

# FREEDOM OF INFORMATION IN INDIA: A MEANS OF DEVELOPMENT

Bishwajit Das (Author)

(Research Scholar and Faculty)

## Abstract:

It is difficult to achieve social justice, political freedom and economic equality in a nation, unless the economically and socially exploited sections of the society are not able to reap the benefits of the planned economic development of its own Country. Lack of participation of ignorant and illiterate mass in the Government affairs and decision making process created a vacuum for corrupt administration that continuously kept the “People” in dark. This darkness can turn into light only with the availability of freedom of information. To increase public participation, reduce corruption, red-tapism, aloofness from public work and arbitrary secrecy in the government, pressure from every angle has made bound the legislators to come up with a complete affirmative law, so that a vibrant transparent government can be achieved. In the process of achieving an open government, the making of Right to Information Act made a tremendous growth in promoting and protecting people’s right to transparent and accountable government in India. The Right to Information Act, alone has the capacity to check undue favouritism and opaque administration of People’s chosen government, provided it is fully implemented and people are well aware of it. RTI is a correct law in the real sense and a boon to social justice in itself. The living document, the Constitution of India though not mention directly anything about this right, however, the logical expansion of Fundamental Rights provided under Part-III, contains the matter in People’s Right to Know, everything and anything that relates to an issue of public importance and of public nature, from their government or public authorities established under the law of the land. But the existing gap between law and process of its implementation in a right direction has been intervening in the process of development which is antithesis to rule of law. This paper is an attempt to point out various fields where the present law could not influence its beneficiary. The existing literature has been reviewed from various national and global reports on development and freedom and observed various problems prevailing in the present system. Efforts have been made to address few innovations by which little change can be brought to the existing system.

**Keywords:** Right to Information, development, Transparent and Accountable Government.

## 1.1 Introduction

Right to Information is an accepted fundamental and legal right in India. It is a universal standard of modern democracy and a key to an open Government otherwise may be said as Constitutional Government. It is a guiding principle for participatory democracy since only an informed population can effectively

contribute to the construction of governments, holding leaders accountable, influencing service delivery and decision-making and for promoting and protecting their human rights. Freedom of Information empowers people to demand their rights and entitlements, and ensures that policy-making and implementation are geared towards bringing about equitable development. The honourable Supreme Court in the case of **Secretary, Ministry of Information and Broadcasting, Government of India and others vs. Cricket Association of Bengal and another**<sup>1</sup>, has held as under: “The democracy cannot exist unless the citizens have a right to participate in the affairs of the polity of the country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues, in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and non-information, all equally create a uniform citizenry which makes democracy a farce when medium of information is monopolized either by a partisan central authority or by oligarchy organizations.”

The genesis of an open government can be traced back to 1766 when Sweden showed the first light of transparency by making the Freedom of Press Act, recognizing its people’s right to know basic information about the functioning of their government.<sup>2</sup> In 1946, the UN General Assembly approved the resolution, highlighting the significance of people’s freedom of information.<sup>3</sup> In 1948, through Article 19 of UDHR, people’s right to access public information was recognized.<sup>4</sup> The European Convention on the Protection of Human Rights and Fundamental Freedoms was adopted on 4<sup>th</sup> November 1950 by the Member States of the Council of Europe.<sup>5</sup> African countries adopted a Declaration of Principles on Freedom of Expression in Africa in the year 2002.<sup>6</sup> African Charter on Human and People’s Rights also upheld the right of access to information.<sup>7</sup> In the Indian subcontinent, Pakistan and India passed the Act in 2002 and 2005 respectively. Thus there was a constant pressure from the International Community on various Government to enact laws relating to access to information.

These laws are made for the protection and promotion of all individual and for the enforcement of various constitutional rights of the citizens. But how far this goal has been achieved is questionable, as till date the socially and economically backward people in our society do not know from whom they will receive information, how they should proceed, to whom they should approach and the present system is unable to prevent these wrongs or injury caused to them. How far the existing laws on freedom of information could protect the weaker sections of the community, under-trial prisoners languishing in jails without a trial, people living in poverty and destitution, Harijan workers engaged in road and bridge construction, the helpless victims of an exploitative society, tea garden laborers, beggars confined in rehabilitation home under the Beggary Prevention Act 1959 are uncertain. It is common saying that information empowers people by enhancing their knowledge to fight against corruption and maladministration in their Government. It will be difficult if people could not access their right to freedom of information due to their illiteracy or ignorance. The strict enforcement of such laws along with high level of transparency is required in a country like India where access to justice being restricted to people who are economically, socially and politically more powerful than the rest. Justice P.N. Bhagwati once observed that the welfare laws need to be

implemented to such an extent that they should remove technical barriers against easy accessibility to justice and promote public interest litigation so that the large masses of people belonging to the deprived and exploited sections of society may realize and enjoy their socio-economic rights guaranteed to them and these rights may become meaningful for them instead of remaining mere empty hopes.<sup>8</sup> Direct participation of people in certain Government projects and certain services are yet to be made, means civil society is yet to be fully accepted by the Government as a strategic partner in project performance and delivery. In the name of agriculture, irrigation facility, public distribution system, education, health, construction of bridges and roads, home to homeless people how much fund has been allotted, how much fund has been spent, whether workers and other employees under various programmes like MGNREGA<sup>9</sup>, DDUGKY<sup>10</sup> are given their due or not specific record is yet to be maintained in certain sector except very few. The fact can be justified by the report of Global Measurement of Freedom which says that among 180 countries India's ranking in terms of World Press Freedom Index are 136 in the year 2017. India ranked 87 out of 159 countries in terms of Human Freedom Index.<sup>11</sup> This is the reason that India could not do well in terms of life expectancy and other indicators. In the name of agriculture, irrigation facility, public distribution system, education, health, construction of bridges and roads, home to homeless people how much fund has been allotted, how much fund has been spent, whether workers and other employees under various programmes like MGNREGA<sup>9</sup>, DDUGKY<sup>10</sup> are given their due or not specific record is yet to be maintained in certain sector except very few. The fact can be justified by the report of Global Measurement of Freedom which says that among 180 countries India's ranking in terms of World Press Freedom Index are 136 in the year 2017. India ranked 87 out of 159 countries in terms of Human Freedom Index.<sup>11</sup> This is the reason that India could not do well in terms of life expectancy and other indicators. Economist Amartya Sen said that there are large areas within India where life expectancy and other basic living conditions are not very different from those prevailing in the most deprived countries.<sup>12</sup> Various policies and schemes have been laid down for removal of extreme poverty, premature mortality, undernourishment, illiteracy and such other problems but it is the time to implement all those with reference to freedom of information so that the ultimate beneficiary will come to know whether they are getting their due or not. In recent past in the process of implementation of Government policies and various legislations, inequality has received more attention than efficiency and equity. Thus the trend should come to an end with the focus on equalization of benefit and efficiency, and then only our nation will come out with proper implementation of rule of life which denies poverty, income inequality, unemployment, ill-health, lack of education, and social exclusion.

## 1.2 Objectives of the Study

1. To discuss the importance of freedom of information for national growth and individual development.
2. To discuss the various laws on freedom of information in India.
3. To suggest some measure for proper implementation of laws on freedom of information.

### 1.3 Methodology

The study is based primarily on secondary data collected from various Government departments, Law Commission of India, Global Report on Development and other relevant documents. Doctrinal research methodology has been adopted in arranging, ordering and systematizing existing laws on freedom of information and their use in real terms. Descriptive, analytical, informative methods are adopted in the analysis. The purpose of this paper is to highlight the present day lacuna of RTI law in bringing the poor and vulnerable sections of the society, to the mainland of democracy and they are still waiting for change where they can be equally treated. Judicial decisions are observed for the purpose of making the research more useful and up to the mark.

### 1.4 Freedom of Information vs. Right to Development

To ensure the continued participation of the people in the democratic process, they must be kept informed of the vital decisions taken by the Government and the basis thereof. Democracy, therefore, expects openness and openness is a concomitant of a free society.<sup>13</sup> The phrase “Right to Information” has two things attached, first, “right” and second, to “information”. Information is a universally accepted wealth for both, the government and the governed, therefore, the people has, both an individual and a collective right to access information held by their Government. By 2021, over 123 countries of the globe had Freedom of Information laws and the number is still growing.<sup>14</sup> Thus, it is clear that the World has considered citizen’s right to information as a core component of a true democracy. Now it becomes a global movement which contains commitments towards advance transparency, accountability, participation and technological innovation with the most significant economic and social impact. In the light of international and regional best practices, the good laws on freedom of information are now expected to be consistent with the following Principles: <sup>15</sup>(a) Maximum disclosure; (b) Obligation to Publish; (c) Promotion of open government; (d) Limited scope of Exceptions; (e) Processes to facilitate Access; (f) Minimal costs; (g) Open Meetings; (h) Disclosure should take precedence; (i) Protection for Whistleblowers. In absence of these components freedom of information would remain as empty formality in the name of democracy. “Democracy is not like instant coffee, where you can just add water and stir,” said France’s foreign minister, Hubert Vedrine, as he declined to sign a U.S. sponsored international declaration. Each government today governs in the name of the people, but very few people could genuinely represent in the decision making process, others have to support blindly.<sup>16</sup> In the light of the law guaranteeing the right to information, the citizen has the fundamental right to know what the Government is doing in its name. The freedom of speech is the life blood of democracy. The free flow of information and ideas inform political growth in the modern times, where there has been globalization of trade and industry, the scientific growth in the communication system and faster commuting has turned the world into a very well-knit community. Imparting of information qua the working of the government on the one hand and its decision affecting the domestic and international trade and other activities on the other, impose an obligation upon the authorities to disclose information.<sup>17</sup>

Development is a peaceful and continuous process of well-being of each and every individual of a nation where they could attain the highest standard of physical and mental health without inequality.<sup>18</sup> The modern economists speak that the concept of development should be centered upon people, with an emphasis on eradicating poverty, promoting full and productive employment and enhancing social integration. The Copenhagen Declaration and Programme of Action 1995 was the first world summit for social development. It said that the ultimate goal of social development is to improve and enhance the quality of life for all people.<sup>19</sup> The right to information can be said to be a tool for promoting development; strengthening the democratic governance and effective delivery of socio-economic services. Information and knowledge can increase the power of realization among individual. Self-realization can bring change in one's life. If each and every individual basically the poor sections of the society will be informed once regarding opportunities of learning and earning, legal remedies for combating gender bias, negative effect of consuming liquor, new techniques of farming etc. then they themselves can learn the lessons of development. Thus citizens can be empowered to take risk of their own life on the basis of freely available information for effective participation in economic and political activities. The right will be meaningful only when the vulnerable section of the society will be able to enjoy the same.

### **1.5 Constitutional recognition of Freedom of Information**

The Freedom of Information though became a legal right in India by 2005; it was very much present in the "Holy Book" of the Nation i.e., the Constitution of India, to which the very constitution of the Government owes its genesis, even from the date of its commencement in 1950. It was just waiting for the ripen time get hatched into a complete right for her citizens. The credit goes to the legal luminaries in and out of judiciary, social activists, civil society and NGOs who has greatly contributed for the creation people's "right to know" everything and anything from their government of public nature and importance, in their behalf. The logical expansion of Freedom of Speech and Expression<sup>20</sup> and Fundamental right to Life and Personal Liberty<sup>21</sup> enshrined under Part-III of the Constitution gives room for the cultivation of People's Right to Know, in India.

The Sentinel Qui Vive in Indian Democracy played a pivotal role in expanding the provisions of the Suprema Lex of the nation, thereby magnifying the scope of Fundamental Rights for its People. This newly recognized right is also one such extended vision of judicial minds. RTI is the thin ray of light upon transparency and accountability in governance and a natural outcome of Rule of Law in Indian Democracy. It is a fundamental right having outmost significance in administering justice by each government machinery. The Apex Court of the land, while narrating the significance of FRs, in *Maneka Gandhi v. Union of India*<sup>22</sup> observed that:

*"These fundamental rights represent the basic values cherished by the people of this country since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. They weave a "pattern of guarantees on the basic structure of human rights" and impose negative*

*obligations on the State not to encroach on individual liberty in its various dimensions. It is apparent from the enunciation of these rights that the respect for individual and his capacity for individual volition which finds expression is not a self-fulfilling prophecy. Its purpose is to help the individual to find his own liability, to give expression to his creativity and to prevent governmental and other forces from alienating the individual from his creative impulses”.*

Connecting People’s Right to Information, with FRs under the Constitution, the Apex Court further said, People’s right to know information held by the government was not in motion till 1960, when it was prominently ushered by the Supreme Court in **Hamdard Dawakhana vs. Union of India**<sup>23</sup> which was again reiterated in **Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India**, via **Bennett Coleman and Co. v. Union of India**, and **Indian Express Newspapers case (Bombay) Private Ltd. v. Union of India**<sup>24</sup>, the court dealt with the validity of customs duty on the newsprint in context of Article 19 (a). The Court observed, thus:

*“The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic country cannot make responsible judgments...”*

The court further held that the independence of the mass media was essential for the right of the citizen to information.

The court further made the following observations in **Ramesh Thappar v. State of Madras**<sup>25</sup>:-

*“... (The freedom) lays at the foundation of all democratic organizations, for without free political discussion no public education so essential for the proper functioning of the processes of popular Government is possible. A freedom of such amplitude might involve risks of abuse... (But) “it is better to leave a few of its noxious branches to their luxuriant growth, that, by pruning them away, to injure the vigour of those yielding the proper fruits.*

Again the court observed:-

*“..... The public interest in freedom of discussion (of which the freedom of the Press is one aspect) stems from the requirement that members of a democratic society should be sufficiently informed that they may influence intelligently the decisions which may affect themselves (per Lord Simon of Lansdale in Attorney-General v. Times Newspapers Ltd. (1973). 3 All ER 54). Freedom of expression, as learned writers have observed, has our broad social purposes to serve: (i) it helps an individual to attain self-fulfillment, (ii) it assists in the discovery of truth, (iii) it strengthens the capacity of an individual in participating in decision-making and (iv) it provides a mechanism by which it would be possible to establish a reasonable balance mechanism by which it would be possible to establish a reasonable balance between stability and social change. All members of society should be able to form their own beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people’s right to know. Freedom of speech and expression should, therefore, receive a generous support from all those who believe in the participation of people in the administration...”*

Similarly in *Sakal Papers v. Union of India*<sup>26</sup> it has been said that the freedom of speech and expression guaranteed by Article 19(1) gives a citizen the right to propagate and publish his ideas to disseminate them and to circulate them either by words of mouth or by writing. Thus, Article 19(1) (a) cannot be frozen and stagnated. The formal recognition to a legal RTI in India was accorded more than two decades before the legislation was finally enacted, when the Supreme Court of India ruled in *State of U.P v. Raj Narain*<sup>27</sup> that the right to information is implicit in the right to freedom of speech and expression explicitly guaranteed in Article 19 of the constitution of India. Justice K.K. Mathew observed,

*“In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security. To cover with veil of secrecy, the common routine business is not in the interest of the public. 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 and to justify their acts is the chief safeguard against oppression and corruption”.*

The Apex Court, clarifying the public demand for information from their chosen government made it compulsory for every public authority to disclose proactive information for the people at large in India within 120 days from the commencement of the RTI Act. The Act has also articulated those institutions which are public authority under the Act. This is because citizens are supposed to acquire their necessary public information from the respective public authorities and public information officers so appointed in this context by those authorities.

### **1.6 RTI Act in India: a Short Overview**

“The right to know is derived from the concept of freedom of speech, as has been said by J. Mathew, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security and that in a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets.”<sup>28</sup> The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. To fulfill this object the parliament of India has published landmark legislation i.e. Right to Information Act 2005 for the upliftment of democracy by making its people more sensitive towards government activities. The Act does not create any new right but only provide machinery to effectuate the fundamental right to information. The landmark change brought by this legislation is that by virtue of section 22 it overrides certain legislations like Official Secrets Act, Banking Regulation Act which permits

maintaining of official secrets. The object sought to be achieved by this Act is to provide for setting out the practical regime of right to information for citizens to secure access to information. It is a mode to access information. The act has made it easy to create well informed citizenry who can contribute towards national welfare. All of us are well aware that for the development of a nation there will be no corruption at any level. The Act has provided for the removal of corruption in its preamble itself.<sup>29</sup> The Act has made a fine balance between its goal of attaining transparency of information and safeguarding the other public interests.<sup>30</sup> The ambit of the Act is quite wide as it defines the term 'information' from a very broad perspective.<sup>31</sup> The crucial word such as "any material in any form" denotes the wideness of its ambit. It also includes "information relating to any private body which can be accessed by a public authority under any other law for the time being in force. Facially, the definition comprehends all matters which fall within the expression "material in any form". There is no justification in cutting down their amplitude by importing notions of those materials which are mandatorily held by it. The Act has laid down specific safeguard against unauthorized and irrational exercise of freedom of information by including provision relating to 'non-disclosure' of information on specific grounds as has been laid down under the Act.<sup>32</sup> The Delhi High Court in the case of **Shail Sahni vs. Sanjeev Kumar and ors**<sup>33</sup> has observed that, "No doubt, the Act relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information which requires confidentiality by virtue of being sensitive nature, fidelity and fiduciary relationships, efficient operation of Governments, etc. no one can make impractical demands or directions under the RTI Act for disclosure of such information." In one of the another judgment the Central Information Commission has held that, "The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony provision relating to 'non-disclosure' of information on specific grounds as has been laid down under the Act.<sup>32</sup> The Delhi High Court in the case of **Shail Sahni vs. Sanjeev Kumar and ors**<sup>33</sup> has observed that, "No doubt, the Act relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information which requires confidentiality by virtue of being sensitive nature, fidelity and fiduciary relationships, efficient operation of Governments, etc. no one can make impractical demands or directions under the RTI Act for disclosure of such information." In one of the judgment the Central Information Commission has held that, "The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty."<sup>34</sup> The Act has made certain misconception clearly regarding exercise of one's right to freedom of information. For instance, Section 8 (1) of the Act said that there is no obligation to give any information which prejudicially affects the economic interests of the State. This has been made clear by the Central Information Commission in the case of **Shri P.K. Sarin vs Central Public Works Department**<sup>35</sup>. The Commission has said that withholding of information is unjustified and illegal, but it is justified if disclosure

of the information would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes. In one of another recent judgment held in the case of **Reserve Bank of India vs Jayantilal N. Mistry**, the apex court (through M. Y. Eqbal and C. Nagappan J.) has widely discussed the issue relating to disclosure or non-disclosure of information before public by Reserve Bank and other Indian banks. Several applications were filed before the Central Information Officer requesting the disclosure of information required by RBI during inspection of private and public banks and financial institutions. The disclosure was denied by RBI that it was exempted under sections 8(1), 8(1) (d) 8(1) (e) of the RBI Act. Finally the Supreme Court decided in favour of the respondents and of disclosure over protecting a fiduciary relationship. Further the court has held that to bring transparency and accountability to a system, the citizens must be well-educated, well-aware and well-informed.

### **1.7 Freedom of Information and Poor: a Comparative Analysis**

The concept of justice consists of many aspects of human life which includes Social, Economic and Political justice as enshrined under the Preamble of the Constitution of India. The concept of Social justice inserted, was with the principal aim to eliminate inequality in income, status and standards of life. The basic framework of socialism is to provide proper standards of life to the people, especially, security from cradle to grave. Justice, in its proactive sense, involves the creation of conditions conducive to the development and empowerment of every citizen. If crass poverty and deprivation of education and healthcare are what characterize the masses, the just remedy is an initiative to eradicate poverty and to reach out to those smarting under social, economic and caste degradation. How far we could give value to our constitutional goal of justice is questionable. For the millions who exist suspended between life and death on tenuous strings of destitution and hunger; humiliation and helplessness are the tangible faces of day-to-day terror for them. What we need is to transform our development model and redesign and situate it in the Indian context. A democracy needs solutions which are sensitive to the aspirations of the majority. Economic growth will have to lead to basic needs for all. Our economic structures need to synthesize the efficiency of capitalism with socialistic ideals of justice and equity. Directive Principles are enshrined in the Constitution of India to ensure equality of opportunity in matters relating to economic, political, cultural and educational interests. Despite all the research and welfare legislations, we have yet to bring necessary changes in the life of people for whom such laws and policies have been framed. Till date poor people are spending huge and unexpected sum in the name of medical treatment in private medical hospitals, payment of tax, revenue etc. but none of such poor and ignorant sections of society could receive information regarding matters like, who has fixed the said amount, whether such sum will be properly appropriated or not. For instance, now a day's various insurance schemes and programmes have been launched for the protection of health, old age, sickness of old age people, disabled and destitute and such others, but due to lack of information on such programmes, deserving people are not getting anything and fund has been misappropriated by others. Equality of opportunity is the hallmark of development and our Constitution has also provided for affirmative action to

uphold the concept of socialism. But due to lack of proper information vulnerable sections of the society are deprived of their due and it is failure of constitutional wisdom.

Today India is counted among the most important emerging economies of the world but employment conditions in the country still remain poor. Recent report highlights that an overwhelmingly large percentage of workers (about 92 per cent) are engaged in informal employment and large majority of them have very low earnings with limited or no social protection. Levels of education and professional and vocational skills are extremely low. Less than 30 per cent of the workforce has completed secondary education or higher, and less than one-tenth have had vocational training.<sup>36</sup> Very low percentage of workers are aware on various laws relating to equal pay for equal work<sup>37</sup> decent standard of work<sup>38</sup>, just and human conditions of work<sup>39</sup>, maternity benefit, collective bargaining etc. Due to such disparity, various labour legislations in India have not had the desired impact in large parts of the country. Honourable Supreme Court of India in a recent landmark judgment has pronounced “equal pay for equal work” to the daily wage employees, Ad-hoc appointees, employees appointed on casual basis, contractual employees and the like.<sup>40</sup> Such pronouncement can never bring any change in the life of those poor people who are aware of only two rights, i.e. right to work and right to vote. For minimizing such inequality laws on freedom of information should reach up to such group of individuals who are contributing in our economic growth but could receive nothing except promise. The Indian Express news report reveals that inside India’s mines one death occurred on every third day between January and June 2016.<sup>41</sup> But no one had information regarding actual numbers of death on such coal mines. Victims were neither given compensation nor had they been heard by any authority. Finance Department of Government of India proudly reveals that eight core infrastructure supportive industries, viz. coal, crude oil, natural gas, refinery products, fertilizers, steel, cement have a total weight of nearly 38 per cent in the IIP, registered a cumulative growth of 4.9 per cent during April-November 2016-17 as compared to 2.5 per cent during April-November 2015-16.<sup>42</sup> But no one bothers on causes of death and fatalities of the workers working in such sectors. Even no single authority is having time to hear worker’s sad story of life and death.

In 28 Indian States and 2 Union Territories beggary is a crime for which the person can be arrested without warrant and confined in rehabilitation home. The object is to rehabilitate them for the purpose of leading a socially responsible life after their return. But how far they are rehabilitated in such home is a big mystery, as we all know the death of over 280 inmates in the Beggars’ Rehabilitation Centre under mysterious circumstances over a period of eight months in 2010 in the State of Karnataka. The State health department revealed that gross violations ranging from financial irregularities, inefficient administration, medical negligence, inhuman attitude of staff are major reason behind such huge death.<sup>43</sup> But after seven years of the incident no action has been taken for the welfare of victim’s family, even no accused was prosecuted for the offence till date. India Today news report says that the Government has spent over 26 corers in last five years on maintenance of five beggar shelters situated in North West Delhi.<sup>44</sup> But how the fund has been utilized, where it has been spent, whether the inmates are getting their due none of us know.

Thus in our country 'rule of law' is having more value than 'rule of life'. Who will make such people aware on their right to information and various other constitutional rights is a question with no answer.

Scam relating to Mahatma Gandhi National Rural Employment Guarantee Act and such other schemes are not new to us; it is day to day report of newspapers. In the year 2011, Sanjay Dixit- a member of the Central Employment Guarantee Council claimed that MGNREGA scam has overshadowed all previous scams in all over India. As per his findings, the size of MGNREGA scam in State of Uttar Pradesh only is worth over Rs. 10,000 crore.<sup>45</sup> Ex Union rural development Minister Jairam Ramesh himself had confessed in the year 2011 that one monitoring committee named National Level Monitors was set up to investigate the matter, but the State Government of Uttar Pradesh had not taken steps on the findings of the recommendations of the NLM report.<sup>46</sup> Finally nothing happened and this became a political issue for the election campaign and another party took advantage of such scam for winning election. It is India where role of law remains silent when the victims are powerless and ignorant.

### 1.8 Conclusion

Nobel laureate Dr. Amartya Sen said that human development index is more important than economic development. In this context, he has compared between Punjab and Kerala. The per capita income in Punjab is more than Kerala, but human development index is higher in Kerala than Punjab. It is higher than even China.<sup>47</sup> It does not mean that Kerala Government has spent heavily upon social sectors like education, health and infrastructure than that of any other Government. But the truth is that people have attained maximum benefit of those facilities which have been provided. Various factors have contributed in their development index and among all awareness of its people is one, due to which they could come out from poverty and destitution. The honourable Supreme Court in the case of Reserve **Bank of India vs Jayantilal Mistry**<sup>48</sup> has said that one of the tool to attain economic empowerment of a nation is to make information available to its people.

Adults form the bulk of our population. About 50 per cent of rural adult people are still live in the darkness of ignorance and illiteracy. National Literacy Survey 2001 report said that out of 561 million literates in the country, 145 million literates are educated only up to 'Below Primary' level and another 147 million up to 'Primary' level.<sup>49</sup> No one can expect that poor, ignorant, illiterate masses can contribute the nation in bringing simplicity, transparency, productivity and efficiency. National Knowledge Commission in its report said that knowledge is a key driver of growth and new knowledge in all areas of natural, physical, agricultural, health and social science can make India able to compete with global development.<sup>50</sup> Thus for the creation of true democratic society, the availability of freedom of information for citizens is critical, especially for enhancing citizen-government interface. The ideal of 'Government by the people' in the preamble of the Constitution makes it necessary that people have access to information on matters of public concern. Free flow of information can pave a way for debate in public policy and fosters accountability in Government. This is a co-operative process where both citizen and government should realize that they are equally responsible towards strengthening democracy. Mere shifting of liability by citizen towards

government can do nothing; rather we should discharge our obligation sincerely and in time. Failure of legislation is not only the failure of the Government but is the failure of democracy as a whole where citizens form a part of it. Thus forward-looking approach of development is required where each should think of his/her individual growth with support of Government. The Right to Information Act 2005 is a very beneficial legislation and it can bring the deprived section towards the mainland of the nation by making them aware on affairs of the Government.

## Appendix

1. AIR 1995 SCC (2) 161.
2. Meghna Sabharwal and Evan M. Berman, 2013, (1<sup>st</sup> Edition), *Public Administration in South Asia: India, Bangladesh, and Pakistan*, New York: CRC Press, P. 261.
3. Perry Keller, 2011 (1<sup>st</sup> Edition), *European and International Media Law: Liberal Democracy, Trade and New Media*, New York: Oxford University Press, p. 17.
4. Article 19 of Universal Declaration of Human Rights: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”
5. Katleen Janssen, 2010, (1st Edition), *The Availability of Spatial and Environmental Data in European Union: At the Crossroads between Public and Economic Interests*, New York: Kluwer Law International, P. 218.
6. “Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law”.
7. Article 9 of the Charter states that:
  - (a) Every individual shall have the right to receive information, and
  - (b) Every individual shall have the right to express and disseminate his opinions within the law.
8. S.P. Gupta vs Union of India AIR 1982 (2) SCR 365.
9. Mahatma Gandhi National Rural Employment Guarantee Act 2005 was initiated with the objective of “enhancing livelihood security in rural areas by providing at least 100 days of guaranteed wage employment in a financial year, to every household whose adult members volunteer to do unskilled manual work.”
10. DeenDayalUpadhyayaGrameenKaushlyaYojana is a Government of India youth employment scheme, launched on September 2014. This aims to transform rural poor youth into an economically independent and globally relevant workforce. It is a part of National Rural Livelihood Mission, tasked with dual objectives of adding diversity to the incomes of rural poor families and cater to the career aspirations of rural youth under the age group of 15-35.

11. Edited by Fred MC Mahon, *The Human Freedom Index 2016, A Global Measurement of Personal, Civil, and Economic Freedom*, The Institute of Economic Analysis, available in [www.cato.org](http://www.cato.org).
12. Amartya Sen, 2001 (1<sup>st</sup> Edition Reprinted), *Development as Freedom*, New York: Oxford University Press, P. 100.
13. Central Board of Secondary Education vs Aditya Bandopadhyay & others (2011) 8 SCC 497.
14. Heather Macneil and Terry Eastwood, 2017, (2<sup>nd</sup> Edition), *Currents of Archival Thinking*, USA: Libraries Unlimited, p. 258.
15. Tom Bingham, 2002 (1<sup>st</sup> Edition), *The Rule of Law*, New Delhi: Penguin Books India Pvt. Ltd., p. 186
16. Edward F. Bergman, William H. Renwick, T. Vasantha Kumaran, 2008, (3<sup>rd</sup> Edition), *Introduction to Geography People, Places and Environment*, New Delhi: Dorling Kindersley Pvt. Ltd., P. 520.
17. Namit Sharma vs Union of India (2013) 1 SCC 745.
18. Rhonda Phillips and Cecilia Wong, 2017 (1<sup>st</sup> Edition), *Handbook of Community Well-Being Research*, United Kingdom: Springer Nature Publishers, P. 488.
19. World Summit for Social Development, Copenhagen 1995.
20. Article 19 (1) (a) of the Indian Constitution, 1950.
21. Article 21 of the Indian Constitution, 1950.
22. AIR 1978 SC 597. P. 619.
23. AIR 1960 SC 554.
24. AIR 1986 SC 515.
25. AIR 1950 SC 124.
26. (1962) 3 SCR 842.
27. AIR 1975 SC 865, 1975 SCR (3) 333).
28. Verinder Grover, 1997 (1st Edition), *Pressure Groups and Politics of Influence*, New Delhi: Deep & Deep Publications, p. 136.
29. "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.....; And WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;
30. Institute of Chartered Accountants of India vs Shaunak H. Satya (2011) 8 SCC 781.
31. Section 2 (f) reads as follows: "Information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force..".

32. section 8 (1) (h) of the Act reads as follows:
33. W.P. (C) 845/2014.
34. C.J.Karira vs CBI (File No. CIC/SM/2012/000374).
35. CIC/WB/A/2007/00422
36. India Labour and Employment Report 2014, Institute for Human Development, Geneva, p. 4, available in [www.un.org](http://www.un.org).
37. Article 39 (d) of the Constitution of India proclaims “Equal pay for equal work for both men and women”.
38. Article 43: “The State shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or to co-operative basis in rural areas.”
39. Article 42: “The State shall make provision for securing just and humane conditions of work and for maternity relief”.
40. State of Punjab vs Jagjit Singh and others CIVIL APPEAL NO. 213 OF 2013
41. Anil Sasi, Inside India’s mines: Between January and June 2016, a death every third day, (The Indian Express, 9<sup>th</sup> November 2016, New Delhi) p. 9.
42. Economic Survey 2016-17, Ministry of Finance, Government of India, available in [www.finmin.nic.in](http://www.finmin.nic.in).
43. Staff Reporter: *Beggars’ death probe yet to reach CID*, (The Hindu, New Delhi, December 28 2010) p. 7.
44. Rakesh Ranjan, *Government spends over Rs. 26 crore on maintenance of near-empty beggar shelters*, (India Today, New Delhi, October 31<sup>st</sup>, 2015), available in [www.indiatoday.intoday.in](http://www.indiatoday.intoday.in).
45. Piyush Srivastava, *UP NREGA scam worth over Rs. 10,000 crore, claims Sandeep Dixit*, (India Today, Lucknow, 29<sup>th</sup> October 2011) available in [www.indiatoday.intoday.in](http://www.indiatoday.intoday.in)
46. Ashish Tripathi, *Jairam Ramesh cites multi-crore MNREGA scam in UP, warns of CBI inquiry*, (Times of India, New Delhi, 25<sup>th</sup> October 2011), available in [www.timesofindia.com](http://www.timesofindia.com).
47. Vijay Kumar, *Integrated Rural Development Program and its Impact on the Socio-Economic Conditions of the Rural Poor*, P. 94, available in [www.books.google.com](http://www.books.google.com).
48. AIR 2015 SCC Online SC 1326.
49. Census of India 2001, Literacy and Level of Education, Government of India, available in [www.censusindia.gov](http://www.censusindia.gov).
50. National Knowledge Commission, Report to the Nation 2006-2009, Government of India 2009, available in [www.knowlwdgecommissionarchive.nic.in](http://www.knowlwdgecommissionarchive.nic.in)