



## Right to Information Act- A Pragmatic Way to Good & Transparent Government

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**Abstract:** Right to Information (RTI) is an Act of the Parliament of India to provide for setting out the practical regime of right to information for citizens and replaces the erstwhile Freedom of information Act, 2002. Under the provisions of the Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.

**Keywords:** Parliament, RTI, Citizens, Transparent Government, Fundamental Rights.

**Introduction:** This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. The first application was given to a Pune police station. Information disclosure in India was restricted by the Official Secret Act 1923 and various other special laws, which the new RTI Act relaxes. It codifies a fundamental right of citizens. This act is a pathway to swaraj which indicate the march from gloom to secrecy to sunup of intelligibility. It act is a significant instrument which the people can use to fight against corruption and ensure transparency. The present paper is an attempt to throw light on various aspect of RTI Act 2005.

**Chronology of RTI in India:** Some Landmarks in the RTI Journey:



- 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.

**The important characteristics of the Act:** The proposition of the RTI Act 2005 proclaims it that India is a democratic Republic and hence is supposed to ensure transparency to ward off Corruption and to render the government /its institutions accountable to its citizens. Some of the worth mentioning features of the Act are as under:-

- There is a provision for two staged appellant Authority.
- All the public / officials are instructed to assemble the records in a recommended prescribed format and render it easily accessible for the common people on internet. (4(1) B).
- The provisions of the Act expect the public information officials to ensure the maintained and renewed of the records in all the organizations under them.

- The BPL citizens can attain free information, if they apply for the same with their BPL (Low income) certificate.

- Application, is sent by post, should be sent though registered post only.

- Any decision or order of this Act is non-challengeable in low / lower courts.

- The decisions of the state Information Commission are challengeable only in the Supreme Court of India.

- It will apply to whole country except Jammu & Kashmir and cover governing bodies at all levels including government added institute.

- This law protects and respects of privacy of every individual.

### Who is entitled for seeking information?

A person who is citizen of India is entitled for seeking information.



## Who is covered by the RTI Act?

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

## What does information mean?

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

The appointment of public information officer and assistant public information officer:-

In compliances with RTI Act and rules thereof, it becomes mandatory to appoint an information officer along with his Assistant in the government offices and departments. There is also a provision for the appellant authority, if one information pursuer is not satisfied with the information

provided by the information officer. Whereas the information officer is binding to provide the related information within a fixed timeframe, his Assistant cannot exercise a direct correspondence with the pursuer of information. Though, sometimes he may inform the pursuer about the decisions taken by the information officers.

**Public Information Officer:** Public authorities have designated some of its officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act.

**Assistant Public Information Officer:** These 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<sup>□</sup> are working as



Assistant Public Information Officers for all the public authorities under the Government of India.

### **What is the application procedure for requesting information?**

Apply in writing or through electronic means in English or Hindi or in the official language of the area to the PIO, specifying the particulars of the information sought for; Reason for seeking information are not required to be given Pay fees as may be prescribed (if not belonging to the below poverty line category).

The method of applying for the information:-

- The pursuer of information must apply in the form no A, Under Haryana Right to information Act, 2009, rule-5 with a fee of Rs-50/-.
- The pursuer must be given the receipt of the application form by the concerned information officer/his Assistant.

Now, the application can be filed even on a simple paper.

(a) The information does not directly belong to the information officer or (b) it belongs to him but falls under a different information officer, the information officer to whom the application is filed will seek the information from the concerned officer and will inform the pursuer of all the correspondence in relation to that.

### **The time frame for providing information:**

- Within thirty days (30) of the receipt of application.
- Within 48 hours, if the information belongs to somebody's life or freedom. But an extra 5 days time will be given if such application that has been filed through the assistant information officer.
- If it has a bearing on the 3rd party interest, then the time slot for providing information will be 40 days, wherein the 10 days time shall

be given to the 3rd party for presenting their case.

- Any failure of providing information within the given timeframe shall be deemed as denial of information. And the time shall start with the date on which the fee is deposited.
- If the application is rejected the information officer shall inform about the reasons there of along with the information .The appropriate officer for filing the application to.

**Provision for Appeal:** Article 19 of the RTI Act provides that (a) from the date of rejection of the application or b) from the date of imparting information, a 30 days' time period for 'appeal' shall begin. Such an appeal can be tendered to the appellant Authority appointed in every department or institution. If, the appellant Authority considers the time. Infringement pardonable on the basis of justifiable ground, then the 30 days time limit for making 'appeal' can be waived.

**Secondary Appeal:** If the pursuer is dissatisfied with responses of the appellant Authority, he can file a second appeal to the State Information Commission, for which he shall be provided a time frame of 90 days.

**The Procedure of filing appeals:** The appeal notice shall contain the following information:-

- Telephone number, mobile number, e-mail address- if any along with the name and address of the appellant.
- The official designation and address of the State Public Information Officer/ Assistant State Public Information Officer –as the case may be.
- The official designation and address of the officer against whom the appeal is filed.
- Mention of the reference no if any and the detail of the order which is challenged.
- The fact-summary for appeal.



- Application or the required / desired relief- a clear mention of them.
- Mention of the ground for application / relief.

**Attestation by the appellant:**

- J) The appellant shall deposit three-copies of the application for the office use.
- K) The appeal must be accompanied by the document s.
- L) The self-attested photo copy of the order against which the appeal is made.

**Punishment in case of failure in providing information:** The Public Information can be fixed @250/- per day in case he refuses to accept the application has delayed in giving information without any ground/reason, has been malicious in denying the information, has provided incomplete, misplaced or misleading information, has provided incomplete, misplaced or misleading information, has hampered the procedure of preparing information or has destroyed the required information.

However, the amount of such fine should not exceed the total of 25000/-. The commission can also recommend the necessary disciplinary action against such public information officer.

In case the required information is related to some other public information officer, the officer with whom the appeal is filed shall obtain the information from the concerned officer and shall pass it on to the applicant .Any delay or infringement in such case shall be borne by the officer with whom the information lies.

**Denial:** As per the articles 8,9,11, and 24, of the RTI Act 2005, the Public Information Officer can deny the desired information.

**The denial under Article 8:**

- Any information the disclosure of which may exercise an adverse effect on the integrity, security, strategy scientific or economical interest or international relations / or may inspire some criminal activity.





- Any information, the disclosure of which has been prohibited by some court or/ tribunal or which may result into infringement of the privileges of the Parliament or the State Assembly.
  - Any information, the disclosure of which may result into loss of commercial faith, business secrecy, or intellectual property on the competitive position of the 3rd party- until and unless the Public information officer is convinced that the disclosure is necessary in wider public interest.
  - Any information the disclosure of which may result into infringement of the privileges of the Parliament or the State Assembly.
  - The information belonging to the faithful relations- until and unless the PIO is not satisfied that disclosure is necessary for wider public interest.
  - The information provided by some foreign country in faith.
  - The information the disclosure of which may result into some threat to an individual's life/ physical safety, or threat to the sources of information or to an individual who may have extended help in faith.
  - Information the disclosure of which may interrupt some enquiry or the arrest of criminals.
- The official papers of cabinet that may contain the documents of the meetings of the secretaries of the council of ministers or the other officials—
- Article 24 of the act publishes it that:** The provisions of the act won't apply on the secret and security organizations constituted by the central government, under 2nd schedule, The provisions won't apply on the information and reports too forwarded to the government by such organizations. But the information belonging to the issues such as corruption



and the violation of human rights cannot be denied under the cover of the above mentioned sub-clause.

Such information (human right violation) with the permission of the central information commission and additional information to those that are mentioned in the article no 7, shall be provided within 45 days of receiving the application.

It is purely the right of the central government whether it included a given organization in the category of secret the security organization in the category of secret and security organizations or not. But all information and the modification related to the list (including in calculation or in expulsion of a given organization from the list) shall be notified by the government through the gazette.

Each notification issued under sub- clause (2) shall be presented before both the house of the parliament.

The provisions of the act won't be applicable on the gazette secret and

security organization of the state government still the matters of corruption and human rights violation won't fall under this provision .At the same time, the information regarding human right violation issue shall be provided within 45 days of receiving the application that is also with special permission from order of the State Information officer .When such information happens to be different from the provisions made under Article no .7.

Each notification issued under Article (4) shall be presented to the state assembly.

It is worthwhile to note that the central government and the state government have excluded 22 organizations from the access of the RTI Act. These organizations include such institutions as Vigilance Bureau, the Research and Analyses wings of the secret Councils of the ministers etc. The state government has also set certain institutional outside the spheres of the RTI Act-2005.

**The jurisdiction of the court:** The High Courts and the Supreme Court enjoy full



jurisdiction over provisions of the Act. All the other courts judicial rights of any kind on the aforesaid Act and the provisions therein.

**Conclusion:** The Right to Information Act 2005 has ushered in a new era of transparency and people's access to information in India. The implementation of the Act is gathering momentum with each passing day. Government, civil societies and the media have generally lent their might to the realization of citizens' right to information through the revolutionary Act. Therefore it can be rightly said that Right to Information act, 2005 is a key instrument of good and transparent governance. It makes administration more answerable 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 it success also depends on how they exercise the act.

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