and promotes that perspective in its advocacy work. It has additionally direct various workshops and other smaller meetings, generally at the provincial level yet additionally broadly and universally..

Commonwealth Human Right Initiative has also been involved in governmental initiatives on the Right to Information in the State of Madhya Pradesh, Delhi, Rajasthan as well as with the central government. Commonwealth Human Right Initiative has brought together people doing advocacy work at all levels and has forged links between areas working at different levels both within civil society as well as within government.

- Mazdoor Kisan Shakti Sangathan Movement (MKSS)

This perspective of the right to information demand formulated initially by members of the Mazdoor Kisan Shakti Sangathan (MKSS) is indeed a story of the extraordinary efforts of ordinary people. A combination of their clarity of thought and purpose and their instinctive understanding of the problems they faced in their lives has led to simple and straightforward translations of their ideas into practice. The MKSS is a non-party political organization of poor farmers and workers, men and women alike, many of who have never been to school. Yet, their efforts have not only raised the issue of RTI in such a potent manner, it has also changed the discourse on what had been seen for many years as a largely academic issue. It was also in the course of a battle for the payment of the statutory minimum wage under government-sponsored public works programmes that the group first understood the significance of transparency and the right to information.

- Hearing is the Genesis of Right to Information Movement

Public Hearing or Jan Sunwais is the origin point Right towards Information Movement in India. The instrument of hearing was started by the MKSS in certain pieces of rural Rajasthan. To check the corruption with the inclusion of the people the public hearing was started. The public hearing is nothing but an open and vote based discussion about the issues. In this kind of public proceedings Elected Representatives Government Officials, People, Local Intelligentsia such lawyers, media persons, Non-Governmental as Community based Organisations, External Observers, etc. will participate. The public hearings are being Conducted Panchayati Raj Institutions, Government Offices and Non-Governmental Organisations, which are receiving the Substantial

financial support from the public authorities. In these formal conferences before the public it is demonstrated that a lot of corruption and abuse is occurring. It was occurred because of secrecy in the support of records and registers and lack of openness to the public information for the residents.

- Parivarthan (N.G.O.) in Delhi State

Parivarthan (a non-governmental Organization), workers in Delhi's urban slums on building awareness about the Right to Information Act and using RTI as a potential tool for public distribution system, infrastructure such as public roads and buildings, and electoral reforms. The Parivarthan also used the right to information in conducting the social audit in the urban areas on spending or the public investment. Parivarthan being a part of the National Campaign for People's Right to Information put consistent effort for the National Right to Information.

- Role of Legislative Institutions in Right to Information Campaign:

The campaign for Right to Information, which was being run by the people of civilized society for the protection of their right and interest; was at last accepted by legislature after a long struggle and gap. The legislature could not oversee the mass movement regarding Right to Information. The legislature tried to give an arranged and tangible from time to the Right to Information movement due to mounting pressure of society for the National Right to Information.

Eventually, the Shourie Committee draft law was reworked into the Freedom of Information Bill, 2000. This was less satisfactory Bill than what was given by the Shourie Committee. The Freedom of Information Bill was finally introduced in the Parliament in 2000. The Bill remained pending for

about two years. During this time it was referred to a Parliamentary Standing Committee. The report of the Committee was presented to both houses in July 2001; It recommended that the Government should address the flaws in the draft Bill. Unfortunately, the Government did not implement the recommendation, to the detriment of the final content of the Bill. The first amongst these was Tamil Nadu (1997), Delhi (2001), Maharashtra (2002), Assam (2002), Madhya Pradesh (2003) and Jammu and Kashmir (2004). It is only with constant efforts that the revised Bill on Right to Information was reintroduced and was passed on 11th May, 2005 in Rajya Sabha on 12th May, 2005 in Lok Sabha. It received assent of the President on 15th June, 2005 and was published in the Gazette of India on 21st June, 2005. This new Act applies uniformly to all the States except the State of Jammu and Kashmir and makes all other state laws redundant. The Right to Information Act, 2005 is a milestone in India's progress as the biggest democracy in the world.

2.4 Conclusion

The history Right to Information has been remarkably interesting. It is supposed that not only today but in primitive human society too, there was Right to Information according to that age. At different stages of civilization nature of Right to Information has changed. It has been there in one or the other form is it in the form of declaration or holy sermons. The above-mentioned contents have elaborate discussion regarding this where it can be found that there are numerous instance of Right to Information in different texts.



CHAPTER-III

INTERNATIONAL PRERSPECTIVE OF RIGHT TO INFORMATION



CHAPTER-III

INTERNATIONAL PRERSPECTIVE OF RIGHT TO INFORMATION

3.1 Introduction

“As a general rule, the most successful man is the man who has the best information.”

Benjamin Desrali

The study of the previous chapter as dealt with historical background of RTI and clearly stated that the right to information is exclusive human right and a powerful tool in the hands of the general public who can use it to place a check on the bodies that control them. Information is a power that facilitates us with the knowledge to demand political, economic and social rights from our government. The present chapter attempts to identify the protective role of RTI at the international level, taking into account the initiatives taken in this regard by the legislative bodies of the United Nations and right to information in the BRICS countries.

In the period of privatization, liberalization, globalization, the physical economy has been replaced by knowledge. In this age, knowledge is considered power. The more people have information, the more powerful it is. Information is a component of knowledge. It is a sine qua non on which the superstructure of knowledge is built¹.

¹ Neeraj Kumar, *Right to Information, An overview* 7 (New Royal Book Co. Lucknow 1st edn. 2012).

Having an Act that provides access to information is a requirement of every nation and is essential for every democratic country. It is necessary for the nation to have the entire machinery to determine democratic compliance, thus it is very inevitable to establish a strong system under any act, so it cannot operate under any assumption, but effectively it can be implemented under legal provision from. People's right to information has been widely accepted as a sign qua non for the effective and successful functioning of democracy².

Right to information has become a big sensation these days. This concept as a right is not limited to any one country, but has spread to almost every democratic country. Many countries of the world are incorporating this right in one form or another in their governance. At universal level, Over 111 countries³ across the world have comprehensive access to state records and some other more countries are in the process of enacting such legislation. Although freedom of enacting of information laws have existed since 1766⁴ when the Sweden passed its Freedom of the Press Act. And in the last decades has been remarkable number of countries adopting access to information enactments.

The “people’s right to know” has a long history of elongated debates, contemplations, discussion, campaigns and movements at both national and international levels. The freedom of information has different benefits. It helps to the people to fight with the corruption and to participate in democratic processes, and also empowers them to become attentive of and call for their rights. With the various international documents, bilateral and multilateral

² *Ibid.*

³ Available at <https://www.thebetterindia.com/69906/india-rti-act-ranked-4th-best-world/> accessed on 12/06/201.

⁴ P.K.Das, *The right to information* 3 (Universal Law Publishing-An imprint of Lexis Nexis, Fifth Edn. 2016).

agreements freedom of information has been guaranteed. In this chain the very first and foremost documents is Universal Declaration of Human Rights, 1948. Freedom of Information implies the right to gather, transmit and publish information anywhere and everywhere without frontiers. Freedom of information requires an indispensable element, the willingness and the capacity to employ its privilege without abuse.⁵

Worldwide offices for giving information to individuals of popularity based nations are Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966, and International Convention on the Elimination of all forms of Racial Discrimination 1966.⁶ These covenants contain a provision for follow up bodies. External follow up ensures that the states are concern about their liabilities to the human rights of their citizens. The international human rights standards face a major problem in the implementation that citizens are not aware of their rights entitlements. With the legal right to know about whole range of the government activities the right to information but also empowers them to participate in the democratic process.⁷

Actually; many countries have adopted widespread freedom of information laws to facilitate access to records from various government agencies. While such legislation has been in place for many centuries, more than half of these have been adopted only in the last decade. The development of transparency is primarily in response to the demands of a progressive civil society in general and civil society organizations⁸, particularly media and international financial organizations. In addition, many countries have also

⁵ The U.N. General Assembly Resolution, 59,1, December 1946.

⁶ S.D.Sharma and Priti Saxena, *Right to Information, Implementation, Problem and Solutions* 34(Regal Publication, Delhi, 2013).

⁷ *Ibid.*

⁸ Available at http://www.undp.org/content/undp/en/home/partners/civil_society_organization.html accessed on 21/10/2020.

adopted other laws that may provide for limited access. These between inter alia, incorporate information assurance laws that permit people to get to their own records by government offices just as private associations. Specific laws have been enacted that give access to certain areas such as health, environment, executive orders and / or codes of practice.

There have also been many external and internal pressures on governments to adopt freedom of information laws. In most countries, pressure groups such as the press, human rights groups and environmental societies have played an important role in the promotion and adoption of such laws. International organizations called for reforms and eventually governments themselves recognized the need to modernize such information laws.

More and more countries are guaranteeing citizens to know right, even as the United States⁹ has created new barriers to openness. Even as freedom of information steps into the mainstream worldwide, some governments are fighting back, apprehension about introducing new secret laws about their national security, and restrictions on public information, sharing this study observed that there should be a conflict between interests due to governmental openness, and the need to protect national security not only in the United States, but also in many other countries. However, over the past decade, dozens of countries have enacted formal laws that guarantee their citizens the right to access government information.

The right to information is an imperative of every democratic country and it is necessary for the citizens of every nation, because no democratic set can be fulfilled without effective and complete machinery for that nation, so under any system one It is very essential to establish a strong system so that it

⁹ Available at <http://www.usa.gov/about-the-us> accessed on 14/09/2020

does not work under any assumption, but the said legal provisions Under it can be implemented effectively. The researcher in the global potential found that not only is there a provision like the right to information in the Indian constitution, but another country has made a quick provision and made the information right under its constitution or under other statutory provisions. People's right to information has been widely accepted as a basic prerequisite for the effective functioning of a democracy. Although freedom of information laws have present since 1766¹⁰, when Sweden passed its Freedom of the Press Act, the last decade has seen an unprecedented number of countries adopting access to information legislation. There are several reasons for this trend:¹¹

- I. Since the 1980s, the emergence of new democracies has given rise to new constitutions that include specific guarantees of the right to information.
- II. There has been agitation from media and civil society groups, for greater access to information held by the Government and for more participation in governance. Finally,
- III. Several International bodies have been promoting freedom of information, and benefactor associations have been urging nations to receive admittance to information laws, as a component of a push to build Government transparency and lessen corruption.¹²

On July 4, 1966, President in the United States, the Freedom of Information Act was signed by *Lyndon B. Johnson* and entered into force the following year. *Ralph Nadar* has been credited with creating the act, among

¹⁰ P.K. Das, "*The right to information*" 3 (Universal Law Publishing, edn. 4th)

¹¹ Available at <http://righttoinformation.info/our-campaigns/rti/> accessed on 09/04/2017

¹² Available at <http://righttoinformation.info/rti/> accessed on 09/04/2018

others. The Electronic Freedom of Information Act Amendment was signed by President *Bill Clinton* on October 2, 1996.¹³

The Freedom of Information Act 2000 is the execution of freedom of information enactment in the United Kingdom on a public level, except for Scottish bodies, which are covered by the Freedom of Information (Scotland) Act 2002). Environmental information is covered by additional enactment Environmental Information Regulations 2004.

In a decision British Court in *Regina V. Sheyler* 2003 EWCA Crim 2218 held that the public has fundamental right to know what the government has been doing in its name.

In another important judgment *R. vs. Secretary of State of Home department Ex P. Simms* 2000 2 LR 115 (AC). The British Court held that the free flow of information and ideas informed political debate. This is the safety valve; People are more willing to accept decisions that go against them if they can basically take their information.

Current International law isn't limited to relations between the states however heaps of social concern additionally for example information, common liberties, wellbeing,¹⁴ instruction and like. Inside the UN, Freedom of Information was perceived at the beginning phases, as a fundamental rights. RTI is the advanced stage of freedom of information that imposes legal and mandatory obligations on public authority by removing their discretionary approach. An attempt has been made to highlight the status of freedom of information, as it is effective in different parts of the country.¹⁵

¹³Available at <https://www.wired.com/2009/10/1002electronic-foia/> accessed on 09/04/2018

¹⁴Available at <https://www.wired.com/2009/10/1002electronic-foia/> accessed on 16/02/2021

¹⁵*Ibid*

Under the International scenario International standards 1946, the UN General Assembly adopted Resolution 59(I), stating, “Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated.”¹⁶

3.2 Efforts made by International Bodies.

The United Nation¹⁷

Freedom of Information is now transformed itself extensively recognized in international Law. The United Nation General Assembly Resolution 59(1) 1946, which states: “Freedom of Information is a fundamental human right and the touchstone of all the freedoms to which the UN is consecrated.”¹⁸

Universal declaration of Human Rights, 1948

The General Assembly accepted and recognized importance of freedom of information when it was included under Universal Declaration of Human Rights on Dec. 10, 1948.

The General Assembly Proclaims: The universal declaration of human rights as a common standard of achievement for all peoples and all nations, to the end that every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among

¹⁶ Available at

http://webcache.googleusercontent.com/search?q=cache:CUWp4ghUOL0J:www.humanrightsinitiative.org/programs/ai/rti/articles/undp_rti_2006/annex4_global_perspective accessed on 09/04/2018

¹⁷ The United Nation General Assembly Resolution, 59,1,14, 65th Plenary Meeting, 1946

¹⁸ *Ibid*

the peoples of Member States themselves and among the peoples of territories under their jurisdiction.¹⁹

Article 19 of the Universal Declaration of Human Rights (UDHR) “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”²⁰

European Convention of Human Rights, 1950

The European Convention for the protection of Human Rights and Fundamental Freedoms also guarantees right to information:

- (1) Everyone has the right to freedom of expression. This advantage will incorporate consolidate freedom to hold opinion and to get and give and considerations without impedance by open force and paying little mind to boondocks. This Article shall not keep States from requiring the authorizing of broadcasting, Television or film endeavors.
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation

¹⁹ J.N.Barowalia 545 (*commentary on The Right to Information Act introduction by justice C.K.Thakkar ed.third*)

²⁰ Available at

http://www.humanrightsinitiative.org/programs/ai/rti/articles/undp_rti_2006/annex4_global_perspective_on_rti.pps accessed on 02/04/2018.

or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.²¹

International Covenant on Civil and Political Rights, 1966

UN Economic and Social Council (ECOSOC) were responsible for the international covenant on Civil and Political Rights. A legally bound treaty was adopted by the UN General Assembly in 1966 and, as of today, had been ratified by some 150 states. India is a signatory to the Covenant. It declared right of people to be fully reliably informed so as to improve their understanding through free flow of information and opinion.²² This meant placing safeguards against threats to the maintenance of a friendly relationship between people and resulting from the publication of inaccurate reports, which could lead to inter-country aggression and wars. Therefore, it recommends the adoption of a measure designed to deal with the spread of false or distorted reports to promote friendly relations between states and promote widespread dissemination of news and regular news dissemination. Increases the wisdom of responsibility of the persons involved.

The right to get information in democracy is perceived all through and it is a natural right flowing from the concept of democracy. These basic liberties are enshrined in The International Convention of Civil and Political Rights, 1966 as under:

- 1) Everyone shall have the right to hold opinions without interference.
- 2) Everyone shall have the right to freedom of expression; the right shall

²¹ European Convention of Human Rights, E.T.S. No. 5, adopted 4 November 1950, entered into force 3 September, 1953. Article 10.

²² International Covenant of Economic, Social and Cultural Rights 1966, Preamble

include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

1. The exercise of the rights provided in paragraph 2 of this Article carries with it special duties and responsibilities. It may, therefore, be subject to certain restrictions but these shall only be such as are provided by law and are necessary.
 - a. for respect of the right or reputations of others;
 - b. for the protection of national security or of public order or of public health or morals.²³
2. Government should maintain and preserve records, for the people to inspect.
3. In principle, decisions to refuse access to records and information should be subjected to independent review.²⁴

International Convention on the Elimination of All Forms of Racial Discrimination 1969

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of dignity and equality inherent in all human beings, and that all member states have resolved to take action jointly and severally, in collaboration with the organization, for achievement. One of the objectives of

²³ Resolution 2200 (XXI), 165 December 1966, entered into force 23 Mar. 1976. Article 19.

²⁴ Communiqué, Meeting of Commonwealth Law Ministers (Port of Spain: 10 May, 1999).

the United Nations, which is to promote and encourage the observance and universal respect for human rights and fundamental freedoms for all, irrespective of race, gender, language or religion.

Considering that the Universal Declaration of Human Rights declares that all human beings are born free and equal in honor and rights and all have all rights and freedoms set out therein, without distinction of any kind, especially of race, color or national origin,

Considering that all these human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that The United Nations has condemned colonialism and all practices associated with segregation and discrimination, in whatever form and wherever they exist, and that the Declaration on the grant of freedom to colonial countries and peoples from 14 December to 1960 (General Assembly Resolution 1514 (XV)) has confirmed and announced the need to bring them to an early and unconditional end,

Considering The United Nations Declaration of the 20 November 1963 on the abolition of all forms of racial discrimination (General Assembly resolution 1904 (XVIII)) fully reaffirms the need to abolish racial discrimination in all its forms and manifestations and of securing understanding respect for the dignity of the human person worldwide,

Assuming that any theory of superiority based on racial discrimination is scientifically incorrect, morally reprehensible, socially unjust and dangerous, and that racial discrimination has no justification, in principle or practice.

Reaffirming that discrimination between humans on the basis of race, color or ethnic origin and disturb peace and security between people as a barrier to friendly and peaceful relations between nations and also within one and the other simultaneously harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is abhorrent to the ideals of any human society, concerned with manifestations of racial discrimination in some regions of the world and by government policies based on racial superiority or hatred such as racial superiority Or separation,

Resolved to adopt all necessary measures to swiftly end racial discrimination in all its forms and manifestations, and to promote understanding between race and all of racial discrimination and to prevent and combat racial principles and practices to build an international community free of forms,

Bearing in mind the Convention on discrimination in relation to employment and occupation adopted by the International Labor Organization in 1955, and the Convention against Discrimination in Education, adopted by the United Nations Educational, Scientific and Cultural Organization in 1980.

Desiring to implement the principles contained in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the early adoption of practical measures to that end,

Article 7 States Parties undertake to adopt immediate and effective measures, particularly, in the field of teaching , education, culture and information ,with a view to combating prejudices which lead to racial discrimination and to promoting understanding; tolerance and friendship

among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this convention.

American Convention of Human Rights, 1969

Article 13: Freedom of thought and expression:

1. Everyone shall have the right to freedom of thought and expression. This right shall include freedom to seek; receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to subsequent imposition of liability, which be expressly established by law to the extent necessary in order to ensure;
 - a. respect for the rights or reputations of others; or
 - b. the protection of national security, public order, public health or morals.
3. The right to expression may not be restricted by methods or means such as the abuse of government or private control over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subjected by law to prior censorship for the sole purpose of regulating access to them for the moral protection of

childhood and adolescence.

5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar illegal action against any person or group of persons on any grounds including those of race color, religion, language, or national origin shall be considered as offences punishable by law.²⁵

UNESCO Declaration, 1978

UNESCO is committed to remove the obstacles on the free flow of information. The right of know together with the other concept, the right to communicate provides the basis of a New World Information and Communication Order. The UNESCO Declaration of 1978 recognizes that freedom of opinion expression and information is an integral part of human rights and fundamental freedom.

UNDP

In 1997 UN Development Programme (UNDP) adopted its public information Disclosure Policy and recognized information as a key to sustainable Human Development and also to UNDP accountability. The policy objective states clearly that information concerning UNDP operational activities will be made available to public in the absence of a compelling reason for confidentiality, such as commercial confidentiality, confidentiality of internal deliberative process, legal privilege or privacy of employees.

²⁵ The American conversation on Human Rights, adopted at San Jose, Costa, Rica, 22 Nov. 1969, entered into force 18 July 1978, Article 13.

European Union (EU)

European Union gave explicit legal status to the right to access information in 1997 through the Amsterdam Treaty²⁶ European Union Charter guarantees access to documents of the European Parliament, Council and Commission.²⁷ In 2001, a Regulation was passed by EU on Freedom of Information, to ensure widest access possible to document by its members,²⁸ drawn up or received by it and in its possession, in all area of activities of the EU. Register of all documents is maintained and updated on internet Art. 23.²⁹ Art. 17 Ombudsman Code of Good Administrative Behavior, applies to all institutions of the EU. The code enjoins upon officials to provide public the information requested,³⁰ and to inform it about their rights Art. 25.³¹

The European Union has also shown its commitment to the right to information to enforce regulations that provide mechanisms through which people can obtain information from EU institutions. In March 2008, the Council of Europe's Steering Committee on Human Rights (CDDH) adopted the Convention on Access to Official Documents in Strasbourg.

Aarhus Convention European treaty open to non-European government right to information held by public body's right to participate in environmental decisions right to challenge refusals in a court of law. Information and the private sector right to certain information companies that are performing public functions where there is particular environmental concern Chile, USA, and

²⁶ Amsterdam Treaty, European Access to information, 1997, Article 1, 251 and 255.

²⁷ European Union Charter of Fundamental Rights, 2000, Article 42, Doc. 2000/C364/01

²⁸ European Parliament and Council Regulation, 2001, Public Access to European Parliament, Council and Commission Documents. (EC) 1049/2001, available at http://www.europa.eu.int/comm/_general/sgc/ac_doc/docs/1049EN.pdf accessed on 12/01/2016.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

Canada. South Africa gives right to access information held by private bodies, to protect rights³²

Commonwealth Law Ministers at their meeting in Barbados in 1980 emphasized that “public participation in the democratic and governmental process was most meaningful when citizens had adequate access to official information”.³³

African Commission of Human and People’s Right, 2002

Development on freedom of information at the African Union has been more modest. The commission adopted a Declaration of Principles on Freedoms of Expression in Africa at 32nd Session in October 2002. The Declaration clearly endorses the right to access information held by public bodies, stating:

1. 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 defined rules established by law.
2. The right to information shall be guaranteed by law in accordance with the following principles :
 - everyone has the right to access information held by public bodies;
 - everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;

³² Declaration of Aarhus convention European Treaty

³³ Commonwealth Expert Group meeting at Marlborough House London March 1st, 1999

- any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;
 - public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interests;
 - no one shall be subject to any sanction for releasing in good faith information on wrong doing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society, and;
 - Secrecy law shall be amended as necessary to comply with freedom of information principles.
3. Everyone has the right to access and update or correct his personal information, where it is held by public bodies.³⁴

Joint Declaration on International Mechanism for promoting freedom of expression

A joint declaration on international mechanisms to promote freedom of expression was issued in 2004 in relation to the free expression of the United States Organization of the United Nations and the Organization for Security and Cooperation. This declaration confirmed the right to access to information as a fundamental human right to all citizens. The government should respect this right, to ensure democratic participation, and to implement laws based on the principles of maximum disclosure to prevent corruption. Special

³⁴ African Commission on Human and People's Rights , 32nd Session, 170, October, 2002, Banjul, The Gambia.

Rapporteurs emphasized the fundamental importance of access to information so that democratic participation, accountability in government and prevention of corruption should be ensured.

3.3 RIGHT TO INFORMATION IN THE BRICS COUNTRIES

BRICS is an acronym for Brazil, Russia, India, China and South Africa. The researcher has chosen the idea of BRICS specifically to strengthen the research work as the assumption behind the coincidence was that by 2050 the country's economy would dominate globally. India is a developing country and every citizen has right to know about the affairs of the government. The people are the part of the economy as they are contributing and participating through paying the tax.

Brazil and Right to Information:

President Dilma Rousseff has signed the Law on the Right to Information, an important step forward in consolidating democracy in Brazil. The law was fully come into effect within 180 days, a short period for all the challenges that need to be force in it's entirely.³⁵

“The right to access information held by the public authorities is a fundamental human right recognized under international law, and only through implementing legislation at the national level can proper effect be given to it,” said Paula Martins, Director for ARTICLE 19 South America.³⁶

The implementation of the law will require a national campaign and trainings at the federal level to overcome a culture of secrecy within the public

³⁵ Available at <https://www.right2info.org/recent/brazil-adopts-access-to-information-law> accessed on 26/02/2021

³⁶ *Ibid*

bodies of the executive branch. Legislative and judicial branches are required to create separate regulations in line with the provisions of the law. The law contains a number of positive features. It includes, among other things, tight timelines for responding to requests, absolute openness in relation to information concerning human rights protection and violations, a clear statement of the right of access, good rules on sanctions for obstructing access and a progressive system for classification of information.

Despite being a landmark development for the right to information in Brazil, the law still has some shortcomings. Article 19 has repeatedly emphasized the importance of an independent body to consider appeals against refusals to provide access to information, something the current text fails to establish.³⁷

While signing the law, President Rousseff vetoed two provisions. There was previously a mandatory notice to the Office of the Public Prosecutor in cases when access to information necessary to protect human rights is denied. The second one relates to the composition of the Commission for the Revaluation of Information, which would presumably be instituted in a separate regulation, consisting of only members of the executive branch.

Russia and Right to Information:

In 1993, Article 29 of the Russian Constitution³⁸ engaged everybody to freely seek, receive, transmit, produce and distribute information by any legal means. As a result, Russia's RTI law has often been described as the most advanced in the world.

³⁷ *Ibid*

³⁸ Constitution of the Russian Federation approved by national referendum on 12 December 1993, which came into effect on 25 December 1993

The right to information (RTI) is an essential basic freedom, perceived under global law. The 1993 Russian Constitution cherished this privilege locally, and a progression of bureaucratic laws have since expounded how it tends to be worked out – most remarkably the 2010 Law "On Providing Access to Information on the Activities of State Bodies and Bodies of Local Self-Government" (referred to all through this report as the 2010 Law on Access to Information). They give citizens the option to ask for and get information, setting out an unmistakable methodology for demands and putting obligations on legislative bodies and organizations to give the necessary information.

General Principles of RTI in Russian Law:

Generally speaking all information for which there are no existing restrictions on distribution, i.e. restrictions that are already prescribed in Russian law (see section ‘2.5 - Restrictions and exemptions to disclosure’), should be freely disseminated. This does not mean that all information needs to be actively placed in the public domain by the government, but that this information should be available upon request (see sections ‘2.3 Proactive Publication and 2.4 Requesting Information’). The 2006 ‘Law on Information’ defines information as communications (e.g. messages, data) irrespective of medium. Information is further understood through its classification into different categories under various Russian laws, which in turn also provide various qualifying factors affecting the exercise and regulation of RTI.³⁹ While the regulations for handling different types of information can differ, Team 29 proposes⁴² that there are ‘Eight Principles of Freedom of Information’, which must be followed in order for RTI to be upheld. These principles, while not explicitly categorized as such within the 2006 ‘Law on Information’, have been

³⁹ Available at https://www.article19.org/wp-content/uploads/2018/12/Opening_up_Russia_RTI_report_10.12.pdf accessed on 16/02/2021

derived from Team 29's analysis which finds them articulated across several articles of the Law (most notably article 4 of the 2010 'Law on RTI') and are presented below in order to provide a cohesive and clear list.⁴⁰

Eight Principles of Freedom of Information

- 1) The legal exercise of the right to information incorporates the opportunity to look for, get, communicate, create and disperse information;
- 2) Restrictions on admittance to information might be set up exclusively by government law;
- 3) Transparency of information concerning exercises of the public authority and neighborhood self-government bodies should be guaranteed; with free admittance to such data, besides in explicit cases characterized by law;
- 4) Information should be solid, and gave in an opportune way (see area 2.4 underneath);
- 5) The assortment, storage, use and spread of information about the private life (counting individual information) of a person without their assent isn't allowed;
- 6) The language of the people groups of Russia should have equivalent status;

⁴⁰ *Ibid*

- 7) When making and utilizing instructive frameworks, the security of these frameworks should be guaranteed, to keep up the security of the information contained inside;
- 8) Giving inclination to certain innovations over others, except if in any case accommodated by law, isn't allowed.⁴¹

Nevertheless, the existence of the 2010 Law on ATI continues to provide an opportunity to promote and practice transparency. It is vital to keep it active, especially in the light of clear examples of positive change and effective action.

India and Right to Information:

Passing of the Right to Information Act is a milestone witnessed in the journey of Indian democracy. This has made some positive change beneficial to mass. It is a matter of pride for Indian legal system that RTI has been proven as cancer corrupt practice and a tonic for rule of law. A system of government to be called democracy in a real sense must respect values like efficiency accountability interactive and participatory. Transparency and accountability in the administration is sine qua non of participatory democracy. The Right to Information Act is aimed to give strength and respect to these values. A little encouragement by government, non-government organizations and public-spirited citizens can enhance the benefit of this law. This empowers citizen of India like never before by any legislation. Under this law any citizen can question, audit, review, examine, and know about any government action and decision in order to ensure the value of public interest, justice and good governance.

⁴¹ *Ibid*

In September 2013, Pranab Mukherjee, the then president of India spoke about the unfringeable right to privacy that citizens of India must benefit from, at the annual event of the Central Information Commission (CIC), a body constituted by India's Right to Information Act 2005. "Both the Act and the CIC have empowered ordinary citizens to present applications demand information from government bodies, introducing a new phase of transparency in an infamously opaque bureaucracy. In fact, the RTI Act has been born of and has encouraged, large RTI 'movements', that have exposed layers of corruption in several schemes across various government departments. For citizens, the fact that a government official has to release information regarding budgets, forms, decisions and other facets of public governance has led to the belief that unchecked corruption might finally simmer down, and that they are no longer helpless against the system"⁴²

In the name of Information Law development, India has long history included Indian constitutional guaranteed right to information under Article 19 (1) (a), but this right is not absolute. The founding father of the Constitution imposed restriction on this right by Article 19(2).⁴³ Simultaneously the Indian judiciary also expanded the scope of Right to Information in the public interest by use of Article 19(1) (a) through various interpretations. In *thalapanaln service Co-operation Bank Ltd. vs. Union of India*⁴⁴ Kerala High Court observed that the right to information is considered as a fact of the right to free speech and expression guaranteed under Article 19(1) (a) of the Constitution of India. The said Constitutional right being a fundamental right could be enforced by invoking the writ jurisdiction of the Supreme Court and the High

⁴² Available at <https://www.indexoncensorship.org/2013/09/indias-right-information-act-colliding-privacy/> accessed on 02/03/2018

⁴³ S.D.Sharma and Priti Saxena, *Right to Information, Implementation, Problem and Solutions*, 50 (Regal Publication, Delhi, 2013).

⁴⁴ AIR 2010, Kerala 6(9).

Court under Article 32 and 226 respectively. But, the Right to Information provides Act provides an efficacious remedy for enforcement of the right to information. The object and reason for introducing the Act read as follows.

It was the beginning of the seventh decade of 20th Century when the idea of the right to information began to take shape. The foundations of this idea were some judicial decision and judicial activism. The apex court of India made a liberal and possible widest interpretation of the right to speech and interpretation. In the matter of *Bennett Coleman & co. vs. Union of India*⁴⁵, the Supreme Court had observed in its majority opinion that freedom of speech and expression as provided in Article 19 of the Indian constitution includes rights of all citizens to read and be informed or right to information.

In *Prabhu Datt vs. Union of India* the Supreme Court held that right to know news and information regarding public administration by the government is a species of the right to freedom of the press. There is a number of judgments by the apex court and high court favoring discloser of government information and maintaining transparency. But due to lack of any clear enactment of statute on the matter, people found incapable to get information and had to knock the doors of the court every time they wanted to into effect their right to know. The general public neither had time nor resources to get into the complicated legal process. The courageous and powerful grassroots pressure groups were from rural poor for the right to information to fight rampant corruption food crisis in relief work. It was a struggle led by the Mazdoor Kissan Sangh⁴⁶ (MKSS) basically from Rajsthan. It was an organization aimed at the empowerment of worker and peasant.

⁴⁵ AIR 1973 SC 106

⁴⁶ Available at <http://mkssindia.org/> accessed on 23/12/2020

Further, various section of society particularly media personnel, social activists and positive thinking people have always expressed that right to seek information should be distinct fundamental right. The movement of RTI can trace back to grassroots struggle of the rural people, who have sought to fight against the corruption in the areas affecting their livelihood and justice. In 1995, the Press Council of India produced the first blue print of the Freedom of Information Bill, in 1997 the Government of India introduced the Freedom of Information Act. The same year a working group itself presented another draft. The Freedom of Information Bill was introduced in Parliament in July 2000. The Freedom of Information Act, 2002 appeared, but was not specifically declared. The Parliament of India eventually passed the Right to Information Act, 2005. The Act received the President's assent in June 2005, and came into full force from October 2005.⁴⁷

Salient Features of the RTI Act 2005:

The Right to Information is a nicely arranged statute. The foundation of the statute lies on the hypothesis that democracy requires an informed citizenry and clearness of government information. This statute summed-up in six chapters and includes two schedules. In which Chapter 1 is named as 'preliminary' and explains the different terms such as appropriate government, public authority, information, record, third party etc. Chapter 2 provides for obligations of public authorities. Chapter 3 talks about the Central Information Commission whereas Chapter 4 contain all about State Information Commissions. Chapter 5 is about the powers and functions of the Information Commissions, appeals and penalties and Chapter 6 has all the miscellaneous things. Schedule 1 contains

⁴⁷ Neeraj kumar, Right to Information , An overview 5 , (New Royal Book Co., Lucknow, 1st edn. 2012)

the oath to be taken by various levels of Information Commissioners. Schedule 2 provides for a list of intelligence and security organizations established by the Central Government. RTI is for the right of any citizen of India to demand access to information and the relating obligation of Government to meet the request except the exempted information (Section 8 and 9).

Certain terms explained in the Act are as follows: "*information*" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

“Public Authority” means any authority or body or institution of self-government established or constituted – (a) by or under the constitution; (b) by any other law made by parliament; (c) by any other law made by the State legislature; (d) by notification issued or order made by the appropriate Government and includes any –

(1) body owned, controlled or substantially financed; (2) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

“Right to Information ” means the right to information accessible under this Act which is held by right under the control of any public authority and includes the right to – (i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of documents or records (iii) taking certified samples of material obtaining information in the form of diskettes, floppies,

tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

There are some obligations for the public authority given in S 4 (1). According to which 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 record is facilitated.

Privacy and confidentiality are noteworthy principles, connected to the strengthening of independence and individuality, which are themselves extremely cherished in a democratic society like ours. The RTI Act advances other values significant in a democracy—transparency and accountability of government actions. After coming into force of the RTI Act the government servant staff has become active they began to avoid committing any misconduct in fear of RTI. They were not in habit of responsibility but now the image has been different. All concern officials are being showing attitude of seriousness. They are maintain each and every record of government action in nature of public interest.

China and Right to Information:

The China Information Law turns twelve years. China is a country located at Eastern Asia and it is one of the largest countries in the world. The transparency law of China has been in force since 2007 and with it has earned 73 points in the Global Right to Information Rating (RTI Rating). With that score China is now ranked 84 in the transparency ranking formed by 123

countries, meaning it is among those that must improve its laws in order to guarantee access to information. China's Constitution does not expressly mention the right to information but grants Chinese citizens freedom of speech, of the press, of assembly, of association, of procession and of demonstration.⁴⁸

This Regulation was adopted by the State Council of People's Republic of China on January 17, 2007 and came in operation from May 1, 2008. It was enforced with the objective of ensuring citizen's, legal person's and other organization's access to obtain government information. Other objectives are to enhance transparency of the work of the government, promote administration in accordance with law, and ensure the role of government information in serving the people's production and livelihood.⁴⁹

The RTI movement started at a regional level. Before the state RTI legislation was adopted, 30 provinces and large municipalities already had their local regulations on access to information. In 2003, the People's Republic of China Open Government Information Regulations (OGI Regulations) were put on the legislation agenda of the State Council and adopted in 2007. The OGI Regulations were criticized for being less progressive than local regulation. The central government in 2012 started issuing new progressive annual guidelines on the implementation of the Regulations emphasizing the need for more transparency of the regulatory authorities and more proactive disclosure of environmental information.⁵⁰

Principles: The purpose of the OGI Regulations is to enhance transparency, promote legality of the administration and support

⁴⁸ Available at <https://countryeconomy.com/government/global-right-information-rating/china> accessed on 16/02/2021

⁴⁹ Available at <http://www.ccrinepal.org/resources/rTI-legislation-world> accessed on 16/02/2021

⁵⁰ Available at <https://countryeconomy.com/government/global-right-information-rating/china> accessed on 16/02/2021

productivity and social and economic activities. The OGI Regulations are rather ambiguous as to whether ‘need to know’ is a precondition to the access right.

The Regulations state that people may request information “in the light of their special needs for production, living or scientific research”. According to the mainstream view among Chinese legal scholars, the Regulations have not required applicants to prove their needs (especially because Article 20 does not instruct applicants to provide reasons for their OGI requests). Yet the General Office of State Council imposed this condition, which was widely regarded as ultra vires (even by judges).⁵¹

Hence, ‘proving special needs’ is a de facto rule added by the General Office during the implementation of the Regulations. In 2008 and 2010, the General Office adopted two Opinions reiterating that if requested information does not relate to the requester’s “special needs” as mentioned in the Regulations, the government body may refuse access.

The right to information is limited to citizens, legal persons and other organizations. The OGI Regulations only apply to the government and its agencies at the national and local level, excluding the judiciary, the legislature and the Chinese Communist Party. Articles 36 and 37 of the Regulations apply the disclosure obligation to organizations authorized to manage public affairs and to public enterprises and institutions that provide public services closely related to the public’s interests, as further specified in the implementing guidance of 2008. The Regulations define “government information” as information recorded or preserved in any form that is made

⁵¹ Available at <https://countryeconomy.com/government/global-right-information-rating/china> accessed on 16/02/2021

or obtained by administrative agencies in the course of carrying out their duties.⁵²

Implementation of RTI Legislation: The implementation of the law encounters a number of practical obstacles. Some of the identified problems include a lack of resources to meet records management standards and address the access requests; massive bureaucracy; broad interpretation of prevailing secrecy legislation; unease and lack of experience of civil servants; lack of experience of the courts in handling a new type of lawsuits which emerged with the OGI Regulations; and court decisions largely in favor of the government.

However, positive trends had been observed, such as wide use of the Regulations, increased media coverage of landmark RTI cases, and changing practices through the internal review mechanism (administrative appeal). The Regulations are actively used by civil society organizations, lawyers who also advance the cause of strategic RTI litigation and citizens mainly in the area of land and property takings, urbanism and planning. While many requests are for information related to the requester directly, such as benefits information, other requests relate to environmental information, and particularly pollution, safety and conformity of vaccines, wrongdoings and corruption, budget information, and illegal construction.

On a positive note, the Chinese Government has reportedly stepped up the efforts on providing proactive disclosure of an increasingly large pool of information.

⁵² *Ibid*

South Africa and Right to Information

The South Africa is the country which provides explicit place to right to information in its constitution.⁵³ South Africa's Constitution gives every person the right of access to information, held by a public or private body that is required for the exercise or protection of any right.⁵⁴

The Promotion of Access to Information Act of 2000 gives effect to this right; now the South Africa Heritage Resources Agency (SAHRC) is helping to make the right a reality by offering citizens a simple, easily understandable guide to the law and how to use it.⁵⁵

Constitution of South Africa guarantees that everyone has the right of access to (a) any information held by the State, and (b) any information that is held by another person and that is required for the exercise or protection of any rights. The Constitution also mandates for a national legislation and also directs the State to provide reasonable measures to alleviate the administrative and financial burden on the State.⁵⁶ Under Article 32 of the South Africa constitution 1966 states that,

1. Everyone has a right to access to-
 - a. Any information held by state; and
 - b. Any information that is held by another person that is required for the exercise or protection or right.

⁵³ Neeraj kumar, *Right to Information , An overview* 17, (New Royal Book Co., Lucknow, 1st edn. 2012)

⁵⁴ Available at <http://www.gov.za/welcome-official-south-african-government-online-site> accessed on 15/03/2015

⁵⁵ Available at <http://www.southafrica.info/services/rights/> accessed on 15/03/2015.

⁵⁶ The Constitution of the Republic of South Africa, Act 108 of 1996, S. 32. <http://www/polity/org.za/govdoc/constitution/saconst.html>

2. National legislation must be enacted to give effect to this right and may provide for reasonable measures to alleviate the financial and administrative burden of the state⁵⁷

The "Promotion of Access to Information Act, 2000" which came into effect in March 2001,⁵⁸ is the most comprehensive and unique piece of legislation. It provides public access to information swiftly, inexpensively, effortlessly and 'reasonably'. The attitude of bureaucracy makes it possible to provide information held by government bodies without jeopardizing good governance, personal privacy and commercial confidentiality. It provides for disclosure of information, not only by public authorities but also by private persons, affecting the life of common people, subject to certain safeguards. The Act is unique as it allows individuals and government bodies to access records held by private bodies when it is necessary to enforce people's rights e.g., information on environmental hazards may cause harm, if kept secret by private entities.

It takes care of records, regardless of when they came into existence, and records are deemed to be the records of a body if they are under its possession or control. The Act also provides for severability of records so that information may be provided to the extent possible.⁵⁹

Public and Private organizations must publish manuals, describing their structure, functions, contact information, access guide, services and description of the categories of records held by them. They are to be submitted by private

⁵⁷ The constitution of the Republic of South Africa, Act 108 of 1996 *available at* https://www.servat.unibe.ch/icl/sf00000_.html *accessed on 16/02/2021*

⁵⁸ Promotion of Access to Information Act, 2 of 2000, *available at* http://www.gov.za/gazette/acts/2000/az_00.pdf *accessed on 12/12/2016*

⁵⁹ *Available at* https://www.saps.gov.za/resource_centre/acts/downloads/promotion_of_access_act2_2000.pdf *accessed on 16/02/2021*

bodies by 2005, to the Human Rights Commission, which is designated to oversee the functioning of the Act.⁶⁰

The Manual for classification, maintenance and index of records is contemplated. Section 10 and section 12 of the PAIA provides guidelines are provided on how to use the Act. Section 15 and section 52 of the Act emphasizes on voluntary disclosure and automatic availability of certain records. Records are required to be preserved, until a final decision is taken on a request to provide information under section 21 of the Act.

There are criminal fines and jail terms for those who destroy, damage, alter or falsify records. The reasons are obvious. The Truth and Reconciliation Commission found that there was a systematic destruction of classified documents during the Apartheid-era 1990-1994, sanctioned by the Cabinet. The government has accounted the creation of a Classification and De-classification Review Committee in March 2003.⁶¹

The Act does not apply to records of the Cabinet and its committees, judicial functions of the courts and tribunals, and individual members of Parliament and provincial legislatures under section 34 and section 63 of the Act. Section 17 of the Act defines that a requester must be given access to records regardless of his purpose, if it is not falling under any exceptions and law provides for appointment of Information Officers and other subordinate officers, as may be required under section 11. Oral request may be made by a person and the information Officer is obliged to reduced it to writing and provides the requester with a copy under section 18. Section 19 provides,

⁶⁰ Available at <http://www.sahre.org.za/paia.html> accessed on 02/02/2016

⁶¹ Banisar David, Visiting Fellow, Department of Law, University of Leeds, Freedom of Information and Access to Government Record Laws Around the World, dbanisar@privacy.org, 28 September, 2003.

Information Officer must provide reasonable assistance to a requester and should not reject the request straightway. When the information is to be gathered from a different city or where interagency consultation is required, requester must be notified of the likely delay under section 26. When the request is rejected, reasons should be given, and the requester should be informed of appeal provisions in section 25.⁶²

Where request is transferred to another body, it should be done' within 14 days, with intimation to the requester. Section 22⁶³ provides, when the record is missing, the requester should be apprised of the steps taken to attempt to locate the records. Minister is empowered to waive the fees.

Mandatory protection is given to protection of third party who is a natural person and the Act requires in such cases, resort to third party notification and intervention. Other grounds of refusal by public authorities are certain records of Revenue Service under section 35; section 37, commercial information of third party; safety of individual and protection of property under section 38; section 39, police dockets in bail proceedings and protection of law enforcement and legal proceedings; section 40, privileged documents from production in proceedings; section 41, defense, security and international relations; section 42, economic interests and financial welfare of state and commercial activities of public bodies; section 43, mandatory protection of research information of third party and protection of research information of public bodies; section 44, operation of public bodies; section 45, manifestly frivolous or vexatious requests or substantial and unreasonable diversions of resources and public interest under section 46. Most of the exemptions require

⁶² Available at https://www.saps.gov.za/resource_centre/acts/downloads/promotion_of_access_act2_2000.pdf accessed on 16/02/2021

⁶³ *Ibid*

some demonstration that release of information would cause harm. The exemptions need to be balanced against a public interest test. The information must be disclosed when there is a serious contravention or failure to comply with the law or an imminent and serious public safety or environment risk.⁶⁴

Section 63 of the Act provides grounds for refusal of access to records of private bodies are for protection of privacy of natural persons; section, 64 commercial information; section 65, safety of individuals and protection of property; section 67 includes privileged records; under section 68 and 69, commercial and research information.

State bodies have to respond within 30 days to requests. The Act provides for internal appeals (Part IV Ch. II, Ss. 74-77) and section 78 to 82 of the Act includes appeal to the courts against the decisions of information officers of the public bodies, or heads of private bodies.⁶⁵

The Act provides for Human Rights Commission to report to National Assembly; in respect of the implementation of the Act, Part V Ss. 83-85. Expenditures of Human Rights Commission in terms of the Act are met by public exchequer. Human Right Commission in its Annual Report 2001-02, noted that lack of funds prevented it from- conducting any work of the Act.

Global trends

However freedom of information laws have existed since 1766, when Sweden passed the Freedom of Press Act over the past decade, and it has seen many states strive to make laws more transparent and lawful to obtain information. According to a new survey compiled by Dutch journalist Roger

⁶⁴ *Ibid*

⁶⁵ *Ibid*

Velegels for International Journalist Rights Day, about 86 countries and autonomous courts have now implemented some form of freedom of information law.

According to transparency scholar Alasdair Roberts, the access to freedom of information laws is no longer limited to just millions, as in traditional countries, starting in Scandinavia, but with billions of people passing the RTI Act in India and the People's Republic, the New Information Regulations developed by of China.

In Western Europe, only Germany and Switzerland lack legislation. Almost all Central and Eastern European countries have adopted laws as part of their democratic transition. About a dozen Asian countries have either enacted laws or are in the process of doing so. Similarly, in South and Central America, many countries are considering laws.

Many countries in Southern and Central Africa are leading South Africa with various proposals for freedom of information laws. The Press Act required the publication of official records at the request of Sweden's freedom. The Freedom of Press Act, which is now work piece of the Swedish Constitution, *inter alia* states that subject will have free access to official documents in every Swedish subject. While Chapter 2 sets out the exceptions to free access, it also, in most cases, provides for the right to refinance an appeal to provide access to the courts. Another country with a long history of freedom of information law is Colombia, whose Code of Political and Municipal Organization of 1888 allows individuals to request documents kept in government agencies or government archives. The United States passed the

Freedom of Information Law in 1967; Laws were enacted in 1982 in Australia, Canada and New Zealand.⁶⁶

In Asia, the Philippines recognized the right to information initiated by the state in 1987, the right to pass codes of conduct and ethical standards for public officials and employees. A code for access to information was adopted in Hong Kong in March 1995. And in Thailand, the Official Information Act came into force in December 1997. In South Korea, the Act on the Disclosure of Information by Public Agencies came into force in 1998, and in Japan, legislation relating to the use of information by administrative organizations was enacted in April 2001.

South Africa is in fact the only African country to pass Freedom of Information Law. The 1996 constitution of the Republic of South Africa is not only unique in the breadth of the guarantee of freedom of information, but also requires the adoption of national legislation to give effect to this right within three years of its enactment. The enabling legislation, the Access to Information Act, came into force in March 2001.

Closure Home, on 21 October 2008, the caretaker government of Bangladesh issued a Right to Information Ordinance in the country's Gazette based on the Indian Act. The Government of Nepal enacted the Right to Information Act 2007 in 2007 to provide an independent National Information Commission for the protection and promotion of the right to information.

What has happened in this panic of interest in transparent governance? Since the 1980s, the collapse of totalitarianism and the emergence of new democracies have given rise to formations that include specific guarantees on

⁶⁶ Available at <https://www.article19.org/resources/country-report-the-right-to-information-in-china/> accessed on 16/02/2021

the right to information. At the same time, in old democracies such as the United Kingdom, it is prudent to implement such legislation. International bodies such as the Commonwealth, Council of Europe and the Organization of American States have drafted guidelines or model legislation to promote freedom of information. The World Bank, International Monetary Fund and other donors are also pressuring countries to adopt access to information laws in an effort to increase transparency and reduce corruption. Finally, there is movement from media and civil society groups for greater access to information held by the government and greater participation in governance.

On the basis of above stated conventions treaties and U.N. Declaration the researcher came to know that information system is being taken very deftly by every country and organizations. And they are gradually adopting and giving information as a right under legal status which no doubt making the democracy more valuable and bringing prosperity in every system, but the thing is that that must be very much impartial and should be more transparent and string which can scare the public authorities more responsible towards its citizens. Transparency and best information system is basis pillar of every democratic mansion of every nation therefore now it is considered that under any legal system it must be maintained. And we are example under global system that we want to bring some changes through our constitutional and legal machinery and we are getting more and more democratically aware in our Indian legal system. Therefore we can proudly say that RTI is very fruitful and meaningful and has proved to be milestone till yet in our existing Laws.

3.4 Conclusion

On the basis of above stated conventions treaties and U.N. Declaration the researcher came to know that information system is being taken very deftly by

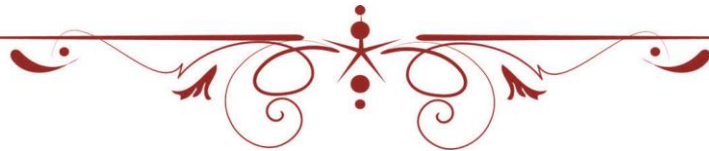
every country and organizations. And they are gradually adopting and giving information as a right under legal status which no doubt making the democracy more valuable and bringing prosperity in every system, but the thing is that that must be very much impartial and should be more transparent and string which can scare the public authorities more responsible towards its citizens. Transparency and best information system is basis pillar of every democratic mansion of every nation therefore now it is considered that under any legal system it must be maintained. And we are example under global system that we want to bring some changes through our constitutional and legal machinery and we are getting more and more democratically aware in our Indian legal system. Therefore we can proudly say that RTI is very fruitful and meaningful and has proved to be milestone till yet in our existing Laws.

From the above discussion, it is clear that the tendency towards openness in the system of governance is worldwide. The Privacy factors such as changing socio-economic change, raising public awareness of their rights, the need for a fully accountable and accountable administration and increasing public opinion that increase the chances of misuse of authority by government officials have led to demand for greater transparency in government functioning. Although full openness is neither possible nor desirable, a balanced approach to openness in government functioning has to be devised.

In short, there is no lack of commitment by the international community to give the public access to information about their policies and actions. Countries around the world have recorded this commitment to binding human rights instruments and transparency in declaratory statements. What has slowed down in the coming years is the political will to turn this commitment into action only 111 of the 195 countries in the world have access to information laws.



CHAPTER-IV
NATIONAL PERSPECTIVE OF RIGHT
TO INFORMATION



CHAPTER-IV

NATIONAL PERSPECTIVE OF RIGHT TO INFORMATION

4.1 Introduction:

In India, the right to information has been developed through diverse varieties of history for almost the entire period of the country's independence. The Right to Information is a *sine quo non* in any democratic society. Information is important because it empowers people and ensures transparency of Administration. “*Rome was not built in a day*” so is the case with recognition of freedom of information as a Right to Information Act 2005. The spirit of the Act predominantly existed mainly before the passing of the above Act.

4.2 Right to Information: Before the enactment of the Right to Information Act 2005

Before the enactment of a specific law on the right to information several laws as well as regulations existed against the disclosure of information. For example, there is a provision in the Official Secrets Act 1923, where any person is in his possession or controls any secret official code, password, planning model, article, note, document or any type of official information.¹ If he voluntarily misuses that information, he shall be guilty of an offense under the Official Secrets Act.

The Indian Official Raj Bill was passed by the legislature; it was received on 2 April 1923. It came on the Statute Book as the Indian Official

¹ Rajeev Kumar Singh, *Right to Information, Empowerment and Good Governance* 62 (Mewar University Press Pvt. Ltd., New Delhi, 2016)

Secrets Act, 1923. The provisions of the British Statute had, as a result of experience gained during the War, been considerably modified by the enactment of the Official Secrets Act, 1920, but subsequent legislation did not apply to British India. It was believed that the application of two different laws simultaneously in India was unsatisfactory.²

The culture of secrecy³ that began with colonial rule encouraged widespread corruption. As a result, large amounts of public funds were diverted from welfare schemes for development projects and private schemes through abuse of power by the authorities.⁴ The concept of "official secrecy" is a specific invention of bureaucracy and nothing has been so fiercely defended as to the bureaucratic attitude, which cannot be justified sufficiently beyond certain qualified areas⁵. The lack of openness and transparency in the functioning of government provides a fertile ground for reproductive inefficiency and the lack of accountability in the work of public officials who, in turn, have maintained all forms of poverty, nutrition, health and education. Greater access to information held by public bodies to ensure the distribution of people's rights to non-governmental organizations in general, particularly those related to basic human needs to rectify deficiencies in the system, which was earned by the government in 2005.

So, the fight for the right to information law, it has been fought on two main fronts. The first is an amendment to the Draconian Colonial Official

² Manish Kumar Chaubey, *Right to Information, Various Dimensions* 32, (Regal Publication, New Delhi, 2012)

³ Available at <https://carnegieendowment.org/2020/09/24/government-is-promoting-culture-of-secrecy-undermining-legislation-such-as-rti-pub-82786> accessed on 17/02/2021

⁴ Available at <https://www.thehindu.com/news/national/all-you-need-to-know-about-the-official-secrets-act/article26458006.ece> accessed on 17/02/2021.

⁵ Neeraj Kumar, *Right to Information, An overview* 47, (New Royal Book Co., Lucknow, 1st edn. 2012)

Secrets Act, 1923, and the second is a campaign for an early and effective law on the right to information.

Interestingly, nowhere in the Act is the word 'secret' defined. Therefore, in the absence of any definition, government departments began to treat all information as 'secret'. Another example is of the Indian Evidence Act, 1872. Section 123 of the said Act provides that no evidence shall be permitted to be given from unpublished government records relating to any matter in the state except with the permission of the head. The department which permits or gives such permission as it deems fit. Section 24 extends the same privilege as confidential official communications. This gives the administration unlimited powers that it cannot disclose information. In addition, the Constitution of India also protects certain types of communication between high level constitutional officials. Article 74 (2) states that the advice given by the ministers to the President will not be questioned by any court.

4.3 Right to Information as a Constitutional Right

The Constitution of India is the source of all laws and has paramount status over all the laws.⁶ The right to information is the right of citizen to be informed about government's action and inactions to have access to sources and to receive information that allows for the best human interaction and construction of fair democracy society.

4.3.1 Preamble of the Constitution

The right to information is a latent form in the Preamble to the Constitution. The expression "democratic" is important in this regard. A

⁶ S.D.Sharma and Priti Saxena, *Right to Information, Implementation, Problem and Solutions*, 45 (Regal Publication, Delhi, 2013).

democratic government means the government of the people, if they are unaware of resolving the issue, then the arguments against various solutions and the factors associated with the agreement. *V.R. Krishna Iyer J.* has aptly said “A Government which reveals secrecy buries itself into its own burial”

We, the people of India, having solemnly to resolved to constitute India into a Sovereign Socialist, Secular, Democratic, Republic and secure all our citizens: Justice, Social, Economic and Political; Liberty of thought, expression, belief, belief and worship; Equality of status and opportunity; And to promote among them all Fraternities assured the dignity of the individual and the unity and integrity of the nation.⁷

One aspect of the preamble itself shows that the people of India are in fact the governing bodies of the nation which *inter-alia* also has the right to ensure equality of status and opportunity. This goal can be achieved only when the maximum possible information⁸ of the government is readily available for inspection to the general public at large.⁹

4.3.2 Equality before Law

State shall not deny equality of any person before law or Equal protection of laws within the territory of India.¹⁰ All citizens have the right to equal access to education and information¹¹ to ensure their health and well-being, including access to information, advice and services related to their sexual and reproductive health, and race, color, poverty, sex, sexual and other Rights are included. Orientation, marital status, family status, age, language, religion,

⁷ The Constitution of India, Preamble

⁸ The Right to Information Act, 2005 (22 of 2005), s. 2(f)

⁹ *Ibid.* Preamble of the Indian Constitution.

¹⁰ The Indian Constitution, art.14

¹¹ The Right to Information Act, 2005 (22 of 2005), s. 3

political or other opinion, national or social origin, property, birth or other status.

In the Indian Constitution of our Democratic Republic, among the fundamental freedoms, the freedom of speech and expression shines radiantly in the firmament of part III. Article 19 of the constitution provides *inter alia*.

4.3.3 “Protection of certain rights regarding freedom of speech etc.”

(1) All citizens shall have the right – (a) to freedom of speech and expression.” The simple meaning and interpretation of the words used in Article 19 and clause (1) (a) states that the constitution provides freedom of expression as the government functions of the state must be transparent and the three instruments (executive, legislature and judiciary) give the state the people, should be prevented from deceiving. In addition, the closed interpretation of the language of Article 19 (1) (a) leads to many derivative provisions. Justice Mathew applying his vivid, constitutional and juristic mind in case of *Keshvandnad Bharti vs. State of Kerala*,¹² stated in these prominent words like: “Fundamental Rights themselves have no fixed content; most of them are empty vessels into which each generation must pour its content in the light of experience.” From these words if interpreted in need-based approach, the Article 19 can be derived many state of rights. *Indian Express Newspaper Bombay Ltd. vs. Union of India*¹³, also covers the following import of Article 19.

1. It helps a person to achieve self-fulfillment;
2. It helps in the disclosure for truth;

¹² AIR 1973 SC 1461 2

¹³ AIR 1985 SCC (1) 641

3. This strengthens the potential of the person participating in decision making;

It provides a mechanism by which it will be possible to establish a proper balance between stability and social change.

The *sine qua non* for the attainment of these objectives is that if knowledge should be without hindrance then it will be acquired. Therefore, the right to information is part and parcel of the right to free speech and expression.¹⁴

4.3.4 Protection of life and Personal liberty

No person shall be deprived of his life or personal liberty according to the procedure established by law. The relationship between the right to life and freedom guaranteed by Article 21 of the Constitution and right of access to official information was further developed in *State of Uttar Pradesh vs. Raj Narayan*¹⁵, where the defendant sought access to documents related to security arrangements and information on the Prime Minister's expenses. The Prime Minister claimed the right to decide whether the disclosure of certain privileged documents was in the public interest. The right to know was clearly confirmed in *Reliance Petrochemical Limited. vs. Proprietors of Indian Express newspapers Bombay Pvt. Ltd.*¹⁶ by Justice Mukherjee, who said: "We must remember that the people at large have a right to know in order to take part in a participatory development in the industrial life and democracy. Right to know is a basic right to which citizens of a country aspire under Article 21 of our Constitution."

¹⁴ Neeraj Kumar, *Right to Information, An overview*, 43, (New Royal Book Co., Lucknow, 1st edn. 2012)

¹⁵ AIR 1975 SCC (4) 428

¹⁶ AIR 1989 SC 190

Several High Court decisions upheld the right of citizens to access information related to an environmental problem.¹⁷

4.3.5 Protection against arrest and detention in certain cases

The provision for obtaining information also exists in a latent form under Article 22 which is as follows- article 22, No person arrested shall be detained without notice as soon as possible as grounds for such arrest nor denied the right of consultation, and shall be defended by the legal practitioner of choice. The apex court said that under clause (1) of article 22, we have information about the basis of the arrest.¹⁸

The need for the right to information was clearly recognized by the framers of the constitution. In constitutional planning, executive power vests in the President.¹⁹ To ensure transparency in administration, it is the duty of the Prime Minister to inform all matters related to the administration of the Union. The provision of Article 78 of the Constitution is relevant in this regard which includes the duties of the Prime Minister as the submission of information to the President, etc.

Many other Constitutional provisions relating to Right to Information discuss as under following; a) Duties of Prime Minister as respect the furnishing of Information to the president under Article 78; b) Duties of Chief Minister as respects the furnishing of information to Governor under Article 167; c) Article 105,Parliament Privileges and Right to Information; d) Dismissal, removal of person employed in civil capacities under the Union or a State and Right to Information Article 311 (2).

¹⁷ *Bombay Environmental Action Group v. Pune Cantonment Board*, Bombay High Court, A.S. , AIR 1986

¹⁸ *A.K. Gopalan v. State of Madras*, (1950) SCR 88

¹⁹ The constitution of India, art. 53

It is clear from the above provision that the right to information is clear within the framework of the Constitution. This was even before the passage of the Right to Information Act, 2005. However, the Act became easily due to judicial activism and the national campaign for right to information.

4.4 Related Statutory Provisions of Right to Information

Prior to the passage of the Right to Information Act, 2005, the provision of Right to Information was present in various enactments. The journey towards access to the right to information has been going on for a long time, but not tiring. We have traced many roads from the accused; The power of the courts to determine the nature of the so-called privileged and the inspection of a document under the Evidence Act; Right to know the worker about the workplace, health hazards and safety to deal with hazardous substances under the Workers Act, 1948; The right of the consumer to know about the goods or services purchased by them under the Consumer Protection Act, 1986, the right to know in terms of environmental issues under several environmental legislation; The right of voters to know the ancestors of a candidate under the Representation of the People Act, 1951.²⁰

I. Factory Act, 1948

Provides for mandatory disclosure of information to factory workers “regarding dangers including health hazards and the measure to overcome such hazards,” arising from exposure to hazardous materials. While this is an excellent provision, in practice it is violated with exemptions.²¹

²⁰ Aprana singh, “*Right to Information*” 30 (Bookshelf publishing, 2011)

²¹ The Factories Act, 1948, s. 41 (h)

II. Representation of the Peoples Act, 1951

The voter's decision-making power includes his right to know about public officials who need to be elected by him.²² The election candidate is bound to follow any instructions issued by the Election Commission under Article 324 (1)²³

In *Common Clause-A Registered Society vs. Union Of India, 1992*, it was argued about the election expenses incurred by political parties that India's elections are fought with the power of money, hence the sources of expenditure incurred by political parties must know and candidates in the election process. The Supreme Court emphasized that in order to maintain the correctness of elections and in particular to bring transparency, the election candidate needs an affidavit to disclose his assets at the time of the election. The voter has a fundamental primary right to know the full details of a candidate who represents him in Parliament, where laws can be enacted to bind his freedom and property.

The Act declares the right to know the candidate of the voter. The candidate contesting the election is required to submit an affidavit along with his nomination letter, the following information:

- i Charge of any offense with a sentence of two or more years, including determination of chargers in a pending case/s.
- ii Conviction of a crime and imprisonment for not more than one year.²⁴
- iii declaration of his financial assets.

²² *Mohinder Singh Gill v. The Chief Election Commissioner*, AIR 1978 SC 851

²³ *Kanhaiya Lal Omar v R.K. Trevedi*, AIR 1986 SC 111

²⁴ The Representation of People's Act, 1950, s. 33A.

This information is to be made available to voters and other members of the public. The effect of the above provision was mitigated when section 33-B added a non-blocking clause stating that "anything contained in any decision, decision or order of any court or by the Election Commissioner Notwithstanding any direction, order or any instruction issued., No candidate shall be liable to disclose or furnish any such information " under this Act or not required to disclose under the rules made..²⁵

Finally in *Union of India vs. Association for Democratic Reforms*,²⁶ the Supreme Court considered the issues that how to stop criminalization of politics. The Court affirmed the principle of empowering the common man. The petition challenged the constitutional validity of Amendments to Representation of Peoples Act invalidating the Supreme Court's May 2, 2002 judgment. It was held that the people of the country have a right to know every public act, everything that is done in a public way by the public functionaries. MPs or MLAs are undoubtedly public functionaries. Public education is essential for functioning of the process of popular government and to assist the people in the discovery of truth and strengthen capacity in participating in the decision-making process. It would include under Article 19(1) (a), their right to know about criminal records, assets, liabilities and educational qualifications of the candidates who are required to be elected by them. The Court ordered the Election Commission to publish information.²⁷

Voter's right to speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is a must.

²⁵ Ibid, S. 33-B.

²⁶ AIR 2002 SCC (5) 294.

²⁷ Ibid.

People have a right to know antecedents including criminal past of their candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law-breakers as law-makers.

However, in *People's Union for Civil Liberties vs. Union of India*²⁸, the Supreme Court stated that the right to information should be allowed to grow rather than being frozen and stagnated.²⁹ Section 33-B of the Act was struck down by a 3 judge's bench of the Supreme Court, when it declared that the provision was beyond the legislative competence among other grounds.

III. Indian Evidence Act, 1872

Section 76 of the Indian Evidence Act, 1872, this may be called the "Right to Information Act as a fetus. The provision is as following: "Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it....; and each copy so certified shall be called certified copies."³⁰ Section 123, 124 and 162 provides privilege to withhold disclosure of document under section 123, any head of the department can refuse to part with any information from unpublished official records relating to affairs of the State.

Section 124 ensure that no public official shall be obliged to disclose the communication in official confidence when he or she understands that the public interest will affect such disclosure.

Section 162 seek to prohibit any document referencing court cases from being inspected by the court.

²⁸ AIR 2004 SCC (2) 476

²⁹ AIR 2000 SCC (4) 399

³⁰ The Indian Evidence Act, 1872, s. 76

IV. The Code of Criminal Procedure, 1973

Sec. 50. Person arrested to be informed of grounds of arrest and of right to Bail:

1. Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest'
2. Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

Sec. 50 A. Obligation of person making arrest to inform about the arrest, etc. to a nominated person:

1. Every police officer or other person making any arrest under this code shall give the information regarding such arrest and place where the arrested person is being held to any of his friends; relatives or such other persons as may be disclosed or nominated by the arrested persons for the purpose of giving such information.
2. The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.
3. An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as may be prescribed in this behalf by the State Government.

4. It shall be the duty of the magistrate before whom such arrested person is produced, to satisfy himself that the requirements of subsection (2) and subsection (3) have been complied with in respect of such arrested person.

Sec.207. Supply to the accused of copy of police report and other documents:³¹ In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—

(i) the police report;

(ii) the first information report recorded under section 154;

(iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under subsection (6) of section 173;³²

(iv) the confessions and statements, if any, recorded under section 164;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement

³¹ “The Code of Criminal Procedure, 1973”

³² *Ibid.*

or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

Section 208. Supply of copies of statements and documents to accused in other cases triable by Court of Session - Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 204 that the offence is triable exclusively by the Court of Session, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—

- (i) the statements recorded under section 200 or section 202, or all persons examined by the Magistrate;
- (ii) the statements and confessions, if any, recorded under section 161 or section 164;
- (iii) any documents produced before the Magistrate on which the prosecution proposes to rely:

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

V. Environmental (Protection) Act 1986 and the Environmental Impact Assessment Regulations

Provides for public consultation and disclosure under various circumstances.³³ For example, the Environmental Impact Assessment Regulations allow the public hearing of a proposal and the publication of a process for any project affecting the environment by a person willing to execute that project. Although this provision is intended to facilitate citizen input, in reality it is very limited and environmental groups have had to go to the courts to obtain full disclosure.³⁴

VI. The Consumer Protection Act 1986

The Consumer Protection Act guaranteed the consumer the right to information. In fact, on April 9, 1985, the U.N. General Assembly guidelines specifically provided that consumers have the right to know about the goods they purchased and the services they received. Consumer charters, and packaging order rules obligate the manufacturer to provide important information regarding weight, quality, date of manufacture, date of expiry, etc.³⁵ An amendment to the Consumer Protection Act in 1986, specifically provided that if the scheme was notified by any vendor by advertising in a newspaper / media, the result of the scheme should be notified in the same way.³⁶ Consumer Education Research Center, Ahmedabad has led several movements in this area.

Some relevant Act and Rules relating to Right to Information are, The Companies Act, 1956; The Atomic Energy Act, 1962; The Central Civil

³³ Supra note 14 P. 23

³⁴ The National Environment Appellate Authority Act, 1997, s.11

³⁵ The Consumer Protection Act, 1986, Section 2(1) (r),(2).

³⁶ *Ibid.*

Services (Conduct) Rules, 1964; The All India Services (Conduct) Rules, 1968; The Bureau of Indian Standards Act, 1986; The Geographical Indications of Goods (Registration and Protection) Act, 1999; The Trademarks Act, 1999; The Information Technology Act, 2000; The Design Act, 2000; The Semiconductor Integrated Circuits Layout-design Act, 2000; The Protection of Plant Varieties and Farmer's Right Act, 2001, The Delimitation Act, 2002; The Protection of Plant Varieties and Farmer's Right Rules, 2003.

4.5 Specific Law on Right to Information

The Right to Information Laws were first successfully enacted by the state governments:- Tamilnadu (1997), Goa(1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Assam (2002), Madhya Pradesh (2003), Jammu and Kashmir (2004). The Acts were diverse and disparate in important provisions, particularly with regard to appeals and penalties for noncompliance. Maharashtra and Delhi state level acts are believed to be the most used. The Delhi Right to Information Act is still in force. Jammu and Kashmir has its own Right to Information Act of 2009, repealed Jammu and Kashmir Right to Information Act, 2004 and its 2008 amendment.

4.5.1 Right to Information Act, 2005

(a) General:

The objective of the Act is to promote transparency and accountability in the work of every public authority³⁷ and to strengthen the democratic republic. Democracy requires an informed citizenship and transparency of information that is critical to its functioning and is responsible for controlling corruption

³⁷ The Right to Information Act, 2005, Preamble

and governments and their instruments. Therefore, providing information to citizens who do so is considered expedient.

The Act aims to promote transparency and accountability in the work of every public authority and strengthen the democratic republic. Democracy requires an informed citizenship and transparency of information that is critical to its functioning and also to prevent corruption and to hold governments and their instruments accountable to the governed. Therefore, it is considered expedient to provide information for citizens who wish to do it.

- **Enforcement date :** It comes into force on 12 October 2005, (120th day of its enactment on 15 June 2005). Some provisions have come into force with immediate effect.
 1. Obligation of public authorities.
 2. Designation of public information officer and Assistant Public information officers.
 3. Constitution of central information commission.
 4. Constitution of state information commission.
 5. Non applicability of the Ac to Intelligence and security organizations.
 6. Power to make rules to carry out the provisions of the Act.
- **Extension of the Act:** The Act extends to the whole of India. The Jammu and Kashmir and Ladakh w.e.f. 31/10/2019³⁸ of Right to Information Act, 2005.

³⁸ Vide Jammu & Kashmir Reorganization Act, 2019

- **Definition of Information**

Section 2 (f) defines information as “any material in any form including records, documents, memos, e-mail, papers, opinions, advices, press releases, circular, orders, logbooks, contracts, reports, papers, samples, models, data material in electronic form, and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

According to the section 2 (i) "**record**" includes—

- a) any document, manuscript and file;
- b) any microfilm, microfiche and facsimile copy of a document;
- c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- d) any other material produced by a computer or any other device;³⁹

- **Public Authority**

public authority" means any authority or body or institution of self-government established or constituted—

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government,

³⁹ The Right to Information Act, 2005, S. 2 (i).

and includes any—

(i) body owned, controlled or substantially financed;

(ii) non-Government organisation substantially financed,

directly or indirectly by funds provided by the appropriate Government;

- **Meaning of Right to Information**

Sec.2 (j) "Right to Information" means the right to information accessible under this Act which is under the control of any public authority and includes the right to-

- I. inspection of work, documents, records;
- II. taking notes, extracts or certified copies of documents or records;
- III. taking certified samples of material;
- IV. obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

Subject to provisions of this Act, all citizens shall have right to information (Sec. 3 of Right to Information Act, 2005).

The Right to Information Act is a right conferred on the citizens of India only that too to the individuals. Corporates and Associations can avail the Right to Information through an individual who constitutes their management.

Section 3 of the Act disproportionately declares that all citizens will have the right to information. This right is an integral part of the right to freedom of speech and expression, which is a fundamental right. Non-observance of this Act will impose certain penalties on the guilty officers.

The citizen may publicly request a concern to furnish information publicly or in writing and may also ask for a supplement and seek clarification.

In the preamble to the RTI Act, the terms 'citizen' and 'citizenry' have been used in a plural sense. Similarly, in Section 3 of the RTI Act, the word 'citizen' is used in the plural sense and not in the singular sense. This has not been bestowed upon the non-citizens.⁴⁰ Therefore, a group of citizens is entitled to implement and get information under the Right to Information Act, 2005. Therefore "all citizens" can request for information by applying in writing or electronically through English / Hindi / official language. Areas in which application is being made with prescribed fee.

- **Application Procedure for Requesting Information:** Section 6 of Right to Information Act 2005.
 - i. Apply in writing in electronic form in English or Hindi or in the official language of the region for PIOs, which specify the details of the information.
 - ii. There is no need to give a reason for asking. This is an enabling provision as no one will be asked for why to obtain information.
 - iii. Pay prescribed fees (if not belonging to the below the poverty line category).

⁴⁰ Abhe Singh Yadav, *Right to Information Act, 2005, Analysis*, 23 (Central Law Publication, Allahabad, edn.5th, 2019).

- **Disposal of Request :**

Under sub-section (1) of section 7, on receipt of the application for information, the Public Information Officer shall make the payment of the prescribed fee as soon as possible, but within thirty days of the receipt of the request or the request or for any reason denied will do it. Under provisional under sub-section (2) of section 5, provided within thirty-eight hours of receipt of the request for sub-section (1) referred to in sections 8 and 9. It is provided that if the information for an application or an appeal to the Assistant Public Information Officer, a period of five days will be added to the calculation of the duration of response by the PIO. Thus, in such a case, the PIO will have to give information or reject the application for information within thirty-five days from the date or receipt of the application. On failure to deliver a decision within the stipulated period upon request for information, the PIO will be deemed to have rejected the request.

While refusing information, the communique must specify the particulars of the appellate authority, time limit and the process to approach the same.⁴¹

In the case of *Yogesh Mahajan vs. State Information Commission*⁴² the details or income and expenditure of a public body is not just for an audit employee to see within closed doors, but should always be open to the eyes of the people and arouse confidence needed. People who act in a new paradigm have transparency as their hall-mark.

⁴¹ *Pritam Rooj vs. University of Calcutta and Ors.* AIR 2008 Cal 118

⁴² Civil Writ Petition No. 5451 of 2009 (High Court of Punjab and Haryana)

- **Exemption from Disclosure of Information: Section 8**

The right to information is not an absolute right, but the Act imposes certain restrictions by providing an exception from the disclosure of information under section 8 of the Act. Clause (1) of the section commences with the word notwithstanding anything contained in this Act, which means that nothing contained in this Act shall impose any obligation on the public authority to give any information to the citizen, if the Act Unlike Section 8 of.

In the case of General Secretary, *Supreme Court v. Subhash Chandra Agarwal*,⁴³ the Hon'ble Delhi High Court stated that Section 8 contains a well-defined list of ten types of cases which cannot be made public. A continuation of the provisions of section 8 shows that there is some information contained in sub-sections (a), (b), (c), (f), (g), and (h), for which no obligation is for giving such information to any citizen. On the other hand, information under sub-sections (d), (e) and (j) is protected information, but at the discretion and satisfaction of the competent authority that it would be in the larger public interest to disclose such information, such information shall be disclosed. Thus, there is limited protection of this information, the disclosure of which depends on the satisfaction of the competent authority that it would be in the larger public interest than the protected interest to disclose such information.

Section 8 covers various information, which cannot be asked or disclosed under the Act. The authority has to remember that the Act provides exemption from disclosure of information, and on the other hand, it imposes the authority's duty not to disclose such information. But, sub-section (2) of section

⁴³WP(Civil) 288/2009.

8 of the Act provides for the right to permit the use of information if the public interest in disclosure harms the protected interest, regardless of the Official Secrets Act, 1923 or any provision. Regardless of the provisions under. Exemption is permissible as per this Act.

Doctrine of Severability:

Section 10 of the Act uses the principle of feasibility. According to Section 8 of the request, for access to information that is exempt from disclosure, the request may be denied but Section 10 (1) allows that information to be given to the portion of the record that is exempt. After such a waiver is not granted if the part which is exempted from disclosure if such part can be reasonably amputated. Under section 10 (2) where access is granted for only part of the record, the PIO shall give notice to the applicant by a notice –

- (a) that only part of the information which is disclosed after its severance from that part is exempted from being given;
- (b) any of the reasons for the decision, including any facts on the question of the material on which the material was based on the finding;
- (c) the name and designation of the person who rendered the judgment;
- (d) the details of the amount as per the calculation required to be submitted by the applicant;
- (e) The right of the applicant to review the decision of non-disclosure, including the particulars, deadlines, procedures and any other access to the details of the senior officer specified under section 19 sub-section (1) or the Information Commission.

- **Third Party Information**

If the information sought belongs to a third party, the information officer must adopt a separate procedure before partnering with the information. It is pertinent to know "third parties" under the RTI Act before going further. According to Section 2 (n) "a third party means that a person other than a citizen makes a request for information and includes a public authority".

In *Poorna Prarjana Public School vs. Central Information Commission and Ors* High court of Delhi, Writ Petition (civil) No. 7265 of 2007 the court observed that the term 'third party' includes not only a public authority but also a person other than a citizen or a citizen requesting information. In this case, the petitioner school, a private body, was placed as a third party under sec. 2(n) of the RTI Act. The court said that this interpretation is in accordance with the provisions of sections 11 (1) and 19 (4) of the RTI Act.

Section 11 follows the procedure when a public information officer is required to disclose information that is or is supplied by a third party and is considered confidential by the third party. A private body or third party can make objections under Section 8 of the RTI Act before the Public Information Officer or Information Commission. With reference to Section 11 (4) of the Right to Information Act, it is pertinent to dismiss an order under Section 11 (3) under Section 19 of the RTI Act before CIC Section 19 (4), while Section 19 Appeals are preferred before the Information Commission relating to third party information, the third party will be given a fair opportunity to be heard before the appeal is decided.

- **Constitution of Central Information Commission**

The Central Government and the various State shall constitute the Central Information Commission and State Information Commissions, respectively. The Information Commissions shall be the primary bodies responsible for implementation and regulation of the provisions of the Right to Information Act, in regard to the various public authorities under their jurisdiction.

Section 12 of the Act talks about the Constitution of the Central Information Commission, shall be constituted by the Central Government through a Gazette notification. The Commission shall consist of one Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (ICs). The CIC and ICs shall be appointed by the President of India on the recommendation of a committee comprising of the Prime Minister (Chairperson), the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister nominated by the Prime Minister.

The Commission shall have its Headquarters at Delhi. Other offices may be established in other parts of the country with the approval of the Central Government. The Commission shall function as an autonomous body without being subjected to directions by any other authority.

Eligibility Criteria of the CIC: The CIC and ICs shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. He shall not be a Member of Parliament or Member of the Legislature of any State/ Union territory. He shall not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

Term of Office and Service Conditions: The CIC shall be appointed for such term as may be prescribed by the Central Government (i.e. 3 years²) or till he attains the age of 65 years, whichever is earlier. He shall not be eligible for reappointment. The CIC/ IC appointed prior to RTI (Amendment) Act, 2019 shall continue to be governed by the existing Act and Rules.

An IC shall hold office for such term as may be prescribed by the Central Government (i.e. 3 years) or till he attains the age of 65 years, whichever is earlier. He shall not be eligible for reappointment as IC. However, according to the amendment 2019 Act, he shall be eligible to be appointed as CIC, provided the total term of office, such term as may be prescribed by the Central Government.

The salaries and allowances payable to CIC and IC shall be such as may be prescribed by the Central Government and shall not be varied to their disadvantage after their appointment.

The CIC/IC appointed prior to RTI (Amendment) Act, 2019 shall continue to be governed as per the provisions prior to the amendment.

Management of Affairs of Central Information Commission: The Central Information Commission has in exercise of powers under Sec. 12(4) of the RTI Act, 2005, made the Central Information Commission (Management) Regulations, 2007. These regulations provide for internal management and working of the Commission for disposal of appeals & compliance thereof.

Work Allocation: The CIC deals with the work of appeals and complaints filed in the Commission, which are allocated based on Ministries/ Departments/Public Authorities allotted to different Information Commissioners.

Priority to Appeals/Complaints by Senior Citizens/Physically Challenged Persons: The CIC shall take up the appeals and complaints filed by senior citizens (i.e. person who is 65 years or more on the date of filing application) or by physically challenged person (i.e. person suffering from 40% or more of any disability certified by a medical authority under Disabilities Act, 1995). The applicant shall be required to submit documentary proof of his age or disability, as the case may be. The CIC has also set up a Disability Cell for rendering all possible assistance in seeking information from the Commission.

Web-enabled Workflow Software: The CIC has introduced web-enabled workflow software which comprises of two modules, viz. citizen module (available at [http:// india.gov.in](http://india.gov.in) and <http://www.cic.gov.in>) which enables citizens to file their complaints/ appeals online, and Office Module (available at <http://rtiadmin.nic.m>) which eliminates the necessity of manual feeding of data by the staff.

State Information Commission

Constitution section 15, Every State Government shall constitute a State Information Commission in the State concerned. It shall be known as (name of the State) Information Commission. The Commission shall consist of one State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SICs). The SCIC and SICs shall be appointed by the Governor of the State on the recommendation of a committee comprising of the Chief Minister, the leader of Opposition in the Legislative Assembly and one Cabinet Minister nominated by the Chief Minister.

The Commission shall have its headquarters at such place as the State Government may specify. Other offices may be established in other part of the State with the approval of the State Government. The Commission shall function as an autonomous body without being subjected to directions by any other authority.

Eligibility Criteria section 15, The eligibility criteria for appointment as SCIC and SICs, shall be the same as that for CIC and ICs (see under 'Central Information Commission' earlier).

Term of Office and Service Conditions section 16: The term of office of SCIC and SICs shall be the same as that in case of CIC and ICs, respectively, (see under Central Information Commission earlier).

The salaries and allowance payable to SCIC/ SICs shall be such as may be prescribed by the Central Governments and shall not be varied to their disadvantage after their appointment. The appointment of SCIC/ SICs made prior to RTI (Amendment) Act, 2019 shall govern as per the provisions prior to the amendment.

Power to make Rules by Appropriate Government: Section 27(1) the appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the cost of the medium or print cost price of the materials to disseminated under sub-section(4) of section 4;

(b) the fee payable under sub-section (1) of section 6;

(c) the fee payable under sub-sections (1) and (5) of section

(ca) the term of office of the Chief Information Commissioner and Information Commissioners under sub-sections (1) and (2) of section 13 and the State Chief Information Commissioner and State Information Commissioners under sub-sections (1) and (2) of section 16;

(cb) the salaries, allowances and other terms and conditions of service of the Chief Information Commissioner and the Information Commissioners under sub-section (5) of section 13 and the State Chief Information Commissioner and the State Information Commissioners under sub-section 5 of section 16;

(d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16; the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and any other matter which is required to be, or may be, prescribed.

(e) the procedure to be adopted by the Central Information commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and

(f) any other matter which is required to be, or may be, prescribed.

Right to Appeal:

Speaking on the scope of the powers of commissions under Section 19, the Delhi Court of *Union of India thr. Director, Ministry of Personnel, PG and Pension v. Central Information Commission and Shri P.D. khandelwal*⁴⁴

⁴⁴ High court of Delhi Writ Petition (civil) Nos. 16907/2006,3607 of 2007,

observed that under Section 19 (3) of the RTI Act, a second appeal before the Central or State Information Commissions is against the decision under sub-section (1) of Section 19 of the First Appellate Authority. The scope of the appeal is therefore restricted to those cases before the second appellate authority which are appealable to the first appellate authority under sub-section (1) of section 19 of the RTI Act. The Second Appellate Authority cannot therefore go into questions, which could not be raised before the first Appellate Authority and did not become the subject of appeal. As an essential corollary, the second appellate authority i.e. the Center of State Information Commissions can examine the decision or failure of PIOs to decide the quantum of cost under Section 7 (1) or Section 7 (3) (a) . RTI Act They can also go into the rights and interests of third parties under Section 19 (4) of the RTI Act.

The appeal will not be considered properly presented and may be dismissed by the Central Information Commission, if the appellant has not attached the memorandum to the appeal, a certified copy of the judgment against which the appeal is filed. Typically, a company or a corporation that is a third party should authorize a person to represent it in the Central Information Commission. Such a person can be the president, president or secretary of a company or society. Where the appellant co-operative bank has empowered its managing director to decide about the suit and the institution of legal proceedings in the by-laws and to protect and compound the same, the Supreme Court took a separate decision for the board of directors was not require the same.⁴⁵

⁴⁵ *Punjab State Co-operative Bank v. Milkha Singh*, AIR 1998, 89 CompCas 696PH

Penalties from CPIO and SPIO

Under Section 20 of this Act to impose a fine on the Public Information Officer who fails to discharge his duties under this Act. The fine may amount to Rs. 250 / each day until the application is received or duly submitted for application. However, the maximum limit of Penalty shall be Rs. 2500/. Under this Act of 2005, every citizen of India is entitled to receive information pertaining to the affairs of the Public Authority/Authorities including any subjects the applicants want to know. Applicant may file their application before any Public Information Officer by paying requisite fees prescribed by the Government from time to time. *In P.N. Mohanadasan v. the State Information Commission, State Public Information Officer and Rasheed Anappara,*⁴⁶ the appellant was the designated State Public Information Officer in the office of the District Medical Officer of Health, Pathanamthitta. During his tenure, the original applicant filed an application under RTI Act for certain information. The appellant filed an application under RTI Act for certain information. The appellant, rather than giving information, intimated the applicant to furnish certain details regarding his organization, the registration number and other details and also asked him to prove that he is a *bonafide* Indian citizen.

The original applicant took it as delaying tactics and filed a complaint before State Commission under section 18 (1). The Commission found that there was refusal of access to the information by not giving response to the request for information and therefore allowed the complaint and imposed a penalty of Rs. 18,250/- calculated at the rate of Rs. 250/- per day for a period of

⁴⁶ WA. No. 2815 of 2009

73 days. Aggrieved by the decision, writ-considered order and dismissed the writ petition. Hence the present writ appeals.

The High court observed that a perusal of section 20 indicates that there are two ways for an applicant aggrieved by the non-supply of information. He can either file an appeal under section 19 or approach the Commission under section 18 for illegal denial of information or withholding of information. However, the commission can impose penalty under section 20 in both the cases i.e. whether a complaint is filed under section 18 or appeal is preferred under section 19. Therefore, invoking of jurisdiction directly under section 18 in the present case cannot be said to be either illegal or erroneous.

4.6 Conclusion

In conclusion scope of right to information is becoming wider day by day. RTI is touching new standards and setting transparency milestones in new areas that were impossible to think of earlier. RTI still has to cover a lot of areas and go a long distance with the constitutional mandate of India's democracy.⁴⁷

The courts have ensured that they do not come under the purview of the RTI Act. However, RTI activists say the RTI law does not exempt the judiciary from providing information, as is the case with intelligence agencies. *Chief Justice of India K.G. Balakrishnan* had said that the RTI Act did not apply to the CJI's office. The full bench is hearing the appeal of RTI activist Subhash Chandra Aggarwal, who was denied information about the judiciary on the grounds that it was not covered under the RTI Act.⁴⁸

⁴⁷ Neeraj kumar, *Right to Information , An overview* 42, (New Royal Book Co., Lucknow, 1st edn. 2012)

⁴⁸ Available at <http://www.hindustantimes.com/newdelhi/are-courts-beyond-rti/article1-345662.aspx> accessed on 22/04/2015

In *Secretary General, Supreme Court of India v. Subhash C. Agarwal*⁴⁹ The Delhi High Court upheld an earlier order of Chief Information Commissioner (CIC), whereby CIC directed Central Public Information Officer (CPIO) of the Supreme Court to furnish information sought by the respondent in the present case, under the Right to Information Act, 2005.⁵⁰ Under the Right to Information, the Supreme Court and High Court judges were required to disclose the assets. In order to uphold his honor, reputation, dignity and the trust he has in the general public, the judges of the Supreme Court and the High Court voluntarily declared their assets, as they were widely criticized by the media and the public. After preaching on the importance of such declaration to ensure accountability, which is proportional to the independence of the judiciary, they have exempted it from disclosure of the contents of such declaration, calling it section 8 (1) (j) Grouped as personal information. Act, and further such disclosure is purely an act of ambition of the individual judge. Apart from the issue of judicial accountability, the decision also reappeared the debate of judicial hierarchy. However, the decision can also be seen as a ray of light in the darkness as the judiciary has for the first time accepted its accountability towards the people of the country.

In the famous case of *Khanapuram Gandaiah v. Administrative Officer & Ors*,⁵¹ the Supreme Court held that judicial officers are not bound to give their reasons for the verdict. This is also considered correct as the judiciary is not explicitly excluded in under s 2 (h) and 8 of the RTI Act. I suggest that the definition of public officer under the RTI Act includes the judicial officer well within its scope

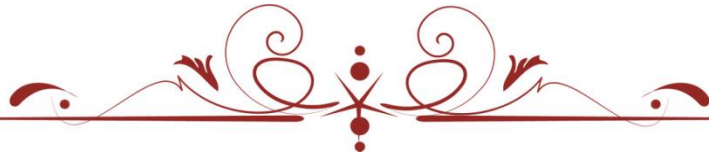
⁴⁹ W.P. (C) no. 288/2009;

⁵⁰ The Right to Information Act, 2005, S. 8(1)(j)

⁵¹ AIR 2010 SC 615

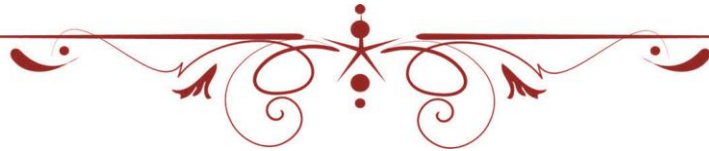
From the above discussion it can be said that the right to information is used as a tool to promote participatory development, strengthen democratic governance and facilitate effective delivery of socio-economic services. In the kind of society in which we live today, information acquisition and new knowledge and its application have profound and widespread effects on informed decision-making processes, resulting in overall productivity gains. People who have access to information and who understand how information acquired in the process of exercising their political, economic and legal rights are empowered, who in turn are empowered for this, almost every society has made efforts for democratization of resources by putting in place mechanisms for free flow of information and ideas so that people can get information themselves for little information without knowledge from government officials.

The Right to Information 2005 was passed by the Indian Parliament to abolish the culture of secrecy and change the mindset of bureaucrats and political leaders and create a situation for informed decision making. The major concern of the Act is to allow for greater potential in the functioning of government departments so as to promote transparency and accountability in the functioning of public bodies and curb corruption, which are important to ensure good governance and development. An important provision in the RTI Act is the establishment of independent information commissions, one at the center and one in each state.



CHAPTER-V

THE IMPACT OF RIGHT TO INFORMATION IN THE SOCIETY



CHAPTER-V

THE IMPACT OF RIGHT TO INFORMATION IN THE SOCIETY

5.1 Introduction

In India today, being a welfare state, the state has spread its tentacles on almost every aspect of public life. In almost every aspect of day-to-day work and living, the person on the road with corruption is condemned. Information is power, and attempts to intercept information to expand its scope for arbitrary, corrupt, and unacceptable exercise of power, executive control, and power at all levels. Ultimately the most effective systemic check on corruption would be where the citizen herself or himself has the right to take the initiative to seek information from the state, and thereby to enforce transparency and accountability. It is in this context that the movement for right to information is so important. The statutory right to information gives a legal right to have access to government-held information strengthens democracy by ensuring transparency and accountability in the actions of public bodies. It enhances the quality of citizen-participation in governance from mere vote-casting, to involvement in the decision-making that affects her or his life.¹

5.2 Social Transformation:

Social change means the underlying notion of change of society and culture in response to factors such as economic development, war or political upheaval.

¹ Shalu Nigam, *Let us know : "Right to Information Law & Practice"*, 4 (JBA Publisher, New Delhi, edn 1, 2006)

Social transformation refers to the process of change in values, norms, institutionalized relationships, and stratification hierarchies over time. It affects patterns of interaction and institutional arrangements within a society.²

Individuals, whose behavior is highly influenced by society do possess a spiritual dimension, which can be illumined by divine teachings and free them from the bounds of oppressive social forces.³

Today, in the context of the right to information social change affects all types of society, both in developed and under-developed areas. Therefore any analysis of social change requires an analysis of both macro-social forces and experiences and identities.

Mazdoor Kisan Shakti Sangathan (MKSS)⁴ 1987 led a movement for people's right to information. The MKSS, registered in the new movement, was accepted by people from all over Rajasthan. In 1994 MKSS entered into a new movement against corruption through Jan Sunavai. Village development officials opposed the above movement. The issue was eventually debated in all parts of Rajasthan. A public awareness program was organized at various places. The then Chief Minister of Rajasthan announced in the Legislative Assembly that the Government of Rajasthan would be the first citizen of the nation, which would give every citizen the right to get photocopies of all official documents related to local development works. This declaration did not change as a rule or law. However, the movement continued. An official press note was finally issued by the Rajasthan government on 14th May 1996 in Jaipur.⁵

² Available at <http://kimeusilvestar.blogspot.in/2011/09/social-transformation.html> accessed on 08/10/2017

³ Available at http://bahai-library.com/arbab_social_transformation accessed on 08/10/2017

⁴ Available at <http://mkssindia.org/> accessed on 21/02/2021

⁵ *Ibid*

As of August 1997, the National Campaign for the Right to Information of the people⁶ was formed, with a mandate to support grassroots conflicts and to advocate state and national legislation for people's right to information.

Due to the influence of members of the social movement, the need to enact a law on the right to information was unanimously recognized by the Chief Minister's conference on "effective and accountable government" held on 24 May 1997 in New Delhi. Mr. H. D. after receiving the recommendation. The Shourie Committee report, Parliament enacted, "There is a need to make the Information Act, 2002, enacted by Parliament more progressive, participatory and meaningful". The National Advisory Council deliberated on this issue and to ensure smooth functioning of the information and suggested some important changes to be incorporated in the existing Act. Examined the suggestions of the people and decided to make several changes in the law. In this way, known as "Right to Information Act, 2005" enacted by the Parliament. In this way, based on the above historical conflict, it can be said the basic purpose of the Right to Information Act is to provide social and government transparency to the people of India.⁷

The right to provide and receive information is a species of right to freedom of expression and expression guaranteed by Article 19 (1) (a) of the Constitution. A citizen has the fundamental right to use the best means of providing and receiving information. In modern constitutional democracy, it is axiomatic that citizens have the right to know about the affairs of the government elected by them and one that seeks to formulate sound policies of

⁶ Available at <https://righttoinformation.info/> accessed on 22/02/2021

⁷ S.D.Sharma and Priti Saxena, *Right to Information, Implementation, Problem and Solutions*, 70 (Regal Publication, Delhi, 2013).

governance aimed at their welfare. However, like all other rights, even this right has recognized limitations; It is not, by any means, complete.⁸

The concept of open government is a direct freedom from the right to know which is enshrined in the right to free speech and expression guaranteed under Article 19 (1) (a). Therefore, disclosure of information regarding the functioning of government should be the rule and confidentiality should be an exception. In addition, the right to information is a basic human right and Article 19 of the International Covenant on Civil and Political Rights (ratified in 1978) declares that opinions are obtained, received and provided and received and received without any opinion and the freedom to confer. And through any media a person has a fundamental right regardless of views and boundaries.⁹

The most important aspect of the Right to Information Act is that it gives citizens the legitimacy to ask for information from public authorities.¹⁰ This is the enabling clause of the Right to Information Act 2005 and the rest of the discourse about this Act derives from this enabling clause which is contained in Section 3 of the Act.

After an interview of an RTI Activist bureaucrat Rinku Singh Rahee shared his view on Social Transformation..... “RTI act, if implemented in true sense, provides a confidence & faith on system among common people to design their development steps with the assistance of existing government schemes. Such a faith & confidence on system encourages common people & especially disadvantaged or marginalized group to join mainstream development process on equal opportunity basis in a democratic country. In a

⁸ *Ibid*

⁹ *Ibid*

¹⁰ Available at http://bahai-library.com/arbab_social_transformation accessed on 02/05/2018

democratic country like India, such a development encompasses almost every arena of social institutions and individual as well ranging from empowerment of disadvantaged groups in economic, social, political, cultural, psychological terms to equal just and transparent access, distribution and utilization of natural resources to benefit nation in essence.”¹¹

A statutory right to information will be reserved for every citizen to enforce the right to question, test, audit, review and assess governmental rights and judgments, to ensure that these public interest, probability and principles of justice correspond to. Alternatively, the more access restrictions are imposed, the greater the feelings of 'powerlessness' and 'isolation'. Without information, people cannot adequately exercise their rights and responsibilities as citizens or make informed choices. Government information is a national resource.¹² Article 39 of the Constitution of India makes it clear that the end of the state in India is not a principle but a practical one. Humanistic path towards socialist society is ideal for India and Article 39 (b)¹³ and (c) illustrates this ideal and it also illustrates the doctrine of growth accompanied by distributive justice in *Churk Cement Mazdoor Sangh vs. State of U.P.* AIR 1992. In *Keshvanand Bharti vs. State of Kerala*, AIR, 1973 these clauses, along with other provisions of the constitution, have as its main objective, the creation of a welfare state and an egalitarian social system, setting some social and economic goals for immediate attainment by bringing about a non-violent social revolution. Through such a social revolution, the Constitution seeks to meet the basic needs of the common man and change the structure of society, without which political democracy would have no meaning. The expression 'material resources' is sufficient to include not only natural or physical resources, but

¹¹ Interview taken by the researcher on the date 05/05/2018

¹² Available at <http://rti.gov.in/> accessed on 09/04/2017

¹³ The ownership and control of the material resources of the community are so distributed as best to sub serve to common good.

also movable or immovable property. This would include the needs of material sourced from all private and public sources, not just public property.¹⁴ Why then can public information not be included with the meaning of the material resources of the community and if public information is a physical resource then the state is bound to distribute it so that it can serve the common good. Here the Right to Information Act is the best way to fulfill this requirement. No information is produced by any government or public officials for their personal benefit. This information has been created so that the duties of office are properly discharged by public officials and for purposes related to the legitimate discharge of service to the public, for whose benefit the institutions of government come into existence and by whom eventually. The salary of is funded by government officials and institutions. It follows that the government and officials are the ‘trustees’ of this information for the people.¹⁵ Members of the public are enabled through the Right to Information Act to have legal access to government documents¹⁶, information and files that might not otherwise be available without the government's discretion. Under the parliamentary system, information is transferred from the government to parliament and legislatures and from it to the people. It is hoped that through the recent technological developments in the country the difference between ‘information rich’ and ‘information poor’ will be reduced. However, it can be found that in practice the bureaucratic situation in India remains the same as was prevalent during the British rule. Bureaucracy, even now, can be found in the form of privacy, distance, and mystery. In fact, this trend of bureaucratic secrecy is usually legitimized by the colonial law, the Official Secrets Act,

¹⁴ D.D. BASU, “*Constitutional Law of India*”, 40 (Lexis Nexis, edn. 9th Vol. 3, 2014)

¹⁵ Available at <http://www.humanrightsinitiative.org/programs/ai/rti/india/national.htm> accessed on 18/06/2017

¹⁶ The Right to Information Act, 2005 (22 of 2005), s. 2(i)

1923, which makes disclosure of official information by public servants a crime.

It is expected that the quality of decision-making by public authorities will be superior to the right to information in all types of cases, when unnecessary confidentiality around the decision-making process is removed. The quality of participatory political democracy will certainly improve, as citizens are given the opportunity to participate in the political process in an informed manner.¹⁷ The citizen will be able to assess the performance of government and public officials, and the government will have a role in participating in and influencing the decision-making process after access to relevant information. With the availability of such information for citizens, it will be important to see the increasing impact on eradication of corruption and control over arbitrary power.

The enactment of the Right to Information Act, 2005 is a historic event in the history of democracy in India.¹⁸ Information is power and now a citizen has the "right" or "right to use information" under the control of public officials. Concurrently, it is the duty of all public authorities to provide information sought by citizens. By implementing the Act in letter and spirit, a sea change can be achieved for transparency and accountability in governance.¹⁹

5.3 Right to Information Best Antidote against Corruption

Corruption is a universal phenomenon that people have to face in one form or another. In India, it has become a part of life. It is the biggest enemy of good governance and causes great harm to society and nation. It is the biggest evil

¹⁷ *Ibid.*

¹⁸ *Supra* note 7 p. 65

¹⁹ *Ibid.*

for any country today. The craving for black money has hindered national development to such an extent that the economy has also collapsed. India is also struggling with this problem. A ray of hope is seen as a right to information that ensures transparency. Transparency is the best method to control corruption.²⁰

International Day of Rights (International Day of Universal Access to Information, IDUAI) which is being observed worldwide on 28 September. This day highlights the critical importance of the right of people to access information held by their respective governments. A nationwide campaign led by an organization called Mazdoor Kisan Shakti Sangathan in India was instrumental in passing the RTI Act.

An interesting story is from Rajasthan. In the 1990s, Janvad Panchayat in Rajasthan district started spending more than Rs. 1 crore annually in 9000 panchayats in the state. More than 70% of the money was snatched from a corrupt nexus between the sarpanch and government officials. The Rajasthan Information Act made it mandatory for panchayat offices to display details of all development works. Using their information rights of more than 70 villagers then collectively sought their panchayat and their fraud records, which it turns out is indeed staggering, 49 out of 146 works exist only was not exist. The sarpanch was jailed and 13 governments involved in the scam were suspended.

21

Anticorruption laws in India:

Public servants in India can be penalized for corruption under the

²⁰ Neeraj Kumar, *Right to Information , An overview* 40, (New Royal Book Co., Lucknow, 1st edn. 2012)

²¹ *Ibid.*

1. Indian Penal Code, 1860
2. Prosecution section of Income Tax Act, 1961
3. The Prevention of Corruption Act, 1988
4. The Benami Transactions (Prohibition) Act, 1988 to prohibit benami transactions.
5. Prevention of Money Laundering Act, 2002

The RTI Act has proved to be far more probable to fight corruption as the public authorities under this RTI Act are obliged to disclose the information sought by any citizen of India and the required information cannot be hidden in any circumstances except the exceptions which are exempt from disclosure of any information under Section (8) of this Act. India has experienced this milestone as a milestone to achieve truly true democracy in the history so far. Many Acts have been passed so far, but it is one of the best effective Acts in Indian Legislation which is truly transparent in its nature. Prior to this Act there was no compensatory provision in the Freedom of Information Act, 2002, so there was no compulsion / binding provision in that Act, hence this mass demanded that a mandatory provision should be made in the Act so that it can be implemented firmly, from this can be proved and is indeed proving to be a very powerful act in this 21st century. For example, in September, activists used Maharashtra state law to detect widespread irregularities in the country's employment guarantee scheme in Satara district of Maharashtra. When he procured employment records through the Information Act, he found that the officials were withdrawing funds for the poor.²²

²² Available at <https://thelogicalindian.com/story-feed/awareness/rti-success-stories/?infinitescroll=1> accessed on 23/02/2021

It would not be an exaggeration to say that this single law has significantly changed the realities of governance in India. Previously, it was very difficult to come up with a lot of information which is now available in the public domain. The authorities tried their best to withdraw it. There have been many revelations and prosecutions of corrupt officials, with more information about publicly available governance. RTI activists feel that despite efforts by some state governments to weaken the law in practice, the trend is likely to continue, at least for the foreseeable future. However, like many other laws in this country, the RTI Act also suffers from certain defects in its present form.²³

Thus, when RTI activists and citizens feel that the act has been a runaway success.²⁴“The RTI Act has positively impacted the lives of people like no other act before. More and more people are filing RTI queries to get information, which was previously rejected by a government official. The activists, meanwhile, complain that undue emphasis on paperwork is proving self-defeating. The RTI Act clearly stipulates that, wherever possible, information about government schemes, programs etc. should be distributed over the Internet, so that citizens do not need to progressively 'know'. It is easily available to them even without an RTI application.

Keeping this in mind, the Government of India is set to start 100,000 Common Service Centers (CSCs). This should be a major step towards comprehensive Internet accessibility and will go some distance towards implementing “Internet for All”. It goes without saying that CSCs would be places where the right to information, in its digital avatar, would be operative. As information is digitized and becomes available on the net, citizens are

²³ *Ibid.*

²⁴ *Ibid.*

expected to access CSCs in greater numbers and use them for the operation and improvement of information systems. The symbiotic relationship between the right to information and the right to the Internet, embodied through CSC, is likely to strengthen and strengthen each other. A group of RTI activists participated in 96 hearings between August 27 and September 10, 2008, and created records of the hearings conducted by them.²⁵

5.4 Day to Day Benefit of Right to Information

Over the past 20 years, the Right-to-Information Act has emerged as a powerful tool for India's civil society to promote transparency and hold those in power accountable. The law, which allows Indian citizens to seek information from most government bodies, was first implemented in October 2005.

The Right to Information (Amendment) Bill 2019 was passed in Parliament on 22 July. The move aimed to transform one of the most powerful tools from intellectuals available to citizens of India to keep the government straight and accountable.

Opposition leaders and activists have alleged that changes in the tenure and terms of service of the Chief Information Commissioners (CIC), both at the central and state levels, will clip the commission's wings and power it.

The years of struggle and struggle for rights gave birth to the RTI Act in 2005. Over the last 15 years, it has been helpful in uncovering the list of major scams. The success of the act earned it the fourth place among 111 countries in the year 2016 in the annual rating of similar strong laws worldwide.

²⁵ Available at https://cis-india.org/telecom/telecom-main?b_start:int=39 accessed on 23/01/2021

To mark the fourteenth anniversary of the RTI Act, India Real Time presents a list of some the most successful RTI cases.

Case1: Commonwealth Games scam:

An RTI application filed by a non-profit organisation, Housing and Land Rights Network revealed that the Delhi government had diverted Rs 744 crore from social welfare projects for Dalits to Commonwealth Games from 2005-06 to 2010-11.²⁶

Case 2: Public Distribution Scam in Assam:

In 2007, members of the *Krishak Mukti Sangram Samiti*, an anti-corruption non-governmental organization based in Assam, filed an RTI request that revealed irregularities in the distribution of food to people below the poverty line. Allegations of corruption were investigated and several government officials were arrested.

Case 3: IIM's Admission Criteria

In 2007, Vaishnavi Kasturi was a visually impaired student who was denied a seat at the Indian Institute of Management in Bangalore, one of the country's premier management institutes despite her impressive score in the entrance exam. Ms. Kasturi wanted to know why, and whether it was a surprise that it was due to her physical disability. It filed an RTI application requesting the institute to disclose its selection process. Although she failed to get admission in the institute, her RTI application meant that IIMs had to make their admission criteria public. It turned out that the entrance test, the Common Admission Test, was actually much lower than the Class 10 and 12 results.

²⁶ Supra note 22

Case 4: 2G Scam:

The 2G scam rocked the UPA government in 2007-08. It relates to the granting of the allocation of the 2G spectrum which, according to a report by Vinod Rai, the former Comptroller & Auditor General (CAG) of India, resulted in a loss of Rs 1.76 lakh crore. Times Magazine called it the biggest abuse of executive power – just a little less than Nixon’s Watergate scandal. An RTI filed by activist Subhash Chandra Agrawal, finally, in October 2011, led the court to framing charges under various provisions of the IPC and the Prevention of Corruption Act dealing with offenses of criminal conspiracy, cheating, forgery, using as genuine fake documents, abusing official position, criminal misconduct by public servant and taking a bribe, according to The Indian Express. The 17 accused included former Telecom Minister A Raja and DMK MP Kanimozhi.²⁷

Case 5: Appropriation of Relief Fund:

Information received through an RTI application by a Punjab-based NGO in 2008 showed that bureaucrats from local branches of the Indian Red Cross Society purchased cars, air-conditioners and paid for hotels to victims of the Kargil War and natural disasters. Used the money to do. Bill - among other things. The local courts found the authorities responsible for the fraud and the funds were transferred to the Prime Minister's Relief Fund.²⁸

Case 6: PIO pays Rs 8000 for providing misleading information (Maharashtra):

Imposition of Rs. 8000 came as a WhatsApp call for Public Information Officers (PIOs) in the state of Maharashtra as a penalty on the District Sports

²⁷ Supra Note 22

²⁸ Supra Note 22

Officer for giving false information in Pune. The Maharashtra Right to Information (MRTI) Act was one of the most progressive penal provisions among states with access laws in India. The Act gave Rs. allowed to be fined 250 / - per day for undue delay in giving information, and fine. Not allowed to exceed Rs. 2000 / on a PIO who has given knowingly inaccurate, misleading, inaccurate or incomplete information. Using such provisions, this case sets an effective precedent and should serve as a serious deterrent for PIOs to disclose information under the provisions of the Act. Wali Jamadar, the concerned PIO, deposited the amount in the government treasury after misinformation by consumer activist Dhyanchandra Patil on four application requests made under MRTI to PIOs at the District Sports Office.

Citing an earlier circular, the PIO misled the requester, claiming that there was no law on the right to request such information. Assuming that the PIO's claim is clearly misleading information, Patil called for a fine of Rs 2000 on the PIO. In his capacity as appellate authority, the Deputy Director asked the PIO to explain his actions and then reprimanded him for presenting misleading information. Patil was not satisfied with the Deputy Director's response and told him that as the appellate authority, it was necessary that he impose fines and penalties on the PIO and the appeal was to be decided within 30 days or in exceptional cases only in 60 days. . Patil clarified that if his appeal is not decided within the stipulated time, he will be forced to approach the Lokayukta.

Responding favorably, in November 2004, the Deputy Director gave PIO a sum of Rs. Ordered to pay a fine of Rs. 2000 for violating Section 12 (2) of MRTI Act. Nevertheless, Patil was adamant that the PIO should be punished and punished for every act that did not comply with the law, for misleading

information on all four applications made by him, soon to be patil's argument. Was accepted. This is perhaps the first such fine imposed under the MRTI Act for giving misleading information.

Case 7: Adarsh Society Scam:

The scam was unearthed in November 2010. The Adarsh Housing Society, a 31 storey building that came into the main real estate, belongs to Colaba, Mumbai, which was originally a six-story structure of civil war widows and heroes of the 1999 Kargil War. Shortly after the RTI came into force, activists Simarpreet Singh and Yogacharya Anand Ji launched a search to explain how politician bureaucrats and military officials flouted the rules to achieve valuers below market rates, culminating in the resignation of Maharashtra Chief Minister Ashok Chavan. Own relatives were allotted to the building. Other state officials are also under the scanner.²⁹

Case 8: Demonetisation Done without RBI's Formal Approval:

On November 8, 2016, the Central Board of the Reserve Bank Of India met less than two-and-a-half hours prior to Prime Minister Narendra Modi's demonetisation announcement and the PM did the demonetisation even without waiting for the central bank's formal approval. Reply to the RTI filed by activist Venkatesh Nayak revealed that the minutes of the meeting held on that very day at 5.30 pm said that the bank did not buy the Centre's justification of demonetisation curbing black money and the circulation of counterfeit money. The then RBI Governor Urjit Patel led Central Board sent their approval to the government 38 days after the currency notes of higher denomination Rs 500 and Rs. 1,000 were banned.

²⁹ Supra Note 22

Case-9: Five women receive their pension while attempting to file an RTI application:

Ramakaran from Tilonia took 5 women to the SDM office to submit their Right to Information on the issue of old age and widow pension. The SDM immediately called the concerned officer from the pension department. He told the officer that these women had not received their pension for the last 4 months, and that the files should be brought to their table immediately. He began to question the officer on the issue before accepting the application.

The official said that these women had not filed their birth certificates and this was delaying the issuance of their pension. The SDM instructed the officer to release his pension and take his date of birth from Ramkaran and the village's Patwari (the government officer overseeing the land-related matter). Therefore, without filing the application, the four women were given their four-month pension immediately, even if the office was closed and they had to wait for the next day under normal circumstances.³⁰

In some other cases RTI plays supportive role in democratic country:

- In Ghara Katara village of Shankar Garh block in Allahabad, Had a hard time arranging for a proper meal in daily wages because they were not receiving ration on their cards. On 19 December 2006, some 21 villagers prepared RTI applications and questioned the administration. The next day all ration card holders got their rations.³¹
- The act is influencing people to come forward and question the progress on various welfare schemes, leading to positive changes in the most

³⁰ Available at www.righttoinformation.org accessed on 08/11/2016

³¹ Available at <http://www.slideshare.net/sandheyr/effect-of-rti-act-on-indian-society> accessed on 16/12/2015

backward regions in *eastern UP, Bihar, Jharkhand, Madhya Pradesh, Karnataka, Assam and Maharashtra*. E.g. Worker employment program started in UP and Bihar.³²

- Even the most backward sections of rural societies are asking for information related to Pradhan Mantri Rojgar Yojana, Indira Awas Yojana, ration card, mid-day meal, equal distribution in school and village roads.³³
- Most of the questions in RTI applications relate to public distribution system, ration card, BPL card, Indira Awaas Yojana, land, irrigation, corruption in welfare scheme, integrated child development services and day to day functioning of local village administration. *Siddharkahans Jot Keshav* village in Bahraich district of Uttar Pradesh is one such example. Five motivated residents of the village filed an RTI application and questioned the district administration about the condition of the village roads and drains. He also raised the question as to why no allocation was made under Indira Awaas Yojana.³⁴
- Bribery Reduction: In *Chaisa*, tribal villagers in Jharkhand, there were complaints against post masters who do not regularly come to the post office and there were allegations of bribery against them as well.³⁵

Impact of filing RTI application: Administration took immediate action and construction of roads and drains started in the village. Since then 32 villagers have been allotted houses under the Indira Awas Yojana and the administration

³² *Ibid.*

³³ Supra Note 22

³⁴ Supra Note 22

³⁵ Supra Note 22

has displayed a list on the village wall, which includes the names of villagers for allotment under the scheme.

Inquiries about the number of doctors present in primary health clinic per day. This ensured that doctors had indeed turned into hospitals. A major improvement in health care facilities was seen, especially in rural areas. For instance, disclosure of information relating to:

- i.** attendance of staff in schools has helped in checking teachers' absenteeism and students' drop out;
- ii.** attendance of doctors and nurses at primary health centers has led to improvement in health care facilities in rural areas;
- iii.** the details of supplies and distribution of food grains through ration shops has assured the reach of entitlements to the beneficiaries;
- iv.** the supply and demand for petroleum products, such as, domestic gas has reduced black marketing;
- v.** muster rolls and beneficiary of employment guarantee schemes has exposed corruption and ensured effective delivery of services to the poor; and
- vi.** allotment of retail outlets (petrol pumps) and agencies for distribution of LPG gas has ensured fair play and objective decisions, as reflected from substantial reduction in litigation cases in the matter.

5.5 RTI ACTIVISTS: SITTING DUCK IN INIDA

The Right to Information Act, 2005 was enacted "to promote transparency and accountability in the work of every public authority". However, people seeking

information under the RTI Act have come under increasing attacks and India's historical transparency law provides no protection. A dangerous nexus has been formed between corrupt officials, politicians and the mafia to silence RTI activists. Since 2010, at least 12 RTI activists have been murdered, while scores have faced severe physical assaults, prosecutions under false accusations, and several suspected organizations.³⁶

When the threat was brought to the notice of the Central Information Commission and the State Information Commissions, the interventions were neutralized. The police who are investigating, do not file First Information Report (FIR), do not investigate and often become criminals.³⁷

5.5.1 Murder of RTI activists in India

Many Right to Information Act (RTI) activists, including policemen, were harassed and even murdered for seeking information to "promote transparency and accountability in the work of every public authority" in India. Many people attack on a regular basis. People seeking information from their gram panchayat and local administration also face social boycott. On 2 March 2011, NREGA activist Niamat Ansari was beaten to death by unknown persons after dragging him from his home in Jerua village in Latehar district of Jharkhand. Shri Ansari had exposed corruption in NREGA by contractors through RTI Act and three persons including Block Development Officer Kailash Sahu were arrested for defying funds based on their complaints. Some more activists seeking information under the RTI related to the MNREGA scam were killed. Many threats and attacks (including murder) are unrestricted by the media.

³⁶ RTI activists: sitting ducks of India published by Asian Centre for Human Rights, first published 2011 available at www.achrweb.org accessed on 28/09/2018

³⁷ *Ibid*

Maharashtra tops country in attacks, murder of RTI activists³⁸

Mumbai: The murder of a young Right to Activist from Bhiwandi was not a humiliating situation for the state which has witnessed the most attacks on RTI activists since the act's introduction in 2005. On 27 August 2010, RTI activist Ramdas Ghadgavkar (43 years) was killed for allegedly exposing corruption in the Public Distribution System (PDS) and sand mafia in Nanded, Maharashtra. Maharashtra tops the number of assaults and assassinations against RTI activists. This indicates unholy nexus between corporates and politicians. There were no attacks against RTI activists in Kerala and West Bengal. However some of the figures given below may not be authentic as many also carry on the business of blackmailing in the name of RTI activists. Also, not all allegations of murders can be true.

Commonwealth Human Rights Initiative (CHRI) data shows that there have been 53 attacks on RTI activists in Maharashtra in the last eight years, including nine cases of murder. Gujarat comes second with 34 attacks including 3 attacks. Delhi, Bihar, Uttar Pradesh, Haryana, Andhra Pradesh and Karnataka were followed by more than 10 attacks on RTI activists during the last eight years.³⁹

Many Right to Information (RTI) activists, including policemen, have been harassed and even murdered for seeking information to "promote transparency and accountability in the working of every public authority" in India. Many face assaults on a regular basis. People seeking information from their gram panchayat and the local administration also face social ostracism. A few activists who sought information under RTI related

³⁸ Available at <http://timesofindia.indiatimes.com/india/Maharashtra-tops-country-in-attacks-murder-of-RTI-activists/articleshow/27743408.cms> accessed on 17/12/2017

³⁹ *Ibid.*

to MNREGA scams, were killed. Many threats and attacks (including murder) go unreported by the media.⁴⁰

Media reports of more than 300 instances of attacks on or harassment of citizens and at least 51 murders and five suicides can be linked to information sought under The Right to Information Act. Maharashtra followed by Gujarat tops the list for states with the most attacks on RTI users.

5.5.2 Attempts on the lives of RTI activists.

The Right to Information Act, 2005 provides inadequate protection to whistleblowers. The Central Information Commission and the State Information Commissions are not mandated to deal with such threats or attacks or to provide protection when needed. Attacks on RTI users have not ceased despite directions from several information commissions and state governments to protect them from harm.⁴¹

- **Lucknow: Whistleblower bureaucrat picked up from protest site, taken to psychiatric ward:** A provincial civil services officer, Rinku Singh Rahi, who launched his hunger strike in Lucknow demanding a probe into charges of corruption in state-run schemes, was whisked away by the police from the dharna site at midnight and taken to the psychiatric ward of a medical college in the city. Mr Rahi has been raising the issue of corruption in the state government sponsored schemes ever since his stint as the District Social Welfare Officer in Muzzafarnagar in 2009. He has exposed corruption to the tune of Rs. 40 crore, for which he also suffered an attempt on his life when the local

⁴⁰ *Ibid.*

⁴¹ Supra Note 22

mafia pumped six bullets into him on March 26, 2009 - in that assault, he lost vision in one eye.⁴²

- **Adv. Mohd. Hasim Shaikh** Mumbai, Maharashtra, 05 January 2014, Assaulted with Hockey and Iron rods in the late evening when going towards home, got major injuries and also got finger fractured, the assaulters took away the cell phone and a wallet. He exposed License scams in BMC and also got Penalized officers of BMC by State Information Commissions, working as an alert and active citizen, associated with various citizens group.

5.5.3 False cases and harassment

Many RTI activists have been implicated in false cases to stifle their voices.

- On 6 August 2010, RTI activist Davinder Khurana (60 years)⁴³, a physically challenged, was arrested in an alleged false case in Ludhiana, Punjab. The activist was accused of beating a ration depot owner with sticks. However, the victim alleged he was framed in a false case for seeking information from the Food and Civil Supplies Department regarding the total number of beneficiaries of the depot, which resulted in his harassment prompting him to file complaint with the State Information Commission. Earlier on the same day before he was arrested, State Information Commissioner P K Verma asked the Director General of Police, Punjab for an immediate enquiry into the allegation.

⁴² Available at <http://www.ndtv.com/lucknow-news/lucknow-whistleblower-bureaucrat-picked-up-from-protest-site-taken-to-psychiatric-ward-473454> accessed on 17/12/2017

⁴³ Supra Note 22

- On 6 June 2011, an attempt was made to frame RTI activist Payi Gyadi by planting a pistol and explosives in his car in Itanagar, Arunachal Pradesh . Mr Gyadi had exposed through the RTI Act, the illegal appointments in various departments of the state government on the basis of favouritism and recommendations by some politicians of the state in connivance with a high-ranking officer of the state through fake certificates. Earlier on 4 March 2011, Mr Gyadi lodged an FIR in the Itanagar Police Station against senior Cabinet Minister for Health and Family Welfare and Rural Works Department Atum Welly and Chief Information Commissioner Y.D. Thongchi for their involvement in favouring illegal appointments in the government departments. Later, police arrested three persons for trying to frame Mr Gyadi.⁴⁴
- Sudhir Yadav, Gurgaon 06 October 2013, An RTI Activist who tried to Bring all the documents of Corruption From Villages of the Block Farrukh Nagar, Gurgaon was threaten to be killed if he continue filling the RTI against Sarpanch and keep asking about the development work.
- Anoop Singh, Dankaur Town, Noida, December 2013, An RTI activist was abducted from Dankaur town in Gautam Budh Nagar district on December 13, burnt with cigarette butts on his private parts and beaten with iron rods before being dumped near a petrol pump in a neighboring district four days later.

5.5.4 Social ostracisation of the RTI activists

RTI activists also faced social ostracisation and fined by the village council (panchayat)

⁴⁴ RTI activists: sitting ducks of India published by Asian Centre for Human Rights, first published 2011 also available at www.achrweb.org accessed on 24/12/2019

for seeking information under the RTI Act.

- On 10 August 2011, three RTI activists identified as Nelapati Papireddy (who is blind by birth), Pachalla Suryanarayana Reddy and Kovuru Satyanarayana Reddy sought police protection after the village elders of Gollalamamida in Pedapudi mandal in East Godavari district of Andhra Pradesh imposed a social boycott on them. The activists had exposed irregularities by officials.
- Again in August 2011, RTI activist Biren Singh (55 years) was ostracised by the residents allegedly influenced by the local politicians in his own village in Manipur's Imphal East district. Mr Singh had filed an RTI application enquiring about the construction of Sarva Shiksha Abhiyan school building in an unauthorized land.
- Currently number in cases, one of them in 2020 Srikant Pakal, Odisha, in harassment for filing case in Lokayukt seeking probe against Bishnupada Sethi IAS and alleged that the officer spent Rs. 9.46 lakh towards the hospitalization of his wife and father from the funds of Oridsha State Cooperative Bank, in violation of the existing norms during his stint as secretary of cooperation department.

5.4.5 Lack of protection:

Lack of security has been one of the main reasons for the increasing attacks on people who lack information. The security of RTI activists has been raised in Parliament several times in 2010. Minister of State in the Ministry of Personnel, Public Grievances, Pensions, Shri V. Narayanasamy unstarred the Lok Sabha in question no. Responding 3456 said. 1 December 2010 stated that

there have been reports in the media about harassment of people using the provisions of information.

However, he said that the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC) have adequate provisions to enable the law enforcement machinery in the states to take strict restrictive and punitive action against such incidents. He further said that the Government of India has urged the Chief Ministers of the states and administrators of Union Territories to immediately inquire about such cases, if any, and take action against the culprits. However, no action is taken even after the court order.

The murder of Ms. Masood is proof that IPC and CrPC are not sufficient. Prior to her death, Ms. Masood had written to the Director of Madhya Pradesh - General of Police.S. Raut, complaining against a special senior police officer. In the letter, Ms. Masood had accused him (senior police officer) of harassing and threatening calls, about which she had lodged a complaint with Maharana Pratap Nagar police station in the city in 2008. In his letter he clearly stated that "I am afraid of my life" but he was not provided any protection. A week before her death, Ms Masood spoke to The Hindu newspaper reporter about her plan to file a public interest litigation against a private college, which, according to her, was "a very powerful group of people, including local political leaders". Included. Nevertheless, no action was taken which eventually led to his death. On 7 May 2010, the Bombay High Court, while hearing the case of the murder of RTI activist Satish Shetty in Maharashtra, ordered the state government to allow any person (or organization) to complain about threats or use force after filing an application. Order to provide police protection. Under the RTI Act. The High Court also directed the state government to make provisions for speedy investigation of

threats or attacks against social workers, a monitoring system and database of social workers within 90 days. However, cases of attacks on activists in Maharashtra increased.

Many have survived the attack. The first six months of 2011 alone saw several attacks. While many incidents go without telling. The data points to around 251 cases across India where people were either attacked, murdered, physically or mentally harassed or murdered. The property sought due to information sought under RTI. The data throws up 51 alleged murders and two suicides that were directly associated with RTI applications.

While there is no official, nationwide data on the number of people filing RTI applications, or the number of RTI activists attacked in India, CHRI used publicly available data to gather information. The organization has appealed to the public not to send any additional data about the attacks on RTI activists to the English media and is inaccessible on the web. CHRI initially built on the data collected by Nachiket Udupa of the National Campaign for People's Right to Information.

CHRI's Venkatesh Nayak said, "The available data shows that Maharashtra receives the highest number of RTI applications every year and therefore it is possible that the number of attacks is higher in the state". RTI applications in UP "It is possible that, being a largely Hindi-speaking state, attacks on RTI activists may be covered in vernacular papers that are not accessible on the Internet," he said.

So many corruption cases have been exposed and disclosed in almost part of our India because information about government policies was sought and after such information many irregularities were found in such policies.

True information is always avoided by the authorities and they do not want to disclose such information to the citizens and this can result in a corrupt system and thus it is very important for the nation to have such a good informational system where the authorities are forced by such a powerful act.

There is a great need of government to overcome these difficulties, every government is for its citizens and in every government machinery, we find irregularity and corruption, so these officials will not remain impartial and partial, unless a full power and transparent The system will not be maintained. A greater amount of social control can be established for citizens on the basis of information. More information will be available in the public domain; Less possibility of corruption will be hidden from public eye. Whichever mechanism inserts information into the public domain, it should be promoted and strengthened. RTI has already shown us the way. The government should make efforts towards accepting all its obligations and opinions from the public to bring some new provisions under the RTI Act. Citizens and media should make more and more concerted efforts to share and disseminate information.

India is also a signatory to the United Nations Convention against Corruption since 2005 (ratified 2011). The Convention covers a wide range of acts of corruption and also proposes some preventive policies.

The "Lokpal and Lokayukta Act, 2013" which came into force from 16 January 2014, seeks to provide for the establishment of an institution of Lokpal to investigate allegations of corruption against certain public functionaries in India.

The "Prevention of Money Laundering Act, 2002" provides that the properties of corrupt public servants be confiscated. However, the Government

is contemplating making it more self-contained and comprehensive, including the provisions of the Prevention of Corruption Act 1988 to seize or confiscate the property of a corrupt public servant. A committee has been set up under the chairmanship of the Chairman of the Central Board of Direct Taxes (CBDT), which will examine the strengthening of laws to curb the production of black money in India, its illegal transfer abroad and its recovery methods. The Committee shall examine the existing legal and administrative framework to deal with the menace of generation of black money through illegal means including *inter-alia* the following:

1. Declaring wealth generated illegally as national asset;
2. Enacting/amending laws to confiscate and recover such assets; and Providing for exemplary punishment against its perpetrators.⁴⁵

“*The Companies Act, 2013*” includes certain provisions regulating fraud by corporations, including increased penalties for fraud, giving more powers to the Serious Fraud Investigation Office, mandatory responsibility of disclosing fraud to auditors, and independent directors. Increasing responsibilities are included. The Companies Act, 2013 also provides for compulsory vigilance mechanisms that allow directors and employees to report concerns and whistleblower safety mechanisms for every listed company and any other companies that exceed Rs 50 crore from public or public banks accept the loan. The aim was to avoid accounting scandals such as the Satyam scandal, which plagued India. It replaces the Companies Act, 1956 which was further proved to be a matter of handling the problems of the 21st century.

⁴⁵ Sources , 2013 EY report on Bribery & Corruption

5.6 “Whistle Blowers Protection Act, 2011”, Which provides a mechanism to investigate alleged corruption and misuse of power by public servants and protect anyone who exposes alleged wrongdoings in government bodies, projects and offices on 9 May 2014 in India Presidential approval has been received, and (as of 02 August) pending notification by the Central Government.

Highlights of the Bill

- The Bill seeks to protect whistleblowers, i.e. persons making a public interest disclosure related to an act of corruption, misuse of power, or criminal offence by a public servant.
- Any public servant or any other person including a non-governmental organization may make such a disclosure to the Central or State Vigilance Commission.
- Every complaint has to include the identity of the complainant.
- The Vigilance Commission shall not disclose the identity of the complainant except to the head of the department if he deems it necessary. The Bill penalizes any person who has disclosed the identity of the complainant.
- The Bill prescribes penalties for knowingly making false complaints.

The right to information is derived as stated earlier the arena of the fundamental rights under article 19 (1) (a) of the Constitution of India. The right to freedom of expression and speech copes with the principle of receiving

and sharing of information. If one advances towards the provisions of article 21 then the derivative right that is 'right to know' also comes from it.⁴⁶

The Article 19(2) empowers the state to formulate law if such law imposes the reasonable restrictions in matter of exercise of the rights envisaged under article 19 (1) (a) in the scope of integrity and sovereignty of India. In this respect the legal recognition to whistleblowing is a matter of importance. The Law Commission of India's 179th Report in 2001 includes the necessity of the whistleblowing. It also recommended for an Act through a proposed Bill on "Public Interest Disclosure and Protection of Informers". In the case of *Vineet Narayan vs. Union of India*⁴⁷, the Supreme Court is based on applying the PIL and the judiciary's rule of law, which held that the holders of public offices are entrusted with certain powers which are exercised in the public interest alone. Is done and therefore, the office held by them is trustworthy to the people. Any deviation from the path of magnitude by either of them for breach of trust, and should be dealt with severely rather than pushed under the carpet. If the conduct amounts to a crime, it should be investigated immediately and the offender against whom a prima facie case is made must be expeditiously introduced so that the majority of the law remains intact and the rule of law is breached. It is the duty of the judiciary to enforce the rule of law and, therefore, protect against the erosion of the rule of law.

In addition, whistleblowers can also play a very important role in providing information about corruption and mismanagement. Public servants working in the same department know better who is corrupt in their departments, but unfortunately, they are not so bold that they can give the

⁴⁶ P.K.Das, "*The Right to Information*", 11 (Universal Law Publishing-An imprint of Lexis Nexis, edn. 5th 2016).

⁴⁷ AIR 1996 SCC (6) 354

above information to the higher authorities for fear of reprimand by those against whom complaints are made. If adequate statutory protection is provided, there can be no doubt that the government will be free from mismanagement. Such provisions exist in England, Australia, New Zealand and the United States. God faith whistleblowers represent the highest ideals of public service and challenge the abuse of power.⁴⁸ The conservation of whistleblowing can be seen as supporting the public interest by encouraging the disclosure of certain types of information. This aspect can be called “public information” or the concept of public interest inherent in whistleblowing.

The United Kingdom Nolan Committee report is based on the importance of the “standard of public life” and the need for whistleblowing in 1994 and a second report on the “standard of public life” in 1996, the UK (Public) Public Interest Disclosure Act, 1998 for Whistleblowing. Deals with the detailed approach. In the United States, the Whistleblowers Protection Act, 1989 provides necessary protection to employees who disclose the illegality and corruption of the government. The purpose of the Act is to strengthen and improve the protection of the rights of federal employees. Australia passed the Public Interest Disclosure Act in 1994. New Zealand has also passed a statute, namely the Protected Disclosure Act, 2000.

The 179th Report of the Law Commission is a step to pass the Public Interest Disclosure (Protection of Information) Act. The Act is a requirement in India to serve the dual purpose of investigating corruption and collecting information against corrupt public servants. Complete legislation should be made on this subject as India also needs a field beyond the Right to Information Act, 2005.

⁴⁸ 179th Report of Law Commission if India, 2001

5.7 Recommendations to the Government of India

There is an urgent need for amendment of the Right to Information Act, 2005 to provide for protection of those seeking information under the Act. Asian Centre for Human Rights recommends that a separate chapter, “Protection of those seeking information under the (RTI) Act”, be inserted into the Act. Asian Centre for Human Rights recommends the following:

“(1) Any applicant seeking information under this Act faces threats, shall have the following protection:

1. It shall be the duty of the Station House Officer to record the complaint of any person seeking under the Act against any kind of intimidation, coercion, threat, bribery, inducement, violence or threats of violence, whether given orally or in writing as First Information Report (FIR) under relevant provisions of Indian Penal Code and Criminal Procedure Code and place the FIR to the concerned Assistant Commissioner of Police/Deputy Superintendent of Police, the Concerned Information Commission, and the concerned magistrate/judge of the area within 24 hours.
2. The Magistrate shall issue necessary directions for physical protection of the concerned applicant under the Act and his/her family members and the expenses for providing protection including security protection shall be borne by the concerned State government. The protection measures shall be periodically reviewed by the concerned Judge.
3. Inquiry into such FIRs shall be conducted by a Police Officer not below the rank of Deputy Superintendent of Police/Assistant Commissioner of Police.

4. Investigation into such FIRs shall be completed within 90 days.
5. Trial of the accused, if offences made out after investigation, shall be completed within six months after the conclusion of the investigation.
6. In a prosecution for an offence under this Chapter, concerned Public Information Officer, First Appellate Authorities and those directly related with the information sought under the Act shall be presumed to have abetted the offences against the complainant applicant under the Act unless proven contrary.”

The RTI Act requires amendment to protect those seeking information under the Act. The Asian Center for Human Rights recommends that a separate chapter be inserted into the Protection of Information Seekers Act under the (RTI) Act. Protection measures should include (i) Compulsory and immediate registration of the complaint of threats, use of force or attacks against the RTI worker as a first information report and the concerned magistrate of the area within 24 hours to issue relevant guidelines. To file such an FIR before a Judge. Physical protection of those under threat or those of their family members, and periodically reviewing such safeguards; (ii) To investigate threats and attacks by the Superintendent of Police / Assistant Commissioner of Police and a police officer below the conclusion of such investigation within 90 days; And (iii) the trial of the accused, if the offenses are committed after investigation within six months. Further, the concerned public information officers, first appellate officers and those directly connected with the information sought under the RTI Act should be considered to prevent crimes against RTI activists unless proven to the contrary.

5.8 Conclusion

In particular, there are two measures the government could take possibly under the existing legal framework that would improve transparency and diminish the incentive to use the threat of retaliation to keep incriminating or embarrassing information out of the public eye.

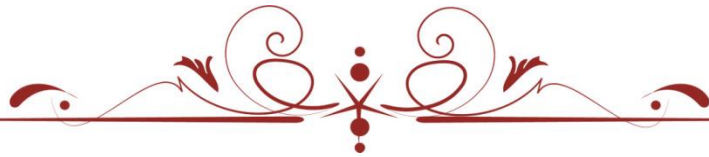
First, whenever any person who has submitted an RTI request with a public authority is physically attacked, the relevant Information Commission should order that public authority to immediately release and publicize the information sought by the attacked applicant. In Abhimanyu's case, for example, the State Information Commission of Odisha should order the Department of Food and Civil Supplies to release and publicize the information he had requested, both online and at the distribution points for food supplied under the program he was investigating. This has been a consistent demand from civil society actors as well, and in 2011 Central Information Commission adopted a resolution⁴⁹ calling for this policy to be adopted. But in practice, the resolution has not been effectively implemented. It is not binding, it is activated only on receipt of a complaint of an attack, and the Central Information Commission has no monitoring mechanism to ascertain whether the resolution has been followed.

Second, the government can and should do more to proactively disclose certain kinds of information, so that transparency doesn't depend as much on private citizens taking the initiative of—and assuming the risks associated with—filing RTI requests. Again, using Abhimanyu's case as an illustration, the Department of Food and Civil Supplies should automatically and continuously disclosure basic information concerning the implementation of

⁴⁹ Available at <https://www.humanrightsinitiative.org/blog/abatement-clause-in-draft-rti-rules-contradict-cic-resolution-of-2011> accessed on 23/02/2021

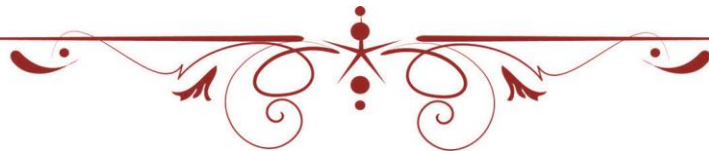
the subsidized food grain program, including information on things like beneficiary lists, grain stocks, and disbursement records. In fact, the law already has an explicit provision⁵⁰ on mandatory proactive information disclosure on subsidy programs, but in contrast to citizen RTI applications, noncompliance with proactive disclosure requirements does not trigger any penalty, a weakness that has led to incomplete or inadequate disclosures. The Central Information Commission and the State Information Commissions are in theory empowered to *suo-motu* call for examination and disclosure of records held by public authorities, but typically enforcing the disclosure rules has not been a priority, especially given the high volume of citizen appeals (a problem exacerbated by persistent vacancies in many of these commissions). Expanding, and more rigorously enforcing, mandatory information disclosure rules would reduce burdens on citizens not only the financial and time costs of filing RTI requests for information that ought to be made available as a matter of course, but the personal dangers that ordinary citizens face when they take it upon themselves to use the RTI law to investigate and expose government wrongdoing.

⁵⁰ Available at <https://rti.gov.in/webactrti.htm> accessed on 23/02/2021



CHAPTER-VI

ANALYSIS OF THE WORKING OF STATE INFORMATION COMMISSION WITH CURRENT STATUS



CHAPTER-VI

ANALYSIS OF THE WORKING OF STATE INFORMATION COMMISSION WITH CURRENT STATUS

6.1 Introduction:

This chapter presents and analyses the data related to the study in detail. The data is presented in chart and tabular form followed by the detailed analysis. The data presentation is done in such a way that it will comprehensively present and analyse the data in the general perspective of the study. The data related to the working of State Information Commission is presented for their details analysis and to summarize the findings. The Right to Information (RTI) Act is a landmark legislation which has enacted in the year of 2005. Now it has completed fifteen year. The aim of the Act is to bring transparency and accountability in the governance. In this context the Right to Information social change affects all types of society, both in the developed or underdeveloped areas. Since independence was the result of centuries-old struggle and sacrifice, people nurtured high hopes and aspirations from the new setup. Every citizen of the country was thrilled by the smooth flow of powerful feelings of equality and freedom. Accordingly, the Constitution of India provided appropriate provisions in the form of Fundamental Rights and Directive Principles of State Policy. These constitutional provisions also provided an independent judicial system to protect and enforce the rights conferred in the Constitution in the country. The Indian judiciary played an active role in increasing the rights conferred in the Constitution. The Supreme Court of India also supported this

view and observed that under a democratic system people had the right to know about the functioning of the government, many NGOs were asking to know this right for many years.¹

6.2 Observational Method

In this context the observational method was adopted by the researcher to examine the practical execution and implementation of RTI Act, researcher went to the Uttar Pradesh State Information Commission (UPSIC), Lucknow.

6.3 Data Analysis

The collected data by the questionnaire acquired transformed facing pie-charts and table which flash over the probe hypothesis. The entire quantity of 100 respondent's reference is keyed directed towards online Google analysis. Among the 100 respondents who have responded to the survey. The demography data shows different parameters of the study like the gender, age and class of the students. The data is also presented in graphical form for clearer understanding.

¹ Dr. Abhe Singh Yadav, "*Right to Information Act, 2005, An Analysis*" 2 (Central Law Publications, edn 4th, 2019)

Table 6.1 Gender Wise Distribution of Respondent

Gender	Frequency	Percentage
Male	62	62%
Female	38	38%
Total	100	100%

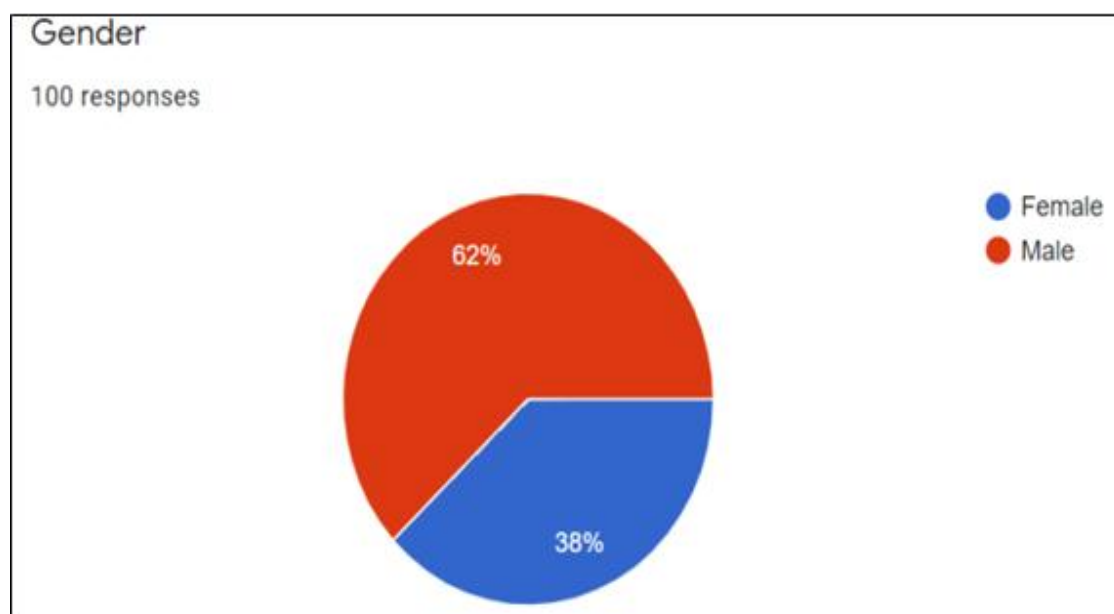


Figure 6.1 Gender Wise Distribution of Respondent

The gender wise breakup of the respondents in the above table and figure 6.1 shows that the majority of the respondents 62% of them were male. While a total of 100 respondents constituting 38% of them were female respectively. The higher percentage of male respondent who taken interest in RTI as a right.

Table 6.2 Age group Wise Distribution of Respondent

Age Group	Frequency	Percentage
20-30	48	48%

ANALYSIS OF THE WORKING OF STATE INFORMATION COMMISSION WITH
CURRENT STATUS

31-40	29	29%
30-50	16	16%
50-60	5	5%
63	1	1%
76	1	1%
Total	100	100%

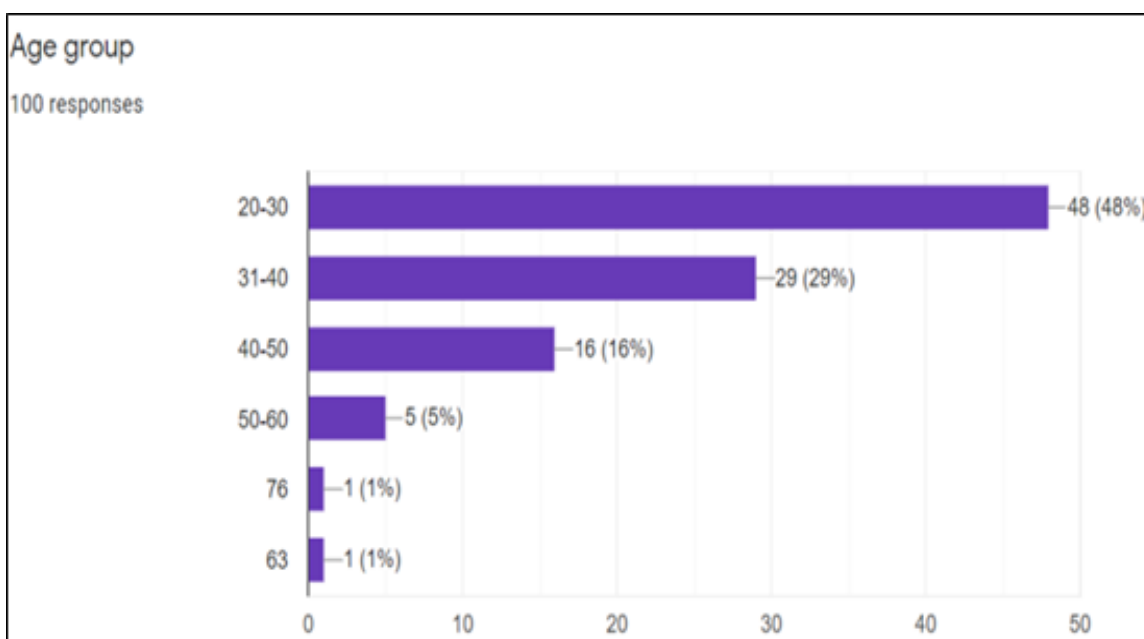


Figure 6.2 Age group Wise Distribution of Respondent

Out of the total 100 respondents, an overwhelming majority of the respondents were in the age group of 20 to 30 years (48%). The above table and figure 6.2 shows that 48% of the respondents from the 20 to 30 years age category were aware towards the Right to Information whether male or female belongs to this group. Simultaneously age group 50-60 was also aware about the Right to Information.

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Table 6.3 Occupation Wise Distribution of Respondent

Occupation	Frequency	Percentage
Academicians	39	39%
Civil Servants	19	19%
Applicants at Commission	21	21%
Professionals (Lawyer, Doctors etc.)	21	21%
Total	100	100%

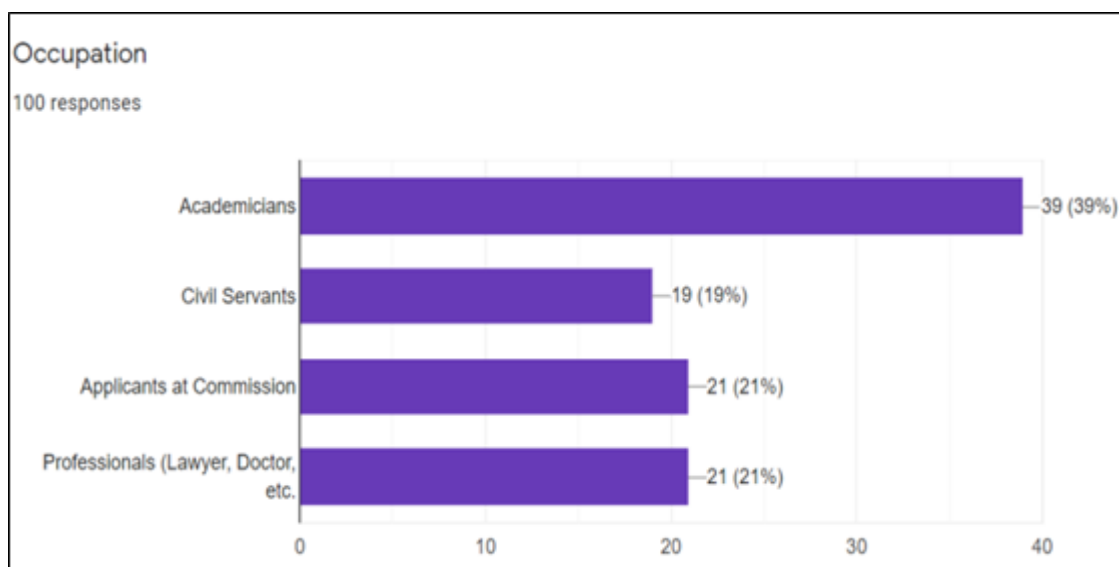


Figure 6.3 Occupation Wise Distribution of Respondent

The occupation wise breakup of the respondents in the above table and figure 6.3 shows that the majority of the respondents 39% of them were academicians. Here according to the figure researcher wants to say that the questionnaire was based on random sampling area where I found the academicians percentage is higher.

Table 6.4 Religion Wise Distribution of Respondent

Occupation	Frequency	Percentage
Hindu	95	95%
Muslim	4	4%
Christian	0	0%
Other	1	1%
Baudh	1	1%
Total	100	100%

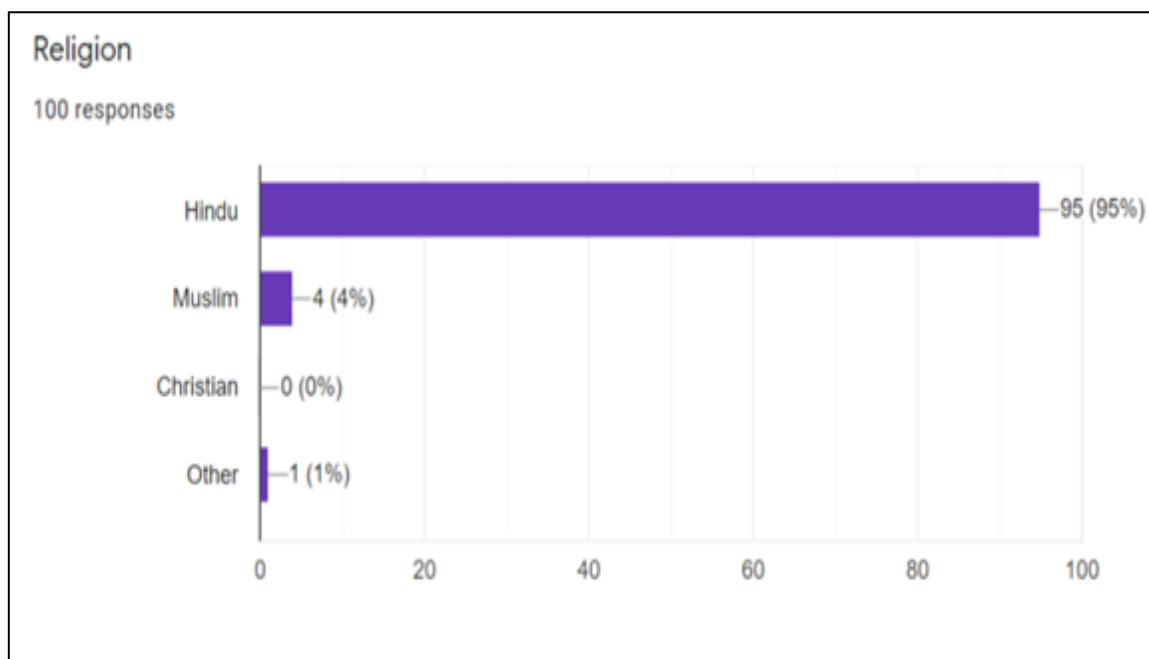


Figure 6.4 Religion Wise Distribution of Respondent

Above table and figure 6.4 indicates the percentage of respondent's religion. In this figure the percentage of the Hindu religion was higher. This is general question in the questionnaire under which researchers wants to clear if there is any biasness while disposing the information.

Table 6.5 Awareness of the respondents about the RTI

Awareness	Frequency	Percentage
Yes	98	98%
NO	2	2%
Total	100	100%

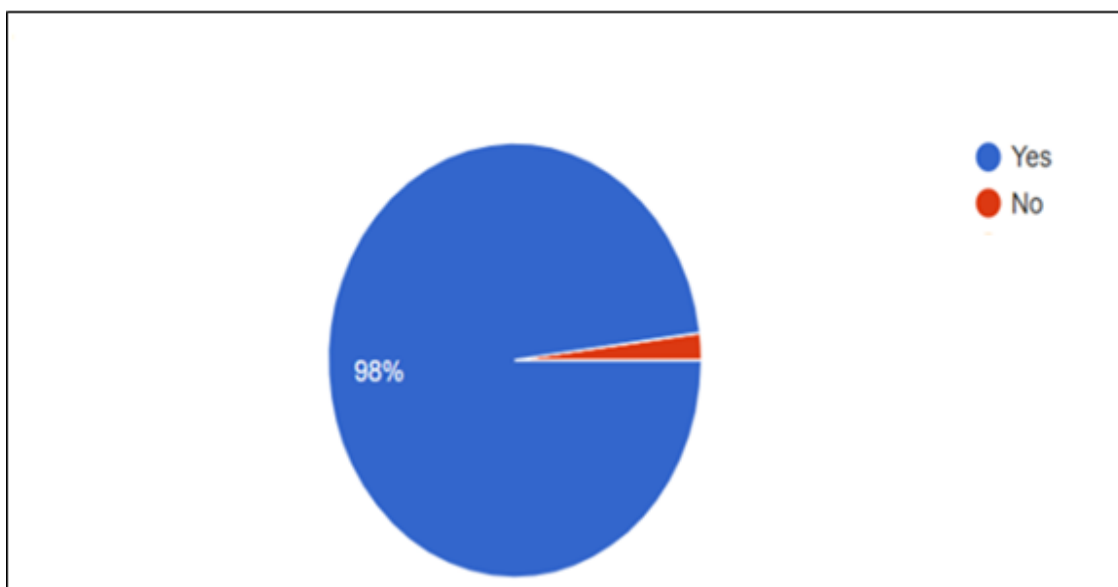


Figure 6.5 Awareness of the respondents about the RTI

Above table and figure 6.5 indicates the “**awareness of the respondents about the RTI**”. This figure shows that 98% of the respondents were aware about the RTI and 02% respondents were aware about the RTI. The awareness of RTI shows the realization of own right and how to obtain the information regarding affairs of government. It also shows that how much the government is working on RTI to awareness of the public. How much they were paying heed on advertisement and what they are doing for the imparting the information.

Table 6.6 Respondents ever applied for the information under RTI

Ever applied for the information under RTI	Frequency	Percentage
Yes	60	60%
NO	40	40%
Total	100	100%

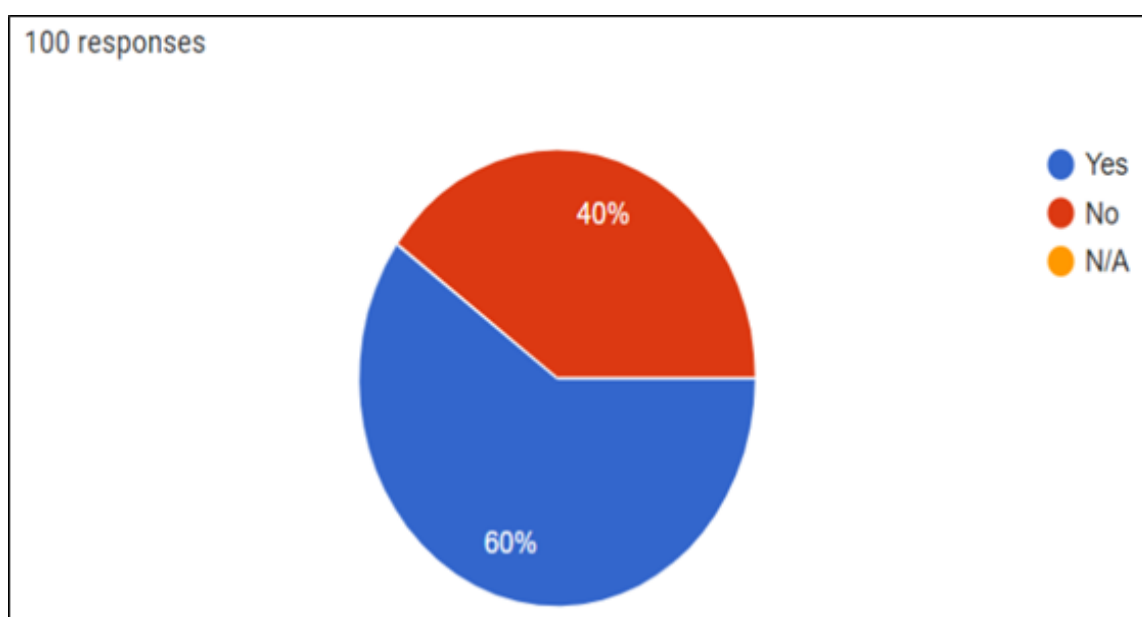


Figure 6.6 Respondents ever applied for the information under RTI

Above table and figure: 6.6 indicate that if the “**respondents ever applied for the information under RTI**”. Here according to the questionnaire the figure shows the higher percentage of respondent with the 60% applied the RTI and they are well aware of this right provided by the Act. This question is the part of the questionnaire as the respondent used the RTI than he/she will be one step ahead towards the appeal, if not satisfied information from the APIOs.

Table 6.7 Respondents who applied for the first appeal

Who applied for the first appeal	Frequency	Percentage
Yes	58	58%
NO	42	40%
Total	100	100%

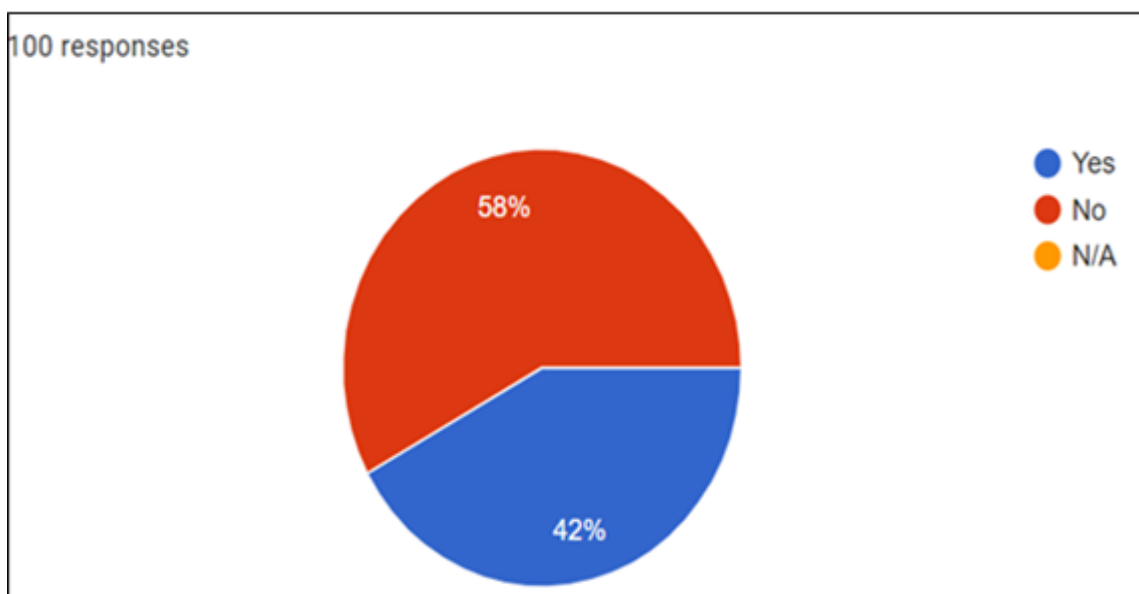


Figure 6.7 Respondents who applied for the first appeal

Above table and figure 6.7 indicates that “**the respondents who applied for the first appeal**”. Here the researcher found that the 58% of the respondent did not applied for the appeal and the 42% of the respondents filed appeal for the regarding information. Here two things are testing; one is the level of the satisfaction from the APIOs and second is the respondent go for the first appeal. Hence the first hypothesis proved that the public authorities are less interested to provide the information to the applicants and try to waiver the applications, somehow they also provide false and mislead information to the applicants. In this pursuance the imposing timing is not satisfactory due to

which the disposal of the information remain pending. Hence the another hypothesis number five been proved.

Table 6.8 Level of the satisfaction of the respondent regarding desired information form the SIC

Who applied for the first appeal	Frequency	Percentage
Satisfied	30	30%
Unsatisfied	17	17%
Fine	16	16%
N/A	37	37%
Total	100	100%

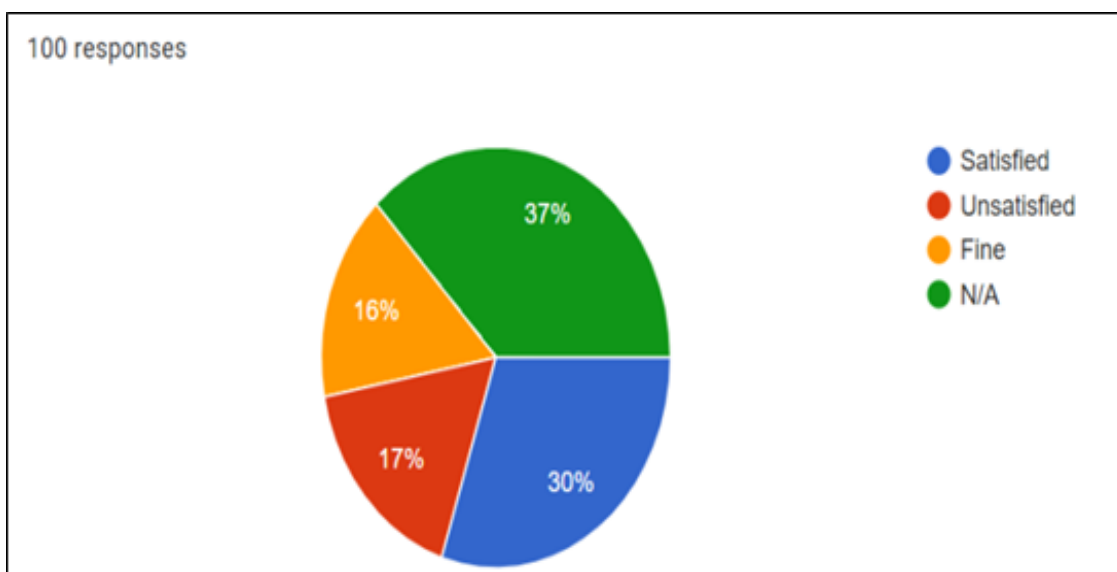


Figure 6.8 Level of the satisfaction of the respondent regarding desired information form the SIC

Above table and figure 6.8 indicates that “the level of the satisfaction of the respondent regarding desired information form the SIC” Here in this figure it clearly shows the level of the satisfaction of the information provided by the SIC. In this figure the 17% of the respondent are unsatisfied about the desired

information. 37% are those respondents on which this question doesn't applied. 16% shows lesser satisfied. 30% respondent are satisfied it means that the RTI is working properly and it creating the accountability on the Government institutions. Hence the purpose of this research comes one more step ahead to prove the second hypothesis and during the empirical work the researcher found that 17% of respondents are still unsatisfied.

Table 6.9 Respondents who were not satisfied with the outcome

Who were not satisfied with the outcome	Frequency	Percentage
Yes	21.2	58%
NO	42	40%
Total	100	100%

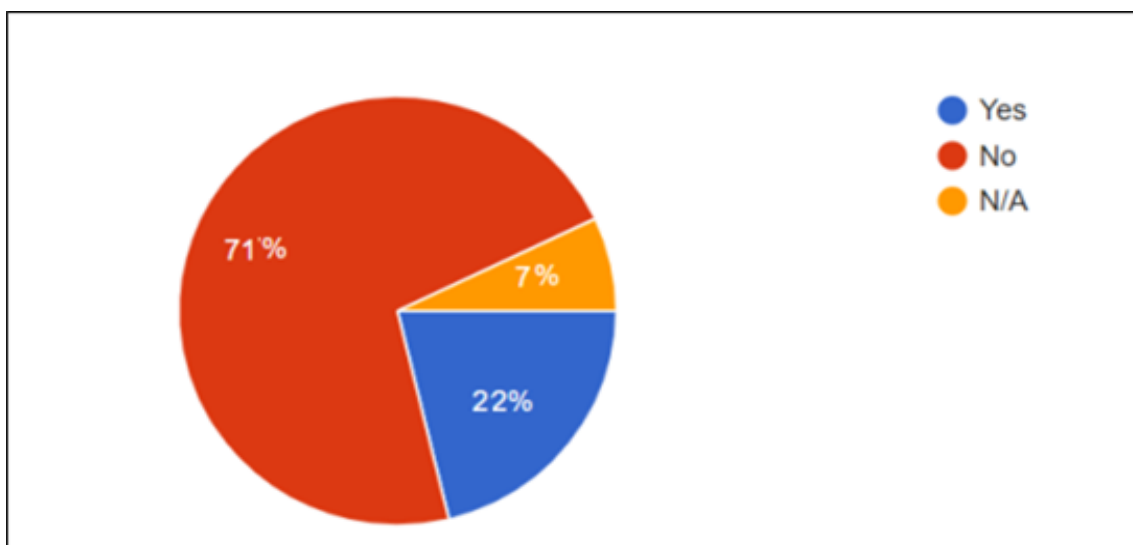


Figure 6.9 Respondents who were not satisfied with the outcome

Above table and figure 6.9 indicates those “**respondents who are not satisfied with the outcome**” they applied for the second appeal with the Information commissioner within 90 days. There are separate Information Commissions for the State and the Central Government Organisations. In this figure the percentage of the applicants who applied for the second appeal; 21%. it means

the higher percentage of applicants whether satisfied or don't want to proceed further due to the pressure made by the APIOs or harassed by the appeal mechanism as getting information is very much time taken and delayed without any reason. In this question th another hypothesis has also been proved that some of the commissioner has less knowledge about the RTI Act and the decision of the RTI application use to taken by the clerk sitting around them. Hence it also proved that the State Information Commissioner is not using its power and functions mandate by the RTI Act.

Table 6.10 Attitude of the information commissioner while hearing the appeal

Attitude of the information commissioner while hearing the appeal	Frequency	Percentage
Satisfied	41	41%
Unsatisfied	24	24%
N/A	35	35%
Total	100	100%

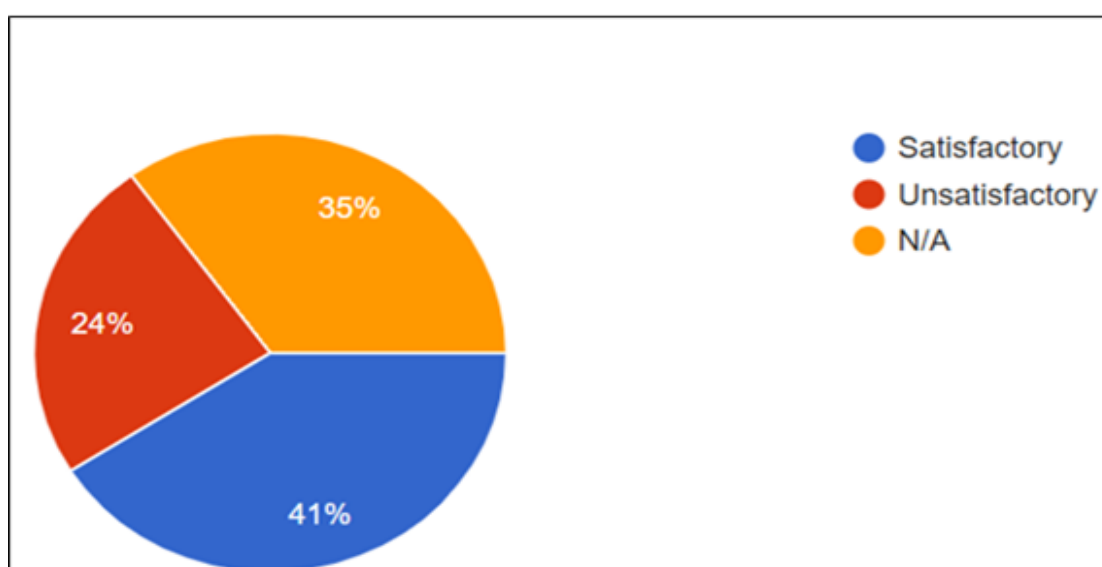


Figure 6.10 Attitude of the information commissioner while hearing the appeal

Above table and figure 6.10 indicates the **“attitude of the information commissioner while hearing the appeal.”** In this respect the attitude of the information commissioners is very polite and practical. The satisfactory attitude percentage is higher than unsatisfactory.

Table 6.11 Respondents got remedy in the form of the desire information

Respondents got remedy in the form of the desire information	Frequency	Percentage
Yes	44	44%
NO	17	17%
N/A	39	39%
Total	100	100%

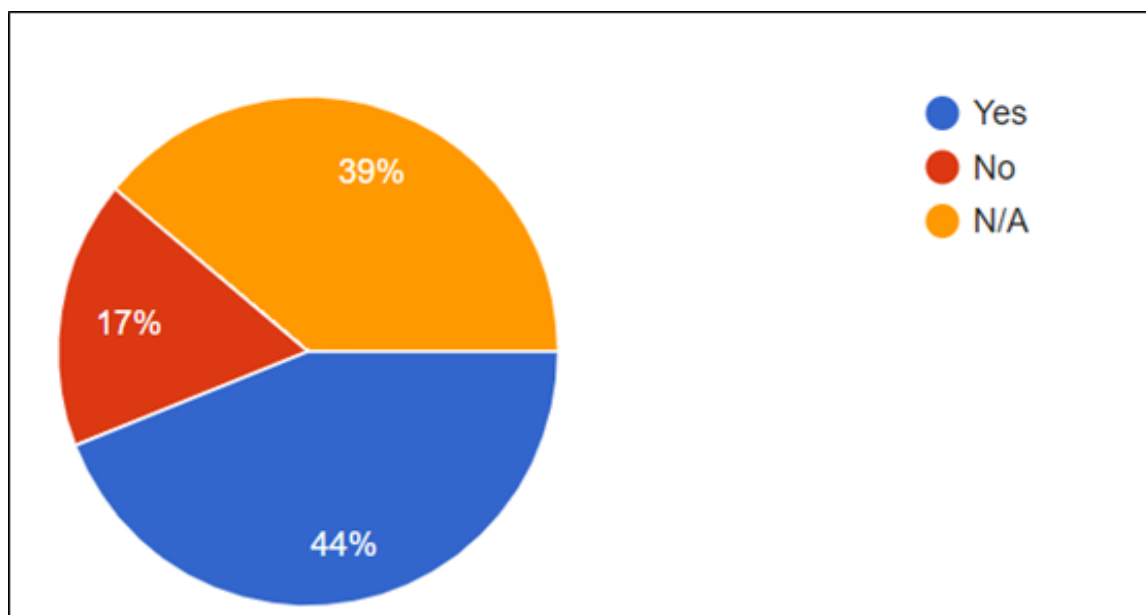


Figure 6.11 Respondents got remedy in the form of the desire information

Above table and figure 6.11 indicates that **“the respondents got remedy in the form of the desire information”**. Here the respondent, applied second appeal receives the positive and support in the form of the correct information.

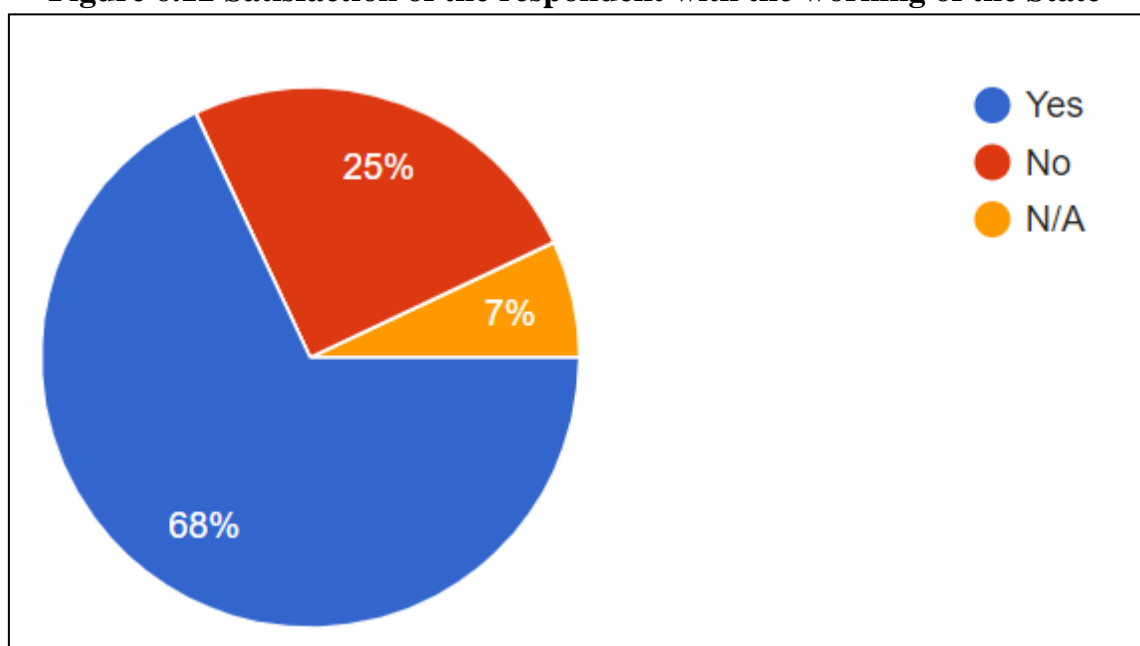
ANALYSIS OF THE WORKING OF STATE INFORMATION COMMISSION WITH
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The satisfactory percentage is positive with 44% and the rest 39% still remain unsatisfied.

Table 6.12 Satisfaction of the respondent with the working of the State Information Commission

Satisfaction of the respondent with the working of the State Information Commission	Frequency	Percentage
Yes	68	68%
NO	25	25%
N/A	7	7%
Total	100	100%

Figure 6.12 Satisfaction of the respondent with the working of the State



Information Commission

Above table and figure 6.12 indicates the percentage of “**the satisfaction of the respondent with the working of the State Information Commission.**” The percentage level of the working of SIC is higher with the 68% but

simultaneously the dissatisfaction percentage level is 25% which shows the minimum use of the mandate power and functions in the Act. It also proved that if the public authorities maintain the transparency and accountability than people will get their concern information on time.

Table 6.13 Penalty percentage imposed by the SIC on the APIOs for non-furnishing of information

Penalty percentage imposed by the SIC on the APIOs for non-furnishing of information	Frequency	Percentage
Yes	16	16%
NO	21	21%
Sometimes	53	53%
N/A	10	10%
Total	100	100%

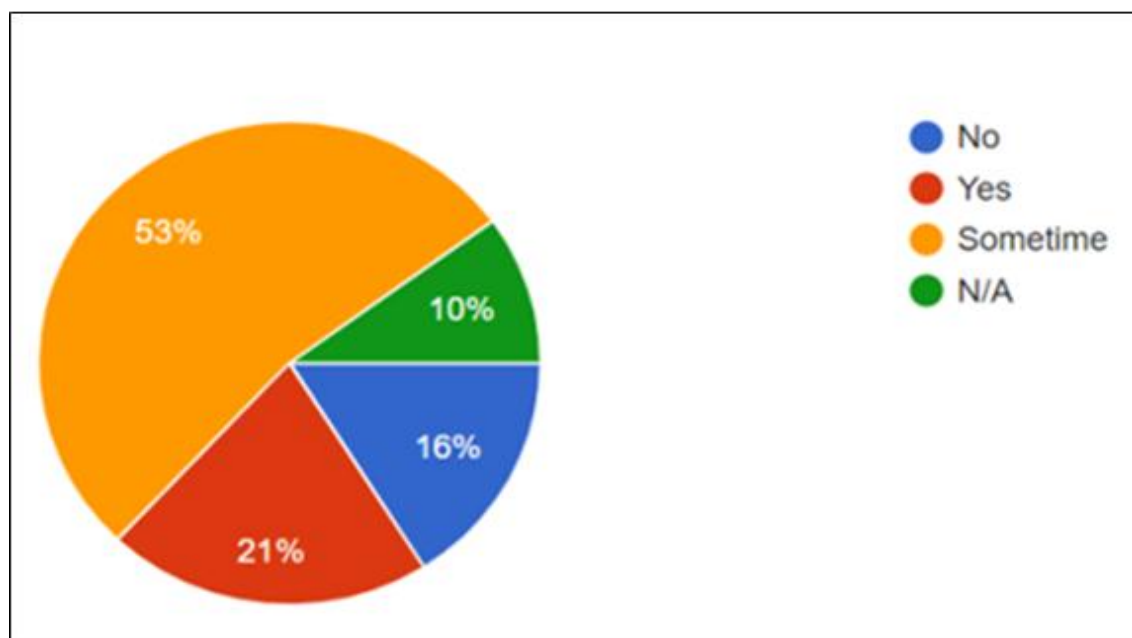


Figure 6.13 Penalty percentage imposed by the SIC on the APIOs for non-furnishing of information

Above table and figure 6.13 indicates that the **“penalty percentage imposed by the SIC on the APIOs for non-furnishing of information.”** Here in this figure the respondent satisfied with the SIC judgment with economic penalty. The less satisfied percentage is 53%, satisfied percentage is 21% and dissatisfaction percentage is 16%.

6.4 Test of Hypothesis-

Hypothesis (1) Tested:

- 1. Public Authorities are not sensitive towards the obligations made under Right to information Act,**

The researcher found the public authorities are less interested to provide the information to the applicant and they try to waive the applications, somehow they also provide false and mislead information to the applicants. Hence this hypothesis proved in this research.

As a sample researcher examined the appeal/complaints were filed before UPSIC. The nature of application and their disposal by authorities concerned. It is quite clear that the undemocratic approach/ behavior reflect in their behavior clearly. In disposed applications many application were on fake grounds under section 11 of the RTI Act arbitrarily.

Hypothesis (2) Tested

- 2. Functioning of the State Information Commission is not Satisfactory.**

There is no mandatory provision made out by the Uttar Pradesh State Information Commission (UPSIC) regarding disposal of appeals and complaints till now while it required and necessary and no barred or prohibited under RTI Act. By which the disposal of appeals and complaints are too

delayed. It is well settled principle of justice “the justice delayed is justice denied”. In this respect hence it proved that the functioning of SIC is not proper and appeal disposal mechanism is also not satisfactory.

Hypothesis (3) Tested

3. Appeal disposal Mechanism is not satisfactory.

Here the researcher found, disposing the information mechanism is not satisfactory as the public authority provide misleading, less information which misguide and harass the applicants. At the same time the public authority make the political pressure on the applicants or make false allegation threat on the applicants like rape case, life threat etc. simultaneously the State Information commission have less percentage of concern. Hence with the hypothesis number 2, this hypothesis has been proved.

Hypothesis (4) Tested

4. The State Information Commission is not using its power and functions mandate by the RTI Act.

Today is the era of technology and in the process of proving the hypothesis the researcher also gone through the use of information technology in the function of UPSIC in the compliance of the section 4 (1)(b). For the easy access of administration and judicial functioning government of India adopted NIC server and concept of e-office, which is not in use by UPSIC in second appeal yet. With this the basic information which need to be published/ put on the website of the public authorities are not available. Even SIC website dose not disclose relevant information. The researcher also observed that even clerk in commission office informs the commissioners ‘what to do’ and’ ‘how to do,

and what provisions are to be made applicable. Hence this hypothesis stands proved.

Hence the hypothesis been proved that SIC is not using its power and functions itself, mandate by the RTI Act.

Hypothesis (5) Tested

5. Imposing time is not uniform and effective.

Here the researcher found the time period is also not uniform, given to the public authority and the disposal of the information remain pending, whenever the decision as a suggestion is given by the clerk to the information commissioner. Hence the commission must pay heed on this issue. Further the time limit of first appeal is clearly prescribed, it could apply as deciding the second appeal, in the absence of the time limit the public authority indefinitely postpone the hearing and decision of a second appeal which fails the real objective this Act. Hence this hypothesis has been proved.

Hypothesis (6) Tested

6. The Public Authorities have no fear of the Act and they are deliberately not providing the correct information.

In this hypothesis the public authorities have no fear of the Act as no punishment is mentioned in this Act and the provided penalty is very low. E-filing of appeals and complaints including its disposal process like notice by email, whatsapp and hearing by video conferencing are not being used by UPSIC which is demand and necessary in this contemporary digital era. In the absence of technology and for not providing the correct information the PIO's has no fear and obligatory to present in the court, they use to send their representatives. Hence The Public Authorities have no fear of the Act and they

are deliberately not providing the correct information. Hence the hypothesis of the researcher has been proved.

Research Methodology process followed: The researcher followed the research process and surveyed with qualitative, quantitative, and online as well as offline survey data collection. With the entire approach researcher also followed the interview schedule and observational method to strength the research work.

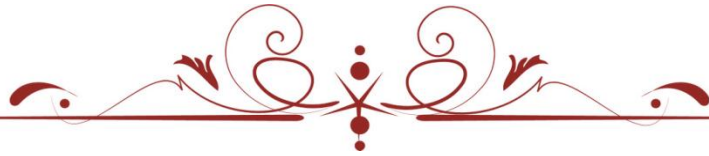
The researcher took a survey of 100 respondents as end users which included academicians, Professionals (lawyers, RTI activists, etc.), civil servants, Applicants found at commission. This as a count of desire respondent disclosure has been concentrated from the respondent who knows about the RTI, frequent user and professional in RTI and general public who found as an applicant at Information commission. The questionnaire is quite regular and intensively constructed which is in the general form. The questionnaire in sequence. The wordings of the questionnaire are very simple and easily understood. In the online survey, this made the research work easy to get responses from the respondents. It was based on the online random sampling. Online survey saves the time and interested people may apply and fill Performa by heart. It also saves money of travelling and cost of paper.

The researcher used the **interview** method which is of personal interrogated or telephonic interviews or email interviews. The researcher also used the personal interview technique which is face to face meeting to examine the hypothesis with Information Commissioners, Administrative body of Commission, Court clerks.

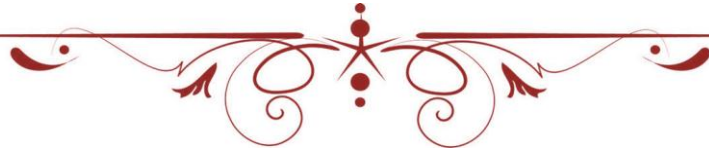
6.5 Findings:

The researcher followed the questionnaire method, observational as well as interviewed method to achieve the purpose of research. In the questionnaire method the researcher focused on the area of function of SIC and the satisfaction level of the respondents with number of questions and proved the hypothesis. The researcher found in the result of questionnaire that the State Information Commission satisfactory, until the interference of the APIOs goes wrong. With this sense the APIOs has no fear of the Act and deliberately not providing the correct information to the people and took too much time.

Further the researcher also used the interview method, interview with the respected judges and RTI activists and academicians having deep knowledge of the RTI Act. The Right to Information Act was made to achieve social justice, transparency and to make accountable government but this act has not achieved its full objectives due to some impediments created due to systematic failures. As observed by Delhi High Court that misuse of the RTI Act has to be appropriately dealt with; otherwise the public would lose faith and confidence in this “sunshine Act”. It is well recognized that right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistleblowers, decentralization of power and fusion of authority with accountability at all levels. This law provides us a priceless opportunity to redesign the processes of governance, particularly at the grass roots level where the citizens’ interface is maximum.



CHAPTER-VII
CONCLUSION AND SUGGESTIONS



CHAPTER-VII

CONCLUSION AND SUGGESTIONS

7. Concluding Remarks

The enactment of the Right to Information Act, 2005 made a noteworthy effort to streamline the function of the Public Authorities in respect of providing information to its citizens. The Authorities shall be needed technological and legal awareness, alert and need to imbibe in them the not before attitude, of being answerable to the citizens. The Public Authorities shall now require tightening their belts so as to serve the citizens and should really contribute to the Information Technology era. As for the citizens, this Act makes them aware of their one of the Constitutional Rights. Right to Information gives them the opportunity to exercise it in good faith.

Over all RTI Act is very transparent, more democratic than its previous form under Freedom of Information Act. The need for the legal status to the right to information is a cause and concern today. India observed the judicial pronouncement and democratic need of such right during the last years. The Act in its preamble says to provide setting up the useful system of right to information for all residents to tie down admittance to information heavily influenced by government authority.

In my this research I came to conclusion after going through the RTI Act and the practical problems faced by me regarding information and the public authorities and specially with the information commissioners having lack of full fledged legal knowledge that though this Act is very potent and enough strong provisions to make the public authorities much responsible

toward the people of India still some provisions which must be provisioned after amendment in RTI Act specially concerned with confinement punishment for the public authorities and every function of the judiciary because the High Court and Supreme Court always try to interpret the said Act according to their own definition and convenience which always seems to be very ambiguous in itself.

Our constitutional goals can only be achieved when there is will to fulfill the desires of the constitutional makers who emphasized much on the word ‘democratic ‘and inserted it in the preamble from the commencement of the Constitution therefore it is also our duty to make India democratic in its real and literal sense by using our right under fundamental right and make our India pride before entire world.

It is too early to say whether RTI Act will be a “great and revolutionary act.” Whether the RTI Act fulfills the hopes of the people of India hinges largely on how it is implemented. It is difficult to predict whether India is at last at the verge of the passage of a landmark law which would explicitly guarantee the people’s right to information. The rapid legislation of FOIA style laws in many countries both developed and developing has caused increasing problems of implementation. But the implementation in India has been examined more persistently and stubbornly than any other country. Corruption and mismanagement have been reduced and the governmental responsiveness has improved according to the reports as the civil society organizations and common men have started using the RTI Act. Provisions in the law to promote “proactive disclosure” of key information are often disregarded. It has been seen that due to the non-compliance by public officials the number of cases

complaining for the same have quiet gown up making the commissions to struggle, which are established for the enforcement of law.

If these challenges are not adequately grappled then it would mean that the law is meant to serve only those people who are wealthy and have knowledge and resources to get the law enforced in their favor. The same has been seen in many other countries also where a law was adopted to meet and serve progressive aims in public interest ultimately serves interests of already advantaged people by reinforcing their position. Like the other countries, in India also, the advocates of RTI Act have been continuously facing attempts of amending the Act, launched from the ministers and bureaucrats so as to restrict the right to information.

Bureaucratic habits as well as administrative practices in India are built up over decades owing to traditions and British colonial rule. Indeed, it is to some extent still true that India is struggling with maladministration. Introduction of Right to Information Act in India is a good practical with FOIA style laws. This is because of mainly two reasons: the vast population of the country who is going to be benefitted and much more difficult circumstances under which the law is introduced as compared to the other nations who had adopted it earlier. Numberless challenges are still waiting to come across and the adoption of an FOIA style law is merely a step towards the long way to transparency. This is not possible until the judiciary in the country, especially the higher judiciary recognizes its responsibility towards the people's right to information. Because, ultimately it will be one best way for judiciary maintain the confidence and trust of the common man of the country in it.

Concluding that even after the implementation of the Right to Information (RTI) has less impact than the norm, positive effects can still occur, passing RTI laws does not ensure more transparent, accountable and inclusive governance and long-term development outcomes, and the nature of effectiveness and the drivers of challenges for effective implementation vary by country. In general, a strong legal framework provides a good starting point, and enables conditions within a country, strong demand for access to information, institutional capacity for implementation of RTI, and strong monitoring and independent monitoring of all RTI laws. Effective implementation of; State-society collaboration, technology, and intra-governmental collaboration can serve as amplifiers or accelerators of RTI implementation.

Suggestions:

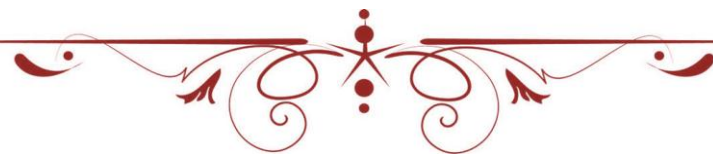
1. The function of the Information Commission required to go beyond the Hearing of the Appeals. According to the Act, they are required to give orders/directions to the Public Authorities to tell their obligations according to the provision of the Act.
2. The efforts made by appropriate Governments and Public Authorities have been restricted to publishing of rules and Frequent ask questions (FAQs) on websites. As compared to RTI Act the common citizens (and disadvantaged communities) are significantly more aware of other Government schemes focused on socio-economic development. Analyzing the issues highlighted in the section, it is clear that the appropriate Governments and the Public Authorities have taken inadequate steps to make the RTI process citizen-friendly.

3. The process of RTI application submission should be so designed as to suit the needs, aspirations and convenience of the citizens. The quality of response provided can be a direct consequence of the record management practices within the Public Authority, the transparency in its processes, the training provide to the concerned PIO, drafting of the RTI application itself.
4. There must be a proper cell by the appropriate government who can make possible to implement the RTI provisions. The role of the appropriate government is defined in Sections 26 and 27 and the role of the Information Commission is defined in Section 19 of the RTI Act. Despite the powers conferred on the Information Commission in the RTI Act, the Information Commission relies on the resources of the appropriate government and public authorities for the implementation of the orders issued by them. So unless the government has a platform / mechanism to work on the implementation of the Act, it will be difficult to address the issues identified.
5. Prepare the proper workshop for the departments concern.
6. A sufficient budget should be allotted for implementation of RTI, so that the publicity and circulation can be made effectively.
7. The first appellate jurisdiction should be as per The Code of Criminal Procedure 1973(CrPC) under section 397. Provision just like two opportunities should be provided for appellants who aggrieved first before the District judge in which territorial jurisdiction of department concern.

8. Section 4 (1) (b) of the RTI Act is the spirit of the Law which is not being complied by government departments. The basic information which need to be published/put on the website of public authorities are not available. Even SIC website does not disclose relevant information. Hence it is suggested that there shall be proper monitoring by the first appellate authority of the concern public authority and it should be updated regularly.
9. Our society and democracy entered in new digital era. Now use of information technology for the proper access of common citizen is must therefore disclosure of information in form of digitally and improved technology is required.
10. So stringent obligatory and bound with accountable form for the implementation of the section 4(1) (b) must be needed.



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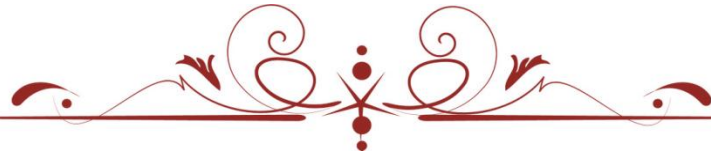
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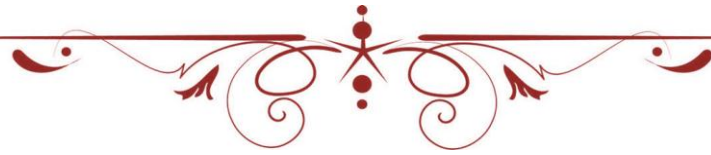
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ANNEXURE





भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 25]

नई दिल्ली, मंगलवार, जून 21, 2005/ज्येष्ठ 31, 1927

No. 25]

NEW DELHI, TUESDAY, JUNE 21, 2005/JYAISTHA 31, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 21st June, 2005/Jyaistha 31, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 15th June, 2005, and is hereby published for general information:—

THE RIGHT TO INFORMATION ACT, 2005

No. 22 of 2005

[15th June, 2005.]

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 paramountcy of the democratic ideal;

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

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the Right to Information Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

(c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) "competent authority" means—

(i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form

Short title,
extent and
commencemen
t

Definitions.

and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) "public authority" means any authority or body or institution of self-government established or constituted—

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government,

and includes any—

- (i) body owned, controlled or substantially financed;
- (ii) non-Government organisation substantially financed,

directly or indirectly by funds provided by the appropriate Government;

(i) "record" includes—

- (a) any document, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document;
- (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;

(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

(k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;

(l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;

(m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(n) "third party" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

Right to information and obligations of public authorities

3. Subject to the provisions of this Act, all citizens shall have the right to information.

Right to
information

4. (1) Every public authority shall—

- a) 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 computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
- b) publish within one hundred and twenty days from the enactment of this Act,—
 - (i) the particulars of its organisation, 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 authorisations 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;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed; and thereafter update these publications every year;
- c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- d) provide reasons for its administrative or quasi-judicial

decisions to affected persons.

(2) It shall be a constant endeavour 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 motu* 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.

(3) 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.

(4) 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.

Explanation.—For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

Designation
of Public
Information
Officers.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

6. (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

Request for
obtaining
information.

- (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
- (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be,

specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,—

- (i) which is held by another public authority; or
- (ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

Disposal of
request.

7. (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—

- (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made

to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;

- (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) 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;

(b) 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;

Exemption from disclosure of information.

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) 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;

(e) 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;

(f) information received in confidence from foreign Government;

(g) 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;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) 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 unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

19 of 1923.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

Grounds for rejection to access in certain cases.

9. Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

Severability

10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

Third party information.

11. (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in

writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

The Central Information Commission

12. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

Constitution
of Central
Information
Commission

(2) The Central Information Commission shall consist of—

- (a) the Chief Information Commissioner; and
- (b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Lok Sabha; and
- (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13. (1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Term of office and conditions of service.

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;
- (b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their

disadvantage after their appointment.

(6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14. (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

Removal of Chief Information Commissioner or Information Commissioner.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER IV

The State Information Commission

15. (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

Constitution of State Information Commission.

(2) The State Information Commission shall consist of—

- (a) the State Chief Information Commissioner, and
- (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—

- (i) the Chief Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Legislative Assembly; and
- (iii) a Cabinet Minister to be nominated by the Chief Minister

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

Term of office
and conditions
of service.

16. (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner,

shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;
- (b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner is, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

17. (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

Removal of State
Chief Information
Commissioner or
State Information
Commissioner

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of

the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

Powers and
functions of
Information
Commissions.

CHAPTER V

Powers and functions of the Information Commissions, appeal and penalties

18. (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

- (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
- (b) who has been refused access to any information requested under this Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

Appeal

19. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be

recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

- (i) by providing access to information, if so requested, in a particular form;
- (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
- (iii) by publishing certain information or categories of information;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
- (v) by enhancing the provision of training on the right to information for its officials;
- (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

- (c) impose any of the penalties provided under this Act;
- (d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

Penalties

20. (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case

may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI

Miscellaneous

Protection of
action taken in
good faith.

21. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Act to have
overriding
effect

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Bar of
jurisdiction of
courts

23. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

Act not to
apply to
certain
organisations

24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

Monitoring and Reporting

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates,—

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
- (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (e) the amount of charges collected by each public authority under this Act;
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

26. (1) The appropriate Government may, to the extent of availability of financial and other resources,—

- (a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

Appropriate Government to prepare programmes

(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and

(d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—

- (a) the objects of this Act;
- (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;
- (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
- (d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
- (e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;
- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (h) the notices regarding fees to be paid in relation to requests for access to an information; and
- (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

27. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make
rules by
appropriate
Government

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (b) the fee payable under sub-section (1) of section 6;
- (c) the fee payable under sub-sections (1) and (5) of section 7;
- (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and

- sub-section (6) of section 16;
- (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
- (f) any other matter which is required to be, or may be, prescribed.

28. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules by competent authority.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (ii) the fee payable under sub-section (1) of section 6;
- (iii) the fee payable under sub-section (1) of section 7; and
- (iv) any other matter which is required to be, or may be, prescribed

29. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of rules.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

31. The Freedom of Information Act, 2002 is hereby repealed.

5 of 2003

Repeal

THE FIRST SCHEDULE

[See sections 13 (3) and 16(3)]

Form of oath or affirmation to be made by the Chief Information
Commissioner/the Information Commissioner/the State Chief Information
Commissioner/the State Information Commissioner

"I,, having been appointed Chief Information Commissioner
/Information Commissioner / State Chief Information Commissioner / State
Information Commissioner swear in the name of God
solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by
law established, that I will uphold the sovereignty and integrity of India,
that I will duly and faithfully and to the best of my ability, knowledge and
judgment perform the duties of my office without fear or favour, affection
or ill-will and that I will uphold the Constitution and the laws."

THE SECOND SCHEDULE

(See section 24)

Intelligence and security organisation established by the Central Government

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

T. K. VISWANATHAN,
Secy. to the Govt. of India.

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MGIPMRND—1359GI(S3)—22-06-2005.

QUESTIONNAIRE FOR APPLICANTS

Name:

1) Gender :

1. Female
2. male

2) Age group:

1. 20-30
2. 31-40
3. 41-50
4. 51-60
5. Other...

3) Occupation:

1. Academicians
2. Civil servants
3. Applicants at Commission
4. Professionals (Lawyer, Doctor, etc)

4) Religion:

1. Hindu
2. Muslim
3. Christian
4. Other

5) Do you know about Right to Information Act (RTI) Act ?

1. Yes
2. No
3. N/A

6) Have you ever applied for the information under RTI Act 2005? (special reference of U.P.)

1. Yes
2. No
3. N/A

7) Have you ever filed / applied first appeal within the organization ?

1. Yes
2. No
3. N/A

8) What is the level of satisfaction regarding desired information?

1. Satisfied
2. Unsatisfied
3. Fine
4. N/A

9) Have you ever filed the second appeal? (Special reference of U.P.)?

1. Yes
2. No
3. N/A

10) What is the attitude of State Information Commission (SIC) while hearing the appeal?

1. Satisfactory
2. Unsatisfactory

11) Have you got the remedy in the form of desired information?

1. Yes
2. No
3. N/A

12) Are you satisfied with working of SIC?

1. Yes
2. No
3. N/A

13) Does the SIC imposed penalty in his judgment on APIO for non-furnishing of information?

1. Yes
2. No

INTERVIEW

Q.1 It has been almost 15 years that the RTI was enacted by the parliament. As information commissioner, what is your experience ?

Q.2 What are your major achievements as the information commissioner of the state?

Q.3 What is the basic thing one should keep in mind while filing an RTI application ?

Q.4 What could be the best use of the RTI Act ?

Q.5 Is RTI Act being misused to settle scores or for personal gains? What is your experience in that?

Q.6 The commission must have flooded with many RTI applications but did you find any that was out of ordinary?

Q.7 Have you ever filed an RTI ? What information did you seek?

Q.8 Is there any scope for improving the RTI Act ?

Q.9 Civil society is rallying to bring political parties under the ambit of RTI ? Do you think it will help in improving governance ?

Q.10 What message you would like to convey to RTI applicants?

- क्या आपने कभी संगठन के भीतर पहली अपील दायर/लागू की है?
- ❖ Have you ever filed / applied first appeal within the organization?
 1. Yes
 2. No

 - ❖ What is the level of satisfaction regarding desired information? **वांछित सूचना के सम्बन्ध में संतुष्टि का क्या स्तर है? (मांगी गई सूचना)**
 1. Satisfied
 2. Unsatisfied

 - ❖ Have you ever filed the second appeal? **आपने कभी द्वितीय अपील दायर की है?**
 1. Yes
 2. No

 - ❖ What is the attitude of SIC while hearing the appeal? **अपील की सुनवाई के दौरान सूचना अधिकारी का रवैया कैसा होता है?**
 1. Satisfactory
 2. Unsatisfactory

 - ❖ Have you got the remedy in the form of desired information? **क्या आपको वांछित जानकारी के रूप में उपाय/उपचार/सही जानकारी मिली है?**
 1. Yes
 2. No

 - ❖ Are you satisfied with working of SIC? **क्या आप सूचना आयोग के कार्य से संतुष्ट हैं?**
 1. Yes
 2. No
 3. Suggestion : **सुझाव आमन्त्रित है**

 - ❖ Does the SIC imposed penalty in his judgment on APIO for non-furnishing of information? **क्या सूचना अधिकारी को जानकारी के अंतर-प्रस्तुतीकरण पर सहायक लोक सूचना अधिकारी पर फैसले के दौरान जुर्माना लगाया है?**
 1. Yes
 2. No

Name: नाम : सुनील कुमार - 9012257569
 Gender: लिंग : म
 Age: आयु : 37
 Occupation: व्यवसाय / नौकरी : मजदूर
 Place: स्थान : गज वाघरपुर टाउन मिजफरपुर जिला
 सदरपुर

- * Do you know about RTI Act 2005? क्या आप सूचना अधिकार अधिनियम के बारे में जानते हैं?
 1. Yes
 2. No
- * Have you ever applied for the information under RTI Act 2005? क्या आपने कभी RTI Act के तहत जानकारी के लिए आवेदन किया है?
 1. Yes
 2. No
- * How do you perceive the implementation of RTI Act 2005? आप RTI के कार्यान्वयन को कैसे समझते हैं? (जानते हैं?)

जान दित
- * What is the attitude of APIO's and PIO's regarding furnishing of information and RTI Act 2005?

RTI Act के तहत जानकारी प्रस्तुत करने के बारे में अथवा बताने में सहायक लोक सूचना अधिकारी और लोक सूचना अधिकारी रवैया कैसा है।

 1. Good
 2. Very Supportive
 3. Bad / Harsh

क्या आपने कभी संगठन के भीतर पहली अपील दायर/लागू की है?

1. Yes ✓

2. No

What is the level of satisfaction regarding desired information? **वांछित सूचना के सम्बन्ध में संतुष्टि का क्या स्तर है? (मांगी गई सूचना)**

1. Satisfied

2. Unsatisfied ✓

Have you ever filed the second appeal? **आपने कभी द्वितीय अपील दायर की है?**

1. Yes ✓

2. No

What is the attitude of SIC while hearing the appeal? **अपील की सुनवाई के दौरान सूचना अधिकारी का स्वैमा कैसा होता है?**

1. Satisfactory

2. Unsatisfactory ✓

Have you got the remedy in the form of desired information? **क्या आपको वांछित जानकारी के रूप में उपाय/उपचार/सही जानकारी मिली है?**

1. Yes

2. No ✓

Are you satisfied with working of SIC? **क्या आप सूचना आयोग के कार्य से संतुष्ट हैं?**

1. Yes

2. No ✓

3. Suggestion : सुझाव आमन्त्रित है

कम्प्लेनिसन एंड सुनवाई नहीं हुई - निरपेक्ष सुनवाई घनो-चाहिए

Does the SIC imposed penalty in his judgment on APIO for non-furnishing of information?

क्या कम्प्लेनिसन सूचना अधिकारी ने जानकारी के गैर-प्रस्तुतीकरण पर सहायक लोक सूचना अधिकारी पर फैसले के दौरान जुर्माना लगाया है?

1. Yes

2. No

जुर्माना सखी तरीके से लगाया-या फिर

वादों का बहुत परेशान किया जाता है

सुनील कुमार
982257569

सुनील कुमार

Name : नाम : श्री. यु. सुक
Gender : लिंग : M
Age : आयु : 63
Occupation : व्यवसाय / नौकरी : मजदूरी
Place : स्थान : सहरनपुर (खानपुर)

- ♦ Do you know about RTI Act 2005? क्या आप सूचना अधिकार अधिनियम के बारे में जानते हैं?
1. Yes
2. No
- ♦ Have you ever applied for the information under RTI Act 2005? क्या आपने कभी RTI Act के तहत जानकारी के लिए आवेदन किया है?
1. Yes
2. No
- ♦ How do you perceive the implementation of RTI Act 2005? आप RTI के कार्यान्वयन को कैसे समझते हैं? (जानते हैं?)
- Public
- ♦ What is the attitude of APIO's and PIO's regarding furnishing of information and RTI Act 2005? RTI Act के तहत जानकारी प्रस्तुत करने के बारे में अथवा बताने में सहायक लोक सूचना अधिकारी और लोक सूचना अधिकारी रवैया कैसा है।
1. Good
2. Very Supportive
3. Bad / Harsh

Name : नाम : श्री. कामिल

Gender : लिंग : M

Age : आयु : 34

Occupation : व्यवसाय / नौकरी : मजदूरी / बिजली विभाग से काम

Place : स्थान : सहारनपुर

Do you know about RTI Act 2005? क्या आप सूचना अधिनियम के बारे में जानते हैं?

1. Yes

2. No

Have you ever applied for the information under RTI Act 2005? क्या आपने कभी RTI Act के तहत जानकारी के लिए आवेदन किया है?

1. Yes

2. No

How do you perceive the implementation of RTI Act 2005? आप RTI के कार्यान्वयन को कैसे समझते हैं? (जानते हैं?)

laxer

What is the attitude of APIO's and PIO's regarding furnishing of information and RTI Act 2005?

1. Good

2. Very Supportive

3. Bad / Harsh

RTI Act के तहत जानकारी प्रस्तुत करने के बारे में अथवा बताने में सहायक लोक सूचना अधिकारी और लोक सूचना अधिकारी रवैया कैसा है।

क्या आपने कभी संगठन के भीतर पहली अपील दायर/लागू की है?
♦ Have you ever filed / applied first appeal within the organization?

1. Yes

2. No

♦ What is the level of satisfaction regarding desired information? वांछित सूचना के सम्बन्ध में संतुष्टि का क्या स्तर है?
(मांगी गई सूचना)

1. Satisfied

2. Unsatisfied

♦ Have you ever filed the second appeal? आपने कभी द्वितीय अपील दायर की है?

1. Yes

2. No

♦ What is the attitude of SIC while hearing the appeal? अपील की सुनवाई के दौरान सूचना अधिकारी का रवैया कैसा होता है?

1. Satisfactory

2. Unsatisfactory

♦ Have you got the remedy in the form of desired information? क्या आपको वांछित जानकारी के रूप में उपाय/उपचार/सही जानकारी मिली है?

1. Yes

2. No

♦ Are you satisfied with working of SIC? क्या आप सूचना आयोग के कार्य से संतुष्ट हैं?

1. Yes

2. No

3. Suggestion : सुझाव आमन्त्रित है

कार - 2 आना पड़ता है दूसरा पत्र आता नहीं।

♦ Does the SIC imposed penalty in his judgment on APIO for non-furnishing of information? क्या सूचना अधिकारी ने जानकारी के अंतर-प्रस्तुतीकरण पर सहायक लोक सूचना अधिकारी पर फैसले के दौरान धुमना लगाया है?

1. Yes

2. No

कार्मिल

ANNEXURE

QUESTIONNAIRE ON THE REAL EXPERIENCES OF A RTI ACTIVIST

RINKU SINGH RAHEE is Indian whistleblower and bureaucrat (provincial Civil Services (PCS) civil servant) fighting against corruption in sponsored welfare schemes in Uttar Pradesh (U.P.). He was shot six times by local gangsters, damaging his jaw and the vision of one eye, for exposing corruption. Some of his real experiences he shared with me which helped in my dissertation are given below:

1. What do mean by the Social Transformation through RTI Act in true sense?

Answer:- RTI act, if implemented in true sense, provides a confidence & faith on system among common people to design their development steps with the assistance of existing government schemes. Such a faith & confidence on system encourages common people & especially disadvantaged or marginalized group to join mainstream development process on equal opportunity basis in a democratic country. In a democratic country like India, such a development encompasses almost every arena of social institutions and individual as well ranging from empowerment of disadvantaged groups in economic, social, political, cultural, psychological terms to equal just and transparent access, distribution and utilization of natural resources to benefit nation In essence.

2. Government officer have been providing information to people on the basis of their oral requests in the past. Does the RTI Act require such informal practice to end? yes

or no (and why)

Answer: In addition to RTI Act, without hampering provisions of RTI act, if access to information can be ensured by any other mean...it must be welcome. As RTI act itself seeks efforts to disseminate information so that citizen do not need to go for RTI act to seek information. Here, computerization of authentic information and its connectivity to ivrs system must be promoted.

However, it is seen that in public offices like social welfare department, unaware, uneducated people go to office & ask for very normal information like status of old age pension delivery. In that case, corrupt people take advantages of their unawareness & demand bribery for that information. Dark face of such practice is those victims cannot complaint anywhere as victim has no proof of seeking information. However, another face of such practice is that it is not just that unaware and uneducated person should be compelled to take help of some middlemen to apply under RTI act and to wait for 30 days just for very silly question and burdening government machinery and fund towards posting reply for that.

Here, I experimented in my office, whereby, being a department of almost BPL beneficiaries, I ordered every such oral request as RTI application and appointed one subordinate to write down request by beneficiary directly on a paper and to get authentic reply on that piece of paper in writing that too in a very short span of time like 1 hrs. or even very less than that. However, such oral requests by non BPL beneficiaries like students for scholarship scheme, I ordered to get these requests in writing and treat as per RTI Act information as above but without any fee as taking them as application in JANTA DARBAR (public dealing).

However, required situation will be considered when public do not require to visit or approach office or wait for 30 days to access routine information, which is itself possible by implementing section 4 of RTI Act in true sense with the help of technology like internet and virus.

3. Can government officer get access to annual confidential Report (ARCs) under the RTI Act.

Answer: Even without RTI Act, If ACR is adverse, then government officer is given information of that adverse entry to put his/her point of view.

4. Do you think that RTI Act has given strength or power to the every citizen or common people? if yes then why the RTI Activists being murder or attempt on the lives of RTI Activists increasing day by day?

Answer. Murder/assault of RTI activists clearly proves its strength in the hands of common people. It is very known fact that corrupt system can only survive in closed system. But RTI act is provided to make this system an open/transparent system. This transition from closed system to open/transparent system is very dangerous in nature, as there is struggle between strong and virtual networked corrupt people vs scattered individual common people but having power to destroy whole corrupt system by exposing it and providing in court of law, authentic and direct evidences of corrupt practices obtained from RTI Act.

These murder can only be stopped by adopting automatic mechanism instead of involvement of RTI activists to secure transition from closed system to open/transparent system. Such an automatic mechanism is provided in section 4 of

RTI Act itself but neither anybody showing interest in implementing it in spirit nor anybody powerful demanding it to be implemented. Under section 4(2) it is mandatory to publish some information within one hundred and twenty days from the enactment of this Act, but unfortunately, most of the government departments have not been implementing it in true letter and spirit, as misguiding information have been published in general just as a formalities under the act. Because of these, most of officers are still not aware about information to be published within 120 days. Worst thing is that no agency is looking for its implementation suo moto.

5. No. of the Applications/cases of RTI is still pending even after not having such technicalities like Crpc or IPC in High Court or Supreme Court?

Answer: PIO/concerned officer in office always tries to hide information or in some cases information is destroyed by corrupt practices even before him/her. However in some cases lack of staff, fund and will to publish voluntarily poses problem. There is no provision to punish first appellate authority along with PIO and first appellate authority being a part and well aware about of system has sympathy with PIO rather than applicants, because of it, in most cases first appellate authority are not playing their role expected under RTI Act.

In 2007, I asked SIC office in telephonic talk a question over delay in disposing off application in their office. Answer what I got was.....there is just one staff to receive, read, comment, post and monitor whole procedure thereat and applications are received in hundreds number per day.

In comparison to SIC offices, CIC offices are working very well by using innovative technologies etc. Now a days, at the time of training to government officials, along with other things focus of instructor is seen to tell various misguiding methods to avoid reply in spirit to a RTI application.

My Experience:

In my case, I was attacked upon with a purpose to hide scam. After survival and transfer from that office, to collect information I applied under RTI Act to seek certain information those can expose scam..... But unfortunately my counterparts in that office did not answer me because of fear in that district (as told by them). So, there approach was to anyhow avoid proper reply to my application. I even told them how could information be collected even if destroyed deliberately destroyed. But no benefit. First appellate authority was of no use. Along with it I did not receive any response from S.I.C. Hence I decided to go for fast unto death.....for suprashasanagrah.....

whereby in response to p.i.l, a higher level enquiry committee was set up.....so that a part of money involved in scam could be traced out.....but not scam.....& still I have not got reply.

please visit website for my case.....

<https://sites.google.com/site/26march2012muzaffarnagar/>

U must know that I have not got proper reply from my department headquarter for my another application under RTI act.....as seniors thereat know that if information is provided then it will expose scam..... in nutshell, everybody corrupt directly or indirectly in government system is trying to fail this act. In this line, I have been informed that in SIC office, corruption is playing a major role to defy this act.

RINKU SINGH RAHEE

