



Effectiveness of Right to Information in India: A study

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Date of Submission: 01-07-2024

Date of Acceptance: 10-07-2024

Abstract: The right to information is a multi-dimensional right covering all the important aspects of the society. It extends to social institutions such as Media etc. Right to Information is a fundamental right incorporated in the Constitution of India. Right to Information Act has been passed to enable free flow of information in the society. However, like any other right this right is also not absolute and subject to restrictions imposed by the law.

Keywords: Constitution of India, Right to Information, Democracy, Participation of society, Right to representation.

I. Introduction to Right to Information Act 2005:

The democratic system of government implies that there shall be active participation of the general public affairs. The public opinion holds utmost importance in the governmental system. This is what the Right to Information comes in the picture.

The right to representation at is the sole law responsible for the Right to Information granted by the Indian constitution. The Right to Information Act is a citizen centric law which has diverse the law orientation in the Indian Administrative history. It enables transparency and accountability in the functioning of public authorities. Any citizen under the Right to Information Act can gain Information on government rules, regulations and judicial decisions. The act obligates the public authorities to give the information which has not been exempted by the act to be disclosed to any person who applies it as per the procedure mentioned in the law. It enables good governance and is a great mechanism to confidence of the citizen. The act plays inevitable role in the empowerment of Indian citizens against the evils prevailing in the administrative system such as corruption, irregularities, in responsive attitude of the public authorities. In other words we can say that Right to Information has empowered Indian

citizens to question, or review the government act which are meant to public welfare. As the nature of Indian state has changed from a police state to welfare state. It becomes important for any law it becomes very important for any law that it shall promote public good.

As every Indian citizen is having right to freedom of speech and expression under Article 19 of the Indian Constitution. The right to seek information is multi-dimensional and not limited to covering information. The right extends to receiving and imparting the information.

It is essential for every society to have an informed opinion supporting its welfare. Without gaining full information, it becomes impossible to find the right way to tackle any problem. The hon'ble Supreme Court has held that every citizen is empowered to know and receive information from the public authorities which flows from Article 19 of the Indian Constitution.¹

The primary objective behind the passage of the Right to information Act was to have an informed society as well as citizens. It becomes essential for the working for any democratic system. Following are the objectives to pass the act:

1. Check against corruption
2. Hold accountability and transparency
3. Effectuating right to know incorporated in the Article 19 of the Indian Constitution.
4. To achieve maximum disclosure and minimum exemptions.

The act suggests a practical regime of right to information that how citizens can secure access to information which is under the control of

¹ Right to Information Act, a comprehensive overview, available at: <https://blog.ipleaders.in/right-to-information-act-2005-a-comprehensive-overview/> (Last visited on 20 June 2024)



public authority. The law of Right to information has expanded the scope of information. The term "Information" under this law prescribes information as material in any form that concerns affairs of the government. Various modes and information has been prescribed under this act. The definition of information provided under this act is inclusive provided that it can be interpreted beyond the purpose, aim and spirit of the act.

The beneficial legislation was passed with an objective to empower citizens with the necessary information which vital in respect to organization. Benefits are taken by way of developing substantial public funds. The act empowers that citizens to know that how the taxes, public funds etc. are being used by the representative government chosen by them. The act also covers such organizations which are not government organization but are being funded by the government. The reason behind this incorporation is to avoid any malpractices associated with the money of the citizens which is under the hands of the government.

In the contemporary democratic set up, it becomes axiomatic that citizens must be aware about the affairs of the government. The citizens select their government so as to ensure that the government will seek to formulate governance policies concerning the welfare of the nation.

However, just like other rights, right to information is also not absolute. It also has some limitations. Any transactions that involves safety of state, involves secrecy cannot be claimed even under the Right to Information Act.

The High Court of Delhi in the matter of Secretary General, Supreme Court v. Subhash Chandra Aggarwal had emphasized that Right to Information is an integral part of Right to Freedom of Speech and expression. Therefore, the reasonable restrictions that are imposed on the Article 19 shall be imposed on Right to Information. Any **kind** of information that involves any revelation that affects operations of the government, utilization of fiscal resources, preservation of sensitive and confidential information. To harmonize the revelations of the Information, Section 8 have been incorporated in the Right to Information Act. Section 8 describes the material that has been exempted from the purview of the Right to Information act. The section tends to create equilibrium between the public interest and right to know of an individual. Right to information envisages participatory and progressive democracy in the Indian set up.

1.2 Right to Information in the cases of life and liberty:

It has been held in various judicial pronouncements that right to life and personal liberty does not mean only animal existence; it shall involve all the necessary aspects of life. Right to information is also included in it. There shall be free flow of information across the democratic society which helps in enabling the growth of the society as well as Individual. It helps in the good governance of the democratic type of government. The implementation of right to Information is vital in order to give effect to right to freedom of speech and expression. There must be circulation of the information to enable free speech.

The right to information law is an important legislation as it explicitly empowers every citizen of India with an instrument to gain information from the public authorities. The act also makes provisions for the establishment of the agencies at centre as well as state level to ensure that the imparting of information is done and the act is complied with. The act provides with Central Public Information officer and state public information officer who will be the responsible authorities to impart information on request. As generally Under the Right to Information law the information is obtained after following a certain procedure. However the question arises that in case of emergency the Justice shall be deleted due to long process of law. Therefore in the cases of life and liberty The Right to Information Act describe that the Right to Information petition shall be responded within 48 hours of presentation of petition. The question of life and liberty shall be integrated with all due care and caution by the prescribed authority. Interpretation of life and liberty resulting and substantial diversion of mankind and resources shall be defeat of Justice.

The flow of information must be smooth and fast when it involves question of life and liberty. As life and liberty are two utmost important aspects of any individual's life. There is no definition given in any law to describe that what is life and liberty actually. But by way of various judicial pronouncements, Hon'ble Supreme Court has attempted to interpret the meaning of life and liberty. According to Maneka Gandhi v. Union of India, right to life does not mean mere animal existence; it involves all the necessary aspects of human's life. The right to life and personal liberty has been guaranteed by our Indian Constitution



under Article 21 of the Indian Constitution. Over the years, Hon'ble Supreme Court has widened the scope of the Article 21 and has inserted various rights under the ambit of this right such as Right as Privacy, Right to Information etc. In order to attract the provisions of section 7 of Right to Information Act, it must be established that there must be danger of threat to life or liberty of an individual. And such disclosure of information is necessary to protect the life and liberty of an individual. In such case, the information has to be imparted within 48 hours of the filing of the petition.

In the matter of Ashok Randhawa v. Lok Nayak Hospital, Government of NCT of Delhi the petition was filed to gain information regarding the child who died during the punishment given in the school. The court held that this situation does not attract the provisions of the section 7 of the act as the child was dead and there arises no question of life and liberty in case of a dead individual. It does not fall within the purview of the section 7 of the said act.

Again in the matter of N.N Kalia versus University of Delhi, the central information commission stated that the application of the section has been framed for exceptional circumstances. There shall be crucial examination and analysis done in every case when petition under section 7 is Filed to determine that whether the question involved life and liberty of an individual or not.

In the case of Mr GK Mittal versus GNTCD the court interpreted that the objective behind the incorporation of 7 of the act. Section 7 must be interpreted with an inculcated responsive attitude by the police authority.

1.3 Implementation of Right to Information in the police cases (FIR):

In every human being there is a tendency that there shall be freedom and Liberty. Liberty is an essential while anticipating respect for life. The term Liberty is now not only confined to book and laws but has become a real time concept. It has become an integral part in every individual life.

In the criminal procedures Indian laws, there is no express mention that copy of First Information Report shall be given to accused at the earlier stage of the investigation. The accused can take the copy of the First Information Report when the proceeding comments to begin under section 207 of criminal procedure.

However section 173 of The Criminal Procedure Code make provision of police report that has to be forwarded to magistrate by the

official in charge of police which shall contain various particular such as name of the accused, nature of crime and other particulars related to crime which are necessary for the trial of the case.

In addition to it section 173 makes provision regarding indication of a note that may be initiated by the police officer requesting to Magistrate that he shall not import a part of statement to the accused. Such note shall be accompanied with reasons that why the information shall not be imparted.

In the case of First Information Report is registered, police shall proceed under section 153 of The Criminal Procedure Code. In case of suspicion of an offence, the police officers are empowered to investigate the same. There shall be a report forwarded to magistrate.

Section 438 deals with right to bail of the accused. To achieve the real objective of the incorporation of the 438, the contents of the First Information Report must be communicated to accused to maintain his defense. The right to know of the accused have been upheld by the criminal laws is well. In case of arrest, accused is entitled to know that he has been arrested on what grounds. Along with this the grounds of arrest shall be known to accuse in order to defend him and prove him innocent. The contents of FIR are also included in the right to know of the accused. The contents of FIR shall be communicated to accused to enable him to take right step as described by the law.

The right to know is not a new concept it traces its history back to Century ago.

In the case of Dhanpat v. Emperor 1917 the court made observed that the copy of FIR shall be mandatory given to accuse at earliest time possible so that he can utilize his rights and take legal help.

1.4 Right to know in Family Law:

The right to Information has been also extended to the metals of family dispute. The Right to Information at empowers citizens of India to get any information from the statutory authority working under the central, state or local government. it is mandatory on the part of public authority that these Shall response to any petition file within the 30 days. In the case of Prashansa Sharma versus Delhi transport limited It was stated by the central information commission that right to know is extended between spouses as well. In case one spouses having information, he or she is under obligation to the close the same to another spouse to stop in the case of maintenance, annual



return, investment also false under the curve of rights to Information Act.²

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II. Conclusions and suggestions:

The Right to Information is a cherished right. The law of India as empowered its citizen with a great to access the information. It helps in maintaining Accountability and building transparency. However the right must be exercise with due care and attention. Alongside while reviewing Right to Information petition the authorities must look into the matters and interpret accordingly.

Another right of a citizen protected under the Constitution is the right to privacy. This right is enshrined within the spirit of Article 21 of the Constitution. Thus, the right to information has to be balanced with the right to privacy within the framework of law. This can be done by the launch of awareness campaigns through Radio, Television and Print Media various regional languages in rural areas. A chapter on RTI Act, 2005 should be added in school/college curriculum.

Central/State Information Commissions should be provided with sufficient funds for creating awareness about RTI Act, 2005. Democracy is all about governance of the people, by the people and for the people. In order to achieve the third paradigm, the state needs to start acknowledging the importance of informed public and the role that it plays in the country's development as a nation. In this context, underlying issues related to RTI Act should be resolved, so that it can serve the needs of Information societies.³

References

- [1]. Right to Information Act, a comprehensive overview, available at: <https://blog.ipleaders.in/right-to-information-act-2005-a-comprehensive-overview/> (Last visited on 20 June 2024)
- [2]. Kush kalra, “ Effectiveness of Right to Information Act 2005 in India”, 8 *IJCRT*, 2020
- [3]. Challenges related to RTI, Drishti IAS, available at: <https://drishtiias.com/daily->

² Kush kalra, “ Effectiveness of Right to Information Act 2005 in India”, 8 *IJCRT*, 2020

³ Challenges related to RTI, Drishti IAS, available at: <https://drishtiias.com/daily-news-editorials/challenges-related-to-rti-act> (Last visited 22 June 2024)