



## The Right to Information Act – The tool for Good Governance

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**Abstract:** The right to access information also underpins all other human rights. For example, freedom of expression and thought inherently rely on the availability of adequate information to form opinions. There are instances where individuals also secured posts, positions and promotions challenging in court of law/tribunals through the information secured as per the right bestowed. The role of government in good olden days is confined to only policing i.e., to protect the life and property of its people by maintaining law and order. But, over the course of time, the role of government has been changed from policing to welfare state. In a welfare state, government the country have to bind to fulfil the aspirations, ambitions and expectations of its people. Hence, the government expects perform wide range of functions and there by accelerate the pace of economic development. The present paper is clearly indicates the importance of Right to Information Act in ventilating various scams and issues. Had there is no Right to Information provision, such issues might have continued still for a long time causing heavy loss to government exchequer. Apart from those national/state level general issues, there are many cases where individuals benefitted through Right to Information provision.

**Key words:** economic development, Right to Information Act, misappropriation

### Introduction:

Sweden is the first country in the World to adopt the Right to Information Act as early as in 1976. Since then, nearly 57 countries have followed Sweden. Commonwealth countries like Canada, Australia, and New Zealand have passed laws providing for the right of access to administrative information. However, it has become popular in 2000, when the European Union Charter of Fundamental Rights indoctrinated the "right to freedom of expression and information (Article 11) and right to access documents".<sup>1</sup> USA, France and Scandinavian countries have

also passed similar laws. US Freedom of Information Act ensures openness in administration by enabling the public to demand information about issues as varied as deteriorating civic amenities, assets of senators and utilisation of public funds. It is not only the developed countries that have enacted freedom of information legislation; similar trends are seen in the developing countries as well. The Freedom of Information Act 2000 (c.36) is an Act of Parliament of the United Kingdom that creates a public "right of access" to information held by public authorities. It is the



implementation of freedom of information legislation in the United Kingdom on a national level. The Act implements a manifesto commitment of the Labour Party in the 1997 general election, developed by Dr David Clark as a 1997 White Paper<sup>2</sup>.

In India different states started enacting their own laws of Right to Information. Tamil Nadu was the first state to introduce its Right to Information Act in the year 1996 followed by Goa (1997), Rajasthan (2000), Karnataka (2000), Maharashtra (2000), Delhi (2001), Assam (2001), Madhya Pradesh (2002) and Jammu and Kashmir (2004). At national level the Parliament had enacted the "Freedom of Information Act, 2002" in order to promote transparency and accountability in administration. However, the Act was found to be falling short of the expectations of the public and hence "The National Advisory Committee" suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The UPA – 1 Government following the National Common Minimum Program of the government envisaged that "Freedom of Information Act" will be made more "progressive, participatory and meaningful". Accordingly, it was decided to replace the then existing "Freedom of Information Act, 2002" with a new legislation. Thus, "Right to Information Bill, 2004" (RTI) was passed by both the Houses of Parliament on May, 2005 and "The Right to Information Act" was notified in the Gazette of India on 21st June, 2005. This new law empowers Indian citizens to seek any accessible information from a public authority and makes the Government and its functionaries more accountable and responsible.

### **The Right to Information Act (2005):**

The Act will be in force throughout India except the state of Jammu and Kashmir. The important features of the Act are:

- All citizens possess the right to information.
- The term information includes any mode of information in any form of record, document, email, circular, press release, contract sample or electronic data etc.
- Rights to information covers inspection of work, document, record and its certified copy and information in form of diskettes, floppies, tapes, video cassettes in any electronic mode or stored information in computer etc.
- Applicant can obtain Information within 30 days from the date of request in a normal case.
- Information can be obtained within 48 hours from time of request, if it is a matter of life or liberty of a person.
- Every public authority is under obligation to provide information on written request or request by electronic means.
- Certain information may be prohibited.
- Restrictions made for third party information appeal against the decision of the Central Information Commission or State Information Commission can be made to an officer who is senior in rank.
- Penalty for refusal to receive an application for information or for not providing information is Rs. 250/- per day, but the total amount of penalty should not exceed Rs. 25,000/-
- Central Information Commission and State Information Commission are to be constituted by the Central Government and the respective State Governments.



- No Court can entertain any suit, application or other proceedings in respect of any order made under the Act<sup>3</sup>.

The Right to Information can be regarded as a fundamental human right. It is because lack of access to proper and correct information to the people denies opportunity to develop their potential to the maximum extent and realise their human rights. The right to access information also underpins all other human rights. For example, freedom of expression and thought inherently rely on the availability of adequate information to form opinions. The realisation of the right to personal safety also requires that people have sufficient information to protect themselves. Personality development, political affinity, social identity and economic capability of an individual depend on access to information both at individual as well as society level. Hence, denying access to information or keeping information away from public can be regarded as a violation of their rights. This was recognised by the United Nations at its very inception in 1946, when the General Assembly resolved that "Freedom of Information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated".

Access to information is recognised as a right because:

- The Act can be regarded as being inherent to democratic functioning and a pre-condition to good governance and the realisation of all other human rights.
- The Act becomes part of the accepted international obligations of the state. This means that the right to access information attracts the guarantee of protection by the state.

- The Act distances it from being merely an administrative measure by which information is gifted by governments to their people at their discretion since a legally enforceable right cannot be narrowed or ignored at the whim of government.

- The Act creates a duty-holder on the one hand and a beneficiary of a legal entitlement on the other. Non-disclosure of information is therefore a violation and the beneficiary can seek legal remedy.

- The Act signals that information belongs to the public and not government. The idea that everything is secret unless there is a strong reason for releasing it is replaced by the idea that all information is available unless there are strong reasons for denying it. The onus is on the duty-holder to prove its case for refusing to disclose documents.

- The Act sets a higher standard of accountability.

- The Act bestows on citizens, the legal power to attack the legal and institutional impediments to openness and accountability that still dominate the operations of many governments. It moves the locus of control from the state to the citizen, reinstating the citizen as sovereign.

Thus, the right to information holds within it the right to seek information, as well as the duty to give information, to store, organise, and make it easily available, and to withhold it only when it is proven that this is in the best public interest.

The major objectives of the Act are as follows:

- Greater Transparency in functioning of public authorities.
- Informed citizenry for promotion of partnership between citizens and the



government in decision making process.

- Improvement in accountability and performance of the government and
- Reduction in corruption in the Government departments.

All these parameters are critical elements of good governance. Hence, the citizens armed with information obtained through their exercise of right to know, would be able to protect life and liberty as well as secure equity and justice before the law.

Thus, the Right to information (RTI) can be described as a weapon in the hands of the people for promoting participatory development, strengthening democratic governance and facilitating effective delivery of socio-economic services. People, who have access to information and who understand how to make use of the acquired information in the processes of exercising their political, economic and legal rights become empowered which, in turn, enable them to build their strengths and assets, so as to improve the quality of life<sup>4</sup>.

#### **Right to Information and Good Governance:**

The role of government in good olden days is confined to only policing i.e., to protect the life and property of its people by maintaining law and order. But, over the course of time, the role of government has been changed from policing to welfare state. Thus, in a welfare state, a government in a country is bound to fulfil the aspirations, ambitions and expectations of its people. Hence, the government is expected to perform wide range of functions and there by accelerate the pace of economic development. Thus, the government is expected to protect the life and property of its people by maintaining the law and order. The government should ensure

equitable distribution of income and wealth by providing employment avenues. The government should provide food security and establish the necessary health machinery to its poor people. The government should develop the industry and built up the necessary infrastructure. The government is also expected to provide essential commodities through public distribution system. Thus, modern governments are implementing various welfare schemes, so as to uplift the standard of living of masses. In order to perform all such functions effectively and efficiently, a good delivery system should be developed by the government and such system is called as good governance. However, in a country like India with a vast population and illiteracy, information relating to various government programmes and schemes should be known to the public for better utilisation. Hence, Good governance and right to information are rightly said to be complimentary to each other. Good governance is characterized by political accountability, availability of freedom, bureaucratic accountability, availability of information and transparency etc. For instance, disclosure of information<sup>5</sup> relating to:

- Attendance of staff in schools has helped in checking teachers' absenteeism and students' drop out.
- Attendance of doctors and nurses at primary health centres has led to improvement in health care facilities in rural areas.
- The details of supplies and distribution of food grains through ration shops has assured the reach of entitlements to the beneficiaries.
- The supply and demand for petroleum products, such as, domestic gas has reduced black marketing.



- Muster rolls and beneficiary of employment guarantee schemes has exposed corruption and ensured effective delivery of services to the poor who are entitled for wage employment on demand for at least 100 days in a year @ Rs.60 – 80 per day, which means additional income of Rs.6000 – 8000 per year; and
  - Allotment of retail outlets (petrol pumps) and agencies for distribution of LPG gas, including the registered beneficiaries has ensured fair play and objective decisions, as reflected from substantial reduction in litigation cases in the matter.
- Right to Information Act brought many scams to light in the country through which the Act itself proved as weapon in breaking out the corrupt practices of government machinery and political leaders. The following are some important scams/news brought to the light through right to information<sup>6</sup>.
- The charges of corruption relating to 2G – Spectrum case against the former Telecom Minister Mr. Raja who was arrested brought to the light and investigation is the outcome of information obtained through right to information. The case is related to grant of license in 2G-spectrum to business houses and said to be resulted in revenue loss of the country to the tune of one lakh seventy six thousand seven hundred crores.
  - Adarsh Cooperative Society Scam is yet other scam which came in to light through RTI filed by RTI activists. The information revealed the links between politicians and military officials. The 31floor flats building, which had permission for six floors only, was constructed to house war widows of Kargil. However, the flats were allotted to several politicians, bureaucrats and their relatives. Ashok Chavan the then chief minister of Maharashtra resigned following burst of facts through RTI.
  - Misuse of huge amount of money in Common Wealth Games is yet other big scam brought to the light by the RTI. The hiring charge of a single chair was more than the price of at least three to four new chairs. The Government of India had to spend about twenty-six thousand crores of rupees and the exact amount that was really utilized for this purpose is yet to be ascertained. The matter is under investigation and the person at the helm of affairs stands removed.
  - RTI is instrumental in tracing the huge Kerosene scam in Odisha. Every year large number of devotees used to gather at Chandrabhaga beach near Sun Temple at Konark as a part of religious celebrations. As the area has lack of access to electricity, the government used to supply kerosene at subsidy price to the devotees through the Food Supplies and Consumer Welfare Department. Even after the area was electrified and no need of supply of kerosene, yet the Department continued to supply the kerosene by wasting lakhs of rupees. RTI Queries by a local activist revealed that this kerosene, instead of supplying to the devotees was misappropriated. On inspection of the distribution register, it was found that the signatures and thumb impressions were all fake.
  - Scam relating to public distribution system in Assam was unearthed by a voluntary organisation through RTI. RTI filed by Krishak Mukti Sangram Samiti an anti-corruption non-governmental organization in 2007, revealed irregularities in the distribution of food meant for people below the poverty line. The allegations



of corruption were probed and several government officials arrested.

- Another success story relates Karnataka state where rural masses combined the campaigns for the Right to Information and the Right to Food to fight hunger. Poor villagers have successfully participated in social audits and public hearings to demand that the ration due to them should be allotted to them at correct prices. Following the public hearing, marked improvement took place with regard to quality of food grain supply and correct price.
- Misappropriation of relief funds by officials looking after local branches of Indian Red Cross Society came into light by the RTI application failed by the NGO based in Punjab during 2008. Instead of spending the relief fund for victims of the Kargil war and natural disasters, the officials spent the money for purchasing cars, air-conditioners and also spent for clearing hotel bills etc. Local courts charged the officials found responsible with fraud and the funds were transferred to the Prime Minister's Relief Fund.
- Overcrowding in UP jails become hard core news in response to an RTI query by national working committee member, NCPRI. The facts revealed that the total number of prisoners lodged in state jails is more than the maximum population of prisoners that each of the jail can support and more than 60% of them are under trials. The honourable Supreme Court issued the notice to the National Crime Records Bureau (NCRB) as well and 'urged it to intervene and direct government to frame a policy to grant bail to prisoners facing trial for offences in which punishment ranges between three and seven years.'

Apart from above facts, under the RTI regime, there is unprecedented transparency in the working of public departments is observed. According to The Transparency International (TI) perceived corruption in India has declined, mainly due to the implementation of the RTI Act. This is evident from corruption reduction score of 3.8 (out of 10) in 2014, compared to 2.99 in 2006, which indicate a decline in corruption to the extent of 27%.

The above cases clearly indicate the importance of Right to Information Act in ventilating various scams and issues. Had there is no Right to Information provision, such issues might have continued still for a long time causing heavy loss to government exchequer. Apart from those national/state level general issues, there are many cases where individuals benefitted through Right to Information provision. There are instances where individuals also secured posts, positions and promotions challenging in court of law/tribunals through the information secured as per the right bestowed.

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