A Study of Law Relating to Right to Information in India

ABSTRACT

“Tamsa ma Jyotirgamaya”
(“Oh Lord! Lead me from darkness to light that is from ignorance to knowledge.”)

Information is a term derived from latin word ‘Forma’ which means giving shape to something and forming a pattern respectively. It adds something new to our awareness and removes the vagueness of our ideas. Information belongs not to the state, the government of the day or civil servants, but to the public. The citizens’ right to know the facts, the true facts about the administration of the country is one of the vital ingredients of a democratic state.

Traditionally, man is inquisitive and from the time immemorial he has been busy in his mission of knowing and discovering the truth in whatever field his aptitude and imagination ventured.

Ancient India had a feudal culture and hierarchical social structure. The Maharaja’s, the Mughals and the British Rulers defended themselves behind ramparts of secrecy. The Britishers passed Official Secrets Act 1923, which was mainly a defense mechanism against the rising tide of nationalism initiated by M.K. Gandhi in 1917. As Indians were distrusted by British Government, so no body had any access to official information under this Act.

The Indian Legal System, largely being a colonial vintage, stresses on secrecy laws and such provisions are contained in Official Secrets Act

Freedom of Information has been gradually receiving acceptance and recognition all over the world. This concept has also been recognised by the Universal Declaration of Human Rights and was adopted by the General Assembly of the United Nations.

The Supreme Court of India has discovered the right to know as emanating from Art 19(1)(a) and Art 21 of the Constitution which guarantee freedom of speech and expression and right to life and personal liberty. The Apex Court has accorded status of Fundamental Right to the Right to Know in the cases of State of Uttar Pradesh V/s Raj Narayan AIR 1975 SC 865, Maneka Gandhi V/s Union of India AIR 1978 SC 597, S.P. Gupta V/s Union of India AIR 1982 SC 149, Reliance Petro Limited V/s Indian Express AIR 1989 SC 190 etc.

First of all, Freedom of Information got legal sanction in Sweden under the principle of Public Access. United States of America has passed Freedom of Information Act 1966, Canada has enacted Access to Information Act 1982 and England has framed Freedom of Information Act 2000. Similarly Australia, New Zealand and some other countries have also passed legislations in this context.
In India, objections to Official Secrets Act were raised in 1948 when the Press Laws Enquiry Committee recommended certain amendments in it. In 1977, Working Group was formed by the government to look into possibilities of amending the Official Secrets Act. The right to information movement, first of all, started in Rajasthan in the last phase of 19th century with the efforts of Mazdoor Kisan Shakti Sangathan (MKSS) an Non-Governmental Organization (NGO’s) led by Megsese Awardee Aruna Rai. Right to Information Laws were enacted by several states. Tamil Nadu was the first state to pass such legislation in 1996 and the states of Goa, Karnataka, Maharastra, Rajasthan and Delhi followed the suit. Madhya Pradesh and Uttar Pradesh passed executive orders for providing access to information.

A very important legislative step was taken in the history of right to information movement in India in the form of Freedom of Information Act 2002. Though it was adopted in January 2003 but it never came into force. This caused very much resentment among people and consequently government passed Right to Information Act 2005 with added sharpness which replaced Freedom of Information Act 2002. It also overrides all existing Acts relating to information, including Officials Secrets Act 1923. Under this Act, any citizen of India may get any information from central and statutory public authorities. The public authorities must respond in 30 days. An independent Information Commission has to be setup at the national level and Information Commissions at state levels. There are 11 subjects in this Act on which information can be refused to a citizen and there is a list of 18 agencies to which this Act does not apply. However information has to be given in the cases if it relates to issues of corruption or human rights violations.

No indepth study of this very important branch of law has so far been undertaken, so a very humble attempt has been made to analyse the enforcement of various constitutional and legal provisions and judicial attitude to this important field of law. These provisions, if properly implemented, will be very helpful in protecting democratic values and in achieving constitutional goals.