THE RIGHT TO INFORMATION AND THE ROLE OF INDIAN JUDICIARY: A TORCHBEARER IN THE ROAD TO DEVELOPMENT

Dr. Showkat Ahmad Wani
Assistant Professor
Lovely Professional University, Phagwara.

Abstract
The Right to Information Act (RTI) has achieved a calm vote based unrest, and has assumed a basic job in the nation's administration in nearly every nook and corner of the world, RTI users and activists pose questions about varied topics. The Act has had a greater effect on deprived and disadvantaged quality of life. The Act has brought in major improvements to corruption and transparency standards. RTI is a powerful resource which can offer essential social benefits. It strongly supports democracy and promotes good governance by encouraging people to participate effectively and sustain governance.

The privilege to data is an essential right which streams from Article 19(1)(a) of India's Constitution is presently an all around settled recommendation. The Apex Court has more than once administered throughout the years for the privilege of the residents to know. The author craves to analyze the efforts being done by the Indian Judiciary to provide the justice to citizens through its verdict regarding RTI and the impact of its verdict in preventing corruption. The paper will also focus about the flaws of the RTI and the role of Indian judiciary.

Keywords: RTI, India, judiciary, Constitution, citizen.

Introduction

“When information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and - eventually - incapable of determining their own destinies.”

-President Richard Nixon

Jurisprudentially, a “right” is an enforceable and legally accepted attribute. The moral equivalent of a right is an obligation and the correlative of a right is a duty. When requested there is a statutory responsibility to provide information to the public. There used to be a common deprivation of wisdom about "rights" before the advent of welfare state. Written constitution and consequent security guarantee led to the introduction of
several new forms of law which were previously prohibited. In the underlying long periods of the administration of the nation, a significant undertaking was to authorize laws to satisfy the Constitution vow expressed in the prelude, for example opportunity, correspondence and equity.

Since then the Perpetual Governments also adopted legislation intended for the general welfare in the country and people in it. However, soon it was understood that given the best and fair endeavors of the administration, there was a general absence of progress concerning the individual resident. There was evidence to indicate that by using the Official Secrets Act, lack of transparency and intelligence shielding brought about watering down the guarantee of equity, equity and opportunity. Debasement at all degrees of government has subsequently made the political structure smell with the interests of covered individuals.\textsuperscript{i}

RTI is a powerful tool which offers important social advantages. It offers solid help for majority rule government and empowers great administration by reinforcing the person's entitlement to take an interest effectively and keep government delegates responsible. In most countries, instead of merely providing information, the RTI Act has gone about as a critical guard dog to guarantee that each one of those subject to work in consistence with the principles and guidelines, without encroachments by any means. The RTI Act in India is presently experiencing a basic procedure and substantially more should be done to advance its development and improvement.\textsuperscript{ii}

**Right to Information is a basic right**

This is acknowledged mainly that, “knowledge is considered vital key to the progress of a democratic society. The "right" to have the knowledge is a tool for inspiring a proactive community.” Highlighting the value of the right to truth, the former Indian Supreme Court judge, Justice V.R. Krishna Iyer, has aptly quoted some verses from Rig Veda:

> “From the Rig Veda downwards the Indian heritage has been an eclectic universality and cultural hospitality for creative ideas and educative information.” \textsuperscript{iii}

Article 19 (1) (a) of the Constitution of India sets out the basic structure for safeguarding the right of Indian citizens to do so. Under Article 19 (1) (a), freedom of thought is the basis of freedom of speech and of expression. In any case, in advancing harmony and flourishing the Universal Declaration of Human Rights set up the right to speak freely of discourse and the free progression of data as principal human right. While Article 19 (1) (an) enables the resident to acquire data, it is Article 21 which ensures the privilege to life and the privilege to individual flexibility for the resident. In such manner, Article 21 ensures a scope of opportunities. Article 21 qualifies all people for recognize what the option to get to data involves. The embodiment and reason for Article 21 is far more extensive than statement (1) Article 19. Consequently, judicial activism allows the courts to extend their reach.

The Apex Court in *P.U.C.L. v. U.O.I.*\textsuperscript{iv} held that:

> “Fundamental Rights themselves have no fixed contents, most of them are empty vessels into which each generation must pour its contents in the light of its experience.”


Judiciary’s role in the construction of the right to know

There is no question that India's judiciary, particularly the Indian Supreme Court, has, over the past few decades since the constitution was adopted, led to the understanding, development and enforcement of several protections for the benefit of Indian people. Several recent judgements have rectified Indian legislature and executive lapses.\(^v\)

The Court narrowly extended its view on the right to information under Article 19 (1) (a) in *Secretary, Ministry of Information and Broadcasting, Government of India v. Cricket Association of Bengal*\(^vi\). The Court argued that:

> “The right to freedom of speech and expression includes the right to receive and impart information. For ensuring the free speech right of citizens of this country, it is necessary that the citizens have the benefit of plurality of views and a range of opinions on all public issues. A successful democracy posits an unaware citizen’s diversity of opinions, views, ideas and ideologies is essential to enable the citizens to arrive at informed judgment on all issues touching them.”

The Apex Court made it clearer that Article 19 (1) (a) includes the right to know itself.\(^vii\) that right to know is implicit in the right to freedom of expression and speech. The rule must be to disclose information about the Government’s functioning.

The Apex Court’s formation of the “right” can be also followed back to its judgment in *U.P v. Raj Narain*\(^viii\), which observed:

> “Freedom of speech and expression includes right of citizens to know every public act, everything that is done in a public way, by their public functionaries.”

The Apex Court has ruled that liberty to speak and express freely covers people's right to learn government affairs in *Dinesh Tribedi v. Union of India*\(^ix\). The Honorable Court has repeatedly stated that freedom of speech and expression is central to a democratic polity and is indivisible from it. This requires the option to transmit and get data. The purposes behind monumental reasonable confinements on the right to speak freely of discourse and articulation are explicitly planned to guarantee that the said right isn't practiced in such a way as to imperil India's poise and authenticity, national security, agreeable ties with the remote world, open request, ethical quality.

The Court, in this way clarified an individual has the option to get data and that privilege gets from the guideline of the right to speak freely of discourse and articulation alluded to in Article 19 (1) (a).

The emphasis on the right to know has been expressed in the following words: “No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government. It is only when
people know how the government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory.”

Based on above discussion one can conclude about relation between the right of people to gather information and the transparency of government has been firmly established. The Apex Court read the right to information in R.P. Newspapers Limited v. Indian Express. The Court held that information is an important part of participatory democracy.

Considering worldwide advancements as contrasts are contracting, universal social orders are meeting up for collaboration in different spaces and moving towards a worldwide "freedom" must be conceded an extended importance. The idea can't be restricted to the unimportant absence of body limitation. Expanding to a full spectrum of rights including the right to hold a particular viewpoint and the right to maintain and cultivate that view is fairly broad. To maintain and cultivate the opinion, the receiving of knowledge becomes important. Article 21 gives all individuals the right to know what the right to access information contains. The Apex Court in Dinesh Trivedi v. Union of India are quite pertinent in defining the right to information “In modern Constitutional democracies, it is axiomatic that the citizens have a right to know about the affairs of the government which, having been elected by them, seeks to formulate sound policies of governance aimed at their welfare. However, like all other rights, even this right has recognized limitations; it is, by no means, absolute.”

Another decision to be referred is the case of Bengal’s Secretary, I & B Ministry v. Cricket Association. While addressing the issue of the right to receive a television event done an agency of its choice, whether national or foreign, the Court said that, “the right to impart and receive information is a species of the right of freedom of speech and expression guaranteed by Article 19 (1) (a) of the Constitution. A citizen has fundamental right to use the best means of imparting and receive information and as such to have an access to telecasting for the purpose.”

Judiciary also not exempted from RTI purview

In addition to the RTI Act, 2005, there may also be other laws where a person can deprive him of knowledge. For example, under the sections of the Judges Enquiry Act, 1968, the Chief Justice of India can withhold from the public the report of an investigation brought against High Court justice. Supreme Court, of India, in Indira Jaising v. Registrar General, the Committee made an investigation report to the CJI in regard of supposed inclusion of sitting appointed authorities of the High Court of Karnataka in specific episodes. In nature it is simply primer, specially appointed and not last. Furthermore, the Court held that free progression of data to residents in a popularity based system is essential for appropriate working, particularly in issues that are a piece of the open record. Anyway the privilege to data isn't outright.

The Judiciary is not out of the reach of RTI Act, 2005 except on the limited grounds mentioned under the Constitution of India, RTI Act, 2005 and other statutes. In fact, people of India have great faith in the
Judiciary of India. This is natural as well since it is functioning as per the Constitutional norms. Now what is expected from the Judiciary at this stage is to throw away extraneous applications under the RTI Act, 2005 at the threshold and to allow all other genuine applications to the maximum possible extent. The Judiciary must voluntarily come forward to meet this democratic ideal. The same is expected from the Judiciary and it will once again meet our expectations: We, the People of India.\textsuperscript{xiv}

“The most revolutionary feature of the Act is that there is no need for the information seeker to provide any explanation for this or to prove their locus standi. The absence of adequate public awareness, particularly in rural areas, the lack of a proper system for storing and disseminating information, the lack of capacity of public information officers (PIOs) to handle requests, bureaucratic attitudes and attitudes, etc., are still considered to be major barriers to law enforcement.\textsuperscript{xv}

**Conclusion**

The law has allowed individuals to join their cause and expose cases of governance maladministration in less than 10 years.

“RTI is seen as a gateway to strengthening participatory democracy and leading people-centered governance. With access to information on their hand, people can better serve as an educated and responsible citizenry-investigating and scrutinizing government actions and evaluating their elected representatives’ results with a view to keeping them strictly accountable.

Individuals can access information on how officials deliver on their commitments, how the bureaucracy spends public money and how representatives interact with special interest groups. Without good governance, no amount of development schemes can bring about improvement in the citizen's quality of life. Good governance has four elements: openness, accountability, predictability and involvement.\textsuperscript{xvi}

The RTI has sunk into a horizon of such a domain where it has experienced multiple shades of consequences and implementations. Advantages and disadvantages are part and parcel of such enactments, but the bottom line remains that the implementation must be on the basis of the plan and dedication expected.”

\textit{“It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood.”}  \textit{James Madison}

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