CHAPTER – III
IMPLEMENTATION OF RIGHT TO INFORMATION ACT AND SERVICE DELIVERY- AN OVERVIEW

Information and knowledge are critical for realizing the human aspirations and improvement in quality of life. In the knowledge society, acquisition of information and knowledge and its application have intense and pervasive impact on productive gains. People who can access to information and understand how to make use of the acquired information in the processes of exercising their political, economic and legal rights become empowered, in turn, build their strengths and assets.

In view of this, almost every society has made endeavors for disseminating knowledge resources by way of putting in place the mechanisms for free flow of information so that the citizens can access them without waiting for it. This system ensures them to make proper choices for participation in development process.

The efforts to disseminate information and knowledge through the use of communication technologies such as radio, television, newspaper and internet have yielded positive results for instance, about the new techniques of farming, health care facilities, hazards of environmental degradation, opportunities for learning and earning, legal remedies for combating gender biases, etc., have, over the time, made significant contributions to the well being of under privileged mass. Democratization of information and knowledge, by way of creating conditions for sharing among the people, who are partners in development, is critical to the task of equalizing opportunities for development. In view of this, the Right to Information (RTI)
facilitates the process for free flow of information, which forms the basis for a healthy
debate on issues of vital importance to every section of the society.

India has initiated some measures for making public institutions accountable
to the people. It has been mandated by law that people have the power to monitor and
inspect the functioning of political-bureaucratic institutions on regular basis, which is
also known as ‘social accountability’ in the present context. Social audit, community
monitoring, Right to Information are some of the well-known tools of social
accountability.

Right to Information is the bulwark of democratic government. This right is
essential for the proper functioning of the democratic process. Right to Information is
an integral part of the freedom of speech and expression enshrined in Article 19(1)
(A) of the constitution, which is regarded as the first condition of liberty. It occupies
preferred position in the hierarchy of liberties giving succor and protection to other
liberties. 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. This
freedom includes the freedom to communicate or circulate one’s opinion without
interference of others from our country, as well as from abroad. Without adequate
information, a person cannot form an informed opinion.

In less than a decade, the flourishing movement for the right to information in
India has significantly empowered the ordinary citizen. The citizen may now exercise
significant check over the arbitrary use of power by the public office functionaries
and thereby the democratic set-up of the country is expanding. People of India have
battled long to achieve the constitution and thereby acquires the inalienable fundamental rights. The right to information is also one of fundamental rights in the constitution.

But the right does not carry with it a right in an absolute sense to gather information. A reasonable restriction on the exercise of the right to know or right to information can always put in order to ensure the security of the State. Generally, the exemptions/exceptions under the laws referred to in Article 19(2) entitled the Government to withhold information in the following matters:

1. International relations.
2. National security (including defense) and public safety.
3. Investigation, detection and prevention of crime.
5. Information received the confidence from a source outside the Government.
6. If the information can violate the right to privacy of an individual, if disclosed.
7. If information can confer an unfair advantage on some persons or to an unfair disadvantage i.e. of an economic nature, (including trade secrets), if disclosed.
8. Information which is subject to a claim of legal professional privilege, e.g. communication between a legal adviser and the client; between a physician and the patient.
9. Information about scientific discoveries.\(^1\)
10. Much of these have come under by the Right of Information Act, 2005.

INFORMATION AND THE STATE

“Secrecy is an instrument of conspiracy”, said Bentham, ought never to be the system of a regular government. “Secrecy was the climate in which, at worst, those placed in government would abuse the power which had been given to them. It protected misrule. Publicity, regular elections and a free press were needed to safeguard the electorate from their chosen governors-from the excesses of bullies, blackguards and buffoons. “What can we reason but from what we know?” – Bentham.

The nature of the bond between the citizens and the state, and the bond between citizens among themselves, is formulated in an implied contract. It was the theme that was to be developed in the liberal tradition. There are arguable reasons why confidentiality must be maintained or not maintained in various relationships. This depends on individual’s respect and integrity. A problem may arise when the private body exercises considerable influence in public life at the same time insists on confidentiality in its operations to such an extent that it is effectively its own master. A lack of information facilitates a lack of accountability for the exercise of power and influence and the impact these forces have upon the public interest where democratic controls are absent.

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. “ Article 19 of the Universal Declaration of Human Rights states “Everyone has the right to freedom of opinion and

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expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers.\(^5\)

The statutory right to information gives a legal right to have an access to government-held information which in fact 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.\(^6\)

A statutory right to information would secure for every citizen the enforceable right to question, examine, audit, review and assess government acts and decisions, to ensure that these are consistent with the principles of public interest, probity and justice. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of `powerlessness’ and ‘alienation’. Without information, people cannot adequately exercise their rights and responsibilities as citizens or make informed choices. Government information is a national resource.

The humanist path towards socialistic pattern of society is ideal for India and Article 39 (b) and (c) illustrates this ideal and it also illustrates the doctrine of growth accompanied by distributive justice.\(^7\)

No type of information is created by any government or public officials for their individual benefit. This information is created so that the duties of office could be properly discharged by the public officials and for purposes related to the

\(^5\) http://www.humanrightsinitiative.org/programs/ai/rti/articles/undp_ri_2006/annex4_global_perspective_on_rti.pps

\(^6\) Shalu Nigam, Right to Information Law & Practice, at p. 4.

legitimate discharge of the service of the public for whose benefit the institutions of government comes into existence, and by whom ultimately the salaries of the officials and institutions of government are funded. It follows that government and officials are ‘trustees’ of this information to the people.

The members of the public are enabled to have legal access to documents, information and files of the government through the Right to Information Act that may not otherwise be available without the discretion of government. Under the parliamentary system the information is transferred from government to the parliament and the legislatures, and from these to the people. It is hoped that the gap between the ‘information rich’ and the ‘information poor’ would be reduced through the recent technological developments in the country. However, it may be found that in practice the situation of bureaucracy in India remains the same as was prevalent during the rule of British. Bureaucracy, even now, can be found as one of secrecy, distance and mystification. In fact, this preponderance of bureaucratic secrecy is usually legitimized by, the Official Secrets Act, 1923, which makes the disclosure of official information by public servants an offence.

It is expected that the quality of decision making by public officers will improve by the right to information, in all sorts of matters, when the unnecessary secrecy around the decision making process will be removed.

CONSTITUTIONAL DEVELOPMENT OF THE RIGHT TO INFORMATION

It is required to stress at the very threshold that the movement of right to information in India was never aimed to merely ensure an access to the public information. Rather, the aim is to create such favourable conditions so that the right to information can be effectively exercised. It is sure that the Indian Constitution does
not contain any specific right to information or even right to freedom of the press. The
Chapter on Fundamental Rights when interpreted broadly guarantees the right to
information as a part of freedom of speech and expression. As pointed out by H.M.
Seervai, “Corruption, nepotism and favoritism have led to the gross abuse of power
by the Executive, which abuse has increasingly come to light partly as a result of
investigative journalism and partly as a result of litigation in the Courts”\(^8\). It is
admitted that the provisions of the two constitutions (US and Indian) to freedom of
speech and expression are essentially different. The difference being accentuated by
provisions in our Constitution for preventive detention which have no counterpart in
the US Constitution\(^9\). Several decisions given by the Supreme Court from time to
time have been actually responsible for the development of legal position with regard
to the right to information in India. These decisions are not given specifically in the
context of the right to information, but specifically in the context of the Right to
Freedom of Speech and Expression. Right to Freedom of Speech and Expression has
been said to be the other side of the Right to Know, and hence it is not possible to
exercise one without the other.

The landmark case in freedom of the press in India was Bennett Coleman &
Co. vs. Union of India\(^10\) in which the court struck down the newsprint control order
stated that it directly affected the petitioners’ right to freely publish and circulate their
paper and thus, it violated their right to freedom of speech and expression. The judges
also remarked, “It is indisputable that by freedom of the press meant the right of all
citizens to speak publically and express their views” and “Freedom of speech and
expression includes within its compass the right of all citizens to read and be

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10 AIR 1973 SC 783
informed”. The dissenting judgments of Justice K.K. Mathew also noted, “The freedom of speech protects two kinds of interests. There is an individual interest, the need of men to express their opinion on matters vital to them and a social interest in the attainment of truth so that the country may not only accept the wisest course but carry it out in the wisest way.

Now in the method of political government the point of ultimate interest is not in the words of the speakers but in the hearts of the hearers”\textsuperscript{11}.

It is not in the public interest to cover the routine business with the veil of secrecy. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of parties and politics or personal self-interest or bureaucratic routine. The responsibility of officials to explain or to justify their acts is the chief safeguard against oppression and corruption”\textsuperscript{12}.

In Dinesh Trivedi, M.P. and Others v. Union of India\textsuperscript{13}, the Supreme Court dealt with the right to freedom of information and observed “the 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, seek to formulate sound policies of governance aimed at their welfare”. It has been recognized that the right to know, right to receive and disseminate the information is within the right to freedom of speech and expression. Using the best possible means to impart and receive the information has been recognized as a fundamental right of the citizen of India. The right to know has, however, not yet extended to the extent of invalidating

\textsuperscript{11} Indian Express Newspapers(Bombay) Pvt. Ltd.vs Union of India (1985) 1 SCC 641
\textsuperscript{12} State of U.P. v. Raj Narain AIR 1975 SC 865
\textsuperscript{13} 4 SCC 306 : (1997) 1 SCJ 697.
Section 5 of the Official Secrets Act, 1923 which prohibits disclosure of certain official documents\textsuperscript{14}.

The enforcement of the right can create confusion and at initial stage this right cannot be placed in the pedestal of the basic or fundamental right but when citizen will go to a department or organization then only such right will take a crises in many cases for both citizen seeking information and authority supplying it with a rightly sharpened sword over his head at the point of heavy penalty and punishment. Hence the whole Act can be judged at the point of its implementations and contemporary development wherein each citizen is involved in plethora of information and each organization is pre-occupied with abundant work burden\textsuperscript{15}. Here RTI Act is concerned with the crystal clear information which must be furnished to each citizen of India who seek this information. It is very important for every government to set up effective machinery for the good governance of citizens\textsuperscript{16}.

**LEGISLATING THE RIGHT TO INFORMATION**

The Indian government established a Working Group in 1977 in order to recommend amendments to the Official Secrets Act to enable greater spread of information to the public. In 1991 sections of the press\textsuperscript{17} reported the recommendations of a task force on the modification of the Official Secrets Act and the enactment of a Freedom of Information Act, but no legislative action followed. During the late nineties, the citizens groups started demanding repeal of the Official Secrets Act, and replace it by a comprehensive legislation so as to make duty to disclose.

\textsuperscript{14} MAHENDRA P. SINGH, Constitution of India, (11th Edn.), at p. 130.
\textsuperscript{15} P.K. DAS, The Right to Information Act 2005, at p. 16.
\textsuperscript{16} The Constitutional Law of India J.N.Pandey at p.175.
\textsuperscript{17} The Hindu, 13th December,1991
The first major draft legislation right to information in the country that was widely debated, and generally welcomed, was circulated by the Press Council of India in 1996. One important feature of the Press Council draft legislation is that it affirmed in its preamble the constitutional position that the right to information already exists under the Constitution, as the natural consequence of the fundamental right to free speech and expression under Article 19(1) of the Constitution. Any fact related to the affairs of the public authority or body may be defined as information for the purpose of Right to Information including any of the records related to the affairs of government. The extraction and receiving certified copies, inspection and taking notes of the public documents are all included within the right to information.

Significantly, the term 'public body' included all undertakings and non-statutory authorities, and most significantly corporation, society, trust, company, firm or a co-operative society, owned or controlled by private persons or groups able to affect the public interest by their activities. The few restrictions that are placed on the right to information are similar to those under other Fundamental Rights.

Later on a working group chaired by consumer activist H.D. Shourie to draft legislation for consideration of government submitted its report in May 1997, advanced by the Press Council Legislation in one respect. Most importantly, it widened the scope of exclusions to enable public authorities to withhold 'information the disclosure of which would not sub serve any public interest. The powerful clause referred to earlier, which provided such information that can be denied to parliament or the legislature can be withheld by the citizen, was not included. The Shourie draft also made no provisions for penalties in the event of default, rendering the right to information which is toothless.
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 the need for an act on public interest disclosure and protection for citizens right related to information sought from every public authority. ie an Act is required to provide a statutory frame work for this right so that rights can be easily implemented.

**Seeds for the legislation on Right to Information**

In 1966, the right to information was established by the federal government agencies when the United States adopted the Freedom of Information Act (FOIA). After the resignation of President Richard Nixon in 1974, FOIA strengthened and became the model for other states of the US who adopted similar statutes. FOIA also became the model for other countries, such as Canada, Australia, and New Zealand – all of which adopted similar laws in 1982. By 1990, fifteen other nations, mainly the developed countries in Europe had similar statutes. In the next two decades, similar statutes were adopted by some of the other developed countries like Germany, United Kingdom and Japan. While acting as per the advice of international institutions like World Bank, the FOIA style laws were also adopted by some of the governments later on. By 2010, over seventy nations had adopted the FOIA style of laws. Even in China, a right to information was provided by way of adopting certain regulations. The laws adopted by most of the countries over the last two decades, however, differ in many respects from the United States and the other countries who had adopted it earlier.

Right to have access to information is held by the government. This information could be in the form of records, files, registers, maps, data, drawings, etc. Right to Information not only means the citizens’ right to ask for information which
they want but it also includes more importantly the duty of public bodies to disclose information suo moto (on its own). This means that it is a positive attitude of the government to give certain types of information without waiting to be asked for it. This would include information on issues concerning projects that directly affect the people or the environment, information on health, agriculture, weather conditions, or simply, information about the services provided or the functions performed by various public bodies.

The passing of the Right to Information Act has been welcomed from all quarters of the society as it is a significant step towards establishing a regime that guarantees citizens’ right to know. In addition to providing the right to information to the citizens, the Act also establishes that the state must be equipped with adequate apparatus so that easy and inexpensive access to information can be provided. Provisions of the Act that assign specific time limit for providing the information sought and serious penalties for noncompliance would go a long way in increasing transparency and accountability in the government departments.

The Movement of Right to Information in India

The movement for the RTI was begun in the early 1990s by the Mazdoor Kisan Shakti Sangathan (MKSS), which literally means ‘organisation for the empowerment of workers and peasants’, in a remote village called Devdungri (Rajsamand district, Rajasthan). It was a movement initiated to expose corruption in famine-relief work by demanding information related copies of bills, vouchers and muster rolls of workers recorded in government files. Following a period of struggle, MKSS succeeded in acquiring photocopies of the relevant documents in which the siphoning of funds was clearly evident. The successful experiments in exposing
corruption through access to information was a good learning experience for civil society and it led to the demand for the enactment of the RTI law in Rajasthan. The Government of Rajasthan yielded to the pressure of the movement and enacted the law in 2000.

The success of MKSS’s struggle led to the genesis of a broader discourse on the RTI in India and RTI laws are enacted in some provinces in the country. The demand for a national law was started under the leadership of the National Campaign on People’s Right to Information (NCPRI). In 1996, the Press Council of India headed by Justice P. B. Sawant presented a draft model law on the RTI to the Government of India. A working group under the chairmanship of Mr. H. D. Shourie was set up by the central government and given the mandate to prepare draft legislation on the freedom of information. The Shourie Committee's report and draft law were published in 1997. Eventually, the Committee’s draft law was reworked into the Freedom of Information Bill (FOI) 2000, which was passed in Parliament in 2002, but was not notified. However, civil society raised several objections to the FOI Bill and suggested amendments to the National Advisory Council. As a result of civil society’s long-drawn struggle, the RTI Act was enacted in 2005.

The basic idea behind the Act’s enactment was to create informed citizens and to promote transparency of information. The RTI Act which came into force on 12th October 2005 is one of the most significant legislations enacted by the Parliament of India. The Act recognizes that in a democracy like India, all information held by the government ultimately belongs to the people. Making information available to citizens is simply a part of normal government functioning, because the public has a
right to know what public officials do with their money. The Act seeks to establish the transparency of the norm and secrecy is in the working of governance institutions.

**MAIN FEATURES OF THE ACT**

- **The Right to Information** means the right to information accessible under the RTI Act, which is held by or under the control of any Public Authority.

- **Information** is defined as “any material in any form including records, papers, logbooks, opinions, documents, samples, contracts, advices, memos, models, reports, orders, e-mails, data material in electronic form, circulars and press releases”.

- Universal access to information held by the public authorities- all citizens have access to information, in any form, in Hindi, English or regional language

- **Right to information** includes inspection of records, works and taking certified samples of material

- Applies to all public authorities, NGOs subject to provisions,

- **Voluntary disclosure** of 17 categories of information

- **Public Information Officers (“PIO”)** to provide information

- **PIO** has the duty to assist requesters and transfer the request to proper public authority, if necessary

- **No prescribed form**

- **Reasonable fees; No fees for citizens of below poverty line category**
- No need to give reasons for requesting information but PIO should provide reasons for rejection of the request

- Information concerns the life and liberty to be provided within 48 hours

- Information to be provided expeditiously, within 30 days of receipt of request

- Deemed to be refused if no response is given

- Only absolute exemption from disclosure of information

- All other exemptions are subject to public interest test

- Information which cannot be denied to the Parliament or a State Legislature shall not be denied to citizen

- Allows partial disclosure

- Internal First Appeals against PIO’s decisions

- Independent Information Commissions at Central and State levels

- Citizens can directly make complaints and appeals to Information Commissions

- Presumption in favor of disclosure of information—Onus to prove that a denial of request was justified shall be on the PIO

- Overriding effect on the other secrecy laws

- Penalties on delinquent PIOs
A Guide to be prepared by the government which includes the details of PIOs of all public authorities

Educational and awareness programmes to disseminate the provisions of the Act

Annual reporting by the Public Authorities to the government which in turn provide information to the respective Information Commissions and reports to be placed in parliament or assembly as the case may be, by the Information Commission

This Act extends to the whole of India except the state of Jammu and Kashmir.

The Act gives the right to access to information held by “public authorities” which includes authorities, bodies, institution of self-government which are: Established or constituted: by the Constitution; by a law of Parliament or a State Legislature; by a notification or order of the State or Central Governments; bodies owned, controlled or substantially financed by the State or Central Governments, including non-government organizations which receive substantial government funds directly or indirectly.

Thus the Act applies to the executives of the union, the states and the union territories; parliament, state legislatures, legislatures for the union territories, panchayats and municipalities; the Supreme Court, High Courts in the states, Subordinate courts and Tribunals.

The Act is not applicable to Central Intelligence and Security agencies specified in the Act, and other agencies excluded by the state governments
through a gazette notification. However, in respect of allegations of violations of human rights, the information to be provided within 45 days with the approval of the information commission concerned.

- Private bodies are not directly covered. But all the information relating to private bodies which can be accessed by a public authority can be accessed.

- The Information Commission can impose penalty of Rs. 250/- per day, up to a maximum of 25,000/- on erring PIOs for: without any reasonable cause: refusing an application, delaying information release without reasonable cause, knowingly giving incomplete, incorrect, misleading information, destroying information that has been requested, obstructing furnishing of information in any manner. The Commission also has powers to recommend disciplinary action against PIOs. It can also direct compensation to be paid to the appellant by the public authority. Usually, the applicant submits applications for information created by the Government which relates to the public authority receiving the application. In such cases, there are only two parties involved (i.e.) in the request process- the requester and the public authority. However, sometimes requesters may ask for information involving a third party. The following are the meaning of the terms first party, second party and third party

- First party means the person submitting an application or appeal

- Second party means the public authority responsible for processing the application
Third party means any other person or body, including another public authority and “third party information” means an information or record, or part thereof which relates to or has been supplied by a third party and has been treated as confidential by that third party and which a (Central / State) PIO intends to disclose on a request made under the Act.

**Procedure prescribed to deal with subject matter related to third parties:**

On a request made under the Act, seeking any third party information or record, the State PIO, within 5 days from the receipt of the request, serve a written notice to such third party of the request and of the fact that the State PIO intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or oral, regarding whether the information should be disclosed, and such submission of the third party be kept in view while taking a decision about disclosure of information and the third party is expected reply within 10 days of receipt of the intimation from PIO:

PIO is expected to give reply within 40 days after receipt of the request, if the third party has been given an opportunity to make representation, 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/her decision to the third party with a statement that the third party has a right to prefer an appeal against the decision to the Appellate Authority.

Where an appeal is preferred against an order made by the PIO to disclose third party information, the appeal by the concerned third party may be made within 30 days from the date of the order, before AA.
In case of second appeal - relating to third party information, the State Information Commission may provide a reasonable opportunity hear that third party.

There is no obligation to give any citizen, information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the PIO is satisfied that larger public interest warrants the disclosure of such information. Information furnished to a public authority by a third party and held by that public authority, is not liable to be disclosed unless it is subjected to two tests such as:

- Test of Concurrence of the third party (who furnished the information): if the third party concurs then the public authority can disclose the information without subjecting the request to second test.

- Public Interest Test (when the third party did not concur): The public authority/PIO may allow disclosure of third party information when the larger public interest justifies the disclosure of such information regardless of the third party’s objection.

The Act does not give the individual or a third party an automatic veto for disclosure of information pertaining to him which may be held by a public authority. On the other hand the requester has also to substantiate the disclosure of third party information serves of public interest.

Compliance time for RTI Application:

The RTI Act 2005 orders the Public Information Officer to provide reply within 30 days receipt of the RTI Application and within 48 hours in case the life and liberty of the person is the involved and if the subject matter is related to third party,
then within 40 days of receipt of the application. In case the application is received by Assistant Public Information Officer an additional 5 days can be added with the outer limit for the reply.

**Procedure to file an application under RTI Act 2005**

This Act gives all Indian citizens the right to access information from public authorities. A citizen may submit the application for obtaining information from the Public Information Officer (PIO) or Assistant Public Information Officer (APIO) of the Public Authority. The PIOs and APIOs are the compliance officers designated under the act in all administrative units or offices of public authorities who have been given the responsibility of providing information to persons who request information under this Act. In addition, the PIOs are expected to provide reasonable assistance to the citizens to draft and file RTI application.

The application procedure for seeking information is very simple and citizen-friendly. The application can be written in English or Hindi or the official language of the state. It should be filed with the necessary application fees as prescribed by the central or state governments. The Act clearly sets a time limit of 30 days for the disposal of requests by the PIOs, so that citizens do not have to run behind the public authorities for the necessary information.

**Procedure to file an appeal under RTI Act 2005**

The RTI Act provides two steps of appeals against the decision of the PIOs on the request for information by an applicant. An applicant, who does not receive the information within the stipulated time or is aggrieved by the PIO’s decision, can then
file an appeal to the Appellate Authority, who is normally a senior officer of that public authority, designated under the act, to deal with appeals filed under the act.

If the applicant is not satisfied with the decision of the Appellate Authority, he/she can file a second appeal to the Central Information Commission (CIC) or the State Information Commission (SIC).

Powers and Functions of Information Commissions

The Central/State Information Commission is the apex appellate authority at the centre/state level for hearing appeals or complaints from citizens who have not been able to access information due to some reason. The power of enforcement and compliance of the RTI Act has been given to the CIC or SIC. The CIC/SIC can summon and enforce attendance of persons or documents, discovery and inspection of documents, etc. While hearing the appeal, if the CIC/SIC finds that the PIO has deliberately denied information or provided incorrect information, then it can impose a penalty of a maximum of Rs.25,000 and can also take disciplinary action against the PIO.

Exempted Information under RTI Act 2005

The Act has a list of ten categories of information which can be denied to the citizens and there is no obligation to give any citizen such information. The exempted information is mainly related to the sovereignty and integrity, the security, strategic, scientific or economic interests of the country, trade secrets or intellectual property, private information, and information forbidden by courts. If the information is related to corruption and human rights violations, the exempted clause does not apply.
IMPLEMENTING THE RTI ACT 2005

To achieve the true spirit of decentralization and enable people’s participation in the development process, it is mandatory that all public authorities follow the RTI Act in its true spirit. Public Authorities are required to have a thorough understanding of the provisions of the RTI Act, and required to designate compliance officials prescribed by the Act- Public Information Officer, Assistant Public Information Officer, Appellate Officer (PIO/APIO/AA) – in every administrative units.

Designation of Public Information Officers/Assistant Public Information Officers/Appellate Authority

All public authorities should be designate Appellate Authority (AA), Public Information Officer (PIO) and Assistant Public Information Officer (APIO) for processing requests filed under RTI Act. The PIO receives requests for information and disposes off request either by supplying the information or rejecting the request for any of the reasons specified in the Act. The role of APIO is limited to receiving applications submitted under RTI Act and forwarding them to PIO. Appellate Authority (AA) deals with first appeals filed by the public authority in case the applicant is not satisfied with the reply of the PIO, denial of the information, the information supplied is delayed or found to be wrong etc. The AA is designated from the same public authority and senior in rank to the PIO. The APIO can also receive appeal requests, but their role is to forward the appeal to the Appellate Authority.

The role of PIO is very crucial under RTI Act. They play a pivotal role in dealing with the acceptance of requests from persons seeking information and render reasonable assistance to the persons if needed. Under the RTI Act, any person desirous of obtaining information can make a request to the PIO, and it is the
responsibility of the PIO to provide the information. During the process, the PIO may seek the assistance of any other officer to gather information to enable him/her to supply the information sought by the applicant. The PIO need not seek the permission or approval of a superior officer of the public authority for providing information under his/her control. The Act is clear about the fact that the PIO is an independent authority under the law and no approval is required from any superior official to release the requested information permissible under the Act.

**Obligations of the Compliance Officers in dealing with Requests**

Every Public Authority designates PIOs who are responsible to deal with citizens’ requests for information. Every PIO must accept requests for information and render assistance to citizens who seek information. If a citizen is unable to make a written request; it is the duty of the PIO to produce his oral request into writing. The requests can be made in English, Hindi or in the official language of the state. The requests for information should be filed with the prescribed fees, details of information required and the format in which the information is sought and contact details of the applicant.

**Transfer of Requests**

Whenever, the RTI requests tendered for information that is held by other public authorities. PIOs have to transfer the requests for information to the other public authority within five days of receipt of requests and inform the applicant about the transfer immediately.
**Issue of Acknowledgement**

On receipt of request for information, the PIO is expected to issue an acknowledgement with date of the receipt to the applicant.

**Register of Information sought under RTI Act**

Maintaining a record of the applications received and information sought enables the PIO to keep track of the applications. The PIO maintains a register containing details of applications received under RTI Act for the follow up and for preparing the annual RTI compliance report which has to be submitted to Information Commission as per the format and details prescribed under the RTI Act 2005.

The register contains the following details.

- Name and address of applicant (including contact number)
- Date of receipt
- Classification of applicant
- Details of information sought
- Details of fees received
- Last date (30days) for disposal…
- Information provided or not
- Date of providing information
- Within time limit / crossed time limit
- Other fees or charges, if any
- If information denied, reasons for denial
- Whether the applicant filed any appeal
On receiving request for information, the PIO scrutinizes the application. If the application is supported with the prescribed fee, the PIO is expected to provide reply or reject the request. The rejection should be supported with due reasons. When the information sought concerned the life or liberty of a person, the information is to be provided within forty eight hours of receipt of request. If the applicant has requested for information in a particular format, the PIO has to intimate to the applicant the further fee representing the cost of providing the information along with its calculations. The applicant has also to be informed about the modalities of payment of fee, his/her rights for review of the fees charged and appeal against the fee calculation. The fee is expected to be reasonable and no application fee for persons who are below poverty line.

If the applicant has requested for inspection of works, materials, or taking samples, he/she has to be informed about the time for such inspections and details that when he/she should come for such inspections. The PIO is expected to make all the necessary arrangements to facilitate such inspection.

Rejection of Requests

If the PIO is of the opinion that the requested information cannot be provided, he/she is expected to 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
Appeal Provisions

In case, the applicant filed requests under RTI Act, does not receive the information sought within 30 days, he/she may prefer an appeal to the Appellate Authority designated from the same public authority.

An applicant has a right to appeal in the following instances

- if he/she is not informed of rejection of application within 30 days,
- aggrieved by the decision of PIO
- Unreasonable fees charged
- Non acceptance of application
- Crossed time limit
- Incomplete, misleading information
- Information sought pertains to life or liberty and was not provided within the stipulated time.

The appeal should be made within 30 days from the date of receipt of reply or rejection. There is a provision of second appeal to the central or state information commission. The second appeal should be filed within 90 days from the date on which the decision should have been made or was actually received.

Role of Central/State Government in RTI Act Implementation

The central/state government has a critical role to play in the implementation of the Act. The Act mentions that the government should take steps to develop and organize educational programmes to advance the understanding of the public on RTI, particularly of disadvantaged communities, and to train PIOs and produce relevant training material for use by public institutions. They can make rules related to fees
and costs for accessing information. The ministries and departments of the government have the responsibility for preparing the annual report and maintaining records for such purposes. Thus, the central/state government has been allocated the role of taking the message of RTI to the masses through various means.

**Capacity building for implementing RTI Act 2005:**

As soon as the ‘RTI Act, 2005’ was enacted, it was realized that the success of the resultant implementation regime would depend – to a large extent – on building capacities, both, on the supply– and the demand-side. It would depend also on reinforcing these capacities – from time to time – in view of the challenges faced by this regime. It was to address this felt need that the ‘CBAI Project’ came as a significant intervention toward comprehensive multi-stakeholder capacity building. Scheme of ‘Capacity Building for Access to Information (CBAI) Project’, a joint initiative of the ‘Department of Personnel and Training’ (DoPT), ‘Government of India’ (GoI) and the ‘United Nations Development Programme’ (UNDP)

The Project commenced in December 2005 under the aegis of the ‘Department of Personnel and Training’ (DoPT), ‘Ministry of Personnel and Public Grievances’, ‘Government of India’ (GoI). The Project has been funded by the ‘United Nations Development Programme’ (UNDP), whereas the ‘Centre for Good Governance’ (CGG), Hyderabad (Andhra Pradesh) and the ‘Yashwantrao Chavan Academy of Development Administration’ (YASHADA), Pune (Maharashtra) together constitute the ‘National Implementing Agency’ (NIA) for its implementation in 28 States in the country. The State training institutes have organized training programmes on RTI Act 2005 for the compliance officers with a funding support from Government of India and also from their respective state governments.
Government and Public service delivery

Different kinds of goods and services are indispensable for maintaining, promoting and improving the quality of lives of people. These goods and services are provided either by public or private sectors. Government/Public service is defined as all activities delivered by the government to fulfill the needs of the society. Public Service Delivery is defined as a set of institutional arrangements adopted by the government to provide public goods and services to its citizens.

Public services delivery is one of the key functions of the public sector which uses civil service bureaucracies as an instrument for the delivery of services. Public service can be divided into three types: i) Administrative services which includes various kinds of formal documents such as citizenship certificate, land certificate, driver’s license, marriage or birth certificates etc; ii) goods services that facilitate various needs like distribution of food and meeting daily needs or installation of telephone, water, or electricity networks; and iii) facilitating services that consists of various kinds of public facilities like education, health care, transportation etc.

Unlike the private sector where customer is much valued, public service is generally driven by inputs and compliance with rules. Public service delivery in most of the developing countries is characterized of being ineffective, cumbersome, too much procedural, costly, red taped and opaque (not transparent). Public services should be concerned with what the citizen want rather than with what providers are prepared to give. In general public servants have not acted as servants of people but rather as

masters without any sense of accountability and transparency. People are unaware of how and where to obtain public services and often become the victim of corruption. Cumbersome procedure, slow pace of decision making and service delivery cause suffering to people and waste their money and time.

The growing dissatisfaction with the performance of the government or public sector in delivering goods and services has focused attention on ways to improve the quality of service delivered by the government or public sector. Improving delivery of public services means redressing the imbalances of services at all levels of society; enhancing welfare, equity and efficiency, etc. It also means a complete change in the way that services are delivered. A shift away from inward-looking, bureaucratic systems, processes and attitudes, towards new ways of working which put the needs of the public first, is better, faster and more responsive to meet those needs.

Promotion of Citizen-Government Partnership

The RTI Act provides a framework for promotion of citizen-government partnership in carrying out the programmes for welfare of the people. The principle of partnership is derived from the fact that people are not only the ultimate beneficiaries of development, but also the agents of development. The stakeholders’ participation leads to better projects and more dynamic development.

Under the RTI regime, citizens’ participation has been promoted through (a) access to information and involvement of affected groups/communities in design and implementation of projects; and (b) empowerment of local government bodies at village level through the involvement and cooperation with NGOs/self help groups.
The pro-active disclosure of information has enabled the beneficiaries, to assume a central role in design and execution of projects. RTI has instilled a wider sense of ownership in the development activities. Besides, this access to information has enabled the people to participate in economic and political processes through a dialogue between people and the government officials or public campaign on public policies.

**Reduction in Corruption**

Lack of transparency and accountability encourage the government officials to indulge in corrupt practices, which result in lower investments due to misuse or diversion of funds for private purposes. As a result, the government’s social spending yields no worthwhile benefits, because, for instance, the teachers do not teach, doctors and nurses do not attend health centers, ration card holders do not receive subsidized food grains and the promised jobs are not provided to the people. In the process, it perpetuates poverty and harms the poor. It creates an environment of distrust between the people and the government, which impinge upon the development and jeopardize democratic governance. Under the RTI regime, there is unprecedented transparency in the working of public departments. As a result, there is better understanding of the decision making process and greater accountability of government. This has led to reduction in corruption in the country as evident from the following:

I. The Transparency International (TI) has consecutively reported in the last two years that perceived corruption in India (a score of 3.5 out of 10) has declined at the rate of about 15-20 per cent per year, mainly due to the implementation of the RTI Act.
II. The Centre for Media Studies in collaboration with TI has recently accomplished an all India survey study (un-published) of the poor below the poverty line. The views of the poor have been elicited in respect of all the flagship programmes that have been implemented for alleviation of poverty. At least 40 per cent of the respondents have reported that corruption has declined.

**Future of RTI: Tasks Ahead**

A major challenge is to develop capacities for access to information. The capacities of both the public authorities (i.e. the duty – bearers) and the citizens (i.e. the claim holders) may have to be enhanced, for which a comprehensive strategy would be needed for storage and retrieval of data and public authorities to be trained and equipped with facilities to cope with the demand for sharing of information.

Right to Information Act provides a broad framework for Government and Citizens’ interface to design and monitor relevant projects, contain corruption, ensure accountability and to mutually share the responsibility for development. Under the Act, the public authorities are required to adopt open and transparent procedures and methods of delivery of services. They ought to reveal what they do, how they do and what are the outcomes of the policies, programmes and public expenditures. In a democratic society, citizens have the right to know as to how they are governed and they also have right to exercise their options to indicate how they ought to be governed and served by the Government.
Proactive and Suo motu Disclosure of Information

As prescribed by the Act, all the ‘Public Authorities’ are required to make proactive disclosure of information. Almost entire gamut of their activities and the manner in which they are executed are to be disclosed. The issue is how to present and capture the relevant information that can be of use to the stakeholders for realizing their rights. The computerization of records and use of IT resources to ensure transparency in functioning of different departments should be accorded high priority. The information should be disclosed on suo motu basis so that a citizen does not have to resort to the provisions of the RTI Act. Almost all the Ministries/Departments have put up information on their websites, which needs to be examined to assess the adequacy of their details for analysis and use of information.

Promote Information Literacy

The Act empowers every citizen to seek information and to gain ideas and acquire new knowledge to improve quality of life as well as to participate in the effective governance of public authorities. The issue is how to promote information literacy among people to enable them to decide what to ask for, how to ask and how to make good use of information, so that they can effectively participate in the process of development, including control of corruption.

The issue of promotion of information literacy among both educated and not so well educated citizens is critical, because the people and the government functionaries share the responsibility of expediting the process of development. Accordingly, under Section 26 of the Act, provisions have been made for advancement of understanding of the public through education and training programmes. A multimedia strategy for promotion of information literacy should be
designed by all the public authorities, including training and educational institutions, in collaboration with media agencies so as to ensure greater interface between the stakeholders. The task is challenging, as less than 10 per cent of the poor have some awareness about the law on RTI and the manner in which it could be used by them to claim for their entitlements. The potential of IT resources and widespread educational institutions of all types and levels should be exploited to promote information literacy.