

## RTI ACT 2005: A KEY TO GOOD GOVERNANCE

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*"The appointing of information commissioners are to be done with people who have a predilection for transparency. However, the trend shows that the appointments are made on the basis of political dispositions because RTI challenges the power of the powerful".*

- Mahatma Gandhi

### **ABSTRACT**

*The prime object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government. This law empowered Indian citizens to seek information from Public Authorities, thus making the Government and its functionaries more accountable and responsible. In this present study, an attempt has been made to identify issues and constraints in the implementation of the Act.*

### **Introduction**

Information is an inalienable and natural right of every human being. In a democratic country each person has the right to freedom of opinion and expression. Right to Information Act, 2005 empower a citizen to access the information for disclosure from the public authority and bring transparency. Awareness of the people about the act has increased after the slow start. The Right to Information Act became operational on 12th October, 2005. This law empowered Indian citizens to seek information from Public Authorities, thus making the Government and its functionaries more accountable and responsible. Unlike many other countries (for e.g. UK) which took several years to operationalize the Act post the enactment, India took only a few months to bring it into force. This time was inadequate to change the mind-set of the people in Government, create infrastructure, develop new processes and build capacity to deliver information under this Act. It flaunted the Act as a milestone in India's democratic journey. It is twelve years since the RTI was passed; the performance on the implementation front is far from perfect. Consequently, the impact on the attitude, mind-set and behaviour patterns of the

public authorities and the people is not as it was expected to be. Most of the people are still unaware of their newly acquired power. This has led to implementation issues which need to be identified and addressed. In this study, an attempt has been made to identify issues and constraints in the implementation of the Act.

### **Implementation**

The Government introduced the Freedom of Information Bill in Parliament, in 2002. This bill did not meet the expectation of the people. Then after over a number of amendments an act titled “Right to Information Act 2005” was enacted on 15 June 2005 and was came into force from 12 October 2005. Right to Information Act 2005 is 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. As per the act Information means material in the form of documents, memos, e-mails, press release, circulars, orders, contracts, reports, data materials. The act covers central, state and local governments, and all bodies owned, controlled or substantially financed by the government or any non-government organization substantially financed, directly or indirectly by the appropriate Government. The information, which affect the sovereignty and integrity of India are not to be disclosed. Information, which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which, would cause unwarranted invasion of the privacy of the individual is also not supposed to be disclosed.

India always took pride in being the largest democracy, but with the passing of the Right to Information Act in 2005, it has also become an accountable, interactive and participatory democracy. This right has catapulted the Indian citizen on a pedestal from where he can take stock of administrative decisions and actions and make sure that his interests are protected and promoted by the Government. The Right to Information Act is an important landmark for Indian democracy. By this Act the citizen of India has been empowered like never before. They can now question, audit, review, examine, and assess government acts and decisions to ensure that these are consistent with the principles of public interests, good governance and justice. This act promotes transparency and accountability in administration by making the government more open to public scrutiny.(Smita, 2010)

The Right to Information Act 2005, the RTI hereinafter, was enacted by the National Parliament to dismantle the culture of secrecy and to change the mind-set of the bureaucrats and political leaders and to create conditions for taking informed decisions. (Ansari,2008). The RTI provides a framework for promotion of citizen-government partnership in carrying out the programmes for the 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 idea of Right to Information started taking shape in the 1970s only, with the liberal interpretation by the judiciary of various fundamental rights specifically the right to freedom of speech and expression. 'The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people's right to know'. There have been numerous cases favouring disclosure of government information and transparency.

The Government of India, based on the recommendations of the Chief Secretaries' conference on "Responsiveness in Government," appointed the Shourie Committee to suggest a draft RTI Bill. The draft, called the Freedom of Information Bill 2000 was passed into law in January 2003. But the law was not notified and finally repealed. In the meantime several State Governments had already passed their own versions of RTI Acts. For example, in 1997 the RTI was passed in two states Tamilnadu and Goa. Soon other states followed. By 2005, nine states had passed RTI but with the passing of RTI by the Union legislature, the State level RTI became redundant. The RTI Act 2005 applies to the whole of India except Jammu and Kashmir (J.K.), but J.K has its own RTI. Act. People in these states took recourse to the various provisions of transparency norms to obtain information held by the public bodies. (Smita, 2010)

### **Some Landmarks in the RTI Journey in India**

1975: Supreme Court of India rules that the people of India have a right to know. 1982: Supreme Court rules that the right to information is a fundamental right. 1985: Intervention application in the Supreme Court by environmental NGOs following the Bhopal gas tragedy, asking for access to information relating to environmental hazards. 1989: Election promise by the new coalition government to bring in a transparency law. 1990: Government

falls before the transparency law can be introduced. 1990: Formation of the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan and the launching of a movement demanding village level information. 1996: Formation of the National Campaign for People's Right to Information (NCPRI). 1996: Draft RTI bill prepared and sent to the government by NCPRI and other groups and movements, with the support of the Press Council of India. 1997: Government refers the draft bill to a committee set up under the Chairmanship of HD Shourie. 1997: The Shourie Committee submits its report to the government. 1999: A cabinet minister allows access to information in his ministry. Order reversed by PM. 2000: Case filed in the Supreme Court demanding the institutionalization of the RTI. 2000: Shourie Committee report referred to a Parliamentary Committee. 2001: Parliamentary Committee gives its recommendations. 2002: Supreme Court gives ultimatum to the government regarding the right to information. 2002: Freedom of Information Act passed in both houses of Parliament. 2003: Gets Presidential assent, but is never notified. 2004: National elections announced, and the strengthening of the RTI Act included in the manifesto of the Congress Party. May 2004: The Congress Party comes to power as a part of a UPA coalition government, and the UPA formulates a minimum common programme which again stresses the RTI. June 2004: Government sets up a National Advisory Council (NAC) under Mrs. Sonia Gandhi. August 2004: NCPRI sends a draft bill to the NAC, formulated in consultation with many groups and movements. NAC discusses and forwards a slightly modified version, with its Recommendations to the government. December 2004: RTI Bill introduced in Parliament and immediately referred to a Parliamentary Committee. However, Bill only applicable to the Central Government. Jan-April 2005: Bill considered by the Parliamentary Committee and the Group of Ministers and a revised Bill, covering the Central Governments and the State introduced in Parliament. May 2005: The RTI Bill passed by both houses of Parliament. June 2005: RTI Bill gets the assent of the President of India. October 2005: The RTI Act comes into force.

### **Articles of Indian Constitution**

The Right to information is a basic human right derived from Art 19(1) (a) of the constitution of India. It states, all the citizens have the right to the freedom of speech and expression and Art 21 deals with right to life of citizens. Constitution of India 1950 stated that the court has recognized the right to access of information from government department is fundamental to

democracy. However, the right to information does not mean the free flow of information without any restrictions. Like all other fundamental rights, the right to information has also certain reasonable restrictions.

### **Role of the Central and State Governments**

The role of the Central/ State governments include interalia the following:

1. Develop educational programmes for the public especially disadvantaged communities on RTI.
2. Encourage Public Authorities to participate in the development and organization of such programmes.
3. Train officers and develop training materials.
4. Compile and disseminate a User Guide for the public in the respective official language.
5. Publish names, designation, postal addresses and contact details of PIOs and other information such as notices regarding fees to be paid, remedies available in law if request is rejected etc.

### **Variation in assumption of role by State Governments**

RTI Act lays down the role of State Information Commission as a second Appellate Authority and activities like promotion of RTI usage and establishment of a monitoring framework have been entrusted with the appropriate Governments. There is no clear division of responsibilities between the State Information Commission and the Nodal Department in terms of monitoring the implementation of RTI Act. In some cases, State Information Commissions have been proactive in establishing a monitoring framework for RTI Implementation and implementing awareness campaigns (for e.g. Andhra Pradesh), and in some other cases, e.g. Orissa) the SICs have restricted themselves to the role of an Appellate Authority and the monitoring and promotional activities are being carried out by the Nodal Departments.

The Act is quite unambiguous in terms of the responsibilities of the appropriate Government and the Information Commission. However, as per the current situation on the ground level currently the Information Commission is as effective as the support provided by the appropriate Government. The Information Commission is always dependent on the financial and infrastructural support from the Government. In some of the States, (like UP), the

effectiveness of communication/guide from the State Government carries more emphasis than the communication by the State Information Commission.

### **Impact of RTI**

RTI Act is one of the most people friendly legislation ever. Thousands have benefited from it. But it is true that more than five years after Parliament passed the Act in June 2005, the road to accessing the information remains arduous. RTI has made both tangible and intangible impact on the system and its people. People have used the RTI tool to get their ration cards, passports, pension funds, birth certificates, income tax refunds et. al. There have been cases when people as old as ninety years and as young as nine years have taken recourse to RTI to get their work done. People below the poverty line, disabled and blind people also have used it to their advantage.

### **Low awareness level**

Section 26 of the Act states that the appropriate Government may develop and organize educational programmes to advance the understanding of the public, especially disadvantaged communities, regarding how to exercise the rights contemplated under the Act. However, as per the survey it was revealed that only 15% of the respondents were aware of the RTI Act. During the awareness survey, it was also observed that the major sources of this awareness were: Mass media channels like television channels, newspapers etc. and Word of mouth. As observed the awareness level in rural population was low compared to urban population. While the Act has been clear in defining the responsibility of the appropriate Government, with respect to creating awareness on the Act, there has been lack of initiative from the Government's side. The efforts made by appropriate Governments and Public Authorities have been restricted to publishing of rules and FAQs on websites. These efforts have not been helpful in generating mass awareness of the RTI Act. As compared to RTI Act the common citizens (and disadvantaged communities) are significantly more aware of other Government schemes focused on socio-economic development.

### **Right to Information and Good Governance**

The right to information act is a path making legislation which brings to light the secrecy of

administration. It is an effective means to promote democratic ideology. The act is powerful instrument to fight against corruption. By realizing this significance the Second Administrative Reform Commission had prepared a detailed blueprint for revamping the public administrative system. The second Administrative Reform Commission, government of India has published its first report in Right to Information: Master key to good governance. Through this report the commission directly mentioned that access to information can empower the poor and weaker sections of society to demand and government information about public policies and actions, thereby led to welfare of all.

Good governance and right to information are complimentary to each other. A nation whatever form of government it pursues must fulfil the aspirations of common man. Good governance is the only avenue, which can provide guaranty the life of individuals. Good governance is characterized by- political accountability, availability of freedom, bureaucratic accountability, availability of information, effectiveness, efficiency, law abiding citizen and cooperation between government and society. As such the Right to information is a natural corollary of good governance.

**Participation-**The right to Information act gives an opportunity to the common men to participate in governance and reduce the imbalance in power relationship, provides a tool to oppose injustice and allows collective spirit to make democracy work for everyone. Right to information act also strengthen grassroots democracy and ensures peoples participation in local governance and development activities.

**Accessibility-**The right to know and easy access of government information helps the people to understand the limitations of government at different levels. The availability of information also helps to foster in development process and it is a symptom of true and mature democracy.

**Transparency-**Transparency is the milestone of good governance. Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. Transparency and accountability is possible only when the public have access to information.

**Accountability-**Accountability is another requirement of good governance. Not only the

government, the private sector institutions should also be accountable to the people. Information is power and Right to Information act brings accountability and transparency in the administration.

**Equity**-Equity is another prominent feature of good governance. It implies everybody is a part of the governance and they do not feel excluded from the mainstream of society. The Right to Information act also does not make any discrimination between rich and poor and it covers all the citizens in India. It always comes forward to fight against inequality, injustice and inhuman activity.

**Effectiveness and Efficiency**-The concept of efficiency in good governance covers doing work at first speed and effectiveness means doing things effectively with result oriented. (Keshabanda, 2013)

### **Conclusion**

Right to Information Act, 2005 empower a citizen to access the information for disclosure from the public authority and bring transparency. Awareness of the people about the act has increased after the slow start. “Right to Information-Master Key to Good Governance”. Awareness about the Right to Information Act 2005 is increasing among citizens. The organizations with high use of Information Technology are not facing problems due to the implementation of the RTI Act 2005 but some organisations are facing problems. The catalytic role of the government and the NGOs in implementing RTI needs to be appreciated and supported by the people at large. The role of the Information Commission has to go beyond the Hearing of the appeals. As per the Act, they are expected to issue orders/directions to the Public Authorities to carry out their duties as per the mandate of the Act. Right to Information act is an agent of good governance and it makes administration more accountable to the people. It makes people aware of administration and gives them an opportunity to take part in decision making process. It promoted democratic ideology by promoting openness and transparency in the administration. It reduces the chances of corruption and abuse of authority by public servants. Since the act is prepared for people’s interest, hence its success also depends on how they exercise the act. Moreover, there is need active participation from people, NGO’s, civil society groups, coordination among RTI officials, integrity among government departments and political will from government and elected leaders



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