

Right to Information Contemporary Facts and Challenges

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ABSTRACT; this study has been undertaken to find out contemporary facts and challenges under over all regime of Right to Information Law. Since the enactment of Right to Information act- 2002 it has become a matter of immense importance to make governance more transparent, accountable and responsible.

Ours is the world largest democracy the nation has passed the test of time no Nation can imagine about independence, good governance, liberty and fraternity etc. without the adequate reasonable information about works of public authorities.

The renowned French Philosopher Michel Foucault once said that “the power is derived from knowledge and information is basic component of knowledge.” Information makes men wise and it is competent enough cope up with the modern world. Thus it becomes the duty of the Government to inform citizens about day to day happening of whatever within the Government. However, certain information is of strategic information which may be threat to Sovereignty and Integrity of nation such information shall be kept secret. This paper tries to highlight contemporary facts and challenges and also to provide certain recommendation for effective implementation and functioning of Right to Information.

Keywords; Rights, Public Authority, Information, Liberty and Good Governance.

I. 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. The right to information under The Right to Information Act, 2005 as per section (2) sub section (J) means the right to information accessible under this act which is held by or under the control of any public authority and includes the right to

- Inspection of works, documents and records
- Taking notes, extracts or certified copies of documents or record.
- Taking certified samples or material
- Obtaining information in the form of diskettes, floppies, and take video cassettes or in any other electronic mode or through prints out where such information is stored in a computer or in any other device.

Public Authority as per sub-section (h) of section 2 of the right to information act 2005 means any authority or body institute of self-government established or constituted

- (a) By or under the constitution
- (b) By any other law made by parliament
- (c) By any other law made by state legislature
- (d) By notification issued or order made by the appropriate government and includes any-
 - (i) Body owned, controlled or substantially financed
 - (ii) Non-Government organization substantially financed

Directly or indirectly by funds provided by the appropriate government

A well drafted even best law will be proved use less if implementation mechanism and people responsible for implementation mechanism not competent. Since last few years RTI mechanism is insufficient to fulfill the responsibilities.

In India RTI is the need of hours. In the absence of information people can't even live a dignified life and will remain ever marginalized group in society. RTI is a power full instrument to protect the fundamental right of the people keeping this in mind RTI act provides for speedy disposal of request within 30 days of receipt of the request. Provided where the information sought concerns the life or liberty of a person the same shall be provided within 48 hours of the receipt of the request.

In International arena, Right to Information has warmly welcomed and incorporated in various international human right documents. These documents namely – the universal declaration of Human Rights, European Convention for the protection of Human Rights and fundamental freedoms and people rights incorporates right to information as a basic right.

As of now 93 countries in the world have adapted right to information or freedom of information laws, our neighboring countries Bangladesh, Nepal and Pakistan have also adopted similar laws

II. RESEARCH METHODOLOGY

Being an explanatory and descriptive research it is based on the secondary data. The data collection is done through various sources like news paper, article from different journals and from different websites. Considering the objectives, the descriptive research design is adopted for the study.

III. OBJECTIVES

The study has following objectives

- (a) To know and understand the law relating to The Right to Information
- (b) To summarize the historical development of Right to Information in India
- (c) To state the Contemporary Facts of Right to Information in India
- (d) To laid down challenges of Right to Information Act
- (e) To give certain recommendation and suggestion for effective implementation of RTI

IV. HISTORICAL DEVELOPMENT OF RTI

- (i) The first political commitment to the citizens Right to Information came up on the eve of Lok Sabha Elections in 1977 during Internal emergency
- (ii) In 1986 the Hon'ble Supreme Court held that RTI is a fundamental right under Article 19 of Constitution of India. Right to Freedom of speech and expression will be of no meaning without the adequate Information to Citizens
- (iii) In 1994 **Mazdoor Kishan Shakti Sangathan(MKSS)** started a grass root campaign for RTI demanding Information concerning development works in Rajasthan.
- (iv) In 1996 **National Campaign for People's Right to Information** one among several civil society groups was formed with the objective of getting legislation of RTI passed.
- (v) In 1997 **Tamilnadu became the first state in India** to have passed a law on RTI
- (vi) NDA Government introduce the **Freedom of Information Bill, 2000**. Bill was finally passed on 04 December 2002 and it received the assent of President of India on 06 January 2003.
- (vii) In 2004 UPA Government appointed a national advisory council to monitor implementation of Government Scheme and advice Government on policy and law.
- (viii) NAC recommended changes to the existing Freedom of Information Act, 2002.
- (ix) RTI bill 2004 was tabled in Parliament as applicable only to Union Government.
- (x) After heavy lobbying by NCPRI and other organizations the **Right to Information Act, 2005 was passed with 150 amendments**.

V. FACTS

Following facts revealed by Publication of Annual Report 2017-18 by Central Information Commission

Annual Report submitted by Public Authorities as per section 25 of RTI Act, to Commission

Table 1
No. of Public Authorities Registered and percentage compliance in last 13 years.

Year	Total No of PAs Registered (No.)	PAs who submitted returns (No.)	PAs who did not submit returns (No.)	Percentage Compliance
2005-06	938	837	101	89.23
2006-07	1412	1168	244	82.72
2007-08	1597	1382	215	86.54
2008-09	1770	1528	242	86.33
2009-10	1847	1427	420	77.26
2010-11	2149	1452	697	67.57
2011-12	2314	1593	721	68.84
2012-13	2333	1864	469	79.9
2013-14	2276	1651	625	72.54
2014-15	2030	1528	502	75.27
2015-16	2023	1903	120	94.07
2016-17	2092	1964	128	93.88
2017-18	2079	2079	0	100.00

Source: Annual Report 2017-18, Central Information Commission

Table 2

Total number of Public Authorities Registered with the Commission, the percentage of each to the total, those who have submitted Annual Returns and their percentage

S. No	Category	Number of PAs	%age of the total of PAs	Number of PAs who have submitted Annual Return	%age of PAs who have submitted Annual Return
1.	Independent Ministry/Department	110	5.29%	110	100
2.	Department under Ministry	96	4.62%	96	100
3.	Attached Office	175	8.42%	175	100
4.	Subordinate Office	860	41.37%	860	100
5.	Corporation	49	2.36%	49	100
6.	Govt. Autonomous Body	552	26.55%	552	100
7.	Govt. Company under Companies Act	76	3.66%	76	100
8.	Other	161	7.74%	161	100
	Grand Total	2079	100%	2079	100

Source: Annual Report 2017-18, Central Information Commission

Table 3

Disposal of RTI Applications by Public Authorities during 2005-06 to 2017-18

Year/Key Aspects	Number of Public Authorities registered with the Commission	Opening Balance of RTI Requests	No. of RTI Request Received	Total Number of RTI requests= Opening Balance of RTI Request + No. of RTI Requests received	Number of requests for information rejected	Percentage of rejection vis-à-vis number of applications received during the reporting year
2005-06	938	0	24436	24436	3387	13.9
2006-07	1412	12026	171398	183424	15388	9
2007-08	1597	23926	263261	287187	18966	7.20
2008-09	1770	32792	329728	362520	23954	7.26
2009-10	1847	97474	529274	626748	34057	6.43
2010-11	2149	137771	417955	555726	21413	5.1
2011-12	2314	76016	629960	705976	52313	8.3
2012-13	2333	75331	811350	886681	62231	7.70
2013-14	2276	128447	834183	962630	60127	7.21
2014-15	2030	89785	755247	845032	63351	8.39
2015-16	2024	188538	976679	1165217	63666	6.62
2016-17	2092	212430	915749	1128179	60428	6.59
2017-18	2079	225466	1233207	1448673	63206	4

Source: Annual Report 2017-18, Central Information Commission

Table 4

Distribution of application received and rejected by Public Authorities during the reporting year 2017-18

S. No.	Category	No. of Requests Received	No. of Requests Rejected	%age of Requests Rejected
1.	Independent Ministry/Department	234464	5177	2.21%
2.	Department under Ministry	262252	4967	1.89%
3.	Attached Office	52082	1934	3.71%
4.	Subordinate Office	342093	33523	9.80%
5.	Corporation	37178	1234	3.32%
6.	Govt. Autonomous Body	202537	11720	5.79%
7.	Govt. Company under Companies Act	24777	1604	6.47%
8.	Others	77824	3047	3.92%

Source: Annual Report 2017-18, Central Information Commission

This table 4 presents the receipt of RTI application and their rejections by the top 20 (In terms of Number of RTI requests received) Ministries/Departments/Independent Public Authorities of the Government of India During the Reporting Year 2017-18

Table 5

RTI Applications and their rejections in top 20 (In terms of Number of RTI requests received) Ministries/Departments/Independent Public Authorities.

S. No.	Ministry/Department/Independent Public Authority	No. of Requests Received	No. of Request Rejected	Percentage
1.	Ministry of Finance	199923	28145	14.08%
2.	Ministry of Communication & Information Tech.	128382	2591	2.02%
3.	UT of Delhi	119968	1286	1.07%
4.	Ministry of Railways	114219	642	0.56%
5.	Ministry of Human Resource Development	86073	933	1.08%
6.	Ministry of Defence	80223	4043	5.04%
7.	Ministry of Home Affairs	57951	8784	15.16%
8.	Ministry of Personnel, Public Grievances & Pensions	53979	2132	3.95%
9.	Ministry of Labour & Employment	46979	1758	3.74%
10.	Ministry of Health & Family Welfare	35323	644	1.82%
11.	Ministry of Housing & Urban Affairs	30466	190	0.62%
12.	Ministry of Petroleum & Natural Gas	20841	14112	6.8%
13.	Ministry of Road Transport and Highways	16783	162	0.97%
14.	Ministry of Coal	14200	880	6.20%
15.	Prime Ministers' Office	14018	1357	9.68%
16.	Ministry of Agriculture	13540	345	2.55%
17.	Ministry of Consumer Affairs, Food & Public Dist.	11321	282	2.49%
18.	Ministry of Civil Aviation	10665	216	2.03%
19.	Ministry of Social Justice and Empowerment	9933	214	2.15%
20.	Ministry of Commerce and Industry	9672	159	1.64%

Table 6

Section invoked for Rejection of RTI Application.

Sections Invoked for Rejection of RTI Information	2016-17	2017-18	% Decrease/ Increase	No. of Times Various Provisions were invoked while Rejecting Information #
8(1)	51%	54%	3%	38264
9	1%	1%	0%	382
11	1%	2%	1%	1289
24	10%	12%	2%	8554
Others	37%	32%	-5%	22316
Total	100%	100%	0%	70805

Table 7

Number of RTI applications, First Appeals and Second Appeals/Complaints received in top 20(In terms of Number of RTI requests received) Ministries/Departments/Independent Public Authorities

S. No.	Ministry/Department/Independent Public Authority	No. of Requests Received	No. of First Appeals Received	% of RTI request converted into First Appeals	No. of Second Appeals/Complaints Received	% of RTI Converted into Second Appeals/Complaints
1.	Ministry of Finance	199923	24673	12.34	5957	3.00
2.	Ministry of Communication & Information Tech.	128382	10026	7.81	2157	1.70
3.	UT of Delhi	119968	11540	9.62	2972	2.50
4.	Ministry of Railways	114219	14105	12.35	2538	2.20
5.	Ministry of Human Resource Development	86073	15006	17.43	1530	1.80
6.	Ministry of Defence	80223	14840	18.50	1620	2.00
7.	Ministry of Home Affairs	57951	7149	12.34	1119	1.90
8.	Ministry of Personnel, Public Grievances & Pensions	53979	4819	8.93	683	1.30
9.	Ministry of Labour & Employment	46979	4013	8.54	504	1.10
10.	Ministry of Health & Family Welfare	35323	3670	10.39	505	1.40
11.	Ministry of Housing & Urban Affairs	30466	688	2.26	547	1.80
12.	Ministry of Petroleum & Natural Gas	20841	2365	11.35	506	2.40
13.	Ministry of Road Transport and Highways	16783	472	8.77	105	0.60
14.	Ministry of Coal	14200	2178	15.34	477	3.40
15.	Prime Ministers' Office	14018	2162	15.42	276	2.00
16.	Ministry of Agriculture	13540	969	7.16	261	1.90
17.	Ministry of Consumer Affairs, Food & Public Dist.	11321	1263	11.16	163	1.40
18.	Ministry of Civil Aviation	10665	959	8.99	206	1.90
19.	Ministry of Social Justice and Empowerment	9933	458	4.61	111	1.10
20.	Ministry of Commerce and Industry	9672	607	6.28	142	1.50

Table 8

Total Amount Collected by Public Authorities

Year	Amount In Rupees
2013-14	11406379
2014-15	10507823
2015-16	11801495
2016-17	10912868
2017-18	12628475

VI. CHALLENGES OF RIGHT TO INFORMATION

The Right to Information has following challenges

- i) The General and common problem that every law in country is facing is illiteracy which is a major challenges before successful implementation of RTI. Although procedure and format of application is quite easy but too far to be in reach of illiterate people. There is no government mechanism to help them.
- ii) Poverty is another major challenge not right to information but any right do not have any meaning to those who do not have enough money to live. Poor peoples, right is much more infringed than other people.
- iii) Retired bureaucrats are appointed at the highest level of CIC/SIC officials although they re independent of government but they show sympathetic attitude towards their fellow government officials.
- iv) Lack of availability of resources to CIC/SIC reduced its efficiency and immediate effect of law cannot be felt by applicant
- v) Sense of insecurity among RTI activist is also a major problem. Many RTI activists have been murdered just because they were raising their voice against corruption and became a problem for locally powerful people.
- vi) In current law there is only a financial penalty of rupees 25000(maximum).This amount is of no importance to those who are involve in scams and corruptions etc.
- vii) Lack of awareness among people about RTI is major challenges before successful implementation of Right to Information Act. People particularly in rural area are not concerned with the Right to Information.
- viii) Lack of effective co-ordination and co-operation among state information commissioners and the non co-operation of departments with PIOs hinder the process of smooth implementation of RTI Act.
- ix) Non Co-operation from the part of Bureaucracy is another major hurdle before RTI implementation in India. The colonial mind set makes them to use information as their own prerogative to prove their superiority the bureaucracy don't want to disclose basic information.
- x) Implementation of RTI Act requires the Pubic Information Officers (PIO) to provide information to the applicant through photocopies, soft copies etc. These facilities is not available at Block Level/Panchayat Level, PIO claims it is a hurdle in implementation of RTI Act.

VII. RECOMMENDATIONS/SUGGESTIONS FOR EFFECTIVE IMPLIMENTION OF RTI ACT

- i) Section 20 of the RTI act shall be amend, where it is proved beyond the shadow of doubt that CPIO/SPIO as the case may be, has without any reasonable cause, refused to receive an application for information or has not furnished information within time specified under sub- section (1) of section 7 or wrongly denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, then such CPIO/SPIO be punished with
 - (a) Imprisonment up to 3 years, or
 - (b) Fine of not less than 3 months alary subject to maximum of 1 years' salary
- ii) Awareness of any law is very essential for its implementation. NGO's, Civil Society group shall take initiative for massive awareness to educate citizens about RTI act. This awareness program shall more on gross root level i.e. at village level, block level and district level.
- iii) CPIO/SPIO shall be of higher rank officer. Such officer must be competent enough to understand the importance and objective of RTI law. First Appellate Authority must be gazetted officer or Head of Department.

- iv) Application fees of RTI shall be increased to rupees 100 as it has not be revised since the implementation of Act.
- v) It is moral, legal as well as constitutional duty of government to protect the life and property of RTI activist and users and to take strict legal action against the attackers. If the attacker is government official he/she should be punished more than that of non government attackers.
- vi) Some notified agency under schedule 2 shall be withdrawn, and non-strategic information must be available to citizens.
- vii) As the nodal administrative authority at the district level District Collectors must be give responsibilities of monitoring and implementation of RTI act by various departmental authorities within their respective districts.
- viii) Children are considered for the future of a nation. Therefore RTI should be added to the school syllabus to arouse curiosity of children about RTI.
- ix) CIC/SIC shall have adequate number of resources to speedy disposal of matters. Pendency time in any case shall not be more than one year.
- x) There shall be fast track court for disposal of any matter relative to RTI such as criminal offences against RTI activist, punishment to SPIO/CPIO etc.
- xi) Not only CIC/SIC but all Central Information Commissioners and State Information Commissioners shall be retired judges of high courts or Supreme Court.

VIII. CONCLUSION

Thus it can be rightly mentioned that Right to Information Act is an agent of good governance it makes administration more accountable to the people. It makes people more aware about 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 peoples' interest, hence its success also depends on how they exercise the act. More ever, there is need for active participations from people, NGOs, Civil Society Group, Co-ordination among RTI officials, integrity among government departments and political will from Government and elected leaders.

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