CHAPTER : 3
RIGHT TO INFORMATION IN INDIA
CHAPTER-3
RTI IN INDIA

RTI in India has completed five years as an Act which is one of the most successful and utilized legal amendment in our democracy. It has been used by thousands to combat with corruption and to find out solutions for delays in justice and number of small things which are impact wise big in the lives of millions. RTI now is established as an effective Act against exploitation, corruption and passiveness of the system.

In very short span of time it has become a powerful weapon for common man, a weapon they wanted to have to show their disgrace and act against all odds of democracy and power politics. RTI has provided them voice and power and with the help of this Act they have not only executed their questions but also a new environment of informed citizenry has clouded over the sky of corruption, loot and autocratic governance.

RTI has created an arrangement of people’s participation and enable citizens to acquire information from the government without any trouble or obstacle. This system of information seeking from government officials, authority and controllers of power is being monitored and protected by autonomous body Central information Commission and State Information Commissions. ‘The commissioner have been powers to ensure that the public authorities respect the right of the citizens to have an access to information, the Indian law is the only disclosure in the world which has a penalty provision on defaulting Public Information Officer’ (PDF, MOS speech, www.cic.gov.in, pg. 3). The right of the citizen thus is protected by law of India by ensuring fearless and autonomous mechanism to implement, strengthen and promote the RTI Act. “It gives us the right to question our public authorities and get information about matters that affect us in thousands of ways. Used innovatively, such information can make our government and other public authorities accountable to the people” (Pandey, Suchi and Singh, Shekhar, 2010, page-xii)

RTI Act 2005 and its Implementation:

Long Title of the Act

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 there to.

**Short title of the act:**
- The Right to Information Act 2005
- Official Citation Act No. 22 of 2005.

**Key concepts:**

**Central Information Commission:** To be constituted by the Central Government through a Gazette Notification. Commission includes one Chief Information Commissioner (CIC) and not more than ten Information Commissioners (ICs) who will be appointed by the President of India. Oath of Office will be administered by the President of India according to the form set out in the First Schedule. Commission shall have its Headquarters at Delhi. Other offices may be established in other places of the country with the approval of the Central Government. Commission will exercise its powers without being subjected to directions by any other authority.

**Chief Information commissioner:** he is the head of CIC and responsibilities of general superintendence, direction and management of the affairs of the Central Information Commission are vested on him/her. Chief Information Commissioner may exercise all such powers and things which are mentioned in the Act autonomously without being subjected to directions by any other authority under the Act. Candidates must 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. Candidate will not be a Member of Parliament or Member of the Legislature of any State or 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. (S.12). Appointment Committee includes Prime Minister (Chair), Leader of the Opposition in the Lok Sabha and one Union Cabinet Minister to be nominated by the Prime Minister.

**Information commissioner** assists the Chief Information Commissioner. According to Act there may be maximum of 10 Information Commission and their appointment is as like of Chief Information Commissioner. Each Information Commissioner may be entitled to look after different departments of Central government and also
## RIGHT TO INFORMATION ACT, 2005

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## NORTH EAST CIRCLE

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<tr>
<th>Authority</th>
<th>CPIOs</th>
<th>CAPIOs</th>
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<tbody>
<tr>
<td>LHO</td>
<td>Asstt. General Manager (P&amp;E) State Bank of India, Local Head Office, Diphu, Guwahati-781006</td>
<td>Chief Manager (OA) State Bank of India, Local Head Office, Diphu, Guwahati-781006</td>
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<td></td>
<td>General Manager, NW I, State Bank of India, Local Head Office, Diphu, Guwahati-781006</td>
<td>Chief Manager (ADMN) State Bank of India, Administrative Unit, G. S. Road, Bhangarh, Guwahati-781005</td>
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<tr>
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<td>DGM (O&amp;C) / DGM (OPN) / AGM (Region)</td>
<td>CPC (Head) upto 5MGS / IV CMI Manager in AGM headed Branches</td>
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<td>GM (Respective Networks) DGM/AGM (Branch Head)</td>
<td>Manager (Branch Operations)</td>
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complains for State Information Commission. All the Information Commissioner must fulfill the eligibility as like Chief Information Commissioner.

**State Information Commission** is constituted by the State Government through a Gazette notification. It will have one State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SIC) to be appointed by the Governor. Oath of office will be administered by the Governor according to the form set out in the First Schedule. The headquarters of the State Information Commission shall be at such place as the State Government may specify. Other offices may be established in other parts of the State with the approval of the State Government. The Commission will exercise its powers without being subjected to any other authority.

**State Chief Information commissioner** headed the State Information Commission of respective state and responsibility of general superintendence; direction and management of the affairs of the State Information Commission are vested on him/her. State Chief Information Commissioner may exercise all such powers and things which are mentioned in the Act autonomously without being subjected to directions by any other authority under the Act. The Appointments Committee will be headed by the Chief Minister. Other members include the Leader of the Opposition in the Legislative Assembly and one Cabinet Minister nominated by the Chief Minister. The qualifications for appointment as SCIC/SIC shall be the same as that for Central Commissioners.

**Central Public Information Officer** is the single officer of any central government office who is responsible for accepting application form under RTI and also to provide the information to the information seeker with in time interval mentioned in the Act.

**Central Assistant Public Information Officers** are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information. The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India. may be appointed in any central government office to assist Central Public Information Officer.
State Public Information Officer is the single officer of any state government office who is responsible for accepting application from under RTI and also to provide the information to the information seeker with in time interval mentioned in the Act.

State Assistant Public Information Officer may be appointed in any central government office to assist State Public Information Officer.

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

Record includes-Any document, manuscript and file; any microfilm, micro/facsimile copy of a document; any reproduction of image or images embodied in such microfilm (whether enlarged or not); any other material produced by a computer or any other device.

Right to information includes the right to-

i. Inspection of work, documents, and records- Any citizen of India can inspect the works, documents and records form the offices notified under the Act.

ii. Taking notes extracts or certified copies of documents or records-This Act provides right to all citizens of country to take notes or certified copies of the documents.

iii. Taking certified samples of material- This Act enable the citizen to take certified samples of material from the govt. office.

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. By this right the Act gives right and appropriate meaning to take valuable or needed information.

Bodies responsible to implement the Act

Right to Information Act 2005 has mentioned a proper administrative/monitory structure to implement this Act effectively. There provisions are mandatory and accordingly duly constituted bodies are functionary across the country (except J & K). The suggested three tire structure is mentioned below
Central Information Commission

- The central Information Commission will be constituted by the government of India.
- Chief information commissioner and maximum 10 information commissioners shall hold the office of the commission.
- President of India will appoint the Chief Information Commissioner and other Information Commissioner and they serve the office five years or till 65 years of the age.

State Information Commission-

- The State Information Commission will be constituted by the state govt.
- Chief information commissioner and maximum 10 information commissioners shall hold the office of the state Information Commission.
- Governor of the state will appoint them and they serve the office five years or till 65 years of the age.

Public Information Officer- every public authority has to appoint a PIO as a responsible person of the office to collect application and dispose the information with in schedule time mentioned in RTI Act.

Obligation of Public Information Officers

- Every PIO will deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information. s.5(3)
- The PIO may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.
- Any officer, whose assistance has been sought under sub-section (4), will render all assistance to the PIO 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 PIO.

Request for information

For seeking information from the office a citizen has to give an application addressing the PIO in English or any other official language of the area with Rs. 10 as fee but for BPL no fees is required. Request may be in writing or through electronic means accompanying such fee as may be prescribed, to the PIO or the APIO. In case if the matter is related to other PIO it is duty of the concerned PIO to forward the request to other PIO within 5 days from receiving the application.
Under RTI Act it is mention that no reason or any other personal contact is required to obtain the information so any citizen of India is free to seek information mentioned in the Act from any government funded organisation. This gives the power to seek information from any office which may not be directly related to the applicant or affecting them. By this option any citizen can contribute to make office accountable to county citizen.

**Mechanism:**
The following procedural arrangement has been mentioned in the Act to provide the information to all

1. **Pro-active Disclosure**- 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 is included into pro-active disclosure mechanism which is necessary in the Act.

2. **Information provided on request** – This will be the responsibility of the PIO to provide information on demand to the seeker through well defined procedure.

**Refusal of information**
Exemptions are mentioned for PIO to refuse to give information if-

- Information which would prejudicially affect the sovereignty, integrity, security,
  strategic, scientific, economic interest or relation with foreign state of the country or lead to incitement of an offence, information not allowed by court to be published Which would cause violation of parliamentary privileges;

- Trade/commercial secrets and IPR information

- Information available to a person in fiduciary relationship

- Confidential information received from foreign countries

- Which would endanger the life/safety of person

- Which would hamper the process of investigation/prosecution

- Cabinet papers, records of deliberations of the Council of Ministers, Secretaries and other officers

**Penalties:**- There is a provision of penalty for PIO if he or she will be failed to provide information in stipulated time frame.
• It shall impose a penalty of 250 rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed 25000 rupees. s.20(1)
• PIO shall be given a reasonable opportunity of being heard before any penalty is imposed on him.
• It shall recommend for disciplinary action against the PIO for persistently violating the provisions of the Act.

Within very short five years’ time of its implementation RTI has proven it’s credential for transparent and accountable democracy. It has increased the level of informed citizenry and also the public awareness for public or common cause. An article of Tehalka by Vijay Pandey says “... Salvi, who is also a member of MKSS, ensured transparency in MGNREGA by painting the details of the work on the walls of the Panchayat office... have provided 100% employment to our villagers; whereas other state average 70%, claims Salvi...”(Pandey, 26 Feb 2011, pg. 8) In this protection of fundamental rights and human right RTI has been used by activists, individuals and civil society members and a number of malpractices and exploitation racket have been exposed with the help of the Act.

RTI has created a positive momentum of increased democratic participation which is leading us toward good and objective governance. The positiveness of this Act has seen in increased access of public to the information and thus improved accountability and transparency to achieved in the governance. RTI Act 2005 made right to information a legal and justifiable right and proven that information can be an empowering force and the public must have access to all information. And also make all the public authority answerable “... court held that the governor is a public authority within the meaning of section 2(h) of RTI Act. He would not cease to be a public authority by reason of the fact that he is also a competent authority under section 2(e) of RTI Act... ‘The Governor or PIO in his office cannot claim immunity form disclosure of any information under RTI Act’”(outlook, 23 Nov 2011, )

Right to Information is a basic right and it must be available to every citizen. It is very important in poverty eradication, right to employment, justified and objective distribution of resources, social justice and good governance. The norms of widespread citizen’s participation in public affairs are essential for the full realization of democratic values. Guaranteed and legislated right to information is a promise of accountability, transparency, justice and goodness for all.