Rationale behind the Study

Information is the ultimate source of power in the hands of common people in the democratic societies. Access to public records is an essential requirement for a modern government, especially in a democracy. The democracy expects openness and openness is a concomitant of free society. The openness is possible only when the ‘right to know’ is exercisable by the people. In a democratic set up the people are sovereign, they have right to know what their representatives are doing. Hence, information is indispensable for the transparency and accountable functioning of a true democratic Government. It provides an important guard against abuses, mismanagement, corruption and corrupt practices. It is also beneficial to the governments as openness and transparency in the decision-making process assist in developing citizen’s trust in governmental actions and maintaining a civil and democratic society.

True democracy cannot exist unless all citizens have right to participate in the affairs of the polity of the country. The right to participate in the affairs of the country is meaningless unless citizens are well informed of all sides of the issues in respect of which they are called upon to express their views. One sided information, disinformation, misinformation and non-information, all equally create uninformed citizenry, which makes democracy a farce when
medium of information is monopolized, either by State or any other organization.

The right to Information Act 2005 is the most important and progressive piece of legislation and effective tool in the hands of a public for curbing corruption and mal-practices which has gained much popularity today.

The Colonial Government had ruled for a longer period in India which promoted the culture of secrecy in our country and this had continued even after India became republic.

However, after independence when India became welfare state, powers of the administration were bound to increase. In a welfare State it is the executive cum administrative branch of the government, having the duty and responsibility to plan and implement welfare schemes, which expands and acquires vast powers, most of which are discretionary in nature. The discretionary nature of power of these public authorities may sometimes go against public interests which are required to be analyzed in the right spirit. However, actions of the public authorities are subject to judicial review and Courts have also extended the scope of judicial review but even it has its own limitations.

Judicial review is sporadic and formal. Abuse of power can be very subtle and may escape judicial scrutiny. Corruption and abuse of power are the inevitable fall-outs of such an unaccountable system of governance. Hence RTI Act and its critical analysis is felt to be justified for the proposed research work.

Introduction

The Right to Information law is one of the most important laws which have been enacted by our Parliament. It recognizes the people’s right to information, which has been proclaimed by numerous judicial pronouncements as a fundamental right enshrined in our Constitution. The passage of the Right to Information Act, 2005 is a historic movement. It replaces the culture of secrecy and control with openness and participation. By encompassing in its
scope the Central and State Governments, as also the grassroots democratic bodies and the institutions receiving government grants, the law has got a wider reach to empower citizens with information for ensuring transparency, accountability and good governance. The Act also casts an obligation on every public authority to provide information *suo motu* to the public and to publish annually various particulars concerning the Organization including the categories of documents available with it. Citizens are gradually becoming more aware of their right to information. The Act has been used as a tool to hold elected representatives accountable for the manner in which they spend public funds. In this way, more than the law Right to Information Act is a process, a tool, a concept and a cultural approach to life.

The Right to Information Act consists of six Chapters arranged as under:

Chapter I Preliminary

Chapter II Right to information and Obligations of Public Authorities

Chapter III The Central Information Commission

Chapter IV The State Information Commission

Chapter V Powers and Functions of the Information Commissions, Appeal and Penalties

Chapter VI Miscellaneous

**Historical background**

In the early 1990s, in the course of struggle of the rural poor in Rajasthan, the Mazdoor Kisaan Shakti Sangathan (MKSS) hit upon a novel way to demonstrate the importance of information in an individual’s life through public hearings. The MKSS’s campaign demanded transparency of official records, a social audit of government spending and redressal machinery for people who had not been given their due. The campaign caught the
imagination of large cross- Section of people, including activists, civil servants and lawyers.

Right to information laws were first successfully enacted by the State Governments Tamil Nadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Madhya Pradesh (2003), Assam (2002) and Jammu and Kashmir (2004). Bengal was a noteworthy exception. As far as the Union of India was concerned, in 2003 a feeble attempt was made to assuage the public demand in the form of the Freedom of Information Act, 2002. This Act was severely criticized for too many exemptions, no upper limit on the charges that could be levied and no penalties for not complying with a request for information. The act never came into effective force.

The Right to Information Act, 2005 has been enacted by the Parliament, while repealing the 2002 Act, for setting out the practical regime of right to information with a view to creating environment of transparency and sharing of information and provide every Indian citizen the basic constitutional and democratic right to gain access to certain information that may be held by public authorities. It primarily seeks to encourage and enhance transparency and accountability while intending to curb corruption.

Objective of the Study

The Right to Information Act, 2005 is the most important and progressive piece of legislation since independence, and it has tremendous potential to improve the functioning of public authorities in the country. The proposed research study aims at:

1. To highlight the different aspects of RTI Act 2005.
2. To identify the basic problems or hurdles in the effective implementation of this Act.
3. To measure the effectiveness of this Act in India.
4. To highlight the function of Central and State Information Commission.
5. To highlight the role of Govt. in improving the delivery system of the administration through RTI Act 2005.
6. To know the benefit and drawbacks of this Act.
7. To measure the relationship of RTI with other legislation.
8. To highlight the role of Judiciary regarding RTI
9. To make the comparative study about the position of RTI between the different States of India.
10. To find out the actual status of pro-active disclosure in India and other country
11. To find out whether the Right to Information Act 2005 is able to achieve the ideal transparent Government.
12. To analyze the law relating to the Right to Information according to the constitutional and legislative commitments.
13. To suggest the means for its effective implementation.

Hypothesis of the Study

The proposed research work will list the following hypothesis:

1. The right to information is essential for the exercise of all other rights.
2. The lack of infrastructure in the government machinery and mindset of public officials are main problems in the implementation of the recent legislation RTI Act, 2005 regarding proactive disclosure of information.
3. RTI Act 2005 is more effective in checking misuse of administrative discretion in India.

Research Methodology

The present research work will be based on analytical and empirical study. The study shall be conducted to understand the historical background of the citizens’ right to know and its applications in the present era in the light of Right to Information Act, 2005. An analytical study of the Reports of the Central Information Commission and State Information Commissions shall also be conducted. A comprehensive study shall be conducted through the statutes,
websites, journals, newspapers and books. In the empirical study, data shall be collected on the basis of structured and unstructured interviews and well designed questionnaires.

**Review of Literature**

The literatures available on RTI Act 2005 have also been consulted for the proposed research work in order to know its actual situation in our Country.

Martin (2006) said that one must distinguishes between four different though related notions: freedom of speech, freedom of the press, freedom of expression and freedom of information. It is essential to keep the four separate, even though they are often used interchangeably. Although they related to similar things, they are not identical.

In *Reliance Petrochemicals Case* (1989), Justice Sabyasachi Mukharji observed that the people at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy.

In *Cricket Association of Bengal Case* (1995), the Supreme Court expanded its views on Article 19 (1)(a) towards the right to information. In this case question was whether an organizer or producer of any event has a right to get the event telecast through an agency of his choice.

Acknowledging the importance of right to information in rapidly changing economic industrial scenario the Supreme Court in *Reliance Petrochemical Ltd. Case* (1989) made an illuminating observation: “We must remember that the people at large have a right to know in order to be able to take part in a participatory development in the Industrial life and democracy.

In *Dinesh Trivedi Case* (1997), while considering the questions of the disclosure of the Vohra Committee Report the Supreme Court once again acknowledged the importance of open government in a participative democracy. The court observed that, “In modern constitutional democracies, it
is axiomatic that citizens have a right to know about the affairs of the government which, having been elected by them, seeks to formulate sound policies of governance aimed at their welfare”.

Justice V.R. Krishna Eyre, who observed that: “Right to express one’s thought is meaningless if it is not accompanied by relaxed right to secure all information on matters of public concern from relevant public authorities.

Scope of the Study

The study is confined to India. However, an attempt will be made to find out the position of Right to Information in other country also. Important Govt. establishments and public authority will be considered for study.

Limitations of the Study

The study will cover the period of Ten years from 2005 to 2015. The information collected through questionnaire will be counter checked in order to make the study meaningful and fruitful.

Plan of the Work

The whole research work will be split up in the following Chapters:

Chapter I : Introduction

This chapter will give introduction to the topic. It will include the historical background of the Act. Objective of the study, Hypothesis, Methodology, Review of Literature, Scope of the Study, Limitations of the Study and Plan of the Work will be explained under this Chapter.

Chapter II : A study of Right to information in Global perspective with reference to Pro-active information
This chapter deals with the right to Information vis-a-vis International Conventions, Covenants, Declarations and Treaties. It sets down the international as well as regional human rights instruments that form the legal framework for the protection of the right to information. It will also discuss about the status of proactive disclosure in different states of world.

Chapter III : Comparative study of Right to information Act 2005 with Freedom of information Act 2002 :-Emergence of Pro-active information

RTI Act, 2005 has been introduced just after Freedom of information Act, 2002. Proactive transparency has been came with Right to information Act 2005. This chapter will give a comparative study between Freedom of information Act, 2002 and Right to information Act, 2005 with special reference to Pro-active information.

Chapter IV : Relationship of RTI Act 2005 with Constitution and other Legislations in India

There are several other legislation which contradict and compliment RTI Act 2005 such as the Official Secrets Act, 1923, The Indian Evidence Act, 1872, Destruction of Official Record Act, 1917, Public Record Act, 1993, Public Interest Disclosure and Protection of Persons Act, 2010, Freedom of Information Act, 2002. The main theme of this chapter is to highlight the harmonious relationship of these enactments with the Right to Information Act, 2005. All these enactments contain certain provisions in favour and disfavor of the disclosure of information.
Chapter V : Implementation of Pro-active disclosure by public authority

Certain goals are specified under section 4 of RTI Act 2005. All the public authorities are required to achieve these goals. The obligation of the Govt. to prepare programme is also given under section 26 of the RTI Act 2005. To what extent the Govt. has played a role in implementing this Act will be discussed in detail in this chapter.

Chapter VI : Power and functioning of the Central and State Information Commission regarding disclosure of information

This chapter will explain the constitution of the central and state Information Commission. Their power and functions will also be discussed in detail. What kind of action has been taken on the complaints received and for the effective implementation of suo motu disclosure. The procedure adopted by the commission will also be analyzed in this chapter.

Chapter VII : Role of Judiciary regarding Right to Information Act 2005

The role of judiciary is very significant to make RTI Act more effective in our Country by giving some landmark decisions in favour of people’s right to know.

This chapter will discuss the role of judiciary before and after the enforcement of RTI Act 2005. Decisions of
the Supreme Court and High Court will also be discussed in detail in this chapter.

Chapter VIII: Conclusion and Suggestions

This chapter will conclude the whole research work by offering certain suggestions to make this Act more fruitful and effective.

References:

10. AIR 1982 SC149.


Synopsis approved by:

(Birendra Kumar Gupta) (Avinash Kumar)

Guide Name of the Candidate