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Right to Information in India: Indian Perspective

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ABSTRACT

This Article examines the role of right to know or right to Information in India and its use and misuse within the territory. It further states how it helps to maintain a good governance in the state by implementing the right to know under freedom of speech and expression. Right to information is a basic fundamental right which is provided by the Indian constitution to each citizen. The work has been taken up with the objective to analyse the conceptual framework of Right to Information and study the role of Right to Information in improving governance and analyse the constraint and the problems associated with the provisions of Right to Information Act, 2005 in governance in India.

Certain suggestions such as spreading awareness even at remote areas, enforcing disclosure policies, equality among the State Governments. Further, information seekers and holders be prevented from being harassed, capacity building and training sufficient budgetary stipulation sufficient manpower, management of records, etc were given to improve the RTI. It has also discussed the advantages and disadvantages of the RTI Law.

Keywords: Right to Information, good governance, democratic, RTI, good governance.

Introduction

In a democratic form of government, it is the responsibility of the government to work in transparency regarding to all the policies and frameworks.¹ That is why in a democratic country, people are considered to be supreme and government works on behalf of the people. Therefore, people have every right to know what the system is doing in their name so as to adjudge the performance of the government by getting information on each and every decision being taken by the government. Being a citizen, they have a right to know what, how and why of any decision, changes or continuity regarding or of its functioning.

Right to Information has a vital role to play in a country like India, it helps in building a trust between the government and its citizens. RTI is indirectly a fundamental right, thus available to all the members of the state. It has its traces long ago in the history, during the times of Kautilya, good governance is also being discussed in the Ramayana and Mahabharata.

Right to Information being considered a part of Part III of the Indian Constitution under Article 19(1)(a) i.e.; Freedom of speech and expression. Freedom of speech is considered to the life-blood of democracy.² The democracy expects openness and openness is a concomitant of a free society. The openness is possible only when the 'right to know' is exercisable by the people who can use it to keep a check on the bodies that govern them. The Information is that

¹Dr. Sukanta K. Nanda, Media Law 2, (Central Law Publications, Allahabad, 1st edn., 2014).

²Part III of constitution of India, 1950.

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key which provides us the knowledge to demand political, economic and social rights from our government which we are entitled to know in a democratic set up. A citizen cannot achieve knowledge unless he has certain basic freedoms such as freedom of thought, information, conscience, speech, expression, locomotion and so on and so forth.³Therefore, a responsible government has onerous duty towards its citizen from which it cannot runaway as barriers to information facilities arbitrary decisions, manipulations, clandestine deals and manipulations.⁴

Citizens are asset to a nation; it is government's duty to provide them information which is relevant for them to know. Earlier the information was only limited to human-to-human transactions; but nowadays after evolution the word information is a totally different concept and has different meanings in different fields. Each citizen has right to seek and receive information from the government and public authorities. The government can only deny under certain circumstances, rejecting the application after specifying the reasons to the applicant. Good governance and right to information work jointly with each other, if one of them is not implemented properly the other will also fails with its objective towards the nation. Therefore, right to information plays a vital role in maintaining a good governance in India.

Information

Traditionally, information is based on human-to-human transactions but with the evolution it has changed a lot. Now a whole new means and ways of information and its transfer have been developed in the country such as newspapers, internet, social media, magazines, etc. Indian government with their efforts is still trying to figure out all the essence of information as a word.

India being a democratic nation has been interrelated with the concepts of transparency and openness. Main object of the concept of information is to consider the human intellect and transfer them the facts. It is necessary that these powers to confer the news must be exercised in an appropriate manner. Information came from the Latin term "informare" which in simple words means fashion, shape, or to create to give from to, information basically refers to the facts provided through or by different means or sources. In the Right to Information Act, 'information' is defined as any materials in any form including the records, documents, reports, contracts, papers, advices, e-mails, samples, models, data, material, etc whether in document form or in electronic form, wit can be accessible to the public authority under the law.

Information is accessible to the all the citizens through different modes. It ensures the public participation in all the state policies and affairs. It is important for the information holders and seekers to use it in an appropriate manner.

Right to Information

Right to Information is the right provide to each and every citizen of India. In general words, it means an individual has a right to seek and receive information from the government and its officials, such officials are mainly called Public Authorities. In India, right to information is covered under the Article 19(1)(a) of the Constitution of India i.e.; freedom of speech and expression. It has been universally accepted that in a country democracy, liberty and rule of law are the three pillars of a civil society. Protection of Citizen's right and liberties are the State's utmost function to serve the interests and welfare of its people, its susceptibility to public opinion constitute the basic functions of the State in a Civil Society. The extent of exercising this right depends upon the country's economic and social wellbeing. In order to establish transparency and openness in the civil society, the right to information serves as an effective tool for a vigilant citizenry.

The concept of democracy in India is enshrined in the Preamble to the Constitution of India wherein opening words provide that "We, the People of India "and in the end it lays down" give to ourselves this Constitution".⁵The citizens have the fundamental right to know what the government is doing in its name. Freedom of speech is considered to the life-blood of democracy.⁶

In the case of *K. v. Secretary of State for the Home Department Ex. P. Simms*,⁷ it was held by the apex court that, the free flow of information and ideas informs political debate, it is a safety valve for people to be ready to accept decisions that go against them if they can in principle seek to influence them. It acts as a brake on the abuse of power by public officials. Thus, facilitates the exposure of errors in the governance and administration of justice in the country.

From the earlier times the right to information and right to know has its own significance. In Ramayana and Mahabharata, it is also being discussed. Later on, in the British era it was established in many parts of the world but not particularly India. It was developed or originated in the country of Sweden in 1761. Ancient India had a feudal culture and hierarchical social structure. It was After independence India adopted democratic form of government, which implies the government of the people, by the people and for the people. Here, society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing. The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of government. It is only if people know how government is functioning that they can fulfil the role which democracy

³A.B. Srivastava, *Right to Information* 11, (2006)

⁴Justice P.B. Sawant, Former Chairman, Press Council of India in Times of India Delhi dated 6-7-1996.

⁵The Constitution of India, 1950.

⁶INDIA CONST. Part III

⁷LR 2000(2) AC 115.

assigns to them and make democracy a really effective participatory democracy.⁸

In the case of *S.P. Gupta v Union of India*⁹, Supreme court held that 'the citizens' has right to know the facts, the true facts about the administration of the country and thus, is considered one of the pillars of a democratic State. Therefore, the demand for openness in the government is increasingly growing in different parts of the world.

At first an Act called Freedom of Information Act, 2002 was enacted by the Government of India to establish the right to information and to ensure openness and transparency. It was a great initiative, even though the Article 19(1)(a) of the Indian Constitution provides this right but there was a need of a particular legislation so that it can be used in proper way. Hence there was establishment of right to know through the provisions of this Act. Although, this act came up with some discrepancies, it failed to fulfil the aspiration of the citizens of India. In order to provide a meaningful and greater effect to the law of right to information, the act need to be made more progressively and participatory but it failed. So then the Act was recommended to the National Advisory Council, it was decided to repeal the Act and to cease its further use. Later on, a bill was introduced called Right to Information Bill proposed by the National Council. Government repealed the old Act Freedom of Information Act and introduced the Right to Information Act, 2005, to ensure transparency and openness. Its main object was to set out the aim of Preamble of the Indian Constitution promoting the accountability of public authorities towards the common man.

The Indian Perspective

The privilege of secrecy that existed long back during the Colonial British rule in India, no longer survives in the present-day democratic set up of governance and the State can no longer be allowed to function in an arbitrary and vindictive manner of keeping the public in dark about their governmental and also administrative activities.¹⁰ Thus there was need for particular legislation to promote the accountability, transparency and openness among the public authorities and the citizens within a state. In India after the Freedom of Information Act, 2000 was repealed, Right to Information Act, 2005 was introduced and was passed by the Parliament of India. Before the enactment of this Act there were many different efforts for establishing a new legislation, there were many campaigns and movements to support the RTI Law. Some of them are:

- (a) Mazdoor Kisan Shakti Sangthan Campaign (MKSS);
- (b) The National Campaign on People's Right to Information;
- (c) The Commonwealth Human Rights Initiative Campaign (CHRI);
- (d) Consumer and other groups, etc.

Some states also started adopted this Law i.e.; Right to Information such as TamilNadu, Karnataka, Goa, Rajasthan, Delhi, Maharashtra, Uttar Pradesh, Bihar, etc. Therefore, the Act begin to fulfil the main objectives of the RTI Law.

Right to Information Act, 2005 has been enacted by the Parliament for setting out the practical regime of the Right to Information in India. The right to information Act is a recognition given to the fundamental right provided under the Constitution of India, making it possible for the people to participate and express their opinions and views upon state policies. It is a mandate under the Article 19(1)(a) to give effect to the implementation of the right to know for all the citizens.

➤ Object of the Act

The main object of the Act is to justify the Preamble of the Constitution as well as the Right to Information Act, 2005 respectively. It is a practical regime to provide the right to information to all the citizens across the country. In order to ensure transparency and accountability, this act made the public authorities answerable to the common man. They can seek and receive information by following some simple steps are prescribed under the Act. In case of conflict there are two commissions set up accordingly under the Act i.e.; State Commission and Central Commission to resolve and consider such conflicts.

Under the Act, we can say there are three main objectives:

- a) Main intention is to set up a practical regime of this right, right to information for citizens to have access to the information through public authorities;
- b) To ensure transparency and openness within the state; and
- c) Provides a remedial structure by establishing the State and Central Commission.

➤ Application of the Act

The Right to Information Act,2005 extends to whole of India except the state of Jammu and Kashmir as stated under the Section 1(3) of this Act. It came into force on 12th October, 2005. The Public Information Officer as provided under the Act has to provide information to the applicant as requested if all the prescribed requirements are fulfilled.

⁸Vohra Ranbir, *The Making of India: A Historical Survey* 126 (2001).

⁹AIR 1982 SC 149.

¹⁰Dr. N. V Paranjape, *Right to Information Law in India* 3 (Lexis Nexis, 2014)

➤ Process to seek information

RTI application can be filed through a simple and hassle-free procedure. The applicant has to write the application in any language English/Hindi/the local language of the state as prescribed. It should be written to the address of Public Information Officer of the concerned department, the application must be precise and specific. It must contain all the necessary details such as name of applicant, address, issue, question, etc. Thus, after paying the prescribed fee under the Act the RTI application must be submitted to the via registered post. Afterwards, an acknowledgement will be received by the applicant through the PIO of if submitting in person then the acknowledgement should be taken by the person himself. The application can be filed in writing and also through internet on the online portal.

➤ Exemptions from disclosure

Section 8 of the Right to Information Act, 2005 discussed some exemptions from disclosure of information. There shall be no disclosure of information that affects sovereignty and integrity of India, economic interests of state, foreign relations of the state, information resulting into incitement of an offence, defamation, decency and obscenity, contempt of court, sedition or anything against the public order, etc. Such information is being exempted from disclosure by the Public Authority under the Act of 2005.

Advantages and Drawbacks

RTI stands for Right to Information, it was passed by the Government of India for the welfare of the people. It was passed as an independent act in the year 2005. This right empowered the citizens to access the information, it made the relationship of government and the common man stronger. This service is provided to each and every citizen, the application must be answered within the 30 days from the application filed.

This Act or we can say right has proved to be both a boon and bane for the citizens of India. The sense of involvement of the citizens must be reasonable and justifiable. RTI being considered as a fundamental right requires the judgment and the issue that must be answered by the public authority. Th citizens have the responsibility to use this right in an appropriate way for the welfare of society not to harm the society.

Advantages of Right to Information-

a. Empowering the citizens

India having a tremendous population of 136 .64 Crore is a large nation to manage. It is a tough job for the government to look at every citizen's needs and expectations. RTI is an initiative to empower the citizens, to make them aware about the right. It created a friendly environment between the government and the common man where they can communicate with each other.

b. Promoting Transparency

The rightto information is all about promoting transparency between the government and the citizens. The citizens have the right to seek and receive information by writing a simple application to the public authorities, they have to answer within a prescribed period of time. Thus, promoting the transparency the PIOs have to answer with accountability and openness, they have to be transparent with the individual/ applicant.

c. Protecting the information

The selected queries of certain selected people, those queries which are regarding any concerned issue these will be allowed by the concerned RTI department. The rightful information will be provided to the citizens and other information will be protected by the government officials.

d. Reducing corruption and poverty in Nation

This right also helps in lowering the rate of poverty and corruption. India being the 2nd most populous country in the world, the corruption and poverty has increased over the decade. Corruption is an act which is not done accidentally by the person, an individual committing the offence of corruption is punishable in India. Right to Information is the one which keeps a check on such discrepancies of the nation.

e. Increase in public participation

RTI increase the public support and participation within the territory. The citizens of the nation through right to information always have a say on all the state affairs and policies. Common man will be participating in the nation, information will be provided to them and then they can access the information. Once information provided, they can have a clear opinion and judgment about the state policies and can convey them by exercising their rights.

Drawbacks of RTI

a. It spreads unnecessary chaos among the citizens as most of them are not aware about their basic rights also. India being a big nation sustains more drawbacks because of its population, it creates unnecessary disturbance among the general public. Several cases have been filed about the information being used illegally or to defame any person or to spread public hatred and disturb public law and order.

b. Government has appointed several Public Information Officer (PIOs) who provide information to the applicant. But sometimes these officers can also yield wrong information and deliver it to the applicant which can result into chaos. They should can in a responsible manner.

- c. It is hectic and a time-consuming department, it is difficult to provide all the information in time to the citizens. It can cause delay and can waste the time of the citizens. RTI being the basic right sometime being acted by the citizens unnecessary which can lead to wastage of time.
- d. Burden upon the authorities and the government, the officials are burdened but it is necessary to keep a check upon them. They consider or as a burden on their shoulders sometimes.

Conclusion

Right to information laws is considered to be one of the most significant laws in our country. The access to information is lifeline of a progressive society, it makes our government accountable towards the common man. Although citizens are aware of the steps taken by the Government through this RTI Law only otherwise they would have remained quiet. The Right to Information Act, 2005 legislation may have taken a long time to arrive but Supreme Court gave the right to know a head start in India in the Indian Constitution, 1950. It is the duty of individuals as responsible citizens in the community at the local, national and even international level to be adequately informed, and possess sufficient, even controversial facts on which to base rational judgments and select courses of action. As due to the absence of authentic information on matters of public interest, it was only encouraging wild rumours and speculations and avoidable allegations against individuals and institutions.

RTI can be proved to be a rightful law if used in an appropriate and efficient manner. In a nation like India where there is democratic government, good governance act as the main element. Transparency, accountability and participation act as the three pillars of the democracy, it also acts as the key to good governance. Right to Information can act as a tool to good governance in India.

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