

INFORMATION AND LAW

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Abstract

The purpose of the paper is to highlight the conceptual framework of Right to Information, its role in improving social, economical, political and cultural development and the problems associated with the industrialization in India. In this paper an attempt is also made to discuss the various constraint and limitations of Right to Information in India. The findings of the paper will help the planners to frame an exact and benefiting policy for legislative provisions on right to information in India.

Keywords: Right to Information, Freedom of Information Act, The Right To Information Act, 2005.

INTRODUCTION

In the era of welfare, information to the common people is a pre-requisite for the creation of any democratic setup, means meaningful participation of the people in the public affairs, because without being properly informed regarding government functions such setup cannot be existed. A democratic government must and need to be sensitive towards the public estimation, for which information must be made available to them. Transparency, openness and accountability are the very basic postulates of any responsive, responsible and accountable government. Effective accountability rests on the people's acquaintance with the information and circumstances for the decisions taken. The government which pursues secret aims or operates in secrecy tends to lose the faith of the people and thereby lessen its own legitimacy and credibility. Openness and full access to information are two pillars of any democratic state.

The right to information not only improves the governance but also makes the administration of the corporate houses and industries which operate only for profit, more transparent and accountable. That is why the right to information has now been recognised as an essential requirement for the good governance. Moreover, information works like oxygen for any democratic society and also considered as one of the best sterilizer for a number of vices. It is very much essential that all men and women must be given an equal opportunity for joining the process of development through collective thinking, in all social and cultural environments, with new ideas and more positive actions must be taken to shake off the existing inertia. Information is a key that helps anyone to make the correct decisions. Sharing information also helps the nation to put up a strong cadre of knowledgeable citizenry who can contribute significantly in the democratic procedure and execute their responsibilities competently.

Transparency is the essence of the representative form of government in a democracy. In addition, it ensures accountability of institutions of governance because they hold the authority and power on behalf of the people - - the great master, author and founder of the society. As emphasized by Edmund Burke, "All persons possessing a position of power ought to be strongly and awfully impressed with the idea that they act in trust and are to account for their conduct in that trust to the one great master, author and founder of society". Thus the state is not only under obligation to respect the right of the people regarding

transparency but also to ensure availability of the means by which the right to acquire legitimate information can be meaningfully, efficiently and effectively enjoyed..

“Nearly fifteen years ago when the parliament passed the right to information Act, it was hailed as one of the most powerful and path-breaking legislation. The idea was that successful right to information applications would go a long way in making government responsible and accountable, thereby having a positive impact on governance. Unfortunately some fundamental conceptual issues have emerged that prevent the right to information from creating systemic transparency.

The successful accomplishment of the Right to Information Act, 2005 depends on three elementary shifts, namely, from the customary society of secrecy to a new society of openness; from personalized authoritarianism to authority coupled with answerability; and finally from one-sided decision-making power to participative governance.

IMPLEMENTATION OF THE RIGHT TO INFORMATION ACT

Corruption, favoritism and nepotism are mainly considered as the result of the secrecy. Many of the well planned programmes, schemes and policies of economic development as well as social upliftment are made but in the absence of any genuine and timely information, common people of the country remain far from being benefited. Prior to the enactment of this Act, secrecy and confidentiality existed in the government machinery as it was the policy of the government to keep the entire matters secret and away from the public so as to preserve their supremacy over them.

Since the Right to Information Act, 2005 came into effect; it only endeavours to ensure the transparency, openness and accountability in the working of all the public institutions. This Act is considered a landmark and an exceptional legislation for a numerous reasons, the most significant of these it recognizes the common people of the country a right of access to information. It set out a deadline for the execution of such right available to the common people of the country and made every public authority liable to publish the detailed information relating to the organization and its policy.

As a result it can easily be seen that there has been a vital change in the governance from secrecy to the openness and the concept of secrecy almost came to an end. The common people of the country are legally entitled and empowered in seeking any information from the public authorities until the required information comes within the exempted category. The moment RTI Act, 2005 came into force the sense of accountability, responsibility and openness in the governance has been increased.

On the one hand merely enacting any legislation on any subject may not be sufficient unless and until the common people of the country are cautious, vigilant, observant as well as assertive relating to their own legal rights and on the other hand the public functionaries are approachable, responsive, receptive, quick to respond and co-operative in providing the required information. To ensure the implementation of the Right to Information Act effectively, it is very much essential that the provisions of this Act must be reached to and empower the common people, including the poor. It essentially requires the people's participation in the smooth functioning of the governance, and the government accountability towards the people for transparency in the entire system.

POSITIVE EFFECT OF THE RTI ACT

As it is considered that the enactment of the Right to Information Act, 2005 is a praiseworthy step, which covers not only the public sector but non-governmental organizations as well as the private sector also up to a certain extent (public interest override). It is possibly one of the toughest legislations in the world which imposes penalty on the erring Public Information Officers. Approximately ten years after its execution, it can be said that the response to the RTI Act has been reasonably positive. The common people of India are now gradually realizing the significance of the power of information and started using their rights in progressive numbers, public authorities are also becoming aware about their responsibility for furnishing the information. The execution of this Act has taken place in the whole nation, however, the pace and growth of execution varies from state to state. This Act has brought a 'drastic' change in the government and bureaucracy functions. Now the era of closed, secretive, inaccessible, hidden, inward-oriented administration came to an end. Gradually but progressively, the various government departments are being trained in the execution of provisions of the Act.

The experience of the last ten years has shown that the people of different social strata are invoking this Act for a variety of reasons and in most of the cases this Act has proved pretty successful in preventing the irresponsible behavior of administrators, indulging in political and administrative corruption. Many of the citizens having a strong zeal to fight against the corruption get remedy of the RTI Act and most of them have been successful in defending their civil liberties, provided the Public Information Officer's concerned have acted responsibly. Certain road blocks are found in a weak position for the smooth operation of the Act and these have to be mending so as to bring a pervasive transparency in administration.

CHALLENGES IN THE EFFECTUAL EXECUTION OF THE ACT

The congratulatory achievements of the RTI Act as mentioned above, however, it is only the one side of the coin and on the other side some of the critics found that this Act is to some extent ill- framed and also over-exhaustive. It is also found that there are some sensible difficulties in the execution of various clauses. This seems to be a great negative unfairness, not in favor of the government functionaries or public authorities in the formulation of the Act and also generating a feeling that they are the actual culprits of the scheme of democratic governance. The information seekers also have some of the genuine concerns and queries regarding the Act. Further, taking into considering the socio-political and economic conditions of India, this Act appears somewhat utopian in nature so far poor and illiterate masses are concerned. The Act, at the maximum, dish up the needs of the elite segment though in a limited way because short of the infrastructure and absence of transparency in the administration.

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